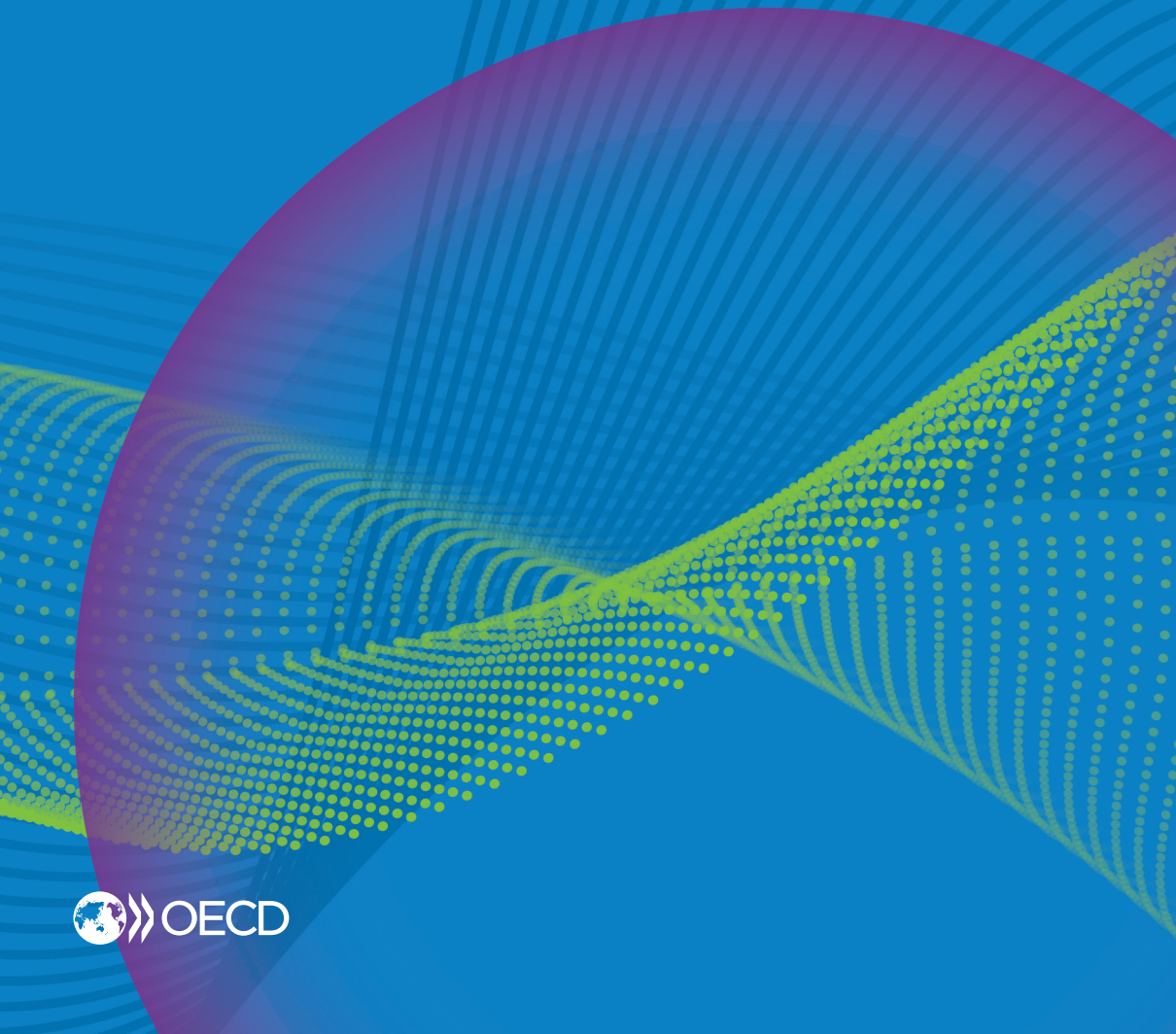
GLOBAL FORUM ON
TRANSPARENCY AND EXCHANGE OF INFORMATION FOR TAX PURPOSES

Peer Review Report on the Exchange of Information on Request

ARGENTINA

2023 (Second Round, Combined Review)



OECD

Global Forum on Transparency and Exchange of Information for Tax Purposes: Argentina 2023 (Second Round, Combined Review)

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 13 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.

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

Note by all the European Union Member States of the OECD and the European Union
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Reader's guide

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

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

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

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

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

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

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

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

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

Consideration of the Financial Action Task Force Evaluations and Ratings

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

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

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

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

More information

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

Abbreviations and acronyms

2013 Report	OECD (2013), Global Forum on Transparency and Exchange of Information for Tax Purposes Peer Reviews: Argentina 2013: Combined: Phase 1 + Phase 2, incorporating Phase 2 ratings
AFIP	Federal Administration of Public Revenue (*Administración Federal de Ingresos Públicos*), the Argentinian Federal Tax Administration
AML	Anti-Money Laundering
ARS	Argentinian official currency (*peso argentin*)
BCRA	Central Bank of the Argentine Republic (*Banco Central de la República Argentina*)
CCCN	Argentinian National Civil and Commercial Code (*Código Civil y Comercial de la Nación*)
CDD	Customer Due Diligence
CNV	Argentinian National Securities Commission (*Comisión Nacional de Valores*)
CUIT	Argentinian Single Tax Identification Number (*Clave Única de Identificación Tributaria*)
DTC	Double Taxation Convention
EOI	Exchange of Information
EOIR	Exchange of Information on Request
EUR	Euro, the official currency of the 20 Member States of the European Union that are part of the Economic and Monetary Union
FATF	Financial Action Task Force

GDE	Electronic Document Management System (*Sistema de Gestión Documental Electrónico*)
G.R.	General Resolution (*Resolución General*) issued by an Argentinian authority
Global Forum	Global Forum on Transparency and Exchange of Information for Tax Purposes
IGJ	General Inspection of Justice (*Inspección General de Justicia)*, exercising the functions of Public Registry of Commerce in the Autonomous City of Buenos Aires
Multilateral Convention	Convention on Mutual Administrative Assistance in Tax Matters, as amended in 2010
REI	Argentinian Register of Inactive Entities (*Registro de Entidades Inactivas*) maintained by the IGJ
SA	Argentinian Joint Stock Company or Public Limited Company, Corporation (*Sociedad Anónima*)
SAS	Argentinian Simplified Joint Stock Company (*Sociedad por Acciones Simplificada*)
SCA	Argentinian Partnership Limited by Shares (*Sociedad en Comandita por acciones*)
SEM	Argentinian Mixed (Semi-Public) Economy Companies (*Sociedades de Economía Mixta*)
SRL	Argentinian Limited Liability Company (*Sociedad de Responsabilidad Limitada*)
TIEA	Tax Information Exchange Agreement
TIN	Taxpayer Identification Number
ToR	Terms of Reference. The present review was conducted under the ToR related to EOIR, as approved by the Global Forum on 29-30 October 2015
UIF	Argentinian Financial Information Unit (*Unidad de Información Financiera*)

Executive summary

1. This report analyses the implementation of the standard of transparency and exchange of information on request for tax purposes in Argentina.

2. It is the second time that Argentina underwent a peer review in this area. In 2013 the Global Forum had evaluated it in a "combined review" (covering both the legal implementation of the standard and its implementation in practice), on the basis of the parameters applicable at the time (2010 Terms of Reference), attributing an overall rating of Largely Compliant.

3. Ten years have elapsed since then. This second-round report presents an updated picture, covering the legal and regulatory framework in force in Argentina as on 7 April 2023 and the practical implementation of this framework, including requests for information received and sent in the three years from 1 January 2019 to 31 December 2021. The present review has been conducted against the 2016 Terms of Reference, which introduced additional requirements, such as the availability of information on the beneficial owners of relevant entities and arrangements (see Annex 3 for more details on the process). An overall rating of Compliant with the standard is now attributed to Argentina.

4. Details on the specific Elements in the respective Terms of Reference and comparison between the ratings attributed to them in 2013 and in the present report are reported below.

Comparison of ratings for First Round Report and Second Round Report

Element	First Round Report (2013)	Second Round Report (2023)
A.1 Availability of ownership and identity information	Compliant	Largely Compliant
A.2 Availability of accounting information	Compliant	Compliant
A.3 Availability of banking information	Compliant	Compliant
B.1 Access to information	Compliant	Compliant
B.2 Rights and Safeguards	Compliant	Compliant
C.1 EOIR Mechanisms	Compliant	Compliant
C.2 Network of EOIR Mechanisms	Largely Compliant	Compliant
C.3 Confidentiality	Compliant	Compliant
C.4 Rights and safeguards	Compliant	Compliant
C.5 Quality and timeliness of responses	Partially Compliant	Compliant
OVERALL RATING	**Largely Compliant**	**Compliant**

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

Progress made since previous review

5. The overall legal framework of the implementation of the standard of transparency and exchange of information on request in Argentina was already positive in 2013. Argentina has subsequently significantly expanded its network of partner jurisdictions, and has also made organisational changes to improve its ability to respond promptly to requests for information, so that the recommendations issued in 2013 are considered addressed.

6. Argentina has also strengthened its transparency framework with the creation of a register of information on the beneficial ownership of relevant entities and arrangements in 2020-21, based on tax filing requirements. Anti-money laundering requirements are complementary sources of beneficial ownership information, but these do not apply to all relevant entities and arrangements. The definition of beneficial ownership and the methods prescribed and applied to identify the beneficial owners comply with the standard.

Key recommendations

7. The main recommendations to Argentina in the present report relate mainly to the availability of beneficial ownership information and the supervision of the corresponding filing requirements.

8. The tax administration collects beneficial ownership information annually, at the time entities and arrangements file their tax returns. The

information collected is therefore an image of the beneficial ownership at a given date, but no information is registered each time the information changes during the year. The other sources of beneficial ownership information do not compensate for this deficiency.

9. In addition, the amount of the fines applicable for non-compliance with the information-keeping and reporting obligations for tax purposes might not be effective, proportionate and dissuasive, considering that their monetary values have not been revaluated despite the significant inflation rate over the years.

Exchange of information in practice

10. Argentina has a vast experience with exchange of information for tax purposes, mainly related to outgoing requests it sends to its partner jurisdictions. It has a dedicated EOIR Unit and adequate procedures in place for handling requests. From 1 January 2019 to 31 December 2021, Argentina received 46 information requests from and sent 619 information requests to partner jurisdictions. Argentina fully replied to all of the incoming requests, in 65% of cases within 90 days, in 89% of cases within 180 days and in 98% of cases within a year. No practical difficulties were experienced in obtaining information and responding to requests. Overall, Argentina has demonstrated effectiveness in the exchange of information.

Overall rating

11. The ratings that have been assigned to Argentina are based on the analysis in this report, considering recommendations for Argentina's legal and regulatory framework and the effectiveness of its exchange of information in practice. Argentina has received a rating of Compliant for nine elements (from A.2 to C.5) and a rating of Largely Compliant for one Element (A.1). Argentina's overall rating is Compliant based on a global consideration of its compliance with the individual Elements.

12. This report was approved at the Peer Review Group of the Global Forum on 13 June 2023 and was adopted by the Global Forum on 14 July 2023. A follow up report on the steps undertaken by Argentina 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 combination of tax, anti-money laundering and commercial law obligations on the availability of beneficial ownership information does not ensure that accurate and up-to-date information is available in all cases. For the tax and commercial law obligations, there is an annual reporting with no intra-annual update in case changes occur, and there is no mechanism in place to ensure that relevant entities and arrangements have all the necessary information to identify their beneficial owner(s) and/or any changes thereof. They are not required to engage an AML-obliged party on a continuous basis, so that not all of them are covered by Customer Due Diligence requirements under the AML Law.	Argentina is recommended to ensure that accurate and up-to-date beneficial ownership information is available in line with the standard for all relevant entities and arrangements.
	While the tax law is one of the main sources of information on beneficial ownership, sanctions in the National Tax Procedures Law for non-compliance with the tax requirements, including to maintain and report beneficial ownership information, may not always be dissuasive and proportionate. Their effectiveness may be strengthened, considering that the amount of the fines has not been revaluated despite the significant rate of inflation over the years.	Argentina is recommended to ensure that sanctions for non-compliance with the information-keeping and reporting obligations for tax purposes are effective, proportionate and dissuasive.

Determinations and ratings	Factors underlying recommendations	Recommendations
EOIR Rating Largely Compliant	There are uncertainties as to the nature and depth of the supervision conducted by the Public Registries of Commerce, especially those other than the one of the Autonomous City of Buenos Aires (the latter accounts for 53% of the total of companies registered in Argentina). Furthermore, the large number of inactive companies maintaining their legal personality raises concern about the effectiveness of the mechanisms in place to monitor these entities and on the availability of legal and beneficial ownership information in all cases.	Argentina should improve the supervision carried out by the Public Registries of Commerce, and in particular the monitoring of inactive entities, and review its systems whereby a significant number of non-complying inactive companies remain with legal personality on the Public Registries, to ensure that adequate, accurate and up-to-date legal and beneficial ownership information is available for all relevant entities and arrangements.
	There are periodic reporting requirements by the relevant entities and arrangements to the tax administration, but the rate of compliance needs to be improved and substantial controls have not been carried out on the information submitted. There are periodic reporting requirements also to the Provincial Public Registry of Commerce of the Autonomous City of Buenos Aires and to other Provincial Public Registries of Commerce, but the level of implementation, the rate of compliance and the controls carried out on the accuracy and completeness of the information reported is unclear. There is also limited experience of providing beneficial ownership information for exchange of information on request. In order to ensure that beneficial ownership information is reported to the tax administration and is accurate and up to date, supervision and enforcement need to be improved.	Argentina is recommended to put in place a comprehensive and effective supervision and enforcement programme to ensure the availability of adequate, accurate and up-to-date beneficial ownership information for all relevant entities and arrangements.

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	Sanctions in the National Tax Procedures Law for non-compliance with the tax requirements, including to maintain and report accounting records, may not always be dissuasive and proportionate. Their effectiveness may be strengthened, considering that the amount of the fines has not been revaluated despite the significant rate of inflation over the years.	Argentina is recommended to ensure that sanctions for non-compliance with the information-keeping and reporting obligations for tax purposes are effective, proportionate and dissuasive.
EOIR Rating Compliant		
Banking information and beneficial ownership information should be available for all account-holders *(ToR A.3)*		
The legal and regulatory framework is in place		
EOIR Rating Compliant		
Competent authorities should have the power to obtain and provide information that is the subject of a request under an exchange of information arrangement from any person within their territorial jurisdiction who is in possession or control of such information (irrespective of any legal obligation on such person to maintain the secrecy of the information) *(ToR B.1)*		
The legal and regulatory framework is in place		
EOIR Rating Compliant		
The rights and safeguards (e.g. notification, appeal rights) that apply to persons in the requested jurisdiction should be compatible with effective exchange of information *(ToR B.2)*		
The legal and regulatory framework is in place		
EOIR Rating Compliant		

Determinations and ratings	Factors underlying recommendations	Recommendations
Exchange of information mechanisms should provide for effective exchange of information *(ToR C.1)*		
The legal and regulatory framework is in place		
EOIR Rating Compliant		
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 Compliant		
The exchange of information mechanisms should respect the rights and safeguards of taxpayers and third parties *(ToR C.4)*		
The legal and regulatory framework is in place		
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.	
EOIR Rating Compliant		

Overview of Argentina

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

Legal system

14. Argentina is a representative republic with an institutional and political regime based on the National Constitution of 1853, as last amended in 1994. The National Constitution guarantees the control and balance of powers and provides for the division of the Legislative, National Executive and Judicial Powers.

15. Argentina is a federal country divided into 24 federated jurisdictions that preserve those powers not delegated to the Federal Government by the National Constitution. The federated jurisdictions are 23 Provinces and the Autonomous City of Buenos Aires, which is the seat of the Federal Government.

16. The legal system is based on the civil law tradition. Argentina has federal legislation, superior to the regulatory powers of the Provincial Governments, ranking as follows: (i) National Constitution and International Human Rights Treaties with constitutional status; (ii) International Treaties without constitutional status (including EOI agreements); (iii) Laws enacted by the National Congress; (iv) Delegated Decrees by the National Executive Power in those matters of administration or public emergency expressly delegated to it by the National Congress or by reason of necessity and urgency (that in any case do not include criminal or tax matters); and (v) Decrees of Need and Urgency by the National Executive Power.

17. The National Legislative Power is exercised by the National Congress, formed by the Chamber of Deputies and the Senate, whose members are elected directly by the people. The National Legislative Power is responsible for enacting national general laws (Civil, Commercial, Criminal and Labour Legislation, as well as other issues whose responsibility is attributed to the Federal Government).

18. The National Executive Power is vested in the President. The President is supported by auxiliary organs and administrative agencies. These are the Ministerial Cabinet (encompassing the national Ministries), the Chief of the Ministerial Cabinet, and the Attorney General, who provide legal advice to the President. Besides regulations or decrees of a delegated nature, the National Executive Power can also issue the Regulatory Decrees that are necessary for the implementation of the Laws, taking care not to alter the spirit of the law with regulatory exceptions. Public administrations in the National Executive Power can issue mandatory resolutions when a law attributes them this power.

19. The National Judicial Power is formed by the Supreme Court and the lower Courts (Chambers of Appeals and Courts of First Instance), both federal and provincial. The control over the constitutionality of the laws is exercised in a diffuse manner by all the judges of the Nation, including the provincial judges. The federal Courts are the only lower courts competent for tax matters at a national level.

Tax system

20. Taxes and their exemptions must be established by law (National Constitution, Section 17). In Argentina, tax legislation is not codified: separate laws govern specific taxes (e.g. Income Tax Law) and/or areas in the field of taxation (e.g. National Tax Procedures Law).

21. Under constitutional principles (Section 75), three levels of government – national, provincial and municipal – are empowered to levy taxes. The Federal Administration of Public Revenue (AFIP), a self-governing entity within the Ministry of Economy, is in charge of tax administration at the federal level and is the competent authority for the exchange of information for tax purposes.

22. Taxes collected at the federal level by the AFIP include: the Income Tax, the Tax on Personal Estate and the Value Added Tax. Besides the General Directorate on Taxes (*Dirección General Impositiva*), AFIP has two other directorates that administer customs (*Dirección General de Aduanas*) and social security contributions (*Dirección General de los Recursos de la Seguridad Social*).

23. All income, including capital gains, is subject to Income Tax (*Impuesto a las Ganancias*). Resident companies and natural persons pay taxes on their global income, and they can be entitled to a deduction equal to the foreign income taxes paid on their activities abroad. Permanent establishments of foreign companies are considered resident entities and thus subject to taxation on their global income (Section 119 of the Income Tax Law).

24. The Income Tax applicable to resident companies is progressive with rates from 25% to 35% for fiscal years beginning on or after 1 January 2021 (Section 73 of the Income Tax Law). The same rate applies to permanent establishments of non-resident companies, with a 7% supplementary rate for profit remittances to the head office (Section 69 of the Income Tax Law).

25. Foreign companies that do not have a permanent establishment in Argentina are only subject to taxes on income earned in Argentina, withheld by payment agents according to a tax rate dependent on the type of income.

26. Resident natural persons (Argentinian nationals having a resident status, foreigners with permanent residence in Argentina and those who have legally resided in Argentina for 12 months) pay Income Tax on their net taxable income according to a progressive scale, with a maximum tax rate of 35%.

27. A general rate of 15% applies to profits from the sale of shares and securities, portion allotments and corporate participations, digital currencies, and real estate or transfers of rights over real estate.

Financial services sector

28. In Argentina, the financial sector includes banks and other financial entities, exchange institutions, and financial *fideicomisos* (see paragraph 156 et seq.). The entities of the financial sector can be either public or private (with domestic or foreign capital).

29. In Argentina, the financial sector in a broad sense has a small size in terms of Gross Domestic Product and is mainly related to the banking sector. As of December 2022, there were 77 banks operating in Argentina. Non-Bank Financial Intermediation other than pension funds and insurance companies in Argentina only represent 12% of financial sector assets.

30. The applicable regulatory framework foresees multiple regulatory bodies, including the Central Bank of the Argentine Republic (BCRA) and the Superintendence of Financial and Foreign Exchange Institutions.

31. Financial entities, including banks, cannot do business without being licensed by the BCRA (pursuant to Law on Financial Entities no. 21526 of 1977 as subsequently amended, Section 7). These institutions are subject to information, accounting, and control regimes exercised by the BCRA. The Superintendence of Financial and Foreign Exchange Institutions is a body governed by the BCRA responsible for implementing and applying the regulations of the Law on Financial Entities, rating financial entities, revoking authorisations granted for carrying out foreign exchange transactions,

approving regularisation and/or recovery plans of financial entities and establishing the requirements that must be met by the auditors of financial and foreign exchange institutions.

32. Exchanges whose corporate bylaws provide for the listing of securities on securities markets have to apply for authorisation to the National Securities Commission (CNV, Law no. 17811 of 1968, Section 28). In particular, the Buenos Aires Stock Exchange (*Bolsa de Comercio de Buenos Aires*) is the organisation responsible for the operation of Argentina's primary stock exchange. Nearly 90% of all securities authorised for offering in local securities markets are traded in Buenos Aires. The Stock Exchange is subject to rules and regulations issued by the CNV.

33. The control over all entities in the insurance sector is exercised by the Superintendency of Insurance of the Nation, an autonomous entity under the Ministry of Economy. The practice of insurance and reinsurance business activity in Argentina is governed by Law no. 20091 of 1973. As of December 2021, there were 208 insurance companies and 144 reinsurance companies in Argentina.

34. The Argentine Peso (ARS) is the official currency of Argentina. It underwent a severe devaluation in 2018 following a monetary crisis in the country and has continued to depreciate against currencies generally used for international trade, such as Euro (EUR) and the dollar of the United States, in subsequent years.[1] The year-on-year inflation rate as of 30 September 2022 amounted to 83% in Argentina, according to domestic official statistics.[2]

Anti-money laundering framework

35. In Argentina, the legal framework for AML is the Law no. 25246 of 2000, as modified in 2006, 2007, 2011, 2016, 2018 and 2019 (henceforth "the AML Law"). The AML Law provides that the Financial Information Unit (UIF) is in charge of analysing, processing and transmitting information with a view to preventing and combating the crimes of money laundering and financing of terrorism. The AML Law (Section 14) empowers the UIF,

1. One euro corresponded to about ARS 206.55 as of March 2023 (source: https://ec.europa.eu/info/funding-tenders/procedures-guidelines-tenders/information-contractors-and-beneficiaries/exchange-rate-inforeuro_en link consulted on 7 April 2023), and this conversion rate is used throughout the present report as a reference. One EUR corresponded to about ARS 43.87 in January 2019 and to ARS 120.50 in December 2021.
2. Source: BCRA https://www.bcra.gob.ar/PublicacionesEstadisticas/Principales_variables_i.asp consulted on 18 November 2022.

among others, to issue guidelines and instructions to be complied with and implemented by the AML-obliged parties, after consultation with the specific controlling bodies (Section 21).[3]

36. In criminal matters, Section 6 of the AML Law provides that the UIF is in charge of analysing, processing and transmitting information with a view to preventing and combating the crime of money laundering (Section 303 of the Criminal Code) as well as the criminal offence of financing of terrorism. Predicate offences to money laundering include: Tax crimes (listed in Law No. 24769); Fraud against any of the agencies of the public administration (Section 174, Paragraph 5 of the Criminal Code); Crimes against any of the agencies of the public administration defined in the Criminal Code (Chapters VI, VII, IX and IX bis of Title XI – Book II).

37. Notaries' Associations and the Professional Council of Economic Sciences (for accountants) are in charge of the oversight and regulation of the respective professions. Lawyers are not, per se, AML-obliged parties.

38. Argentina is a member of the Financial Action Task Force (FATF) and the Financial Task Force on Money Laundering in South America (GAFISUD). Argentina was assessed within the FATF third round of Mutual Evaluations in 2010, with a rating of Non-Compliant for Recommendations 5 (Customer due diligence), 33 (Legal persons – beneficial owners) and 34 (Legal arrangements – beneficial owners).[4] As a result, Argentina was included in the list of intensified monitoring, from which it was deleted in 2014 thanks to the progressive measures adopted. Argentina's fourth round is scheduled for 2023-24.

Recent developments

39. Since the 2013 Report, the following main relevant developments occurred in Argentina and are referred to in the present report:

- The company regime was re-codified in the Civil and Commercial Code of the Argentine Nation (CCCN), enacted by Law no. 26994 of

3. Financial institutions have specific controlling bodies, such as the BCRA, the CNV, the Superintendency of Insurance and the National Institute of Associativism and Social Economy. These bodies must provide the UIF with collaboration within the framework of their competence, without prejudice of the powers the UIF has to carry out the direct monitoring of financial institutions. Their supervision may be exercised jointly or in addition to the monitoring of the UIF in the framework of collaboration agreements. Financial institutions not monitored by these specific controlling bodies are only supervised by the UIF.

4. See https://www.fatf-gafi.org/en/publications/Mutualevaluations/Mutualevaluationofargentina.html (link consulted on 7 April 2023).

2014, with amendments to the General Companies Law (Law 19550 of 1972).

- The UIF issued several Resolutions towards AML-obliged parties in application of the AML Law.
- A provision on access powers has been slightly restructured when the National Tax Procedures Law no. 11683 of 1932 was amended with the tax reforms introduced by Law no. 27430 of 2017 (see paragraph 251 under section B.1).
- The AFIP has introduced in 2020 requirements for the filing of beneficial ownership information by all relevant entities and arrangements (see paragraph 91 et seq.).
- Argentina concluded 11 new Double Taxation Conventions (DTCs) and 14 new Tax Information Exchange Agreements (TIEAs).

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 2013 Report determined that the Argentinian legal and regulatory framework ensured that legal ownership information in respect of relevant entities and arrangements was available in accordance with the standard. It remains the case, as described in that report, that all information about the legal owners of an entity or arrangement subject to registration and tax obligations in Argentina is available at any time within the tax administration. Most information is also required to be available with the competent Public Registry, and with legal entities and arrangements themselves.

42. Not analysed in the 2013 Report, but now an integral part of the standard as strengthened in 2016, is the availability of beneficial ownership information. In Argentina, the availability of beneficial ownership information is ensured mainly through tax requirements introduced in 2020. All the relevant entities and arrangements must provide information on their beneficial ownership to the tax administration (AFIP). This information-reporting regime is complemented by beneficial ownership requirements under the anti-money laundering (AML) legislation and the requirement to submit a sworn declaration on beneficial owners to the competent Public Registry of Commerce on an annual basis. However, gaps were identified in the combination of these requirements, not ensuring that accurate and up-to-date beneficial ownership information is available for all relevant entities and arrangements.

43. The legal provisions are enforced to large extent effectively in practice, especially by the AFIP and by the Public Registry in the Autonomous City of Buenos Aires (while limited information has been provided on the specific requirements and actions taken by the Public Registries of other Provinces), but improvements are needed on the supervisory measures.

44. During the period under review, Argentina received 46 requests for information from EOI partners, 6 of which referred to legal ownership information of companies (and none about beneficial ownership). The information was available in all cases and exchanged to the satisfaction of the peers.

45. The conclusions are as follows:

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

Deficiencies identified/Underlying factor	Recommendations
The combination of tax, anti-money laundering and commercial law obligations on the availability of beneficial ownership information does not ensure that accurate and up-to-date information is available in all cases. For the tax and commercial law obligations, there is an annual reporting with no intra-annual update in case changes occur, and there is no mechanism in place to ensure that relevant entities and arrangements have all the necessary information to identify their beneficial owner(s) and/or any changes thereof. They are not required to engage an AML-obliged party on a continuous basis, so that not all of them are covered by Customer Due Diligence requirements under the AML Law.	Argentina is recommended to ensure that accurate and up-to-date beneficial ownership information is available in line with the standard for all relevant entities and arrangements.
While the tax law is one of the main sources of information on beneficial ownership, sanctions in the National Tax Procedures Law for non-compliance with the tax requirements, including to maintain and report beneficial ownership information, may not always be dissuasive and proportionate. Their effectiveness may be strengthened, considering that the amount of the fines has not been revaluated despite the significant rate of inflation over the years.	Argentina is recommended to ensure that sanctions for non-compliance with the information-keeping and reporting obligations for tax purposes are effective, proportionate and dissuasive.

Practical Implementation of the Standard: Largely Compliant

Deficiencies identified/Underlying factor	Recommendations
There are uncertainties as to the nature and depth of the supervision conducted by the Public Registries of Commerce, especially those other than the one of the Autonomous City of Buenos Aires (the latter accounts for 53% of the total of companies registered in Argentina). Furthermore, the large number of inactive companies maintaining their legal personality raises concern about the effectiveness of the mechanisms in place to monitor these entities and on the availability of legal and beneficial ownership information in all cases.	Argentina should improve the supervision carried out by the Public Registries of Commerce, and in particular the monitoring of inactive entities, and review its systems whereby a significant number of non-complying inactive companies remain with legal personality on the Public Registries, to ensure that adequate, accurate and up-to-date legal and beneficial ownership information is available for all relevant entities and arrangements.
There are periodic reporting requirements by the relevant entities and arrangements to the tax administration, but the rate of compliance needs to be improved and substantial controls have not been carried out on the information submitted. There are periodic reporting requirements also to the Provincial Public Registry of Commerce of the Autonomous City of Buenos Aires and to other Provincial Public Registries of Commerce, but the level of implementation, the rate of compliance and the controls carried out on the accuracy and completeness of the information reported is unclear. There is also limited experience of providing beneficial ownership information for exchange of information on request. In order to ensure that beneficial ownership information is reported to the tax administration and is accurate and up to date, supervision and enforcement need to be improved.	Argentina is recommended to put in place a comprehensive and effective supervision and enforcement programme to ensure the availability of adequate, accurate and up-to-date beneficial ownership information for all relevant entities and arrangements.

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

46. Since the 2013 Report, Argentina's company regime was re-codified in the CCCN of 2014, which also involved some amendments to the General Companies Law.

47. In Argentina, "companies" (*sociedades de capital*) and "partnerships" (*sociedades de personas*) are both legal persons. The distinction

between them depends on whether the creation of the entity is based around the members' capital contribution (in the case of companies), or the members themselves (in the case of partnerships). For partnerships, management falls on the members and equity cannot be passed freely to third parties. The regime is largely the same with respect to the various types of companies and partnerships and the legal ownership and identity information requirements.

48. The most common entities in Argentina are Limited Liability Companies (SRL) and Joint Stock Companies (SA) while Simplified Joint Stock Companies (SAS) have seen a notable increase in recent years. The types of domestic companies are:[5]

- *Sociedad de responsabilidad Limitada* (SRL, translatable to Limited Liability Company). Governed by Sections 146 to 162 of the General Companies Law, its capital is represented by shares and each shareholder is liable only up to the value of the share. In an SRL, there cannot be more than 50 shareholders. As of the end of December 2021, there were 235 964 SRLs.
- *Sociedad Anónima* (SA, translatable to Joint Stock Company, Public Limited Company or Corporation). Governed by Sections 163 to 307 of the General Companies Law, it is the only type authorising a company to make public offerings of securities. It allows members to limit their liability to the value of the subscribed shares. As of the end of December 2021, there were 205 923 SAs.
- *Sociedad por Acciones Simplificada* (SAS, translatable to Simplified Joint Stock Company). Governed by Law 27349 of 2017 and introduced as part of the new CCCN, this type of company seeks to provide a more agile structure for small and medium enterprises and can be created within a shorter time frame of 24 hours. As of December 2021, there were 41 038 SAS, with an increase of 71% over the previous year (23 921 SAS as of December 2020).
- *Sociedad en Comandita por acciones* (SCA, translatable to Partnership Limited by Shares). Governed by Sections 315 to 324 of the General Companies Law; although constituted by shares it is formed by one or more general partners, who are traders and are indefinitely and jointly liable for the company's debts and obligations, and limited partners, who are shareholders and bear losses only up to the amount of the capital they subscribe. Only the capital

5. The number of companies broken down by type reported in this paragraph is taken from the AFIP databases. See also paragraph 57 on the number of companies registered with the Public Registers.

contributions of the limited partners are represented by shares. These companies are subject to the same regulations as SA, except for certain regulations related to the company's name and administration. As of December 2021, there were 2 784 SCAs.

- *Sociedad Anónima con participación estatal mayoritaria* (SA with State-owned Majority). Governed by Sections 308 to 312 of the General Companies Law, these companies are formed when the national government, the provincial governments, municipalities, or authorised state agencies own, individually or jointly, shares representing at least 51% of the capital and these shares are sufficient to prevail in an ordinary or extraordinary shareholders' meetings. The rules on SAs apply, except a few provisions on directors. As of December 2021, there were 100 SA with State-owned Majority.
- *Sociedades de Economía Mixta* (SEM, translatable to Mixed (Semi-Public) Economy Companies). Governed by Decree-Law 15349 of 1946, they are formed by capital provided by the National State, the provincial States, municipalities or autarkic administrative entities on the one hand, and by private capital on the other hand. Their purpose is the exploitation of businesses which aim at satisfying collective needs or implementing, promoting or developing economic activities. They can be public or private entities, depending on their purpose, but the president and at least one third of the directors are nominated by the public authorities. SEM follow the rules for SA on ownership information. As of December 2021, 45 SEM existed in Argentina.
- *Sociedad del Estado* (SDE, translatable to State Owned Corporations). Governed by Law 20705 of 1974, they exclude all private shareholding and are exclusively constituted by the National State, the provincial States, municipalities, and authorised government agencies, to develop industrial and commercial activities or to exploit public services (e.g. the public railway company). As they are public companies, their ownership structure is clear and they are not further considered in this Report. As of December 2021, there were 346 SDEs.

49. Companies incorporated abroad may carry on a business in Argentina (e.g. through a local representation or permanent establishment). There were 5 220 foreign companies (registered with AFIP) in Argentina as of December 2021.

Legal Ownership and Identity Information Requirements

50. Company and tax requirements ensure that the Argentinian authorities maintain full legal ownership information on all companies, available for EOI purposes.

Companies covered by legislation regulating legal ownership information[6]

Type	Company Law	Tax Law	AML Law
SRL	All	All	Some
SA	All	All	Some
SAS	All	All	Some
SCA	All	All	Some
SA with State-owned majority	All	All	Some
SEM	All	All	Some
Foreign companies	All	All	Some

Companies Law requirements

51. Company law in Argentina requires that companies register with the Public Registry of Commerce and provide initial ownership at that time. Companies are also required to keep an up-to-date register of their shareholders.

52. As Argentina is a federal country and the administration of company registration is not a function attributed to the Federal Government (see paragraph 15), each province designates the Public Registry of Commerce in charge of company registration within its jurisdiction. The General Companies Law establishes the conditions for the registration of companies throughout the country and, consequently, the general requirements to be implemented by the registries in each province. Companies have to be registered in the Public Registry of their registered office and in the corresponding Public Registry of each subsidiary. Companies are also required to state in all their documentation the address of their registered office and the data that identifies their registration in the corresponding Public Registry (Section 5).

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

53. Pursuant to the General Companies Law (Sections 4-5), a company, whichever its form, is created by a public instrument or by a private instrument (constituent act) that must be authenticated by a notary public or signed in front of a judge. The constituent act must contain the name, nationality, address and identification number of each initial member, among other identity details (Section 11). The constituent act must then be submitted within 20 days to the Public Registry of Commerce of the province where the registered office of the company is located (Section 6), and the company is considered regularly incorporated from the moment of registration (Section 7, see also paragraph 145 on partnerships governed by Part 4 of the General Companies Law).

54. To complete its commercial registration, a new company must register with the AFIP to obtain a Single Tax Identification Number (CUIT), conditional on the conclusion of the registration procedure. It must then provide the AFIP with company identification and commercial information, including the identity of the members (see paragraph 68 below). Proof of registration with the AFIP is then provided to the Public Registry. The CUIT is subsequently confirmed from the AFIP, and becomes fully operational following the verification of the completeness and accuracy of the information provided (see also paragraph 68) and the completion of the commercial registration.

55. Foreign companies with their place of management ("seat of authority") in Argentina or with the main purpose to be accomplished in Argentina are considered local companies and must follow the same incorporation procedures and are subject to the same supervision as local companies (General Companies Law, Section 124). Moreover, foreign companies that wish to "perform regular actions included in the corporate purpose, establish a branch or any other kind of permanent representation" in Argentina, are required (Section 118 of the General Companies Law) to:

- provide proof of their existence in accordance with the law of the country of incorporation
- be domiciled in Argentina and fulfil the requisites of registration (including providing ownership information) and publication according to the type of company
- justify the decision of creating the representation and appoint the person in charge.

56. The Public Registries of Commerce are organised at provincial level. The information filed with the Registries is publicly available and open for consultation.[7] The extent and procedure for consultation by the public

7. The contact details of the Provincial Registries can be found at https://www.argentina.gob.ar/justicia/registro-nacional-sociedades/institucional/jurisdicciones (link consulted on 7 April 2023).

varies based on the province. Argentinian authorities indicated that, for some Registries a request by the public can be made online and a response is provided within a few days, whereas other Registries have more restrictive requirements and/or longer timing for processing a request by the public. A real-time online consultation is not always possible because not all the records are digitised (the rate of digitalisation also varies by province; Argentinian authorities estimate that nationwide 70% of records of Public Registries, generally the most recent ones, have been digitalised).

57. A total of 635 699 companies where registered as of 31 December 2021 with the 24 Public Registries of commerce, i.e. 149 499 (or 31%) more of the 486 200 registered with the AFIP (as broken down in paragraph 48, and the discrepancy appears to be even higher as it appears that some inactive companies, while still in existence, have not been included in the above count (further details in paragraph 80). No reconciliation has been made between the two sources and Argentinian authorities have indicated that such discrepancy might be due to different reasons, including due to companies that had registered with the relevant Registry but not with the AFIP (due, for example, to lack of documentation) in a period in the past when the two registration processes were not interconnected (as outlined in paragraph 54).

58. The General Inspection of Justice (IGJ) is the authority in charge of the functions of Public Registry of Commerce for the Autonomous City of Buenos Aires (pursuant to Organic Law 22315). As of December 2021, approximately 53% of Argentinian companies registered with a Public Registry of Commerce were registered with the IGJ (the proportion is limited to 28% if only SAS are considered). The IGJ, together with the Public Registry for the Province of Buenos Aires (which is a province separate from the Autonomous City of Buenos Aires, covering the metropolitan area around the city proper), cover approximately 70% of companies registered in Argentina (and 40% for SAS).

59. Under IGJ G.R. 1/2010, legal entities must submit an annual sworn declaration to the IGJ including information about the entity's filings and registration, e.g. current directors, updated legal domicile, filing of financial statements. Information identifying the members of the company has to be provided only at the time of registration (IGJ G.R. 7 of 2005, i.e. no updated information is required on an annual basis). Legal ownership information is not subsequently updated, except for SRL.

60. No information was received during the present review about the corresponding requirements in the other Provinces. A representative of the Public Registry of Commerce of the Province of Buenos Aires indicated that requirements similar to those of the IGJ are applicable in such jurisdiction.

61. While the incorporation of companies and registration obligation are a Provincial prerogative (framed by the general requirements set by the General Companies law), the Law No. 26047 of 2005 (subsequently amended by Law No. 27444 of 2018) provides for the following national registers:

- National Register of share companies (also foreseen in Section 8 of the General Companies Law)
- National Register of non-share companies
- National Register of foreign companies
- National Register of civil associations and foundations.

62. These are second-tier registers, organised and operated by the Ministry of Justice and Human Rights. The National Registers must allow for public consultation of the registers, electronically, without the need to prove an interest, through the payment of a fee (Law No. 26047 of 2005, Section 3). In practice, these national registers have been implemented through a single National Register of Companies (*Registro Nacional de Sociedades*), which includes information that should be contained in all of the above listed National Registers. Argentinian authorities have indicated that this National Register is still in the process of being implemented, as no province has adhered as of March 2023 to the requirements of the Law No. 26047 of 2005 (as amended in 2018). The National Register at the time of writing was thus only partially populated with public information provided by the AFIP.[8]

63. Legal ownership information is also available with the companies themselves. The General Companies Law (Section 213) requires SAs to maintain an up-to-date register of shareholders, and all share transfers must be registered with the issuing company and take effect upon such registration (Section 215). The same provisions are also applicable to SCAs (Section 316). For SAS, the form of negotiation or transfer of shares is provided for in the incorporation instrument, which may set forth the prohibition of the transfer of the shares or of any of its classes (provided that the restriction does not exceed the maximum term of 10 years as from the issuance, further extendable for other 10 years), or require that transfer of shares have the prior authorisation of the meeting of partners (Section 48 of Law 27349 of 2017). In case it is not mentioned in the incorporation instrument, any transfer of shares must be notified to the company and registered in the respective share registration book for them to be effective with respect to third parties. The restrictions or prohibitions to which the shares

8. https://www.argentina.gob.ar/justicia/registro-nacional-sociedades (link consulted on 7 April 2023).

are subject must be registered in the share registration book. SRLs must have their transfers of shares registered with the competent Public Registry. The assignment of units is effective towards the company from the moment the assignor or assignee issue to the management a copy of the title of the assignment or transfer, with signatures authenticated if they are included in a private instrument (Section 152 of the General Companies Law).

64. Section 213 of the General Companies Law requires the register of shareholders of SAs to be kept with rules applicable to the commercial books. The register must also be available to be freely consulted by shareholders. According to the CCCN, commercial books are required to be kept at the owner's domicile (see paragraph 193). To meet these requirements, it would normally be required for the registers to be held in Argentina.

65. Under CCCN, books and registries have to be kept for ten years from the date of their last annotation (see paragraph 199 below). This includes records of share ownership.

66. The liquidation of a company is performed by its administration body or by a liquidator elected by shareholders or appointed by a judge (Section 102 of the General Companies Law). In case of liquidation, a company's corporate books and documentation must be kept by the administration body or liquidator during the liquidation process (General Companies Law, Part IX). The appointment of a liquidator has to be registered in the relevant Public Registry of Commerce. After liquidation, Section 112 of the General Companies Law provides that in case of disagreement among shareholders/partners, the registry judge has to decide who will keep the books and other corporate documents. This implies that in the normal course of action shareholders/partners decide who is the subject required to keep the books and other corporate documents after liquidation. As documents must be retained for ten years counting from the last annotation in the books and registries and from their creation as far as supporting documentation is concerned. It can thus be inferred that they are to be maintained for at least five years following the liquidation process, in line with the standard.

67. The re-domiciliation of Argentinian companies to another jurisdiction is not foreseen in the Argentinian law. A company, to redomicile outside Argentina and close its business in the country, needs to comply with the procedure of voluntary dissolution, liquidation and cancelation foreseen in the law, otherwise it would not be unregistered and would still be considered as a domestic company.[9]

9. For example, in the Autonomous City of Buenos Aires, if a company wishes to migrate in another jurisdiction, it must request the IGJ to cancel its registration, in compliance with Section 92 of IGJ G.R. 7/2015.

Tax law requirements

68. All companies' legal ownership information and structure must be provided to the AFIP (see paragraph 54). The relevant obligations are in AFIP G.R.s 10, 2325, 2811 and 4991. Upon creation, companies must file sworn declarations containing not only company identification data, commercial information, and the supporting documentation, but also identity data on all members, including their name, CUIT and fiscal domicile. Resolution 4991 of 2021 provides for the digitalisation of the request for registration (CUIT attribution) and the updating of the information reported to AFIP at the time of registration.[10] The AFIP's systems carry out automatic validations against data already held in relation to the identity data on the shareholders, and on any persons that are part of the registrant company's corporate bodies or who exercise its administration or supervision. Once the data is validated, the AFIP assigns a definitive CUIT to the legal person (and sends the proof of registration and its number to the electronic fiscal domicile).

69. In addition, AFIP G.R. 4697/2020 (which updates and replaces G.R. 3293 of 2012, mentioned in the 2013 Report) requires all companies, including foreign companies with nexus to Argentina (see paragraph 55), to report the same identity data in relation to the shareholders, directors, managers and administrators. The amount, percentage and value of shares held by shareholders must also be reported, as well as companies' subsidiaries, related companies and parent companies. The information has to be communicated within ten days from the date of transfer (Section 9) for the case of shares and within ten days from the date of change (Section 12) for directors, managers and administrators.

10. Requests for registration of legal persons are done through the service "Registration and Modification of Legal Persons" on the AFIP web portal, through which the responsible person can access with their CUIT or with other identification codes. The registration of a new legal person requires the provision of specific data, such as the legal form, registered name, date of incorporation, domicile. In addition, the registrant can provide an electronic fiscal domicile. All supporting documentation (foreseen in Section 3 of AFIP G.R. 10 and amendments) must be provided in digital form, and digitally signed by a notary or the relevant supervisory authority. The AFIP will validate the CUIT and other identification codes of all the parties and might prevent the proceeding of the registration in case of inconsistencies (deceased persons, bankruptcy, non-reliable taxpayers, etc.). In such cases, the AFIP might require complementary elements/documentation or information to review the registration request, which will be communicated through the electronic fiscal domicile. The requesting party might follow-up the registration request and verify the status with the transaction number assigned.

70. AFIP G.R. 4697/2020 also requires taxpayers to declare their shares and interests in Argentinian companies and partnerships, which allows the AFIP to cross check the information received. Moreover, the details of the transfer of shares in a company must also be reported to the AFIP within ten working days by the seller, the buyer and the company, as well as any public notary who might be involved in the transfer (Section 8). This includes the date, type of transaction, participants in the transfer, amount of payment, and the consequent change in corporate control.

71. The AFIP keeps ownership information on companies indefinitely.

Anti-Money Laundering requirements

72. Some legal ownership information is also maintained by AML-obliged parties pursuant to the AML Law (see paragraph 99 et seq. below on availability of beneficial ownership information). Companies do not have an obligation to have a continuous relationship with an AML-obliged party, and legal ownership information available under the AML framework is not a privileged source of information for EOIR purposes.

Legal ownership information – Enforcement measures and oversight

73. The General Companies Law (Section 302) provides that in case of violation of the law, of the bylaws or regulations, the "comptroller authority" may impose the following sanctions:

- written warning
- written warning with publication
- fines to the company, to the directors and to the statutory auditors ("*sindicos*").

74. Argentinian authorities have explained that there is no single reference for the term "comptroller authority" in the General Companies Law, as depending on specific provisions in the law this might refer to the Public Registries of Commerce, the CNV or other authority appointed to ensure compliance with specific requirements. The comptroller authority for the filing requirements to the registers as well as for the requirement to maintain an up-to-date register of shareholders (Section 213, General Companies Law) are the Public Registries of Commerce.

75. The fines can be up to ARS 100 000 (about EUR 484) "overall and per each infringement" and have to be graduated depending on the seriousness of the infringement and on the capital of the company. When sanctions are imposed to directors and statutory auditors, the company is not held responsible.

76. Each provincial registry foresees in its regulation the corresponding process and steps to be followed, in compliance with the General Companies Law. In practice, provincial registrars usually meet once a year to analyse and discuss general concerns, difficulties and courses of action. In addition, the IGJ and the Public Registry of the Province of Buenos Aires usually act as referents in all registry-related matters and the other registries tend to implement their policies in accordance with their decisions and procedures. The UIF also convenes provincial registries – in their capacity as AML obliged subjects – on an annual basis to discuss AML-related matters.

77. Title VII (Sections 25 to 29) of the IGJ G.R. 7/2015 (applicable for companies registered in the Autonomous City of Buenos Aires, see paragraph 58) provides for penalties ranging from warnings[11] to fines of up to ARS 100 000 (about EUR 484) for non-compliance with the provisions of Section 302 of the General Companies Law or with the IGJ Organic Law No. 22315.

78. Argentinian authorities indicated that no statistics could be provided on the sanctions issued by the IGJ, as the processes are not digitalised and no information is available in aggregate form.

79. A general process of supervision of inactive entities has been initiated in 2010 with the IGJ G.R. 1/2010, requiring all domestic and foreign entities to submit by a specific deadline a notarised sworn statement updating the relevant registration information (such as accounting documents, CUIT number, designation of the legal representatives, address of the registered office). With a view to streamline and finalise this procedure, IGJ G.R. 4/2014 provided for a new "renewal process" (*reempadronamiento*) requiring all registered companies to resubmit the relevant registration data through the above-referred sworn statement and established a Register of inactive entities (REI) in which companies that did not comply with the renewal requirement were reported. This Register includes companies whose legal status was obtained before 20 July 2010 and that did not carry out the renewal process (including submitting the required sworn declarations) by 30 April 2015. The classification of entities as inactive and their inclusion in the REI does not per se trigger liquidation. Inactive entities remain "on hold" until they resume their activities and certain formalities with the registry are fulfilled (compliance procedure established with IGJ G.R. 6/2015, which verifies the payment of fees, balances, and other liabilities with the IGJ) or begin their voluntary dissolution, liquidation and cancelation procedure; otherwise, they keep this status indefinitely.

11. Pursuant to Section 26 of G.R. 7/2015, a warning is applied in the case of formal breaches committed only once, whereas reiterating the same breach is to be punished with a fine. Section 27 provides that based on the public impact that the resolution imposing the sanction has on the action(s) for which it was imposed, the warning can be accompanied by a publication.

80. As of 31 December 2021, 381 447 inactive companies were registered in the REI. This is a significant number, especially considering that it only covers the Autonomous City of Buenos Aires. Argentinian authorities explained this high number is due to the fact that some of these companies were incorporated as far back as 1850 and might have been inactive for decades. As the companies registered in the REI outnumber the total number of companies registered with the IGJ as of 31 December 2021 (335 741) it is understood that the company registered in the REI are not accounted in the total number of companies (see paragraph 57).

81. The impact of the REI on ensuring that reporting requirements are complied with by companies (in the Autonomous City of Buenos Aires) is also limited as, barring exceptions, it only includes companies that could be considered inactive as of 30 April 2015. Its effects are also mainly indirect: it is not connected to a liquidation process, but Argentinian authorities indicated that the inclusion in the REI would make it more difficult for the company to operate, because for example, the information on the legal representative would be shown as outdated and the company would thus not be able to operate its bank account in Argentina (as banks can check this information). Nevertheless, companies on the REI may be able to carry out activities outside of Argentina such as maintaining a bank account abroad, as they continue to maintain their legal personality. It is unclear whether other provincial registers have implemented any mechanisms to supervise, monitor or strike-off inactive entities. **Argentina should improve the supervision carried out by the Public Registries of Commerce, and in particular the monitoring of inactive entities, and review its systems whereby a significant number of non-complying inactive companies remain with legal personality on the Public Registries, to ensure that adequate, accurate and up-to-date legal and beneficial ownership information is available for all relevant entities and arrangements**.

82. As regards the tax requirements, failing to file a tax return is punishable by a fine of ARS 400 (about EUR 2). Moreover, failing to comply with any information statements prescribed by tax resolutions is sanctioned in accordance with the unnumbered Section that follows Section 38 of National Tax Procedures Law: entities can be subject to a fine up to ARS 10 000 (about EUR 48). This applies to the failure to register an entity with the AFIP, to report share transfers or to file the annual update of shareholders. For details, please refer to the 2013 Report (paragraphs 112-114). Considering the rate of inflation over the years and the fact that the amount of the fines provided in National Tax Procedures Law has not been correspondingly revaluated, Argentina should ensure that sanctions for non-compliance with the legal ownership information-keeping and reporting obligations for tax purposes are effective, proportionate and dissuasive (see Annex 1). This aspect has however a low materiality for the availability of legal ownership

information, considering that besides the tax filing requirements there are other provisions that require the availability of legal ownership information in the jurisdiction. Details of AFIPs supervisory measures in relation to the failure to file sworn statements (covering legal and beneficial ownership information) are set out at paragraph 128.

83. Besides fines, AFIP G.R. 3832/2016 provides for the possibility to limit the AFIP web services, accessible through the CUIT, for the taxpayer (that would be able to access only the "minimum services" and those needed to remedy the causes of limitation) in case of non-compliance with tax reporting obligations, including the filing of tax returns and sworn declarations.[12] In particular, all commercial invoicing in Argentina is validated through AFIP systems and its taxpayer portal, and an unrestricted (*activo*) CUIT is necessary to access it and validate a company's transactions. Further, banks are required to validate the account holder's CUIT through the AFIP's Relevant Economic Transactions Information System (see paragraph 223) and a limited CUIT would prevent the client company from engaging in financial transactions. As an additional measure, stronger than limitation, a taxpayer's CUIT is suspended (*inactivo*) after three years of a company not complying with its tax reporting obligations. A suspended CUIT does not allow the taxpayer to use any of AFIP's web services until the CUIT is unrestricted. To have their limited or suspended CUIT unrestricted, taxpayers are required to provide a set of updated information, including their address for tax purposes, the minimum number of members in the company, tax returns determining the taxable amounts expired within the last 36 months as well as sworn statements on legal and beneficial ownership expired within the last 12 months (Section 7 of the AFIP G.R. 3832/2016). As at November 2022, there were 145 704 taxpayers with limited CUIT for non-compliance with the requirement of filing tax returns and/or sworn declarations.[13] At the end of 2021, there were 10 356 companies (or 2% of the total) with suspended CUITs. Taxpayers for which inconsistencies in relation to the operational, economic and/or financial capacity are detected with respect to what is reported in the respective sworn declarations may also be included in the

12. Under the AFIP General Resolution 3832/2016, the following circumstances may trigger limitation of the CUIT: failure to register regarding taxes and/or regimes; failure to submit tax return determining payable amounts since 1 January of the year immediately previous to the assessment date; failure to provide all the information required in the tax return; inclusion in the non-reliable taxpayers database following the detection of inconsistencies in the tax return.

13. The data on the overall number of taxpayers with the CUIT limited does not discriminate per type of taxpayer. However, information per type of entity could be provided for entities subjected to the CUIT limitation procedure peer year. For the case of companies, they were 8 927 in 2019, 1 731 in 2020 and 2 117 in 2021 (all circumstances of non-compliance triggering CUIT limitation included).

"database of non-reliable taxpayers" (*Base de Contribuyentes No Confiables*) (Section 3 of AFIP G.R. 3832/2016). While no list of non-reliable taxpayers is published, it is possible to verify by CUIT if a company falls in this status.[14] The inclusion in the database of non-reliable taxpayers also involves the limitation of the CUIT number, but does not in any case exempt the taxpayer from its material and formal obligations, including the requirement to submit updated ownership information to the AFIP pursuant to the tax informative regime (Section 12 of AFIP G.R. 3832/2016).

84. These complementary sanctions, however, do not appear suitable to fully compensate the lack of effectiveness, proportionality and dissuasiveness, as they are applied only in some cases (especially for continued non-compliance with specific types of filing requirements), for specific types of entities and only affect companies that are actually carrying out an economic activity (i.e. holding companies would not be affected).

Availability of legal ownership information in EOIR practice

85. Argentina received six EOI requests concerning legal ownership information during the period under review and responded to all of them. In responding to these requests, in five cases Argentina obtained the necessary information through the AFIP's systems whereas in one case the Argentinian Competent Authority had to contact the IGJ to obtain information as the company was inactive and had not submitted the sworn declaration to AFIP. Two peers provided input indicating having requested and satisfactorily obtained information about legal ownership from Argentina. No peer reported an issue with the availability and provision of legal ownership information by Argentina.

Nominees

86. Nominee ownership or similar arrangements are not allowed, and are punishable in Argentina. The concept of nominee that exists in some jurisdictions does not exist under Argentinian law and shares are in principle held by their actual owner.

87. The General Companies Law (Section 34) expressly prohibits the existence of apparent partners or strawman (*socio aparente o presta nombre*) and hidden partners (*socio oculto*) and this was reported to have been enforced by courts, but no statistics were provided in this connection. The National Tax Procedures Law no. 11683 of 1932 (Section 35) also empowers the AFIP to impose tax on and sanction, as necessary, hidden shareholders/members of companies. These measures are enforced in

14. https://seti.afip.gob.ar/padron-puc-baja-oficio-internet/ConsultaCuitReactivadaAction.do (link consulted on 7 April 2023)

practice, with taxpayers notified of the taxes due. Argentinian authorities informed about six cases during the period from 2019 to 2022 in which, as a result of the tax audit, individuals were identified as (hidden) owners of entities, and taxes were imposed on them together with the relevant sanctions and interests, for a total amount of ARS 60 440 000 (about EUR 293 000).

88. Moreover, the AML Law (Section 21 a) and 21 bis c) requires AML-obliged parties to implement the necessary measures to identify situations where the client is acting on behalf of third parties.

Availability of beneficial ownership information

89. The standard was strengthened in 2016 to require that beneficial ownership information be available on companies. In Argentina, the availability of beneficial ownership information for companies is achieved through a multi-pronged approach. The primary source of beneficial ownership information for the purposes of the standard is based on tax filing requirements, introduced by the AFIP in 2020-21, which cover all the relevant entities and arrangements and are in line with the standard as regards the definition and identification requirements. Anti-money laundering requirements by the Financial Information Unit (UIF) supported by regulations by other public authorities which are legally bound to report to the former, including the Public Registries (see section on Company Law), are complementary sources of beneficial ownership information, but these include some gaps concerning the entities covered, as detailed in the respective sections.

90. There is no general record keeping requirement on companies and other legal entities themselves for the availability of beneficial ownership information.

Companies covered by legislation regulating beneficial ownership information

Type	Tax Law	AML Law	Company Law
SRL	All	Some	Some
SA	All	Some	Some
SAS	All	Some	Some
SCA	All	Some	Some
SEM	All	Some	Some
Foreign companies (tax resident)[15]	All	All	Some

15. 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. (2016 Terms of Reference A.1.1 Footnote 9).

Tax law requirements

91. The AFIP, as seen in paragraphs 69-70, has established with G.R. 3293/12 an information regime that compels all relevant entities (including permanent establishments of foreign companies) to provide on an annual basis, through a sworn declaration, information on the holders of their shares and equity interests (residents and non-residents in Argentina), as well as directors, managers, administrators, receivers, and members of the supervisory board. A requirement to include beneficial ownership information of the entity has been included in this regime with AFIP G.R. 4697/2020.[16]

92. In this connection, "final beneficiary" (Section 2 of AFIP G.R. 4697/2020) is defined as:

> the natural person who owns the capital or the voting rights of a company, legal person or other contractual entity or legal structure (regardless of the number of securities, shares or equivalents they own and their nominal value), or that, by any other means, exercises direct or indirect control on the said company, entity or structure. When a natural person who is final beneficiary according to the preceding definition is not identified, it must be reported as final beneficiary the president, managing partner, administrator or highest authority of said subject.[17]

93. This definition does not include an ownership threshold and so all natural persons who own shares in the entity are required to be identified. The definition does not define indirect control, which could be interpreted as covering only natural persons who have control over the company through

16. Section 2 of AFIP G.R. 4697/2020, in part indirectly through a reference to the Income Tax Law, Decree 824 of 5 December 2019. The obligation covers SRLs; SAs (including sole proprietorships SAs), SAS, SCAs, SEMs, Limited Partnerships, any other type of Company and Partnership ("*sociedades*") incorporated in Argentina, as well as foundations and mutual investment funds (with exceptions in Section 1 of Law 24083 of 1992). Some explicit exceptions are listed in Annex I to the resolution in favour of entities not relevant to the EOIR purposes, such as schools, hospitals, fire stations and churches. Other exceptions apply to temporary unions of companies ("*uniones transitorias de empresas*") and collaboration groups ("*agrupaciones de colaboración*"); companies, enterprises and similar whose capital, at the date when the information has to be provided, belongs entirely to the national, provincial or municipal State; Sole proprietorships; *Fideicomisos*. While *fideicomisos* are among the explicit exclusions from the provisions of AFIP G.R. 4697/2020, an obligation to report beneficial ownership to AFIP is established with separate G.R. (no. 4912/2021, see paragraph 173 below).

17. In such circumstances, the Resolution also states that this reporting is without prejudice to the powers that AFIP has to verify and supervise the causes that led to the impossibility to identify the final beneficiary.

means other than (indirect) ownership. There is no relevant guidance,[18] but the requirement to report indirect ownership control is explicitly included in the online form that has to be filled to submit the sworn declaration (see below). On the other hand, the lack of guidance on the meaning "any other means" through which control is exercised might lead to divergent interpretations by the reporting subjects. Argentina should thus clarify the meaning of "[control through] any other means" (see Annex 1). The definition indicates a simultaneous approach rather than a cascading process to identify the beneficial owners, and captures the default position of identifying a senior manager when no beneficial owner is identified.

94. The information to be provided (as specified in Annex 2 of the Resolution) for beneficial owners includes:

- name and surname
- CUIT, Argentinian Single Labour Identification Number or other identification number ("identification key", *clave de Identificación*)
- for non-residents: domicile in Argentina, citizenship, residence for tax purposes, tax identification number and domicile in the corresponding country.

95. The form also requires to indicate the type of control exercised by each beneficial owner: capital or voting rights; direct control through other means; or indirect control through other means. The information has to be submitted to AFIP on a yearly basis by July with respect to 31 December of the previous calendar year. The deadline for the first reporting was postponed to March 2021 in relation to the period 2019. As indicated in paragraph 71, the AFIP keeps ownership information on companies indefinitely.

96. The reporting requirements for tax purposes cover all relevant companies, the definition of beneficial owner/final beneficiary and the identification requirements appear to be in line with the standard. However, while the reporting requirement is placed on the companies themselves, no mechanism (e.g. powers or any other mechanism to compel beneficial owners to disclose their status to the company) is in place to ensure that companies have all the necessary information to identify their beneficial owner(s) and/or any changes thereof. Moreover, as the information to be reported is referred to the situation as of 31 December of the reporting year (the previous calendar year) and there is no requirement on the companies to keep updated information on their beneficial owners and/or to report to the AFIP intra-annually in case of relevant updates, there can also be situations when the information available to the AFIP is not up to date.

18. The only available guidance is in relation to the "controlling company" in a group of companies, pursuant to article 33 of the General Companies Law.

Anti-money laundering Law requirements

97. The AML Law No. 25246 of 2000 establishes the Argentinian legal framework for AML. The persons legally bound to report to the Financial Information Unit ("AML-obliged parties") are listed in Section 20 of the AML Law. The list includes, among others:[19]

- Financial Entities
- insurance companies
- natural or legal persons registered before the CNV to act as intermediaries in markets authorised by it and persons managing mutual investment funds or other collective investment products authorised by the CNV
- natural or legal persons acting as trustees, in any kind of trust; and natural or legal persons holders of or linked to, directly or indirectly, trusts, settlors and trustees accounts by virtue of trust contracts
- licensed professionals whose activities are regulated by the Professional Councils of Economic Sciences (including financial statement auditors and company statutory auditors)
- Notaries Public
- public registries of commerce
- agencies devoted to the supervision and control of legal persons, including the AFIP, the BCRA, the CNV, the Superintendency of Insurance
- money exchanges and natural or legal persons authorised by the BCRA to perform related businesses
- intermediaries registered with futures and options markets
- registered real estate agents or brokers
- mutual and co-operative associations.

98. The scope of AML-obliged parties is broad enough to ensure a wide coverage of legal entities and arrangements, but there is no requirement for all relevant entities and arrangements to engage an AML-obliged party on a continuous basis. The Argentinian authorities consider that in order to develop their corporate, commercial and economic activities, legal entities and arrangements will ultimately need to create a commercial relationship with an AML-obliged party, but this is not fully demonstrated. Thus, the

19. Lawyers and other legal professionals (except for notaries) are not, as such, AML-obliged parties.

scope of AML-obliged parties per se cannot ensure a complete coverage of the availability of beneficial ownership information for all the relevant legal entities.

99. The obligations on AML-obliged parties include, pursuant to Section 21, paragraph a, of the AML Law, the requirement "to obtain from customers, requesting or contributing parties, documents irrefutably evidencing their identity, legal status, domicile and other data to be specified in each case when carrying out any type of activity included in their purpose". Section 21 bis, paragraph 1 a) further specifies that the AML-obliged parties must:

> identify their clients by means of the information and, if applicable, the documentation that is required according to the rules that the [UIF] issues and that can be obtained from them or from reliable and independent sources, which allow with reasonable certainty to prove the veracity of its content
>
> make reasonable efforts to identify the beneficial owner. When this is not possible, they must identify the members of the administrative and control bodies of the legal entity; or failing this, identify those natural persons who have powers to administer or dispose of property, or who exercise control of the person, legal structure or patrimony of affectation, even when this was indirect.
>
> where there were doubts as to whether customers are acting on their own behalf or where there is certainty that they are not …, take reasonable and proportionate additional measures, using a risk-based approach, to obtain information on the true identity of the person on whose behalf customers are acting.

100. While the AML Law contains an obligation to make reasonable efforts to identify the beneficial owner(s) of a customer, the definition of "beneficial owner" is not contained in the law itself but rather found in regulatory instruments (resolutions) adopted by the UIF as well as by the various regulatory bodies which are subject to reporting to the UIF (e.g. the CNV with its Internal Regulations, the IGJ with General Resolutions).[20]

20. For the detailed implementing rules on the obligations set in the AML Law, Section 21 of the AML Law provides that the UIF "shall lay down objective guidelines about modalities, opportunities and limits for complying with this obligation for each category of legally bound reporting party and type of activity". In accordance with Section 14 paragraphs 7 and 10 of the AML Law, the UIF has the power to issue directives and instructions for compliance and implementation of the subjects that fall within its scope. It also regulates the oversight, auditing and on-site inspection of said subjects, and it controls, directly or through collaboration agreements with the

101. In particular, UIF resolution 112/2021 applicable to all AML-obliged parties, provides the general rules about beneficial ownership. This resolution has replaced the definition of "beneficial owner" contained in previous resolutions that are dedicated to specific types of AML-obliged parties, with the following definition:

> a natural person who owns at least ten percent (10%) of the capital or voting rights of a legal person, a fideicomiso, an investment fund, an affected estate and/or any other legal structure; and/or natural person who, by other means, exercise final control over them.
>
> Final control is the control exercised, directly or indirectly, by one or more natural persons through a chain of ownership and/or through any other means of control and/or when the person has the decision-making power of the governing body of the legal entity or legal structure and/or the power to appoint and/or remove members of the administrative body.
>
> When it is not possible to identify the natural person who is the Beneficial Owner according to the previous definition, the Beneficial Owner shall be considered to be the natural person who is in charge of the management, administration or representation of the legal person, trust, investment fund, or any other property and/or legal structure affected. This shall be done without affecting the powers of the Financial Information Unit to verify and supervise the causes that prevented the non-identification of the Beneficial Owner as indicated in the first and second paragraphs of this Section.
>
> In the case of fideicomisos and/or other similar national or foreign legal structures, the Beneficial Owner of each of the parties shall be identified.

102. The first paragraph identifies control through direct ownership, and the second paragraph also captures control through ownership, including indirect ownership. Argentinian authorities have explained that the 10% threshold of the first paragraph is to be applied in this connection as well. This understanding was confirmed by the representatives of the banks and legal professionals (notaries and auditors) interviewed during the onsite visit, as well as from the sample forms for clients on the indication of beneficial owners provided.

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regulatory bodies in charge of the activity, compliance with the obligations established in rules and regulations in force. UIF can also establish longer terms during which the information shall be held by AML-obliged parties (see paragraph 117).

103. As regards the possible conjunctive or disjunctive qualifications of the "and/or" clauses in both the first and second paragraph, Argentinian authorities have explained that while there are no express guidelines on the situations in which a beneficial owner should be identified by the voting rights criteria and the situations in which it should be identified by other means, the scope of this concept is commonly interpreted in a broad sense, meaning that for all cases in which voting rights exist, the natural persons reaching or exceeding the 10% fall within the definition and, in addition to this, all the beneficial owners falling under the other criteria also fall within the definition and are thus expected to be reported.

104. The definition thus also follows a simultaneous approach rather than the cascading process represented in the FATF guidelines,[21] with more individuals identified in some circumstances. Natural persons who own (directly or indirectly) at least 10% of the capital or voting rights are identified as beneficial owners regardless of whether any natural person exercising control through means other than ownership is also identified. This simultaneous approach is in line with the standard as all the beneficial owners who would be identified under the cascading approach are also required to be identified. Also consistently with the standard, for cases when it is not possible to identify a beneficial owner under the criteria of ownership and/or control, a provision to verify the identity of the relevant natural person who holds the position of senior managing official (defined as "natural person who is in charge of the management, administration or representation") is present.

105. UIF resolution 112/2021 also provides (Section 5) that, regardless of the level of risk assigned by the AML-obliged party to its clients, the beneficial owners must be identified in all the cases, and their information has to be updated. For the identification of the beneficial owner, the client is required to submit to the AML-obliged party a sworn declaration including the following information: first and last name, ID number, address, nationality, profession, marital status, percentage of participation and/or ownership and/or control, and tax ID number if applicable. Any ownership chain must be described up to the natural person who exercises the final control according to the definition, and in each case, the respective supporting documentation, bylaws, share registries or corporate holdings, contracts, transfer of shares and/or any other document that proves the ownership chain and/or control must be included. Besides the requirements to submit the sworn declaration, the AML-obliged party can also request any other information and/or documentation that, at its discretion, is needed to identify and verify the identity of the beneficial owner of the client. All information and/or documentation collected must be included into the client's file.

21. Interpretive Note to Recommendation 10 (Customer Due Diligence).

106. The client, pursuant to UIF resolution 112/2021, must "inform" the AML-obliged party of any amendment and/or change related to its beneficial owners within 30 calendar days. While in principle there can be doubts on how a UIF resolution could pose obligations on the clients of the AML-obliged party and how these obligations could be enforced, representatives of bank associations interviewed during the on-site visit explained that these provisions have been incorporated in both the general terms and conditions of the banks and in the specific contractual information that the client has to sign on onboarding. As regards to the latter, sworn declarations templates used by three of the main banks, provided as a sample after the onsite visit, reported a commitment by the client to inform the bank within 30 calendar days in case any modification and/or change of the beneficial owner(s) occurs. Argentinian authorities have also explained that the duty to "inform" is interpreted as requiring a new sworn declaration to be submitted by the client, as a change or amendment implies a modification of the data submitted in the previous sworn declaration.

107. Besides the general requirements on beneficial owners in UIF resolution 112/2021, other UIF resolutions contain Know Your Customer and Customers' Due Diligence (CDD) obligations on specific categories of AML-obliged entities. In particular, for financial entities, entities of the capital markets and entities of the insurance sector, these provisions are contained respectively in UIF resolutions 30/2017, 21/2018 on 28/2018. Pursuant to the amendments introduced with UIF resolution 112/2021 (Section 3), they all reflect the definition of beneficial owner as reported under paragraph 101. These resolutions establish general Know Your Customer duties on the respective AML-obliged parties to have policies and procedures that allow them to obtain sufficient, timely and up-to-date knowledge of all customers; to verify the information provided and to properly monitor their transactions. These duties also include the obligation to identify customers in due form and time. The identification techniques must be executed at the beginning of commercial relationships and must be periodically[22] applied, with the purpose of keeping updated data, records and/or copies of the AML-obliged parties' customers database.

108. As provided under the respective Section 22 "Customer segmentation based on risk" of said UIF Resolutions, the customers' due diligence (CDD) procedures must be implemented in compliance with AML risk classifications (high, medium and low), according to the risk model implemented by the AML-obliged party, for which the risk criteria related to the customer – such as type of customer (individual or legal person), economic activity, origin of funds, real or estimated amount of transactions, nationality and residence – must be considered. The risk-classification rating must be

22. See paragraph 112 for the minimum frequencies of application.

attributed when accepting new customers and must be updated throughout the entire relationship.

109. The consequence of the risk model is that the application, scope and intensity of the CDD have to be staggered, at a minimum, according to the high, medium and low risk classification levels. Thus, the assignment of a high risk requires the party to apply Enhanced CDD measures, the medium risk level results in the application of the "ordinary" CDD measures, and the presence of a low risk enables the party to apply Simplified CDD measures.[23]

110. All the three levels of risk and corresponding CCD measures include, for clients which are legal persons, the identification of their beneficial owners. The three resolutions also refer to the sources of information that can be used to this end: "for the purposes of identifying the beneficial owners of the legal entity, sworn declarations of the client, copies of the shareholder records provided by the client or obtained by the obliged party, or any other documentation or public information that identifies the Client's control structure may be used. When the majority participation of legal-entity clients corresponds to a company that is listed on a local or international regulated market and is subject to requirements on transparency and/or disclosure of information, [the obliged party] will be exempted from the identification requirement (..)"[24]. However, Section 29 of UIF Resolution 30/2017 on Financial Entities establishes that in case of Simplified CDD, for the identification of the clients which are legal persons, the obliged entity is expected, as a minimum requirement, to obtain "copy of articles of incorporation and bylaws, with evidence of their presentation in the corresponding registry" (i.e. date and number of registration). This provision appears to limit the minimum number of documents to be collected to identify the clients, but not the identification data gathering itself (i.e. while there is no reference to the acquisition of sworn declarations or the other documents suitable to substantiate the client's control structure, the AML-obliged party would still need to gather information to identify the beneficial owners).

111. While the provisions in the previous paragraph apply for the identification of the clients which are legal persons, special rules are provided in the three UIF Resolutions[25] for the identification of SAS and other commercial

23. Sections 27 to 29 of UIF Resolution 30/2017 on Financial Entities; Sections 27 to 29 of UIF Resolution 21/2018 on Capital Markets and 28/2018 and Sections 29 to 31 of UIF Resolution 28/2018 on the Insurance Sector.

24. Section 24 I of UIF Resolution 30/2017 on Financial Entities; Section 24 I of UIF Resolution 21/2018 on Capital Markets and 25/2018; and Section 29 7 of UIF Resolution 28/2018 on the Insurance Sector.

25. Section 25 of UIF Resolution 30/2017 on Financial Entities; Section 25 of UIF Resolution 21/2018 on Capital Markets and 28/2018 and Section 26 of UIF Resolution 28/2018 on the Insurance Sector.

companies incorporated "by digital means", whereby the AML-obliged party can identify the legal person and initiate the commercial relationship with the digital constitutive instrument generated by the respective Public Registry, with digital signature of said body, received by the AML-obliged party through official electronic means. This appear to have a significant impact on the availability of beneficial ownership information pursuant to the anti-money laundering requirements for this type of companies, as there is no requirement to obtain this information upon initiation of the commercial relationship, if not through the incomplete company Registrar requirements (see below).

112. In terms of frequency of updates, the three resolutions require that the information and documentation of the clients must be updated in accordance with a periodicity proportional to the level of risk: it cannot exceed one year for high-risk clients, two years for medium risk clients and five years for low-risk clients. In addition, as regards beneficial ownership, as seen in paragraph 106, there is a requirement on the client to inform the AML-obliged party within a maximum of 30 days when a change occurs.

113. The three UIF Resolutions allow the outsourcing of some CDD tasks[26] under specific rules and circumstances, including that the responsibility remains with the AML-obliged party. The Resolutions also allow[27] the AML-obliged party to rely on the due diligence conducted by other entities supervised by the BCRA, the CNV, or of the Superintendency of Insurance, with the exclusion of the execution of continued due diligence and monitoring, analysis and reporting of operations, provided the following conditions are met:

- there has to be a written agreement between the AML-obliged party and the third party, which together with its implementation and operations has to be subject to periodic review by the person responsible for internal audit/control of the AML-obliged party, who has full and unrestricted access to all documents, procedures and supports related to them
- the third party executing the due diligence measures has to immediately inform the AML-obliged party of all the data required by the latter
- the third party executing the due diligence measures has to send without delay the copies of the documents that he has obtained.

114. Besides the AML requirements mandated by UIF Resolutions, the AML Law, in Section 14, paragraph 7 provides that where AML-obliged

26. In Section 16 of each respective Resolution.
27. In Section 31 of UIF Resolution 30/2017 on Financial Entities; Section 31 of UIF Resolution 21/2018 on Capital Markets and 28/2018 and Section 33 of UIF Resolution 28/2018 on the Insurance Sector.

parties have specific monitoring bodies, those monitoring bodies must provide the UIF with assistance within the framework of their competence.

115. For the Capital Market, the CNV Rules (adopted with G.R. 622/2013 and amended in 2019) provide a definition of beneficial owner[28] that reflects an older version of the definition contained in UIF resolutions, presenting some gaps. While Argentinian authorities indicated that, in application of the AML Law the rules in the UIF resolutions in AML matters should prevail over the rules set by the CNV, to avoid interpretative problems, the definition of beneficial owner in the CNV rules should be aligned on the UIF resolutions, or it should be clarified which definition applies to entities operating in the capital market (see Annex 1). The provision and content of the information on the beneficial owner of entities operating or intending to operate in the capital markets is verified within the activities to verify compliance with the integrity requirement for the inscription to CNV registries to carry out those activities. As regards companies issuing marketable securities, the duties of shareholders to inform their beneficial owners to the issuing company are established in Title II, Chapter II, Section 24 of the CNV Rules. In turn, companies must send the information to the CNV within five working days after the shareholders' meeting.[29]

116. Other AML-obliged parties are covered by specific UIF resolutions. For example, UIF Resolution 65/2011 is addressed to registered professionals whose activities are regulated by the Professional Councils of Economic Sciences (including financial statement auditors and company statutory auditors).

117. As regards the retention period for beneficial ownership information, the general requirement pursuant to the AML Law (Section 21 bis, paragraph c), is that the AML-obliged parties must keep the documents related to their customers for at least five years. The starting point of the record keeping period is not made explicit, but is understood to be from when the documents are obtained ("Information gathered shall be kept for at least five years" implies that information must be kept from the point when the information was gathered). Nonetheless, UIF regulations[30] extend

28. In Title XI "Prevention of Money Laundering and Financing of Terrorism", Part IV, Section 8.

29. The information to be provided is the following: First and last name; Nationality; Actual address; Birth date; National Identity Document or passport number; CUIT, Argentinian Single Labour Identification Number, or other tax identification; Profession.

30. Section 17 "Conservation of documentation" present in UIF Resolution 30/2017 on Financial Entities; in UIF Resolution 21/2018 on Capital Markets; and in UIF Resolution 28/2018 on the Insurance Sector and Section 19 of UIF Resolution 65/2011 on Registered professionals whose activities are regulated by the Professional

the requirement to a period of no less than ten years (in the case of beneficial ownership, from the date of termination of the relationship with the customer). Observance of this longer term has been confirmed by the representatives of the AML-obliged parties interviewed during the on-site visit of the present review, and accordingly the record retention period appears to be sufficient, notwithstanding the aforementioned lack of clarity.

118. Overall, the AML framework meets the standard in terms of requirements on beneficial ownership, but it does not represent a source that fully ensures the availability of this type of information as there is no requirement for all companies to engage an AML-obliged party on a continuous basis.

Companies Law requirements

119. The provincial Public Registries of Commerce are AML-obliged parties pursuant to the AML Law (see paragraph 97) and are required to identify the beneficial owners of the entities that are registered with them and under their supervision,[31] including by getting a sworn declaration from the entities themselves, and they must "keep an updated and comprehensive digital list of the Beneficial Owners of the entities that must send the information" (pursuant to UIF Resolution 112/2021, and in particular Section 8).

120. For the Autonomous City of Buenos Aires, the IGJ through its G.R. 7/2015 requires that all types of legal entities maintain and report beneficial ownership information.[32] In particular, Section 518 requires that a sworn declaration indicating the beneficial owner(s) be submitted in order to register domestic and binational companies,[33] companies incorporated abroad, and/or registration or amendments of associative contracts or *fideicomiso* contracts.

121. For the definition of Ultimate Beneficial Owner, IGJ G.R. 7/2015 (Section 510(6) and Section 518, as both modified by the IGJ G.R. 17/2021),

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Council of Economic Sciences. Argentinian authorities have stated that the obligation to preserve the information and documentation on Beneficial Ownership extends to ten years also in the regulations issued by the UIF also for all the other AML-obliged parties.

31. More precisely, of the entities (legal person, trust, investment fund, patrimony of affectation and/or any other legal structure) that are under their control and/or supervision.
32. Volume X "Prevention of Money Laundering and Terrorism Financing" of IGJ G.R. 7/2015 concerning "Rules governing the General Inspection of Justice", Sections 509 to 519.
33. Argentino-Brazilian binational companies pursuant to the treaty of 6 July 1990 between Argentina and Brazil.

refers directly to the definition in UIF resolution 112/2021 (see paragraph 101) and to its possible subsequent amendments.[34]

122. A sworn declaration template is provided in Annex XXVI of IGJ G.R. 7/2015. This template allows a company to indicate that there is no natural person that qualifies as beneficial owner. However, Argentinian authorities have indicated that as of 1 January 2021, a sworn declaration on beneficial owners is only accepted when at least one individual is indicated as beneficial owner. This is also confirmed from the instructions present on the IGJ portal.[35]

123. The sworn declaration must be submitted both electronically and in paper form, with signature and seal of a legal professional or notary public, and must include the holographic signature of one of the following:

- the legal representative of the applicant entity – already registered or subject matter of the registration
- the ultimate beneficial owner informant.

124. In the case of companies incorporated abroad that have already been registered, the sworn declaration is also requested (in compliance with the information regime according to Sections 237, 251, 254 and related sections of IGJ G.R. 7/2015). In case the sworn declaration was signed outside Argentina, the signature of the issuer must be certified with a public notary or other official with appropriate powers, in compliance with the law of the place of signature and issuance.[36]

34. Section 510(6): "It will be considered Final Beneficiary/ies the person(s) referred to in Section 2 of Resolution 112/2021 of the Financial Information Unit, or by the regulation of said body that modifies or replaces it in the future." The same provision is also incorporated in Section 518.

35. https://www.argentina.gob.ar/justicia/igj/ddjj/beneficiario-final (link consulted on 7 April 2023).

36. Formalities required in Section 277 "Documentation coming from a foreign country; requirements"– the documentation coming from a foreign country shall be submitted with formalities required by the original country law, certified and apostilled or legalised by the Ministry of Foreign Affairs, in the terms of Section 206 regarding the requirement of being signed in original copy by the company officer, whose representative powers shall be justified by a notary public or public official and, as applicable, with an attachment of the original language version made by a licensed National Certified Translator in the City of Buenos Aires, whose signature shall be legalised by the respective Association or professional entity authorised to such effect.

125. The beneficial owner sworn declaration must be submitted at the moment of registration before the IGJ and then on a yearly basis.[37]

126. In conclusion, pursuant to the AML Law, all provincial Public Registries of Commerce are required to identify the beneficial owners of the entities that are registered with them and under their supervision. This has been implemented by the IGJ in the jurisdiction of the Autonomous City of Buenos Aires. As regards the other provincial Public Registries of Commerce, it is not clear whether and to what extent the requirements have been implemented.

Beneficial ownership information – Enforcement measures and oversight

127. For tax obligations, violations or partial or total breaches of the information regime established by AFIP G.R. 4697/2020 and G.R. 4879/2020, are subject to fines of up to ARS 5 000 (about EUR 24), which will be raised up to ARS 10 000 (about EUR 48) if the taxpayer is a company or other kind of entities pursuant to (unnumbered) Section added after Section 38 of National Tax Procedures Law. **Argentina is recommended to ensure that sanctions for non-compliance with the information-keeping and reporting obligations for tax purposes are effective, proportionate and dissuasive**.

128. In practice, in 2022 (with reference to the situation as of 31 December 2021), 165 866 sworn statements (or 34% of the total required) were submitted to AFIP on time. A further 62 145 sworn statements (13% of the total required) were submitted late, either due to voluntarily compliance (22 746, or 5%) or following intervention by AFIP (39 399 or 8%), including notifying the entity of their outstanding obligations. Following further AFIP intervention, an additional 142 891 sworn statements (29% of the total required) were received. This left 53 415 entities (or 11%) still non-compliant as at the date the statistics were collated.[38] The Argentinian authorities advised that, due to the COVID-19 pandemic, reporting deadlines in 2021 were extended, and further compliance actions suspended. Two kinds of controls are carried out by the AFIP on beneficial ownership information declared through the tax informative regime. First, an ongoing

37. For further registration procedures to the IGJ carried out during the same calendar year, there is a requirement to update the BO information. This can be done with a non-certified copy with the signature and seal of a legal professional until the new calendar year, when a new original sworn declaration has to be submitted within the yearly terms provided for this obligation.

38. These percentages are based on the number of entities reported as registered with AFIP. The cause of the apparent discrepancy and the status of the "missing" 13% of entities has not been confirmed.

and desk-based verification of the compliance to the reporting requirement is performed. Second, substantial checks are carried out in the case of tax audits, during which the information on beneficial ownership of entities is verified, among other compliance issues. The desk-based verification on the reporting requirements is ongoing, but for the cases of non-submission, no relevant enforcement actions have been taken so far. For the substantial checks, while it is foreseen that beneficial ownership sworn statements are checked in the framework of tax audits, and some such verifications have already occurred, at this stage it is not demonstrated that the level of supervision ensures that accurate information has been filed. Resolutions about sanctions issued by the UIF are publicly available.[39] While there are no aggregate statistics per type of infringements, in at least nine cases in the years 2019 and 2020, the sanctions issued related to the non-compliance with the requirement to gather beneficial ownership information on clients.

129. The sanctions applicable to AML-obliged parties for non-compliance with their obligations are foreseen in Chapter IV of the AML Law. According to Section 24:

- A person acting as executive or governing body of a legal person or a natural person who fails to comply with any of the obligations established by the UIF, is punishable with a fine of one to ten times the total value of the assets or transactions to which the infraction is related, provided that the act does not constitute a more serious offence. The same sanction applies to the legal person where the offender works.
- Where the actual value of the assets cannot be determined, the fine will be from ARS 10 000 to ARS 100 000 (about EUR 48 to 484).

130. During their inspections, UIF or the other supervisors (BCRA) verify compliance with the identification of the beneficial owners within the framework of the analysis of samples of clients' files. Argentinian authorities informed that the statistics on supervision and sanctions do not single-out the activities related to the availability of beneficial ownership information.

131. In addition to sanctions in the AML Law, each supervisory body can apply sanctions specific to its sector. For example, within the sphere of the CNV, sanctions applicable in case of non-compliance are those included in Sections 132 and 133 of Law No. 26831 of 2012 (Capital Market Law), which may vary according to each particular case.[40] Again during the review

39. At https://www.argentina.gob.ar/uif/sanciones-uif (link consulted on 19 May 2023.
40. These include fines from ARS 5 000 to ARS 20 million (about EUR 35 to EUR 140 885) which could be raised to five times the profit gained or loss caused as a result of illegal actions, whichever is the greater, and non-pecuniary sanctions such as warning,

period, certain supervision and enforcement actions were affected by the COVID-19 pandemic. Notwithstanding this, the Argentinian authorities advise that from 2019-21, across the different supervisors, 211 supervisory actions were undertaken including the institution of summary proceedings and the imposition of corrective measures.

132. The supervisory and enforcement measures for non-compliance with the IGJ information regime (including submission of the sworn declaration on beneficial owners) are established by the General Companies Law, by the IGJ organic Law No. 22315 of 1980 and by G.R. 7/2015. The IGJ does not register or conclude any procedure if the corresponding sworn declaration has not been submitted (Section 519 of IGJ G.R. 7/2015). A warning is applied in the case of formal breaches committed only once, whereas reiterating the same breach is to be punished with a fine (Section 26 of G.R. 7/2015). No information was provided, however, on the rate of compliance with the requirement to file the relevant sworn declaration. There is no information about corresponding supervisory and enforcement measures carried out by other provincial registries.

133. A legal enforcement framework is therefore in place in respect of the beneficial ownership information requirements in the tax framework and the AML Law, the commercial registration law, but it does not appear sufficiently implemented in practice as regards the filing requirements.

Conclusions on the availability of beneficial ownership information

134. The provisions requiring the availability of beneficial ownership information have seen substantial developments in Argentina in recent years, with the introduction of reporting requirements to the tax administration by all entities and arrangements in 2020 and the strengthening of the rules foreseen for AML purposes in 2021, the latter also having an impact on the requirements by the Public Registries of Commerce.

135. These three systems are to some extent related with each other, insofar as the AFIP and the Public Registries of Commerce are required to submit suspicious transaction reports (the AFIP has also other reporting obligations) to the UIF (which, unlike the formers, does not hold information on beneficial owners).

136. These systems also have in common the fact that it is up to the companies themselves to report, at least in the first instance, their beneficial owners through a sworn declaration (see paragraphs 91, 105 and 119). AML-obliged entities (of the private sector) are required to verify and

published warning, temporary disqualification to act in a specific position, suspension from participating in public procurements or on the stock market.

to keep up-to-date the information on beneficial owners of their clients (see paragraph 105), whereas the AFIP and the Public Registries of Commerce have an annual filing requirement and the verification of the information is addressed with ex-post controls, both on the non-filers and on the information contained in the sworn declarations.

137. There is however no general mechanism to ensure consistency of information on beneficial ownership held by each Public Authority and AML-obliged party, and thus suitable to compensate, as a whole, the limitation that each system has, and in particular:

- For the tax and commercial framework, the fact that the reporting requirement is annual and there is no requirement for any intra-annual update in case changes occur, combined with the fact that there is no mechanism in place to ensure that companies have all the necessary information to identify their beneficial owner(s) and/or any changes thereof (see paragraph 96).
- For the AML framework, there is no requirement for companies to engage a (private sector) AML-obliged party on a continuous basis.

138. For the provincial Public Registers of Commerce, except for the Autonomous City of Buenos Aires, it is not clear whether and to what extent the requirements on beneficial ownership have been implemented so far.

139. As regards the supervision, a legal enforcement framework is therefore in place in respect of all the three systems, but for the filing requirements in the tax and commercial frameworks, the supervision (by the AFIP and the IGJ) does not appear sufficiently implemented in practice.

140. For the above reasons, **Argentina is recommended to ensure that accurate and up-to-date beneficial ownership information is available in line with the standard for all companies** and **to put in place a comprehensive and effective supervision and enforcement programme**.

Availability of beneficial ownership information in EOIR practice

141. Argentina received no request of beneficial ownership information during the period under review. Argentina indicated that the records held by AFIP would be the primary source of information for responding to an EOI request for beneficial ownership information.

A.1.2. Bearer shares

142. Since the entry into force in 1995 of Law No. 24587 on the individualisation of private securities, it has not been possible to issue bearer shares in Argentina. As indicated in the 2013 Report (paragraphs 77-78), pursuant to Section 1 of this law, the bearer shares that existed at the date of publication of the law had to be converted into registered shares or book entries within six months. The outstanding bearer shares could no longer be converted into registered shares or transferred, and no rights attached to them can be exercised any longer (Section 7), which means that any remaining bearer shares would be null and void.

A.1.3. Partnerships

Types of partnerships

143. An Argentinian partnership is a legal person in which each member agrees to participate, taking into consideration each other member in their personal capacity (*intuito personae*). The types of partnerships under Argentinian law are:

- *Sociedad Colectiva* (General Partnership). Governed by Sections 125 to 133 of the General Companies Law, with at least two members who are jointly, personally and severally liable for the partnership's debts. As of December 2021, 2 705 existed in Argentina.
- *Sociedad en Comandita Simple* (Limited Partnership). Governed by Sections 134 to 140 of the General Companies Law, that comprises general partners, jointly and severally liable for the partnership's debts, and limited partners, who incur no liability for the partnership's debts and whose risk is limited to the amount of their contribution (i.e. essentially, financial backers). Limited partners cannot manage the partnership. As of December 2021, 3 343 existed in Argentina.
- *Sociedad de Capital e Industria* (Capital and Industry Partnership). Governed by Sections 141 to 145 of the General Companies Law, it is a legal entity where the general partners are liable to the same extent as partners of general partnerships, and partners who contribute with their industry are only liable up to the amount of their share of profits to be received. They are rarely used, with only 145 in existence as of December 2021.

144. As the General Companies Law does not make a distinction between companies and partnerships, the rules and conclusions reported in section A.1.1 on foreign companies (see paragraph 55) also apply to foreign partnerships.

145. Finally, the 2013 Report indicated that the law[41] provided for the concept of *Sociedades irregulares* (irregular partnerships). These legal entities, now governed by Part 4 (Sections 21-26) of the General Companies Law (and referred to as "companies not properly incorporated", *sociedades no constituidas regularmente* in IGJ G.R. 7/2005), are those not organised in conformity with the legal types provided under Part 2 of the same Law. Their members are jointly liable for the entity's operations and the partnership may be invoked between the members. As of December 2021, there were 24 250 partnerships governed by Part 4 of the General Companies Law in Argentina (a slight decrease from the previous year, with a number of 22 487 as of 30 December 2020).

146. While in the past irregular partnerships could not hold assets and bank accounts in their name, as of 1 August 2015, the CCCN (point 2.10 of Annex II) has replaced Section 23 of the General Companies Law and established that these partnerships may hold assets in their name by registering at the corresponding Public Registry and indicating the shareholding proportion of each partner. The Argentinian authorities explain that upon registration, the partnership no longer falls within the definition of Part 4, but corresponds to the type of entity it registered as, and will be liable to comply with the specific regulations for that type of entity. Partnerships governed by Part 4 of the General Companies Law have in any case the obligation, as private legal entities, to keep accounting records pursuant to the CCCN. They have also the obligation to register at AFIP, and being a type of company defined in the General Companies Law, they have the obligation to provide information on their legal ownership (see paragraphs 68-69) and beneficial ownership (see paragraph 91) to AFIP pursuant to the G.R. 4697/2020. Furthermore, in practice, they would need a CUIT (and therefore registration with the AFIP) to open and operate a bank account in Argentina (pursuant of Section 1.3 of the BCRA Communication no. A 7661, Bank Current Account Regulations).

Identity information

147. The requirements on partnerships were outlined in the 2013 Report (paragraphs 79-85). The procedure for the creation of partnerships is the same as for the creation of companies. This means that the name of all partners and their contributions and interests in the partnership must appear in the instrument of creation. The instrument must be amended every time a partner changes. If it is not, the change is not opposable to third parties. Also, the transmission of quotas or shares in all partnerships must be registered with the Public Registry of Commerce (Section 35, IGJ G.R. 7/2005).

41. Chapter I, Section IV of the General Companies Law: "Companies not incorporated according to the types of Chapter II and other cases".

148. All partnerships are also subject to the same tax reporting obligations as commercial companies, i.e. to inform the tax administration of their creation and provide it with up-to-date information on their structure and identity of their members every year, as well as to declare all transfers of ownership interests within ten working days of the transfer (G.R. 4697/2020).

149. It therefore remains the case that the availability of information on the identity of the partners in all partnerships is ensured by Argentinian law.

Beneficial ownership

150. General Partnerships, Limited Partnerships and Capital and Industry Partnerships are legal persons and, for the application of CDD pursuant to the AML requirements, the same consideration and conclusions provided for companies in section A.1.1 (see paragraph 118) are applicable. The scope of AML-obliged parties is broad enough to ensure a wide coverage of partnerships but cannot ensure a complete coverage because there is no requirement for them to engage with an AML-obliged party on a continuous basis.

151. As regards the requirements under the Companies Law,[42] General Partnerships, Limited Partnerships and Capital and Industry Partnerships fall within the definition of companies ("*sociedades*") in Section 518 of IGJ G.R. 7/2015 and therefore are subject to the requirement of submission of a sworn declaration on beneficial owners, to the same extent and with the same limitations indicated in paragraphs 119-126 (lack of uniform application in all the provinces).

152. For the tax requirements, the definition does not include an ownership threshold and all natural persons who have a participation in the entity are required to be identified. As noted in paragraph 91, the same requirements to provide beneficial ownership information to AFIP on a yearly basis applicable to companies are applicable to partnerships.

153. As the same considerations made in paragraphs 134-139 are also applicable to partnerships, **Argentina is recommended to ensure that accurate and up-to-date beneficial ownership information is available in line with the standard for all partnerships** and **to put in place a comprehensive and effective supervision programme.** In addition, the lack of guidance on applying aspects of the beneficial ownership definition, which was discussed at paragraph 93 in relation companies also applies to partnerships. Accordingly, Argentina should clarify the meaning of "[control through] any other means" (see Annex 1).

42. In the Autonomous City of Buenos Aires, see paragraph 56.

Oversight and enforcement

154. The supervision data provided in relation to element A1.1 also cover supervision of partnerships. As a consequence, the same considerations, set out in paragraph 82, about the amount of fines pursuant to the Tax Procedures Law apply to partnerships. Argentina should ensure that sanctions for non-compliance with the identity information-keeping and reporting obligations for tax purposes are effective, proportionate and dissuasive (see Annex 1). The UIF further confirmed that it took action specifically against five partnerships, including the imposition of financial penalties.

Availability of partnership information in EOIR practice

155. Argentina received no EOI requests on partnerships during the period under review.

A.1.4. Trusts

156. The concept of "trust" does not exist under Argentinian law and Argentina has not signed the Hague Convention of 1 July 1985 on the Law Applicable to Trusts and on their Recognition. However, Argentinian resident natural or legal persons are not prevented from acting as a trustee of a foreign trust, including investing or acquiring assets in Argentina as a trustee.

157. In addition, Argentinian law provides for *fideicomisos*, a legal arrangement similar to a trust. *Fideicomisos* are regulated by the CCCN (Chapter 30, Sections 1666-1707) and have to be registered at the corresponding Public Registry (Section 1169). Therefore, they are required to comply with the General Companies Law and the same conditions for the conservation of entities documentation apply.

158. *Fideicomisos* can be classified as ordinary or financial. In a financial *fideicomiso* (Sections 1690-1692 of the CCCN) the *fiduciario* (trustee equivalent) is a financial institution or a corporation specifically authorised by the CNV to act as a financial *fiduciario*, and the beneficiaries are holders of share certificates of the *fideicomiso* property or of debt securities guaranteed by the property transferred. The share certificates and debt securities are regarded as securities and may be subject to public offering. The *fideicomisos* other than financial *fideicomisos* are qualified as ordinary. As of December 2021, there were 29 118 ordinary *fideicomisos* and 248 financial *fideicomisos*.

Requirements to maintain identity information in relation to trusts and implementation in practice

159. The availability of identity information in relation to both domestic *fideicomisos* and foreign trusts with an Argentinian-resident trustee is ensured by G.R. 3312/2012 that requires the yearly reporting of the relevant persons to the AFIP (see 2013 Report, paragraphs 84-105).

160. In relation to *fideicomisos*, AFIP G.R. 3312/2012 requires the *fiduciarios* (trustee equivalents) to report the identity of their *fiduciantes* (settlor equivalents), *fideicomisarios* (the "ultimate" beneficiaries, to whom the settled assets must be transferred after a term not exceeding 30 years, which can be the settlor or a beneficiary), *beneficiarios* (beneficiary equivalents), and the *fiduciarios* themselves. The reporting obligation is in place both for ordinary and financial *fideicomisos*.

161. The obligation requires reporting within ten working days not only of the creation and termination of the *fideicomiso*, but also of other events such as any change of *fiduciante* or beneficiary, the transfer of participations or rights in the *fideicomiso* or trust, the addition of assets, any modification to the contract, and the allocation of benefits. Detailed data, including identity data on the parties to the *fideicomiso*, must be provided for each of these events, as described in the 2013 Report.

162. AFIP G.R. 3312/2012 (Article 1) expressly refers to residents in Argentina who act as trustees or equivalent, settlors or equivalent or beneficiaries of trusts or similar arrangements created in another country. Foreign trusts or similar arrangements are therefore within scope of the yearly reporting obligation and the obligation to report upon the occurrence of the above events. The reporting includes the name of the trust, its date of creation and term, the country of creation and legislation in force, the tax identification number (TIN) of the trust in the country of creation, the type or class of trust and its object. It also includes the identity details of the trustee, settlor, beneficiaries and ultimate beneficiaries, and the amount or value of the assets. Identification details include the name, surname, business name, TIN, nationality and tax residence. There were 258 foreign trusts with a resident trustee registered with the AFIP as of December 2021.

163. Full identity information on Argentinian *fideicomisos* and on foreign trusts or similar legal arrangements with an Argentinian-resident trustee is therefore maintained by the AFIP. Non-compliance with the reporting obligations gives rise to the application of sanctions foreseen in the National Tax Procedures Law.

164. In addition to the above provisions, financial *fideicomisos* are listed in the market and therefore require authorisation by CNV to operate. The

CNV has therefore the power to verify compliance obligations regarding registration.

Beneficial ownership

165. As regards the availability of beneficial ownership information on *fideicomisos* and other trust-like legal arrangements, the definition of "beneficial owner" provided in the UIF regulation 112/2021 (see paragraph 101) also covers *fideicomisos* and any other legal structures without legal personality. The regulation provides in particular that:

> In the case of fideicomisos and/or other similar national or foreign legal structures, the Beneficial Owner of each of the parties of the agreement shall be identified.

166. A specific UIF Resolution on *fideicomisos*, No. 140 of 2012, details the requirements that individuals or legal entities acting as, or performing the functions of *fiduciarios*[43] have to observe in their capacity of AML-obliged parties (see paragraph 97). The obligations are also applicable to foreign fideicomisos/trusts, in case there is a *fiduciario*/trustee[44] resident in Argentina. The requirements include the obligation to identify their "customers". The customers are not the *fideicomisos* as such, but the definition includes their *fiduciantes*, *beneficiarios*, *fideicomisarios* and the investors/holders of *fideicomiso* securities. In case the customer is a legal entity, the AML-obliged party is required to identify and verify the identity of the respective beneficial owners.

167. The scope of UIF Resolution No. 140 of 2012 covers all the *fideicomisos* created under Argentinian laws that have a connection with Argentina as well as foreign trusts in respect of which a *fiduciario*/trustee is resident in Argentina, in line with the standard.

168. As regards the companies law requirements, the definition provided in the UIF regulation 112/2021 (pursuant to IGJ G.R. 7/2015 as amended by G.R. 17/2021) and the same provisions applicable for companies (sworn declaration, pursuant to Section 511 of IGJ G.R. 7/2015) are also applicable to *fideicomisos* registered in the Autonomous City of Buenos Aires.

169. These AML and company law definitions are therefore in line with the standard.

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43. As well as other relevant *fideicomiso*-related subjects: administrators; Deposit, Registration and/or Payment Agents; Placement Agents and all those acting as subcontractors in the initial placement of *fideicomiso* securities (for financial *fideicomisos*); and Intermediaries, trading agents and/or as sellers of *fideicomiso* securities (for ordinary *fideicomisos*).
44. Or any other relevant *fideicomiso*/trust-related subjects, as detailed in footnote 43.

170. The participation in local and foreign legal arrangements is also subject to reporting obligations to the AFIP under G.R.s 4879/2020 and 4912/2021.

171. First, AFIP G.R. 4879/2020 (which amended Title I, Section 2 of G.R. 3312/2012), provides for the obligation to report information on the beneficial owner of trusts, defining the beneficial owner as "the natural person who, by any means, exercises direct or indirect control over the trust". When the beneficial owner does not participate directly in the control of the reported subjects, the obliged person has to indicate the first level of the holding chain suitable to prove the legal structure that participates indirectly in the capital of the reported trust (when it is an Argentinian entity or arrangement). The full participation chain must be provided for entities based or located abroad. In addition, when no beneficial owner according to the above definition is identified, the information to be provided in relation to the settlors, trustees, beneficiaries, protectors and similar[45] will be considered as information related to the beneficial owner.

172. This first reporting obligation does not meet the standard as the rules for identification of the beneficial owner appear to be the equivalent to that applied for companies and other legal entities, by identifying the natural person who, by any means, exercises direct or indirect control over the trust. Only if it is not possible to identify the beneficial owner according to this definition the settlors, trustees, beneficiaries, protectors and similar will be considered as the beneficial owners. The standard requires that in case of trusts and trust-like arrangements those parties have to be identified as beneficial owners regardless of whether they exercise control over the trust, and be looked through in case they are not individuals.

173. In this regard, AFIP G.R. 4912/2021 expanded the provisions above to include the relevant parties of the trusts as beneficial owners, while maintaining the previous provisions in force. It is now specified that the beneficial owner will be the natural person who participates or, by any other means, exercises direct or indirect control over the trust. As the lack of guidance on applying aspects of the beneficial ownership definition, which was discussed at paragraph 93 in relation companies also applies to trusts, Argentina should clarify the meaning of "[control through] any other means" (see Annex 1). The settlors, trustees, beneficiaries, protectors or equivalent who participate in local or foreign trusts, provided they are natural persons, shall also be considered beneficial owners.

45. It is provided in the Resolution that when a trustee, trustor or beneficiary of the trust is a company, legal person or other legal entity or arrangement, the natural person who owns the capital or the voting rights of said entity (regardless of the percentage of ownership), or who, by any other means, exercises direct or indirect control of that legal person, entity or arrangement, is to be considered the beneficial owner.

174. When the beneficial owner does not participate directly in the control of the trust assets or of the trust, the first level in the chain of ownership between the trust and the beneficial owner in the country must be reported, and it will also be mandatory to submit all the participations in case of entities based or located abroad. The obligation to report the level of participations also applies in case that the settlors, trustees, beneficiaries, protectors and similar are legal persons or other contractual entities or legal structures. If this is the case, the respective beneficial owners must also be reported.

175. When a natural person who is the beneficial owner as defined in this section is not identified, the natural person acting as administrator of the trust or highest authority of the entity administering it should be reported as beneficial owner. The G.R. expressly provides that the AFIP has powers to verify and control why it was not possible to identify beneficial owners.

176. In conclusion, as the same considerations made in paragraphs 134-139 are also applicable, mutatis mutandis, to trusts, **Argentina is recommended to ensure that accurate and up-to-date beneficial ownership information is available in line with the standard for all trusts and trust-like arrangements** and **to put in place a comprehensive and effective supervision programme**.

Oversight and enforcement

177. The supervision data provided in relation to Element A1.1 also cover supervision of *fideicomisos* and foreign trusts. The UIF further confirmed that, during the review period, it took action against one *fideicomiso* for failure to provide information on beneficial ownership. Summary proceedings lead to the imposition of a financial penalty for a total of ARS 400 000 (about EUR 1 930) for non-compliance to the requirements of the AML law, including a penalty of ARS 10 000 (EUR 48) for failure to provide information on beneficial ownership. As the same considerations, set out in paragraph 82, about the amount of fines pursuant to the Tax Procedures Law apply to *fideicomisos* and other trust-like arrangements, Argentina should ensure that sanctions for non-compliance with the identity information-keeping and reporting obligations for tax purposes are effective, proportionate and dissuasive (see Annex 1). Moreover, based on the considerations set out in paragraph 127, **Argentina is recommended to ensure that sanctions for non-compliance with the beneficial ownership information-keeping and reporting obligations for tax purposes are effective, proportionate and dissuasive**.

Availability of trust information in EOIR practice

178. Argentina received no EOI requests about domestic *fideicomisos,* or foreign trusts or on similar legal arrangements during the period under review.

A.1.5. Foundations

179. The concept of private foundation does not exist under the laws of Argentina. Those foundations that may be constituted for a public purpose are subject to strict regulatory oversight which ensures that the founders do not receive back the assets provided upon dissolution of the foundation. Therefore, they are not considered as relevant for EOIR purposes and no further analysis is required (see paragraphs 106-107 of the 2013 Report).

180. Foundations are, in any case, covered in AFIP G.R. 4697/2020 on the reporting of beneficial ownership information (see paragraph 91 above).

Other relevant entities and arrangements

181. *Sociedades civiles* is a type of (non-commercial) entity with legal personality used mainly for the formation of professional councils, trade unions, clubs and religious organisations. These entities are governed by what is in their constitutive agreement and, residually, by the Civil Code. They are also subject to the tax reporting regime of G.R. 4697/2020 (see above in respect of companies), thus ensuring that the identity of the members is required to be declared to the AFIP annually (see the 2013 Report, paragraphs 108-109). *Sociedades civiles* are also covered in AFIP G.R. 4697/2020 on the reporting of beneficial ownership information (see paragraph 91 above).

A.2. Accounting records

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

182. The 2013 Report found the legal and regulatory framework on accounting records to be in place and its implementation in line with the standard.

183. Obligations to keep reliable accounting records in respect of all relevant legal entities and arrangements, and effective controls on their proper application, continue to be in place.

184. There were no issues encountered with the accounting records in practice. During the period under review, Argentina received 46 requests for information from EOI partners, 13 of which referred to accounting records. The information was available and exchanged to the satisfaction of the EOI partners.

185. The conclusions are as follows:

Legal and Regulatory Framework: in place

Deficiencies identified/Underlying factor	Recommendations
Sanctions in the National Tax Procedures Law for non-compliance with the tax requirements, including to maintain and report accounting records, may not always be dissuasive and proportionate. Their effectiveness may be strengthened, considering that the amount of the fines has not been revaluated despite the significant rate of inflation over the years.	Argentina is recommended to ensure that sanctions for non-compliance with the information-keeping and reporting obligations for tax purposes are effective, proportionate and dissuasive.

Practical Implementation of the Standard: Compliant

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

A.2.1. General requirements

186. The standard is met by a combination of civil and tax law requirements, described below.

Civil and commercial Law

187. The 2013 Report noted that the primary source of accounting obligations was the Commercial Code and detailed its most relevant provisions. Following a re-codification, the relevant provisions can now be found in the CCCN (Part VII, Sections 320-328, with specific provisions on *fideicomisos* and foreign trusts found in Part VII and Chapter 30). The rules provide a general obligation for all "traders" (*comerciantes*), including all companies, partnerships, *fideicomisos*, foreign trusts and sole traders, to keep accounting books, the underlying instruments or documents for all transactions, and other records. The General Companies Law (Part IX) also requires companies and partnerships (as the law does not make a distinction between companies and partnerships, its general provisions apply to both) to maintain books and financial statements.

188. Section 321 of the CCCN requires accounting records to be kept on a uniform basis, show a true picture of the activities and acts of the entity,

and enable the recording of individual operations and relevant debtor and creditor accounts.

189. Section 322 establishes the requirement to keep essential registers (*registros indispensables*), including the daily book (*diario*), the inventory and balance book (*inventario y balances*), and any other books that are necessary to achieve an integrated accounting system as required by the nature and scale of the activities that the entity or arrangement carries out. The daily book must record all transactions relating to a person's commercial business and having an effect on its worth, either individually or in summarised records covering periods not exceeding one month, and in the latter case the summaries must be based on detailed records resulting in subsidiary books (CCCN, Section 327). The inventory and balance book must truthfully and accurately express the entity's financial situation, and record, at year-end, accounting statements, including a financial statement and a statement of income. The balance sheet must provide a detailed description of the entity's assets, liabilities, net worth, statement of income and statement of changes in net worth. All relevant information not included in the accounting statements must be set forth in attached notes and tables (Sections 62 to 65 of the General Companies Law). For SAs or joint stock companies, a stock ledger is also required (Section 213, General Companies Law).

190. The physical books where accounting is recorded must be submitted ex ante to the competent Public Registry for their "individualisation" (*individualización*) and marking (*rubricación*). This consists in annotating, in the first sheet of the book, a dated and signed note on its destination, the book number, the name of its owner and the number of sheets it contains. Each Public Registry must maintain a list, for public consultation, of the persons having requested the marking of books or an authorisation to keep accounting registers in another form (CCCN, Section 323).[46] This list must include the reference to the books that were marked or, where applicable, the authorisations granted to the requesting subject.

46. In relation to the other forms in which accounting registers can be kept, Section 329 of the CCCN provides that the holder may, with the prior authorisation of the competent Public Registry

- replace one or more books, except for the inventory and balance book, or any of their formalities, by the use of computers or other mechanical, magnetic or electronic means that allow the individualisation of the transactions and the corresponding debtor and creditor accounts and their subsequent verification
- keep the documentation on microfilm, optical discs or other suitable media.

The request made to the Public Registry must contain an adequate description of the system, with a technical opinion from a public accountant and an indication of the history of its use. Once approved, the request for authorisation and the respective resolution of the Public Registry must be transcribed in the inventory and balance book.

191. The accounting rules thus require the keeping of accounting records that allow the financial position of an entity to be determined with reasonable accuracy and truthfulness at a given point in time, as well as the preparation of financial statements.

192. The financial statements (*estados contables*) are composed by four documents: general balance; cash flow statement; results statement; and net Statement of Changes in the Shareholders' Equity. For the filing of financial statements by entities authorised to make public offerings of their negotiable securities, with the exception of banks and insurance companies, Argentina has adopted (CNV G.R. 576/2010) the International Financial Reporting Standards (IFRS) issued by the International Accounting Standards Board (IASB).

193. Under Section 325 of the CCCN, accounting books must be held at the owner's domicile (*en el domicilio de su titular*).

194. In the Autonomous City of Buenos Aires, the IGJ G.R. 7/2015 requires SAs to file their financial statements in digital form (IGJ G.R. 11/2005) on a yearly basis, within 15 days from the assembly that approved them. This does not apply to SAs, which are subject to "permanent supervision of the state" (*fiscalización estatal permanente*) pursuant to Section 299 of the General Companies Law.[47] It is unknown whether similar filing requirements exist in the other Provinces.

Tax Law

195. The National Tax Procedures Law (Section 33) requires taxpayers to maintain accounting books and underlying documentation, and enables the AFIP to establish further specific accounting obligations for taxpayers. Accordingly, Decree 1397 of 1979 (Section 48) requires taxpayers to keep accounting books and records and the underlying documentation that proves each relevant transaction for tax purposes for ten years (i.e. a period of up to five years after the year the records refer to is statute-barred, the statute of limitations being five years in most cases). Accounting records must remain available to the AFIP at the taxpayer's fiscal domicile within national territory.

47. The SAs that fall in the definition of Section 299 are those that: Perform public offer of shares or debentures; Have a corporate capital higher than a certain threshold (ARG 10 million, approximately EUR 70 400); Are of mixed economy or included in Section VI; Perform operations of capitalisation, savings, or require money or securities in any other manner with promise of future services or benefits; Operate licenses or public services; Are parent companies or subsidiaries of another company subjected to supervision, pursuant to one of the previous points; Are a sole proprietorship.

196. Companies, partnerships and, under certain conditions,[48] non-financial *fideicomisos*, are also required to file on a yearly basis, with the income tax return, their financial statements with an independent audit report by a publicly certified accountant (AFIP G.R. 4626/2019).

197. AFIP G.R. 3312/2012 (see paragraphs 171 et seq.) also sets specific obligations for Argentinian *fideicomisos* and resident trustees of foreign trusts to report certain accounting information annually.

198. Further details can be found in the 2013 Report (paragraphs 124 to 131).

Retention period and companies that ceased to exist

199. Under Section 328 of the CCCN, all accounting books, other registries and supporting documents must be kept for ten years (unless special laws establish longer terms), counting from the date of their last annotation for books and registries, and from the date of their creation for the supporting documents. The Section also requires that the heirs must keep the books of the originator ("*causante*") and, where appropriate, exhibit them, until the conservation period expires. Argentinian authorities explained that this provision does not require the heirs to keep the books personally, but rather that they must guarantee that they are available on request.

200. In case of liquidation of a company/partnership, the corporate books and documentation must be kept by the administration body or liquidator during the liquidation process and after liquidation, by the subject appointed by the shareholders/partners or by the judge. Pursuant to section 328 of the CCCN, information and documents must be retained for ten years, counting from the last annotation in the books and registries, and from their creation as far as supporting documentation is concerned. It can thus be inferred that they are to be maintained for at least five years following the liquidation process, in line with the standard (see paragraph 66).

201. Argentinian authorities informed that, pursuant to the National Tax Procedures Law (Sec. 6(1c)), the liquidators of the company are co-required to pay taxes due, and thus they could be requested to provide the company's accounting records for the company in the process of liquidation. After liquidation, the liquidator is responsible for informing AFIP of the dissolution and requesting cancellation of the company's AFIP registration, within 60 days of the dissolution, using a dedicated form and including the deed of dissolution and deed of appointment of liquidator (AFIP G.R. 2322/2007, sec. 8). Through this process, the AFIP will know the identity of the liquidator. While it is not demonstrated that through this requirement the AFIP would know

48. Where the *fiduciante* (settlor equivalent) is qualified as beneficiary.

the identity of the subject appointed to keep the corporate books and documentation after liquidation, in case it would not have this information it would be in a position to ask it (the corporate books and documentation and/or the identity of the subject appointed to keep them) to the liquidator itself.

202. Argentinian authorities indicated that they do not encounter difficulties in this connection when they need to gather information on dissolved companies for domestic tax purposes (the need has not yet arisen for EOIR purposes).

A.2.2. Underlying documentation

203. The CCCN (Section 321) requires that accounting records be backed up by the relevant documentation, which must be stored in a methodical way that enables its location and consultation.

204. For tax purposes, AFIP G.R. 4597/2019 provides that all taxpayers carrying out an economic activity (with some specified exceptions, such as those adhering to the simplified tax regime for small taxpayers, subjects providing personal domestic services, school co-operatives, centres for retirees and pensioners, etc.) must record the transactions carried out, including supporting documents (invoices, receipts, etc.) issued or received, in an electronic book called "Digital Value Added Tax Book" ("*Libro de IVA Digital*").

Oversight and enforcement of requirements to maintain accounting records

205. The Public Registries of Commerce are responsible for monitoring the compliance with the obligations of legal entities and arrangements in their territorial jurisdiction (see paragraph 190). In the Autonomous City of Buenos Aires, the control is performed by IGJ's Department of Commercial Companies Accounting Control and by the Department of Civil Entities Accounting Control. The supervisory and accounting control measures under the commercial law are foreseen in Book IV, Titles I and II of IGJ G.R. 7/2015, whereas sanctions are provided for in the IGJ Organic Law, i.e. written warning; written warning with publication; fines to the company, its directors and its statutory auditors (see paragraphs 73-78).

206. The IGJ carried out controls and issued sanctions for the non-submission of financial statements. In case of reiterated non-submission of financial statements and other irregularities (such as lack of effective registered office), the IGJ makes a judicial request to liquidate and strike-off the legal person. No statistics were provided on the number of actions taken and the corresponding amounts, but from the number of inactive companies that remain indefinitely in the REI (see paragraph 81) it appears that the

ex-officio liquidation would only occur in a limited number of cases. There is no information about the activities carried out by other Public Registries. Argentina should improve the supervision carried out by the Public Registries of Commerce, and in particular the monitoring of inactive entities, and review its systems whereby a significant number of non-complying inactive companies remain with legal personality on the Public Registries (see Annex 1).

207. For tax obligations, the AFIP through its operational areas is in charge of monitoring compliance with the requirements of maintaining the relevant accounting records and for the filing of financial statements. The National Tax Procedures Law (Section 39) provides for penalties consisting of fines from ARS 150 to 2 500 (about EUR 1 to 12) in case of non-compliance with the accounting record keeping obligations. In certain cases, the fine may rise to ARS 45 000 (about EUR 218).[49] The controls on accounting requirements are generally conducted in the context of tax audits, that include the verification of accounts to verify whether the entity determined and paid the correct amount of taxes.

208. AFIP develops an Annual Tax Audit Plan, for each calendar year, containing the actions and measures to be taken. Actions aim at increasing voluntary compliance of taxpayers and at enhancing control based on a risk perception approach. In this connection, a risk profile system is adopted, classifying taxpayers and/or responsible parties according to their level of compliance with their (formal and/or substantial) tax obligations, which makes it possible to make ongoing improvements on the targeting of cases for tax audits. The Plan also provides for the drafting of a monthly compliance report following predefined indicators. The actions carried out by AFIP operational areas include the following:

- Investigations: the analysis of the tax situation of the taxpayers in order to identify cases which may result in tax adjustments.
- Verifications: comprising desk-based audits carried out at a district or local office level analysing specific issues from cross-checking information available in the AFIP data bases.
- Tax Audits: more comprehensive inspections, including control actions over specific issues or sectors and preventive tax audits (general, specific and as a precautionary measure).

49. Pursuant to Section 39 and the following unnumbered section of the National Tax Procedure Law, higher fines may be imposed in case of: infringement to the rule related to the domicile established for taxation purposes; resisting a control from the AFIP; failure to provide information requested by the AFIP to control international transactions; failure to keep the receipts and documents proving the prices agreed for the international transactions; failure to meet the requirements concerning the filing of tax returns, including informative tax returns.

- Other actions, such as rulings on ex-officio determinations, summary proceedings on formal matters and challenges.

209. From the year 2019, in order to improve the procedures and the results of the tax audit processes, to optimise the use of the information in the AFIP databases and to enhance the quality of the cases that arise from information crosschecks, a tool named "Tax Matrix" (*Matriz Fiscal*) was developed. Such tool, as indicated by Argentinian authorities, allows AFIP to assess the tax behaviour of the taxpayers in a comprehensive manner by means of full control procedures that detect common misconducts. This also allows for the systematising of the detection of inconsistencies across a taxpayer's record so that cases with multiple inconsistencies attached to the same CUIT can be prioritised for audit. Thus, operational areas of the AFIP can rely on a permanent set of selected cases based on risk parameters, potential adjustment and/or a more general organisational strategy.

210. The operational areas of the AFIP have specific work instructions to follow to implement the tax audits plans. AFIP General Instruction 882 on "guidelines for tax audits of companies" provides specific instructions in relation to accounting records (paragraph 3.3.2). The instructions require that during an audit all the accounting and business books need to be gathered and their references reported in a dedicated form (no. 8053 "Release of Accounting/Company's Books"). The references to be reported in the form include the name of the book, the number of pages, the marking number and date (see paragraph 190), the date and identification of the last operation registered. Controls are then carried out on the accounting records gathered (paragraph 3.4), including, for the case of income tax:

- a reconciliation between the amounts in the tax return with those in the financial statements and the adjustments made in this connection
- a reconciliation between the amounts in the financial statements with the inventory and balance book (see paragraph 189)
- specific controls for each of the items (*rubros*) of the financial statements.

211. In case a taxpayer has not submitted a tax return, or the financial data is challengeable (*impugnable*), the National Tax Procedures Law (Section 16 to 19) provides that the assessment of the taxes due can be done ex officio based on estimations (also based on general averages and coefficients established), if the elements available only allow to presume the existence and magnitude of the taxable matter. This determination ex officio based on estimations aims at determining the most accurate amount of the taxable base based on available data and is not intended to impose an additional deterrent to the non-compliance with the tax obligations, but in practice it usually results in higher taxable amounts being determined.

212. If SAs or SRLs (but not other types of companies) fail to meet the requirement to submit financial statements with the tax return, this might prevent them from carrying out certain operations such as importing goods or transacting in foreign currencies[50] (see also paragraph 83 for other types of limitations as a result of non-compliance).

213. In conclusion, sanctions in the National Tax Procedures Law for non-compliance with the tax requirements, including to maintain and report accounting records, may not always be dissuasive considering that the amount of the fines has not been correspondingly revaluated despite the significant rate of inflation over the years. **Argentina is recommended to ensure that sanctions for non-compliance with the information-keeping and reporting obligations for tax purposes are effective, proportionate and dissuasive**.

Availability of accounting information in EOIR practice

214. Of the 46 EOI requests received by Argentina during the review period, 13 of them included requests for accounting records. Argentinian authorities indicated that the information was provided in all cases.

215. Among the peers who provided input, four indicated having requested accounting information to Argentina (including invoices, payment slips, information about ownership of assets and the total volume of transactions among parties) and being generally satisfied with the information received in response. No peer indicated any issues related to the availability or provision of accounting information by Argentina.

A.3. Banking Information

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

216. The 2013 Report found that banking information was available in Argentina through a combination of the commercial, tax, AML and financial regulation laws. This remains the case.

217. The standard was strengthened in 2016 to specifically require beneficial ownership information on bank account holders also be available. Argentina covers this requirement through the AML Law and the UIF resolutions applicable to banks (notably UIF resolution 30/2017 on Financial Entities).

50. AFIP G.R. 5271/2022 on the import system, G.R. 830/2000 on withholdings, G.R. 2226/2007 on Value Added Tax.

218. There was no issue encountered with the availability of banking information in practice.

219. During the period under review, Argentina received 46 requests for information from EOI partners, 20 of which referred to banking information of companies or individuals. The information was available and exchanged to the satisfaction of the EOI partners. The conclusions are as follows:

Legal and Regulatory Framework: in place

No material deficiencies have been identified in the legislation of Argentina in relation to the availability of banking information.

Practical Implementation of the Standard: Compliant

The availability of banking information in Argentina is effective.

A.3.1. Record-keeping requirements

Availability of banking information

220. As outlined under Element A.2, like any trading entity, banks are subject to the accounting requirements of the CCCN and the National Tax Procedures Law to keep accounting books and records, as well as underlying documentation, in relation to all transactions related to their business for ten years. The provisions of the CCCN are also referred to in the BCRA Communication A 6112 of 2016 on "Instrumentation, Conservation and Reproduction of Documents", requiring banks to maintain the relevant documents (or its digital reproduction) for ten years.

221. In addition, the AML Law (Section 21bis) requires banks to collect identity details on all customers and keep documents relating to the transactions performed by account holders. The BCRA prohibits anonymous or numbered accounts (BCRA Communication A 7661). Pursuant to the AML Law, banks must keep documents relating to banking transactions for five years following the completion of a transaction. The retention period has been extended to ten years by UIF Resolution 30/2017 on Financial Entities (see paragraph 117).

222. If a bank ceases to exist or operate in Argentina, its authorisation to operate has to be revoked by the BCRA and the bank will then undergo a process of liquidation (Title VII of the Law on Financial Entities). The Law on Financial Entities (article 49 j) also provides that "books and documentation of the liquidated entity shall be kept for ten years in the place designated by the judge […] and will be destroyed at the end of the established period."

223. Banks must also report account and transactional information to the AFIP on a monthly basis. Under AFIP G.R. 3421/2012, as amended by G.R. 4298/2018, banks (and other financial entities) are subject to the requirements of the Relevant Economic Transactions Information System (*Sistema Informativo de Transacciones Económicas Relevantes*). This involves reporting on a monthly basis to the AFIP the opening, closure and modification of all accounts, funds movements above ARS 30 000 (EUR 145), as well as purchases made with debit cards (exceeding ARS 10 000, equal to EUR 48, in Argentina, and with no threshold for purchases made abroad), and the identifying data of account holders (the information must include the name, CUIT and domicile of the customer). Foreign exchange transactions are also reported by the BCRA to the AFIP pursuant to a memorandum of understanding between the two authorities.

224. Further details can be found in the 2013 Report (paragraphs 134 to 143).

Beneficial ownership information on account holders

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

226. As analysed under Element A.1 with regard to availability of beneficial ownership information for companies (paragraphs 97 to 117), the AML Law establishes the Argentinian legal framework for AML whereas UIF resolutions provide the detailed requirements (including the beneficial ownership definition, see paragraph 101, and the frequency to update CDD information, see paragraph 112) for the specific categories of AML-obliged entities. These provisions are in line with the standard (see paragraph 118).

Oversight and enforcement

227. The BCRA carries out the prudential supervision and, in co-ordination with the FIU, AML supervision of all banks (as well as other financial entities) operating in Argentina. Supervision of banks is carried out both upon first registration/authorisation and on an ongoing basis.

228. For the ongoing supervision, the BCRA determines, on an annual basis, the level of risk of each bank. A “risk matrix” (considering both objective and subjective factors: deposits, products, trade, third-party funds managed, location, and headquarters and branches) determines banks’ level of risk and on such basis issues an order establishing the schedule of supervision: supervision of high-risk banks occurs on a priority basis, while the rest of the banks are supervised within the prudential framework of supervision. In any case, it is ensured that every two years, all the banks are

subject to control. Controls include solvency rate but also the AML framework, which involves verifying the CDD procedures and practices (including with control of a sample of client files).

229. In the three years 2019 to 2021 the BCRA carried out 261 audits on financial entities, including banks, through verifications and prudential inspections. As a result, the BCRA applied sanctions in 79 cases. Information on each sanction issued by the BCRA is published,[51] the overall actions are not summarised or aggregated per type of infraction.

230. The supervision of financial entities, including banks, for AML purposes is carried out jointly by the UIF and the BCRA (the framework of the collaboration procedure is established with UIF Resolution 97/2018). This involved, in the three years 2019 to 2021, 317 compliance actions, including both on-site inspections and desk-based verifications, with a requirement to take corrective measures (*acciones correctivas*) in 243 cases (see also paragraph 177).

231. No issues have been identified during the review in connection to the oversight and enforcement measures on the availability of banking information in Argentina.

Availability of banking information in EOIR practice

232. In the years from 2019 to 2021, Argentina received 20 requests concerning banking information; in 12 instances the account holders were companies and in 8 instances they were individuals. All the requested banking information was provided by Argentina, and it was either extracted from the AFIP databases or requested directly to the taxpayer/account holder. No request for banking information, according to AFIP internal practices, required to resort to the banks (see also paragraphs 263 and 274).

233. Among the peers who provided input, two of them indicated having requested banking information to Argentina during the review period and being generally satisfied with the information received in response. Another peer indicated having sent a request to Argentina that involved banking information, but that it was satisfactorily responded to even without the need to provide banking information.[52] No peer indicated any issues related to the availability or provision of banking information by Argentina.

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51. www.bcra.gob.ar/SistemasFinancierosYdePagos/Sumarios_financieros.asp (link consulted on 7 April 2023).

52. The EOI request was seeking confirmation on the amount of a salary paid from an Argentinian source to an individual and on the related banking information. Argentina provided information on the salary and on the fact that this was paid on a bank account held in the requesting jurisdiction, to the satisfaction of the EOI partner.

Part B: Access to information

234. 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).

235. The 2013 Report concluded that the Argentinian legal and regulatory framework for the Competent Authority's ability to obtain and provide information was in place. This continues to be the case.

236. Much of the information relevant for EOIR purposes is directly available in the databases of the AFIP. Where information is not directly available, the AFIP makes use of the powers available for domestic taxation purposes set in the National Tax Procedures Law to access the information.

237. In practice, AFIP has not encountered difficulties in gathering the information from its databases or from the information holders.

238. The conclusions are as follows:

Legal and Regulatory Framework: in place

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

Practical Implementation of the Standard: Compliant

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

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

239. The Argentinian Competent Authority, as identified in its EOI instruments, is the Ministry of Economy. The Ministry of Economy has granted to the AFIP the process and the regulation of procedures for the exchange of information within the framework of the Agreements with Tax Administrations of other countries (Resolution 336/2003).

240. AFIP's Federal Administrator (Commissioner) has in turn appointed, with Internal Regulation no. 258/10, four positions within the AFIP as responsible to act as delegated Competent Authority. These are, in descending hierarchical order: the Deputy Director General of the Deputy General Directorate of Tax Audit, the Director of the International Tax Audit Directorate, the Head of the International Information Management Department, and the Head of the Tax Information Exchange Division.[53]

241. The Tax Information Exchange Division, within AFIP's International Tax Audit Directorate, carries out the functions of EOIR Unit, processing incoming and outgoing EOI requests. Letters to exchange with partners' Competent Authorities, including outgoing requests and responses to incoming requests, are generally signed by the Director of the International Tax Audit Directorate.

Accessing information generally

242. A significant part of the information needed to respond to EOI requests is directly available in the AFIP's centralised databases, to which officials of the EOIR Unit have access. Requested information that is not directly available in AFIP's centralised databases is generally gathered by AFIP's relevant operational area from the taxpayer involved in the EOI request in Argentina. Partial responses are generally sent to the requesting jurisdiction if only part of information is available in the AFIP's databases (see paragraph 377). Only if the taxpayer does not have the information, does not comply with the request to provide it, or if the requesting jurisdiction requires not to involve the taxpayer in the request, would the information be gathered by the relevant operational area from another public authority (e.g. a Public Registry of Commerce) or third-party information holder (such as a bank) that is expected to have it (as it occurred in one case, see paragraph 259).

53. A further position (Head of the Automatic Information Exchange Management Division) has been appointed as Competent Authority in 2020 (with Disposition no. 64/20) with specific competency for Automatic EOI.

Information available with AFIP

243. AFIP's centralised databases contain information gathered pursuant to the various reporting regimes required by Argentinian tax laws and regulations, as well as from AFIP's General Resolutions imposing information-reporting duties on taxpayers (issued according to the faculties granted to exercise its functions pursuant to Section 7 of the National Executive Power Decree No. 618 of 1997, "Organisation and Competence of the Federal Public Revenue Administration").[54]

244. The main database used to extract information for EOIR purposes is the centralised database for tax audits "E-Fisco", that contains information filed by the taxpayers (e.g. sworn declarations, tax returns) and by other domestic subjects (e.g. banks).

245. The staff of the EOIR Unit has general access to E-Fisco. The database can be searched by CUIT and/or by other identification elements of the subject involved. The information contained in E-Fisco includes:

- the general registry of Argentinian taxpayers, with their full profile
- sworn declarations on legal owners (see paragraph 68 et seq.) and beneficial owners (see paragraph 91 et seq.)
- tax returns filed for all domestic taxes
- balance sheets or financial statements (see paragraph 196)
- financial transaction information from the Relevant Economic Transactions Information System, imposing reporting requirements on banks and other financial entities (see paragraph 223)
- movement of foreign currencies registered with the BCRA (see paragraph 223)
- payments made abroad subject to withholdings (*systema integral de retenciones exteriors*, SIRE)
- electronic invoices
- transfer pricing studies and documentation (e.g. master files)
- registered assets owned by taxpayers (e.g. immovable property)
- exports and imports of goods
- taxpayer's compliance with reporting regimes.

54. Examples: G.R. 4697/2020 regarding shareholding interests and beneficial owners; G.R. 3014/11 regarding tax residence in the country; G.R. 3077/11 regarding the electronic transmission of accounting statements; G.R. 3476/13 (amended by 4717/20) regarding the electronic transmission of transfer pricing studies; G.R. 3432/13 regarding football players (retained earnings and transfers).

246. E-Fisco and the other AFIP databases allow making printouts of the consultations made, in order to produce supporting documentation to the requesting EOI partner jurisdiction.

Gathering of information from the taxpayer or third party

247. Requested information not available in AFIP's databases is gathered by the AFIP's operational areas (amounting to 27 nationwide: the Central Directorate of Tax Examination of National Large Taxpayers and 26 Regional Tax Directorates)[55] competent according to the fiscal domicile of the taxpayer from which the information is sought. Therefore, AFIP's operational areas which collect information and carry out tax controls on taxpayers for domestic tax purposes are also competent to gather the information requested pursuant to EOI requests.

248. The National Tax Procedures Law attributes investigation and tax audit faculties to the AFIP as a comptroller agency of domestic taxpayers. In particular, Section 35 grants the AFIP powers to "verify at any time, including for the ongoing fiscal period, taxpayers' and persons liable to taxation's compliance with the laws, regulations, resolutions and administrative instructions by auditing the situation of any person presumed liable to taxation". To that end, the AFIP can:

- summon the signatory of the tax return, presumed taxpayer or responsible party, or any third party which AFIP considers could be aware of the negotiations or transactions, so as to answer or report verbally or in writing, as the AFIP might consider appropriate, and within a period which has to be reasonably determined, all the questions or requirements made to them over income, revenue, expenditures, and in general, as to the circumstances and transactions which in opinion of the AFIP were connected with the taxable event
- require from the responsible person or third parties to provide receipt and supporting documents referring to the taxable event
- inspect the books, notes, papers and documents from responsible or third parties, which may record or confirm the negotiations and transactions considered connected to the data which the tax returns contain or should contain. These inspections may be made at the same time as the performance and execution of the

55. AFIP being a federal administration, the territorial competence of the Regional Directorates does not necessarily correspond to a Province (for example, seven Regional Directorates operate in the area of the Autonomous City of Buenos Aires). Each Regional Directorate comprises operational areas and agencies.

acts or transactions which are of interest to the tax audit, thus not preventing an audit to be performed on an ongoing fiscal year.

249. The powers described above are broad in scope and allow AFIP to obtain information from the taxpayer or third party. There is no limitation in the law that prevents AFIP from accessing information from agents or subjects acting in a fiduciary capacity.

250. When verbal replies are provided or when documents are examined, a record is kept by the relevant AFIP official of the existence and identification of the elements exhibited, as well as of the verbal declarations of those examined. Such minutes, whether or not signed by the interested party, bear witness of the facts as long as they are not proven false.

251. Part of the National Tax Procedures Law was reformed with Law No. 27430 of 2017 (which included more general reforms of the Argentinian tax system). Pursuant to the (unnumbered) Section added after Section 36 of the National Tax Procedures Law, "in order to verify and audit the tax status of taxpayers and persons liable to taxation, [AFIP] shall issue an intervention order. The order shall indicate the date of the inspection, the names of officials who will conduct it, the auditee's details (name and surname or company name, [CUIT] and address for tax purposes) and the taxes and periods to be covered by the audit. The order shall be signed by the appropriate official prior to commencing the procedure, and sufficient notice thereof shall be given to the taxpayer or person liable to taxation who are subject to the audit."

252. The Argentinian authorities explained that, in practice, this provision did not involve any significant change in the process to obtain information from a taxpayer or information holder, because intervention orders were already foreseen in AFIP's regulations and part of the domestic practice before their inclusion in the National Tax Procedures Law. An intervention order can relate to either a tax audit or to a "preventing investigation" (a control activity that has not yet resulted in a tax audit).

253. In the framework of an EOI request, taxpayers are notified with the intervention order in case (and only in case) the information has to be gathered directly from them. As regards its content, no reference to the underlying EOI request, or its circumstances, are included in the intervention order (that has to expressly indicate the period subject to investigation or audit, but not the reasons or auditing grounds that originated them, which are not disclosed). As regards to the "taxes to be covered by the audit", Argentinian authorities indicated that these would refer to the Argentinian taxes, and that for EOIR purposes a "preventive investigation" intervention order would be issued, that does not indicate any specific tax (this was confirmed in the redacted intervention order that was provided during the peer

review, which indicated "to verify compliance with tax laws" as the purpose of the request).

254. More generally, there are no requirements for the AFIP (EOIR Unit or relevant operational area) to inform the local taxpayer that the need to gather the information originates from an incoming EOI request, and this is not done in practice (see also paragraph 285).

255. The Argentinian authorities further explained that an intervention order can be issued towards the taxpayer involved by the EOI request or towards the third-party information holder, to allow the authorities to access the information (see also paragraph 304 on group requests). There is also no limitation on issuing multiple information orders to the same taxpayer or information holder.

256. The taxpayer or third-party information holder has to provide the information within ten working days counting from the day subsequent to the notification of the request from AFIP, as established in AFIP G.R. 3416/2012 on the "digital tax audit" (*fiscalizacion electronica*), where it requires (Section 3) the taxpayer or authorised person to respond to the "electronic tax requirement" (*requerimiento fiscal electronico*). In this connection, the taxpayer might request a one-time extension of the deadline "in similar terms" (Section 5). The G.R. clarifies that in no event will an extension be granted that exceeds ten working days. Argentinian authorities have explained that the ten-working-day term to respond is generally reported in the intervention order, as also shown in a sample that was provided to the assessment team during the review.

257. The procedures described above would apply when information is to be gathered from the taxpayer or third-party information holder regardless of whether the EOIR request relates to a civil or to a criminal tax investigation in the requesting jurisdiction.

Other powers

258. The National Tax Procedures Law (Section 107) also establishes that "the state and private organisations and entities, including banks, stock exchanges and markets" have the obligation to provide the AFIP "at the request of the administrative judges" with "all specific or massive information requested by them on reasonable grounds, for the purposes of preventing and fighting against fraud, tax evasion and avoidance". The administrative judges[56] are the AFIP officials having a competence (by delegation) to

56. See Section 9, point 1, subsection b), and in Section 10 of Decree 618/1997, which gives AFIP functions and powers of "administrative judge". In particular, Section 9, point 1, subsection b) states that the authorities of AFIP have the functions and

determine taxes and impose sanctions for a given case on a given taxpayer. This provision has not been used in practice to date to gather information for EOIR purposes.

259. In case of information held in a Public Registry of Commerce (either IGJ or other Provincial registry), the AFIP may require the information to the registrar by an official letter sent with a digital proceeding (*expediente electronico*). This rarely occurs in practice, as gathering information directly from the taxpayer is the preferred approach, but it occurred in one instance during the review period (in relation to a company that had ceased to operate, and which did not comply with AFIP's request to provide the information) and the information was provided by the IGJ.

Accessing beneficial ownership information

260. Beneficial ownership information is generally directly available in AFIP's databases (see paragraph 91 et seq.). In addition, the AFIP can request the relevant information from the Public Registers of Commerce and from entities themselves, using the powers in the National Tax Procedures Law, should this be necessary. In practice there were no EOI requests seeking beneficial ownership information, and AFIP indicated that for domestic purposes they would rely on the beneficial ownership information in AFIP's systems.

261. For information available pursuant to AML Law and regulations, AFIP is an information agent reporting to the UIF (Section 20, paragraph 15 of the AML Law) but cannot, in turn, request information directly from the UIF. However, it can request such information to banks and other AML-obliged parties (with the exception of notaries and accountants, who would consider this in scope of professional secret, see section B.1.5 below).

Accessing banking information

262. The Relevant Economic Transactions Information System (see paragraphs 223 and 245) requires banks to provide monthly information on account holders, balances and relevant transactions. Thus, some banking information is available with the AFIP and can be accessed by EOIR Unit staff through the E-Fisco database (see paragraphs 244-246).

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powers of "Exercise the functions of administrative judge (…)" and Section 10 provides (among other things) that the Federal Administrator, the General Directors and the Custom Administrators in their respective domains, will determine which officials and to what extent will replace them in the functions of administrative judge.

263. Requested information that is not directly available with the AFIP is requested from the taxpayer-account holder in the first instance. The bank might be asked subsequently if the information cannot be gathered from the account holder, for example, if the taxpayer's identity is unknown, or if it risked prejudicing an investigation if the taxpayer was notified. Argentinian authorities indicated that while they have power to request information from banks (see also paragraph 272 below), in practice this has never occurred to respond to an incoming EOI request.

Accessing accounting information

264. Some accounting information, linked to tax return filing obligations, is available in AFIP's E-Fisco database (see paragraphs 244-246). Where information is required that is not already in AFIP's databases, this would be requested using the same access powers described above. There is no apparent limitation in those access powers that would prevent the competent authority from accessing accounting information. In practice, if the information was not available in E-Fisco, it would be sought from the taxpayer unless another information holder was identified as having the required information.

B.1.3. Use of information gathering measures in the absence of a domestic tax interest

265. The wording on access powers of Section 35 of the National Tax Procedures Law applicable for both domestic and EOI purposes may suggest that to use its information gathering power, the tax administration needs to have a domestic interest in doing so,[57] but the Decree creating the AFIP provides that the powers of the Federal Administrator (Commissioner, but these powers can be delegated to other officials) include the power to directly request and provide cooperation and reports to foreign tax authorities. The power to "provide direct co-operation" is interpreted and implemented as authorising the AFIP to use the information gathering powers of Section 35 of the National Tax Procedures Law without having an interest in the requested information for Argentinian tax purposes.

266. There have been no challenges in practice on the application of information gathering measures.

267. Argentinian authorities have informed that there has been no case where the lack of a domestic tax interest prevented accessing or providing

57. As it referred to "the degree in which those under an obligation or responsibility fulfil the laws, regulations, resolutions and administrative instructions" and to the fact that the AFIP can for instance ask questions "connected to tax matters under the respective laws" (Section 35(a)).

the information requested by an EOI partner jurisdiction and that in several instances responses to EOI requests were provided for cases where there was no domestic tax interest. In all such cases, the information requested was already available with the AFIP so that there was no need to exercise access powers. Argentinian peers who provided input also reported no issue in this connection.

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

268. In the carrying out of EOI functions, the Federal Administrator (Commissioner) on behalf of the AFIP and other officials authorised by the AFIP may request search warrants from the competent national judge. The request must specify the place and time in which it will be carried out and must be processed (*despachada*) by the judge within 24 hours, authorising days and times, if requested (Section 35 of National Tax Procedures Law). In practice, it has not been necessary to request a search warrant to gather information for EOI purposes during the period under review (but it has been done for domestic purposes).

269. The penalties applicable in case of failure to provide information are those in force for the domestic tax requirements established under Section 39 of the National Tax Procedures Law: fines from ARS 150 to ARS 2 500 (about EUR 1 to EUR 12), based on the condition of the taxpayer and the seriousness of the infraction, which can be raised up to ARS 45 000 (about EUR 218) in specific cases, including in case of resistance to a control from the AFIP under certain conditions. While, as observed above, the level of the sanctions appears too low to be effective, this does not appear to have affected the gathering of information for EOIR purposes (there were no refusals to provide the information in the period under review), and the AFIP could obtain in any case a search warrant where the taxpayer or information holder would have not complied with the request to provide information contained in the intervention order.

270. As regards the possible delayed provision of the information requested and the subsequent issuing of sanctions, Argentinian authorities indicated that there are no statistics, as these activities are carried out by the operational areas, that do not separately account sanctions issued for proceedings related to EOIR and to domestic purposes. There was only one case of non-provision of the requested information by the taxpayer or third-party information holder during the review period (see paragraph 259).

B.1.5. Secrecy provisions

Bank secrecy

271. In Argentina there are no bank secrecy provisions towards the tax administration, which can use its powers to request for information and documents from banks (as well as from any other taxpayer).

272. In particular, pursuant to Section 39 of the Law on Financial Entities, commercial banks, investment banks, mortgage banks, finance companies, etc. are required to disclose the financial transactions they perform when the information is requested by either: a judge in a legal case; the BCRA pursuant to its powers; financial and bank entities with a prior authorisation from the BCRA; and by agencies in charge of collecting national, provincial or municipal taxes.

273. In the case of the AFIP, the law provides that the information has to be previously formally requested.

274. In practice, some banking information is provided on a monthly basis by banks to AFIP (through the Relevant Economic Transactions Information System, see paragraph 223) and directly accessible by the EOIR Unit through the database E-Fisco (see paragraphs 244-246). For the information not in the databases, the AFIP relevant operational area would routinely request it directly from the Argentinian taxpayer. For the remaining information needed to respond to an EOIR request, the AFIP relevant operational area would formally request it from the bank under the National Tax Procedures Law within the framework of a tax audit or verification. This last action has not been used during the review period as the information was either available with the AFIP or provided by the account holder. Information has been in any case requested, and received, by the AFIP for domestic purposes, and during the on-site visit representatives of the banking sector were aware of their disclosure requirements (see however paragraph 304 as regards group requests).

Professional secrecy

275. In Argentina, the purpose of professional secret is the protection of the privacy of the client, related to information acquired while providing professional services. Its violation is uniformly sanctioned by the Criminal Code. As observed in the 2013 Report, the scope of professional secrecy is not regulated nation-wide: the definition is generally contained in the Code of Ethics of each legal profession (notaries, attorneys and accountants), that is provided at the level of the Provincial associations.

276. On the other hand, the AFIP has ample access powers pursuant to the National Tax Procedures Law, which does not mention the attorney-client privilege or professional secrecy more generally, either to lift it for tax purposes or confirm its prevalence over AFIP's information gathering powers (as it was already observed in the 2013 Report, paragraph 177).

277. In particular, Section 35 of the National Tax Procedures Law provides that information must be furnished by the taxpayer, liable party or third party, and Argentinian authorities advised that the latter is to be considered as including legal professionals, when they do not act in such capacity (providing legal advice or information to be used in a legal proceedings). The representatives of the professional associations that took part to the on-site visit also indicated that they consider having an obligation to provide the tax administration with the information it requests, for services they provide that are not strictly related to the exercise of their profession (and, for the case of Notaries, for information related to the registration of companies).

278. As regards information gathered pursuant to the AML regulations (for notaries and accountants, as lawyers are not AML-obliged parties, see paragraphs 37 and 97), including CDD provisions, the representatives of the professional associations that took part to the on-site visit were of the opinion that these could not be provided to the AFIP, as the professional secrecy applicable in this case could be lifted only towards the UIF, as required by the AML Law. Argentinian authorities also shared the view that such information would not be requested, in practice, from legal professionals.

279. The 2013 Report concluded that based on both the views of the Argentinian Competent Authority and the input from its EOIR partners, professional secrecy did not cause any problem in practice in relation to EOIR and that there had been no cases in which a request had been denied or in which, as a result of the information provided, the professional secrecy has been affected. The 2013 Report thus invited ("in-text" recommendation) Argentina to monitor on an ongoing basis the impact of professional secrecy on international exchange of information in practice.

280. Argentinian authorities have advised that there have been no subsequent cases in practice in which information was requested directly from a third-party information holder for which professional secrecy provisions apply, and thus no cases in which professional secrecy was an obstacle to gathering information for EOI purposes. This absence of cases is also due to the fact that in Argentina legal professionals, as such, are not required to be depositories of specific kind of information (e.g. the accounts are accessed by the accountant only for the time needed to provide their services) and generally do not retain any documentation related to the client, except that necessary to document the provision of services rendered.

281. While it appears confirmed that professional secrecy does not cause any problem in practice in relation to EOI, in particular because legal professionals do not constitute a relevant source of information for the AFIP for EOIR purposes, it remains untested what would occur in cases where the Competent Authority did need to seek information from a third party where professional secrecy could prevent the information being provided. Argentina should therefore continue to monitor the possible impact of professional secrecy on exchange of information on request and take measures where appropriate (see Annex 1).

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.

282. The Argentinian law does not require the notification of the person who is the object of an EOI request, either before or after the information is exchanged. The 2013 Report noted that in practice, when requesting information from a person, the Argentinian Competent Authority would not inform the person of the purpose of the request (paragraph 184 of the 2013 Report). Argentinian authorities confirmed that this remains the case and further clarified that where information is being gathered to respond to an EOI request the name of the requesting jurisdiction is not disclosed (in the intervention order or otherwise) to the taxpayer or third-party information holder.

283. The conclusions are as follows:

Legal and Regulatory Framework: in place

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

Practical Implementation of the Standard: Compliant

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

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

Notification

284. Argentinian law does not require the notification, either before or after the exchange of information, of the person who is the object of an EOI request.

285. If the information requested is to be gathered directly from the taxpayer or third-party information holder, this is notified with an intervention order, which indicates the period and taxes subject to investigation, but not the reasons or auditing grounds that originated them, so no reference is made to the underlying EOIR request (see paragraphs 251-255).

286. While the 2013 Report (in paragraph 185) indicated that there was nothing in law which prevented the third party requested from informing the person concerned, Argentinian authorities indicated that if the requesting jurisdiction in an EOI request explicitly requires that the taxpayer not be made aware, the AFIP can require the information holder not to inform the taxpayer, based on the powers granted to the AFIP pursuant to Decree 618/97. It is not clear, however, what sanctions would be applied in case of non-compliance with this requirement. There has been in any case no such a request from the exchange partners of Argentina and this power has not been exercised in practice.

Appeal rights

287. As noted in the 2013 Report, the information-holder has no appeal right against the information gathering measures of Section 35 of the National Tax Procedures Law, as these are not considered as administrative decisions but as a preliminary act. Section 80 of the Decree No. 1759 of 1972, which regulates the Administrative Procedures Law No. 19549, expressly establishes that: “The preliminary measures of administrative decisions, including reports and opinions, even when they are of compulsory requirement and binding on the Administration, are not open to challenge”. In practice, the measures taken by the competent authority to access information in view of exchanging it with an EOI partner have not been challenged during the review period.

Part C: Exchange of information

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

C.1. Exchange of information mechanisms

Exchange of information mechanisms should provide for effective exchange of information.

289. The 2013 Report found that Argentina could exchange information with 52 jurisdictions on several bases: Double Taxation Conventions (DTCs), Tax Information Exchange Agreements (TIEAs), the multilateral Convention on Mutual Administrative Assistance in Tax Matters (Multilateral Convention), and often a combination of two or even three of them. Argentina's EOI relationships were in line with the standard.

290. Since 2013, the network of Argentina's EOI partners has almost tripled to reach 149 EOI partners, due both to new bilateral instruments concluded by Argentina (11 new DTCs, 14 new TIEAs, plus 1 amending protocol to a pre-existing DTC) and by the increased number of jurisdictions which participate in the Multilateral Convention (covering 146 partners as on 7 April 2023).

291. This section of the report focuses on the bilateral instruments that create new EOI relationships, given that where a jurisdiction is an EOI partner of Argentina through the Multilateral Convention, the relationship meets in any case the standard through the latter and there is no need for this report to assess compliance to the standard of further bilateral agreements between the parties.

292. The three jurisdictions for which the EOI relation is only covered by a bilateral instrument are: Bolivia, Turkmenistan and Venezuela.

293. The 2013 Report noted that the DTC with Bolivia, the first tax agreement concluded by Argentina and dating 1976, was not in line with the standard, as it only contained a limited reference to consultation and information.[58] The 2013 Report also noted in this connection that Argentina had proposed to Bolivia a Memorandum of Understanding in the form of a TIEA, although without success. Argentinian authorities have informed that they are currently negotiating a TIEA with their Bolivian counterparts based on the OECD Model TIEA.

294. The TIEA with Turkmenistan is in line with the standard. The TIEA with Venezuela is an inter-agency agreement between the AFIP and the corresponding Venezuelan Tax and Custom Authority on "technical cooperation and exchange of information in customs and tax matters". Its structure, content and wording are not based on the 2002 OECD Model TIEA, and it does not explicitly state whether the exchange of information held by financial institutions, those acting in a fiduciary capacity and similar, is covered by the agreement. This does not necessarily provide for a more limited scope for exchange of information in practice, but this point has not been tested in practice (see paragraph 311 below), so exchange could be limited depending on the scope of Venezuela's domestic laws.

295. In practice, Argentina continues to interpret its EOI instruments and implement exchange of information in conformity with the standard.

296. The conclusions are as follows:

Legal and Regulatory Framework: in place

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

Practical Implementation of the Standard: Compliant

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

58. "The competent authorities of the Contracting States shall consult each other and exchange information as is necessary to resolve, by mutual agreement, any difficulty or doubt arising from the application of this Convention and to establish the administrative controls that are necessary to prevent fraud and evasion. The information exchanged according to the preceding paragraph shall be considered as secret and shall not be disclosed to any person other than the authorities that are in charge of the administration of the taxes covered by this Convention. For the purposes of this Article, the competent authorities of the Contracting States may communicate each other directly."

Other forms of exchange of information

297. Apart from EOIR, Argentina carries out the following forms of EOI:

- Automatic exchange of tax information with jurisdictions having agreements and/or DTCs that allow for this form of exchange.
- Automatic exchange of financial account information in tax matters (Common Reporting Standard), of which Argentina was an "early adopter". Argentina is currently exchanging information with 93 jurisdictions.
- Spontaneous exchange of information: with jurisdictions having agreements and/or DTCs that allow for this form of exchange.
- Country-by-Country Reporting: Argentina is exchanging information with 62 jurisdictions.

C.1.1. Standard of foreseeable relevance

298. Exchange of information mechanisms should allow for EOIR where it is foreseeably relevant to the administration and enforcement of the domestic tax laws of the requesting jurisdiction. This concept, as articulated in Article 26 of the OECD Model Tax Convention, is to be interpreted to the widest possible extent, but does not extend as to allow for "fishing expeditions", i.e. speculative requests for information that have no apparent nexus to an open inquiry or investigation.

299. The bilateral agreements of Argentina meet the standard of "foreseeable relevance", as they used the wording "foreseeably relevant", "necessary" or "relevant" and the Argentinian authorities confirmed that they made no distinction between these terms.[59]

Clarifications and foreseeable relevance in practice

300. The EOIR Manual of the EOIR Unit[60] does not indicate how to assess the foreseeable relevance of incoming (as well as outgoing) EOI requests. Argentinian authorities have explained that, in practice, this is done in the first instance by the officer within the EOIR Unit in charge of handling the request. In case the request is found to be missing any essential

59. The recent EOI instruments refer to: "foreseeably necessary" in the DTC with Chile; "essential" in TIEA with Azerbaijan; "necessary" in TIEA with Brazil; "relevant" in TIEA with the United Arab Emirates and "may be relevant or material" in the TIEA with Venezuela.

60. AFIP Procedure on the implementation of international tax information exchanges – incoming and outgoing requests, revision: 4, dated 14 March 2023.

element, including foreseeable relevance, a request for clarifications would be issued to the requesting jurisdiction. Draft letters requesting clarifications are reviewed by the Head of Unit, the Head of Department and ultimately, by the Director, who signs it.

301. This approach, with multiple levels of scrutiny before a request for clarification is sent to the requesting jurisdiction ensures that foreseeable relevance is not interpreted too narrowly by EOI officers, and thus allows a broad interpretation of the standard, as during the period under review there were no cases where Argentina sought clarifications from the requesting jurisdiction about the EOI requests received nor did Argentina decline any EOI request (thus it did not seek clarifications or decline requests in relation to the criterion of foreseeable relevance). No peer reported having encountered difficulties with the application by Argentina of the standard of foreseeable relevance for requests they sent to Argentina.

Group requests

302. Group requests (requests on a group of taxpayers not individually identified) are contemplated in the EOIR Manual to indicate that, for operational purposes, they are to be treated in the same way as individual taxpayer requests. Argentinian authorities clarified in this connection that, in case of an incoming request that concerns several taxpayers that cannot be individually identified by the EOIR Unit (for example by using information in E-Fisco or in other centralised databases, see paragraphs 242-246), the EOIR unit would first verify the foreseeable relevance of the request (presence of an explanation providing a link between the group of taxpayers, an ongoing tax investigation and the information requested). Then, in order to identify the taxpayers and gather the relevant information, the EOI Unit would not involve a specific Regional Directorate (in the first instance), but rather an operational area at central level within the Strategic Management of International Tax Audit Division of the International Tax Audit Directorate.

303. In practice, Argentina has never received nor sent any group requests.

304. During the on-site visit, representatives of the bank associations manifested uncertainty about whether a request from the AFIP about taxpayers not individually identified (e.g. on all the account-holders residents in a specific jurisdiction and having invested in a determined financial product) would be considered legitimate and responded to, as this would not comply with the requirement to indicate (in the intervention order) the taxpayer(s) being investigated. Argentinian authorities have indicated that, in case of a group request where the taxpayer name(s) could not be indicated in the intervention order, the AFIP would gather the information by opening an investigation on (and issuing an intervention order towards) the bank itself

(concerning the information being requested under EOIR), circumstance that already occurred in practice in relation to an investigation concerning information received under the Common Reporting Standard. Also, in terms of the Financial Entities Law, there does not seem to be any requirement to indicate a specific taxpayer (as seen above, paragraph 274).

305. Considering the absence of practice and the uncertainty manifested by the representatives of bank associations during the on-site visit, Argentina should ensure its ability to gather information (including banking information) pursuant to group requests in an effective way (see Annex 1).

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

306. 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.

307. All EOI relationships of Argentina allow for exchange of information in respect of all persons. The agreements concluded after the approval of the 2013 Report have provisions in line with the standard.

308. During the review period, Argentina received no request concerning a person that was neither resident nor a national of the requesting jurisdiction and/or of Argentina.

C.1.3. Obligation to exchange all types of information

309. Exchange of information mechanisms should not permit the requested jurisdiction to decline to supply information solely because the information is held by a financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person.

310. All EOIR relationships of Argentina except three are covered by the Multilateral Convention, which does not permit the requested jurisdiction to decline to supply information solely because the information is held by a financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person (Article 21(4)). The TIEA with Turkmenistan also provides that the party must have the authority to obtain and provide information held by banks, other financial entities, and any person acting in an agency or fiduciary capacity including nominees and trustees (Article 5(4)).

311. The DTC with Bolivia and the TIEA with Venezuela do not contain a similar provision. However, that absence does not automatically create restrictions on exchange of bank information and in practice, when Argentina receives an EOI request from a jurisdiction, with which the treaty does not contain Article 26(5), the competent authority would check whether the requesting jurisdiction is able to provide banking information on the basis of reciprocity.

312. In practice, during the review period, Argentina received no EOI request for banking information from either of these jurisdictions, but it has sent a request including banking information to Bolivia that was positively responded to. Argentina should work with Venezuela to ensure that this EOIR relationship is in line with the standard in case the domestic laws of Venezuela do not allow for exchange of all types of information (see Annex 1).

C.1.4. Absence of domestic tax interest

313. 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. An inability to provide information based on a domestic tax interest requirement is not consistent with the standard.

314. While only some of the DTCs of Argentina include the provision contained in Article 26(4) added in 2005 to the OECD Model Tax Convention, stating that the requested party "shall use its information gathering measures to obtain the requested information, even though that [it] may not need such information for its own tax purposes", Argentina's domestic powers to access relevant information are not constrained by a requirement that the information has to be required for a domestic tax purpose (see B.1.4, paragraphs 265-267).

315. Argentinian authorities informed that there has been no case where the lack of a domestic tax interest prevented providing the information requested by an EOI partner jurisdiction and that several responses to EOI requests have been provided for cases where there was no domestic tax interest (in particular, those related to the determination of the tax residency). To respond to these requests, it was not necessary to use information gathering powers as they concerned information already available in the AFIP databases. Argentinian peers which provided input also reported no issue in this connection.

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

316. Argentina can exchange information both on civil and criminal tax matters with all current EOI partners. None of Argentina's EOI instruments apply the dual criminality principle to restrict exchange of information and Argentinian authorities confirmed that dual criminality is not applied for EOI requests.

317. Argentinian authorities indicated that if an EOI request concerns a criminal tax case in the requesting jurisdiction, the AFIP does not have any impediments or limitations to obtain and provide the information requested, but that no request concerning a criminal tax matter has been received during the review period (the 2013 Report indicated that this was requested during the review period relevant to that Report and Argentina was able to provide information related to both civil and criminal tax matters). In practice, the same information gathering powers would be exercised in case an incoming request relates to a criminal tax investigation in the requesting jurisdiction (see paragraph 247 et seq.).

C.1.7. Provide information in specific form requested

318. Exchange of information mechanisms should allow for the provision of information in the specific form requested (including depositions of witnesses and production of authenticated copies of original documents) to the extent possible under the jurisdiction's domestic laws and practices.

319. There are no restrictions in Argentina's EOI agreements or domestic laws that would prevent it from providing information in a specific form, although, as noted in the 2013 Report, most of Argentina's treaties do not expressly address this aspect.

320. During the review period, no incoming EOI request indicated the need to receive the information in a specific form. Argentina indicated that it would be able to provide authenticated copies of documents and written recordings made by AFIP public officials of the statements made by the taxpayer or third party (see paragraph 250).

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

321. Exchange of information cannot take place unless a jurisdiction has EOI arrangements in force. Where EOI arrangements have been signed, the standard requires that jurisdictions must take all steps necessary to bring them into force expeditiously.

322. Argentinian authorities have informed that, on average, the ratification process for DTCs and TIEAS which are inter-governmental agreements extends over a 22-month period from the date of signature. TIEAs which are concluded as inter-institutional agreements of an executive nature do not need to be ratified nor do additional measures need to be taken for their entry into force. Of the EOI arrangements concluded by Argentina, all the TIEAs that have been signed are in force, whereas as regards the DTCs, five of them,[61] which were signed between December 2018 and December 2019 are still to be ratified by Argentina and not yet in force, thus the process is taking significantly longer than 22 months. Those DTCs are in any case with partner jurisdictions whose EOIR relationships are also covered by the Multilateral Convention and, in one case, also by a TIEA.

EOI mechanisms

Total EOI relationships, including bilateral and multilateral or regional mechanisms	149
In force	141
In line with the standard	139
Not in line with the standard	2 [a]
Signed but not in force	8 [b]
In line with the standard	8
Not in line with the standard	-
Total bilateral EOI relationships not supplemented with multilateral or regional mechanisms	3 [c]
In force	3
In line with the standard	1
Not in line with the standard	2 [a]
Signed but not in force	0

Notes: a. Bolivia and Venezuela

b. The Multilateral Convention is not in force in Benin, Gabon, Honduras, Madagascar, Papua New Guinea, Philippines, Togo and Viet Nam (see also Annex 2).

c. Bolivia, Turkmenistan and Venezuela

61. with Austria, People's Republic of China, Japan, Luxembourg and Türkiye

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

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

323. Since 2013, the network of Argentina's EOI partners has almost tripled to reach 149 EOI partners.

324. No Global Forum members indicated, in the preparation of this report, that Argentina refused to negotiate or sign an EOI instrument with them. Argentina reported having received around thirty proposals to conclude a DTC by other countries after the cut-off date of the 2013 Report. Some DTCs (with Austria, People's Republic of China (China), Qatar, Japan, Luxembourg and Türkiye) have been signed, whereas others are being negotiated or in the process of considering whether to initiate negotiations. For most of the Global Forum members which Argentina reported having proposed to them the conclusion of a DTC, the EOI relationships are in any case already covered by the Multilateral Convention.

325. 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, the in-box recommendation is removed but Argentina should continue to conclude EOI agreements with any new relevant partner who would so require (see Annex 1).

326. The conclusions are as follows:

Legal and Regulatory Framework: in place

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

Practical Implementation of the Standard: Compliant

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

C.3. Confidentiality

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

327. The 2013 Report concluded that the confidentiality provisions in Argentina's EOI instruments and domestic laws, as well as the administrative framework, were in line with the standard. This continues to be the case.

328. The conclusions are as follows:

Legal and Regulatory Framework: in place

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

Practical Implementation of the Standard: Compliant

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

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

329. All the EOI instruments of Argentina contain a provision on the confidentiality of the information exchanged that meets the standard, including the latest instruments concluded.

330. In Argentina, confidentiality safeguards in tax matters are laid out in the National Tax Procedures Law (Section 101, as amended by Law 27467 of 2018), which establishes the scope of tax secrecy and its sphere of application, as well as the responsibilities implied. According to that law, sworn declarations, declarations and reports that taxpayers or third parties submit to AFIP and the judgments that include that information is secret. AFIP's administrative judges (see footnote 56 to paragraph 258), officers, employees and agents are required to maintain "absolute secrecy" in relation to any information that they receive when fulfilling their functions and are not allowed to disclose said information to any other person except for their immediate supervisor.

331. The obligation to secrecy for public officers is also covered in the legally binding and enforceable collective bargaining agreement between AFIP and the trade unions (AEFIP and SUPARA), according to which the obligation of confidentiality and proper use of all information, techniques and procedures by AFIP officials extends beyond the moment in which their employment relationship with the Agency is extinguished. Any breach of said

obligation may affect their criminal, civil and administrative responsibilities. Moreover, a Code of Ethics is signed by each employee when joining the AFIP. Translators external to the EOIR Unit, who provide a courtesy translation of the response to the EOI request before it is sent to the requesting jurisdiction (see paragraph 370 below) are also bound by secrecy provisions.

332. Public officers and third parties that disclose the information are liable of the penalty mentioned in Section 157 of the Criminal Code, that is imprisonment for one month to two years in addition to a special disqualification from one to four years. This provision of the Criminal Code also gives grounds to the AFIP to carry out an administrative proceedings for breach of tax secrecy.

333. Argentinian authorities have explained that in practice, when the EOIR Unit requests to the operational area to gather the information to respond to an EOI request, it does not provide the grounds for such request (e.g. the identification of the requesting jurisdiction), nor does it provide a copy of the request letter signed by the competent authority of the requesting jurisdiction (only internal notes are sent to the operational area).

334. The responsibility on jurisdictions to keep confidential information exchanged under EOI mechanisms extends to both information received in response to an EOI request and to information received in a request from an EOI partner. With regard to this second aspect, the correspondence and letters received from the EOI partner are maintained by the EOIR Unit and not shared with the operational unit (the information to be gathered would be indicated in an internal note, see paragraph 378), that would not in turn share it with the taxpayer or information holder when gathering the requested information. Only the elements related to the information that has to be provided would be specified to the taxpayer or information holder (see also paragraphs 252-254 above).

335. The Terms of Reference, as amended in 2016 clarified that although it remains the rule that information exchanged can only be used for 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 competent authority of the requested jurisdiction authorises the use of information for purposes other than tax purposes.

336. Argentina reported that there is no provision in the domestic regulatory framework preventing the Competent Authority from granting authorisation to use the information for other purposes, but that in practice there were no cases where an EOI partner sought Argentina's consent to utilise information received under EOIR for non-tax purposes. Argentina, conversely, requested its partners to use information received for non-tax purposes on 20 occasions during the review period and was granted this permission in 15 cases.

337. Under the Argentinian data protection law (*Ley de Protección de Datos Personales*, no. 25326), a person may request information held on them in public or private databases. Such legislation contains exceptions, including where the disclosure could represent an obstacle to judicial or administrative acts relating to the investigation of fiscal obligations, or the investigation of criminal offences. Argentinian authorities further advised that in practice, information where data has been obtained under an EOI agreement with another jurisdiction is not incorporated into the AFIP centralised databases and the provisions of the treaty would prevail over the provisions of the data protection law.

C.3.2. Confidentiality of other information

338. The confidentiality provisions in Argentina's EOI instruments and domestic law do not draw a distinction between information received in response to requests and information forming part of the requests themselves. All other information, such as background documents, communications between the requesting and the requested authorities and within the tax authorities, is treated confidentially.

Confidentiality in practice

339. Physical access to the headquarters of the AFIP, where the EOIR Unit is located, is guarded by security staff and requires a registration for visits, with each visitor needing to specify who and what office they are visiting. All offices are locked and badge credentials to access the building gives access to specific offices only. The EOIR Unit office does not receive external visits, being closed to the public. Access to the EOIR Unit office can only be done by the Unit members (and their supervisors), through the badge credential granted to them.

340. The paper documents with EOI information (documents received in paper from EOI partners as well as printouts of digital letters maintained for the records) are treaty stamped "information from treaty partners" and digitised. The EOI information received in digital form is also treaty stamped, as of March 2023, with the application of a digital label.[62]

62. Following the latest revision of the EOI Manual in March 2023, the following sentence in Spanish, is reported in documents received in digital form from an EOIR partner: "Información obtenida dentro del marco de un instrumento legal que habilita intercambios internacionales de información. Su uso y confidencialidad se rigen por las normas de seguridad y confidencialidad previstas en el instrumento correspondiente."

341. The Information Security Policy (in its paragraph "Clean Desk and Clear Screen Policy") sets forth the basic guidelines for employees with access to such information in order to protect hard copies and removable storage devices and prevent unauthorised access, loss or damage of sensitive information.

342. The paper documents remain within the EOIR Unit office and are kept in locked cabinets in an archive within the office, monitored with a closed-circuit television camera. At the end of every working day, police officers go through the building to verify that all doors are locked. In case a door is found open, the office is sealed and there is a specific procedure to regain access to it.

343. The general requirements of the security policies of all public administrations in Argentina, including the AFIP, are determined by a federal agency, the National Office of Information Technology (ONTI). Within the AFIP, the Security Policy is approved by the Federal Administrator (Commissioner), as the highest authority of the administration and its observance is mandatory for all the staff, contractors and other subjects that in any other capacity interact with the administration. Argentinian authorities reported that AFIP's security policy is set to comply, besides the ONTI requirements, with the current international standards on the subject (ISO 27001). The AFIP's Information Security Policy sets forth the minimum safeguards for the protection of confidential information.

344. Under the security policy, second-level policies include the classification policy and the various standards to be observed. The policy of security of information has three attributes (confidentiality, integrity and availability) and a four-level classification, from "public information" to "secret reserved" (*reservada secreta*). For each level there is a reference on who can access the information, based on a need-to-know principle. Information received from EOIR is classified "secret reserved", so that the strictest access level is applied (there are strict limitations, for example, on who can see the relevant digital documents in the system). In addition, the information obtained as a result of the performance of the duties shall not be disclosed under any circumstances.

345. Confidential information is only stored in the AFIP data centre servers (not on local desktops/laptops) located in a separate building from the headquarters of the AFIP, with no access to the public. Backups of the databases are kept in magnetic tapes in robotic library. The content of each backup is encrypted.

346. The main form to access information in the databases by the end users is through dedicated digital systems/applications. The AFIP has a policy governing the management of access to its Information Technology

systems and services. Access to digital systems is only possible with a username and password, either created by the officer or generated by single-use key generating devices (one-time password).

347. Access to applications and all relevant changes (registration, deregistration and modifications) are attributed to each AFIP officer/staff by their hierarchy through a User Management Console based on their specific tasks and duties. The access to applications has to be further authorised by the immediate superior up to the Director/Deputy Director General in charge to obtain the mentioned access. In this way, the system ensures that not all users have access to the whole information, that only certain users can handle certain information (such as information from EOIR), and that the activities performed are supported and monitored by the immediate superior officer to ensure a control of confidentiality. All attributions are revalidated or revoked according to the provisions of the information technology system for human resources. Upon changes in the attributions of a staff (e.g. change of position or tasks), the employee must sign an access responsibility electronic form before being granted access to the relevant AFIP's digital system(s). Each employee is responsible for all the operations registered under their username.

348. An Information Security Best Practices Manual for staff lays out the proper procedures to be followed in safeguarding the information and includes a glossary to facilitate the understanding of technical terms. A training programme on information management and information security (including good practices) is mandatory for all staff upon hiring.

349. In case there are doubts regarding an access to a system in breach of what was granted, the head of the corresponding area must request that the IT area revoke such access and will also inform the Human Resources and Internal Audit corresponding areas of such access, so that the procedure set forth in AFIP Disciplinary Regulation 185/10, if applicable, is triggered. An unjustified access may become noticeable immediately, at the end of the day, or within the course of specific audits depending on the information and the system in question.

350. Information received from EOIR is not incorporated into databases containing information gathered domestically, but kept separately (see paragraph 244). In particular, the attribution of EOIR cases from the Head of the EOIR Unit to the Unit Officers, as well as the relevant correspondence with the operational areas (outgoing requests and the gathering of information for incoming requests) is carried out through the Electronic Document Management System (GDE), with the classification of "secret reserved" of the files. Responses to outgoing requests, once assigned to the relevant operational area, remain within the digital proceeding (*expediente electronico*) that originated the request and only the official appointed to deal with the case will have access to it.

351. While AFIP reported to be subject to cyber-attacks, no cases of confidentiality breach from external sources were detected by or reported during the review period. Cybersecurity experts have also been hired by AFIP in order to tackle threats linked to breaches of confidentiality. A confidentiality breach was detected in 2017 with officials indicted for divulging confidential tax information. In such case, the officials were removed from office until the resolution of the court, that eventually convicted them of criminal association and violation of confidentiality. This incident did not involve the disclosure of EOIR information.

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.

352. 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 legitimate secret arises.

353. Argentina's EOI instruments ensure that the parties are not obliged to provide information which would disclose any trade, business, industrial, commercial or professional secret or information the disclosure of which would be contrary to public policy (*ordre public*), in a manner consistent with Article 26(3)(c) of the Model Tax Convention, and that the Argentinian competent authority has so far never used this clause nor has it experienced any practical difficulties on the basis of the application of rights and safeguards in Argentina. The National Tax Procedures Law does not contain any specific prohibition linked to the abovementioned reasons, apart from rules on professional secrecy and attorney secrecy (as discussed in section B.1.5, see paragraphs 275 et seq. above).

354. The conclusions are as follows:

Legal and Regulatory Framework: in place

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

Practical Implementation of the Standard: Compliant

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

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

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

355. The 2013 Report assessed the practice of exchange of information of Argentina for the period 2009-11 and rated it as Partially Compliant to the standard. It noted that the organisation of the exchange process and the resources devoted to this activity were completely revamped in 2010 and important progress in the handling of requests received from partner jurisdictions had been pursued since 2011. The 2013 Report also observed that some EOI partners had made comments on the generally long-time response of the Argentinian competent authority, while several partners also highlighted some subsequent improvements.

356. The difficulties identified in the 2013 Report have been broadly overcome in the current review period, with responses to EOI requests that are generally provided in a timely fashion and good communication occurring with EOI partners, as also reflected in the input received from Argentinian exchange partners.

357. A tracking system was introduced to monitor the timeliness of responses to incoming requests and the provision of status updates. During the review period, Argentina generally responded to EOI requests in a timely manner and provided an update on the status of the request in most cases when it was not able to respond to the requests within 90 days of receipt.

358. The conclusions are as follows:

Legal and Regulatory Framework

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

Practical Implementation of the Standard: Compliant

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

C.5.1. Timeliness of responses to requests for information

359. The procedure for exchange of information set forth in Argentinian laws and regulations permit the competent authority to gather and exchange information in a proper timeframe.

360. The Multilateral Convention and the DTCs of Argentina do not contain any provisions relating to the timeframe of the responses. Conversely, the TIEAs generally require the provision of receipt confirmations, status updates and the provision of the requested information within a given timeframe, following Article 5(6) of the OECD Model TIEA: the requested party should confirm receipt of the request in writing and notify any deficiencies in the request within 60 days. It should in any event answer as promptly as possible and at least provide a detailed update of the status of the request after 90 days, be it because it encounters obstacles in furnishing the information or it refuses to furnish the information. Some TIEAs shorten or expand these deadlines (see 2013 Report, para. 275 to 277).

361. An EOIR Manual, binding for all the staff in the EOIR Unit (see paragraph 241) and standardising the incoming EOI request handling process was first implemented in April 2016. The EOIR Manual sets a system for counting days since the reception of the request, so as to track its seniority and development. The Manual was updated in January 2019 to incorporate a "dashboard" with an alert system (implemented using an Excel file), with the purpose of strengthening the control over the compliance with set deadlines. The system monitors and highlights both 60-day periods for internal claims to the competent operational areas in charge of gathering the information (pursuant to AFIP General Instruction 950/2013) and 90-day periods for the provision of status updates to the requesting jurisdictions when a final answer cannot be provided within that timeframe. An appointed official checks the dashboard file daily and, in case an alert is highlighted, informs the Head of Unit. The Head of Unit sends official emails to the relevant operational areas to conclude the information gathering process so that a response can be provided to the requesting jurisdiction. Partial responses are provided to the requesting jurisdiction if only part of the information is available in the AFIP databases (see paragraph 377 et seq.).

362. During the period under review, Argentina received 46 requests for information from and sent 619 requests to partner jurisdictions, highlighting that Argentina is a net sender of EOI requests, with a considerable number of requests sent but also some experience in dealing with incoming requests.

363. During the review period, the main five partners of Argentina in terms of EOI requests sent to Argentina were: Spain, Belgium, Norway, Poland and Brazil. The main types of information requested were accounting, banking information, other (e.g. address of the taxpayer, registration data, transfer pricing documentation). As seen under Element A.1 (paragraphs 85 and 141), there were no cases where beneficial ownership information was requested.

364. The following table relates to the requests received during the period under review and gives an overview of response times of Argentina

in providing a final response to these requests, together with a summary of other relevant factors affecting the effectiveness of Argentina's practice during the period reviewed.

Statistics on response time and other relevant factors

		2019 (01/01-31/12)		2020 (01/01-31/12)		2021 (01/01-31/12)		Total	
		Num.	%	Num.	%	Num.	%	Num.	%
Total number of requests received	[A+B+C+D+E]	13	100	22	100	11	100	46	100
Full response: ≤ 90 days		8	62	16	73	6	55	30	65
≤ 180 days (cumulative)		10	77	21	95	10	91	41	89
≤ 1 year (cumulative)	[A]	12	92	22	100	11	100	45	98
> 1 year	[B]	1	8	0	0	0	0	1	2
Declined for valid reasons		0	0	0	0	0	0	0	0
Requests withdrawn by requesting jurisdiction	[C]	0	0	0	0	0	0	0	0
Failure to obtain and provide information requested	[D]	0	0	0	0	0	0	0	0
Requests still pending at date of review	[E]	0	0	0	0	0	0	0	0
Outstanding cases after 90 days		5		6		5		16	
Status update provided within 90 days (for outstanding cases with full information not provided within 90 days, responses provided > 90 days)		4	80	6	100	5	100	15	94

Notes: Argentina counts the requests according to the number of local taxpayers involved. Each EOI request letter is broken down in as many requests as local taxpayers information is being asked about. If Argentina received a further request for information that relates to a previous request, it would count the further request as an independent instance (thus adding to the total number of requests received).

The time periods in this table are counted from the date of receipt of the request to the date on which the final and complete response was issued.

365. As shown in the table above, of the 46 requests received over the three-year review period, 65% were responded to within 90 days and 89% within 180 days. Only for one request did it take more than one year to provide a response.

366. There are no requests that are pending or that have not been responded to from the review period, nor cases declined by the Argentinian Competent Authority or cases withdrawn by the requesting jurisdiction. There were no cases either where the Argentinian Competent Authority sought clarification from the requesting jurisdiction about the requests made. This was also confirmed by the peers who provided input.

367. Argentinian authorities indicated that when requests are not fulfilled within 90 days, it is in general due to the fact that the taxpayer could not be

located and/or to delays in obtaining information or documents from the taxpayer or information-holders. As seen under Element B.1 (paragraph 256), taxpayers and information-holders are generally given ten working days to comply with the AFIP request and provide the information, and they might request a one-time ten-day extension of the deadline. It was also noted that during the COVID-19 pandemic (that occurred during the review period) a suspension of the deadlines to comply with tax obligations was implemented for a certain period, and this has affected the timeliness of responses.

Status updates and communication with partners

368. Of the 16 incoming EOI requests for which the Argentinian Competent Authority could not provide a full response within 90 days from receipt of the request, an update on the status of the request was provided to the requesting jurisdiction in 15 cases (or 94% of the cases). Argentinian authorities indicated that the case where the status update was not provided, was because it was expected to provide a response within 90 days (or shortly after), but then some delays occurred in the gathering of the information at the level of the local operational area.

C.5.2. Organisational processes and resources

Organisation of the competent authority

369. The EOIR Unit, in charge of exchanging information for tax purposes is located within the AFIP (Competent Authority by delegation, see paragraphs 239-241). The processes for incoming and outgoing requests also involve other Competent Authorities by delegation within the AFIP, namely, in ascending hierarchical order: the Head of the International Information Management Department and the Director of the International Tax Audit Directorate. The Director of the International Tax Audit Directorate generally signs EOI requests and the response letters sent to partner jurisdictions.

Resources and training

370. The EOIR Unit is composed of seven staff members, including the Head of Unit, performing at central level the tasks related to incoming and outgoing EOI requests (including analysing the request/draft requests, identifying the taxpayer and the information available in the centralised databases) with a general knowledge of English. The staff of the EOIR Unit was indicated to have a long work history within the AFIP with, in some cases, also experience in the tax examination of international transactions. Four other staff members within the Department (including certified English

and French translator, who prepare a courtesy translation of the responses before they are sent to the requesting jurisdictions) regularly co-operate in EOIR processes.

371. In addition, the International Tax Audit Directorate has an area that provides legal and technical support in international taxation matters, which is consulted by the EOIR Unit when necessary. The Directorate of Institutional Relations has a specific section with certified translators competent in English, French and Russian, who assist with the management of the EOI tasks, notably by carrying out translations of the response to the EOI request that are sent to the requesting jurisdiction together with the original in Spanish.

372. Staff of the EOIR Unit and of the operational areas took part in several training sessions and seminars organised by the OECD, the Global Forum and the Inter-American Center of Tax Administrations (CIAT). The online platform Knowledge Sharing Platform for Tax Administrations (KSP), with materials on EOIR, is also internally promoted within the AFIP as a relevant resource. Within the AFIP, one or two courses on EOIR are organised (either in person or virtually) every year for the auditors of the operational areas, covering both outgoing and incoming requests. In addition, one or two courses per year for the auditors of the operational areas are organised on Automatic EOI, and include a session dedicated to EOIR. For example, in the year 2021 three training sessions of the course on the Common Reporting Standard and one training session on course on beneficial ownership were organised. Approximately 80 officials of the AFIP attended each course, all sessions considered.

Incoming requests

373. The process for dealing with incoming requests is specified in the EOIR Manual (Section 4.b).

Competent authority's handling of the request

374. EOI requests from foreign competent authorities are received by the International Tax Audit Directorate (if received in paper form, they are digitalised in the GDE), and are then sent to the International Information Management Department which, in turn, forwards them to the Tax Information Exchange Division (EOIR Unit). Considering that the Head of the EOIR Unit is also a delegated Competent Authority, it may also receive such EOI requests by email directly from the requesting Competent Authority.

375. Upon receipt of the EOI request, the Head of Unit stamps the letter with the Unit seal and date. The official responsible for the dashboard (see paragraph 361) registers the request and assigns it a reference number.

376. The Head of Unit (or a staff) sends an acknowledgement of receipt to the requesting Competent Authority (the EOIR Manual indicates that this is done by mail post, but Argentinian authorities specified that this is generally done by email, especially during and after the COVID-19 pandemic), analyses the request and appoints an official within the Unit to handle the request. The designated official prepares the case (applying a treaty stamp "information from treaty partners" to the paper letters and documents or, as of March 2023, a digital label for letters or documents received in digital form from the requesting jurisdiction) and analyses the request. If the request is considered complete and valid, it is processed; if not, the designated official informs the Head of Unit to require clarifications or further information from the requesting Competent Authority (see also paragraphs 300-301).

377. If the request is valid, the designated official identifies the Argentinian taxpayer or information holder (data generally relevant in this connection is the full name, date of birth, CUIT or other identification numbers). If the information requested is found (in full or in part) in the AFIP databases, such information is extracted and a (full or partial) response is drafted to be sent to the requesting jurisdiction.

378. In case the information required is not entirely available in the AFIP databases, a "request for collaboration" note (but not the letter received from the requesting Competent Authority) is sent to the competent Regional Directorate (based on the fiscal domicile of the local taxpayer/information holder), which in turn would forward it to the competent operational area in order to obtain the information. The Head of Unit sends this request for collaboration with a report written by the designated official to the International Information Management Department, accompanied, where applicable, by a draft partial response, if some of the information is available from the AFIP databases.

379. Upon sending the request for collaboration to the operational area through the International Information Management Department and the International Tax Audit Directorate, the process follows internal deadlines provided by General Instruction 950/2013. To that end, a control dashboard has been implemented in the database of the area which raises an alert 60 days after the request is received by the EOIR Unit. An appointed official verifies the database daily in order to detect such alerts that will be then informed by email to the Head of Unit. Upon detection of an alert, the Head of Unit sends a reminder via email of the information pending to respond the EOI request. In addition, if the response remains pending after 90 days from its receipt, another alert is highlighted by the dashboard and the Head of Unit will send an official email providing a status update to the foreign competent authority.

380. The 2013 Report also observed that while there have been no instances at the time of requests arriving in foreign languages other than those spoken by the EOIR Unit staff (English) and those for which translation was internally available (French, Italian, Portuguese and Russian), it might be advisable that the EOIR Unit offered additional training to its staff, given the widening range of EOI partners of Argentina and the few staff able to work in English.

381. The Argentinian authorities explained that the Department of International Information Management (and its dependent Divisions, including the EOIR Unit) has personnel fluent in English, French and Portuguese. Additionally, the Directorate of Institutional Relations has a Translations Section, with staff competent in English, French and Russian, that collaborates with the Department. In practice, there has not been any difficulties either in communication with other competent authorities or responding to their requests. No peer reported issues related with the language of communication with the Argentinian Competent Authority. One peer reported appreciation for the courtesy translation from Spanish to French provided by Argentina.

Verification of the information gathered

382. Upon receipt of the information requested from the operational area, the analyst proceeds to evaluate it and drafts a partial or final response to the foreign competent authority, which is then sent with a report to the Head of Unit for its review. The Head of Unit approves the draft letter, which is then sent to the International Information Management Department for final approval and translation. If the Department agrees with the partial or final draft response, the draft response is sent to the International Tax Audit Directorate for final approval and signature.

383. If the Director approves the response, it becomes official, and the partial or final response is sent to the foreign tax administration by regular mail along with the supporting documentation. If the modality is accepted by the requesting jurisdiction, the response is sent by encrypted email (and this is currently the most frequent scenario).

384. If the requesting competent authority does not provide an acknowledgement of receipt within one month (according to the manual, but AFIP officials indicated that this is generally done after one week, where information has been sent by encrypted email), the EOIR Unit will send an email to the requesting Competent Authority to confirm the receipt of the response to the EOI request. If the requesting Competent Authority informs that the response was not received, the EOIR Unit will verify the situation with the post office to track the letter sent. Where needed, a new copy of

the information requested is resent to the requesting Competent Authority, either by encrypted email or regular mail (this circumstance has already occurred in practice).

Practical difficulties experienced in obtaining the requested information and conclusions

385. Argentinian authorities reported no practical difficulties in obtaining the requested information. As the information from the taxpayer is gathered by the operational area, the EOIR Unit does not maintain records of enforcement actions taken in the event of delays or non-compliance by the requested taxpayer. However, the fact that all the information was provided indicates that no major issues emerged during the review period.

386. The process for dealing with incoming requests and the tracking system to ensure that timely responses are provided functions effectively. In consideration of the current volume of requests received by Argentina, not exceeding the number of 22 for any given year during the review period, and the various steps to process a request with various actors involved in each of them, it might be the case that the current system is no longer effective if the volume of incoming requests substantially increases. Argentina should monitor and revise where needed the internal process to ensure timely responses and the provision of status updates in case the number of incoming requests significantly increases over the time (see Annex 1).

Outgoing requests

387. The procedure for drafting and sending outgoing requests is also established in the EOIR Manual.

388. During the review period, Argentina has sent 619 requests for information to EOI partners, meaning that over the same period it has sent more than 13 times the EOI requests it received. The main EOIR partners of Argentina were Uruguay, Spain, Germany, the Cayman Islands and the British Virgin Islands.

389. On these outgoing requests, Argentina received requests for clarifications from the requested jurisdictions in 58 cases (or 9%) and it provided the clarifications needed in all such cases. Argentinian authorities explained that the requests for clarifications generally concerned the identification of the person who was the subject of the request, or to provide additional background information. Peers who provided input confirmed that the requests for clarification generally concerned the identification of the taxpayer/information holder and background information (nexus between the Argentinian taxpayer and the taxpayer in the requested jurisdiction;

years under investigation; steps taken by Argentina before sending the EOI request; whether Argentina had already the information requested at their disposal; whether an investigation was a criminal or civil tax matter, foreseeable relevance).

390. To reply to requests for clarification, in general the elements in the original request are reviewed and the operational area at the AFIP that made the outgoing request is involved to explain the concepts for which clarifications have been requested and/or provide additional background information.

391. During the onsite visit, the Argentinian authorities also explained that they are working to improve the process for outgoing requests to limit the requests for clarifications from the EOI partners. This is mainly done through actions of awareness, such as training sessions to the operational areas on this matter. When recurrent mistakes are made or requests of clarifications are received by the same operational area, dedicated meetings can be organised. The Argentinian authorities have indicated that there are also plans to amend the General Instruction 950/2013 to better frame the process for drafting outgoing EOI requests (accuracy, completeness).

392. Peers confirmed that the clarifications provided by Argentina were timely and helpful to clarify the issue.

393. While Argentina is able to provide the requested clarifications promptly, the necessity to ask clarifications may negatively affect the efficiency of the exchange of information. Argentina is working at improving the quality of outgoing requests and is encouraged to continue in this direction (see Annex 1).

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

394. No factors or conditions were identified during the review that could unreasonably, disproportionately or unduly restrict effective EOI by Argentina.

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**: Argentina should ensure that sanctions for non-compliance with the legal ownership and identity information-keeping and reporting obligations for tax purposes are effective, proportionate and dissuasive (see paragraphs 82, 154 and 177).
- **Element A.1**: Argentina should clarify the meaning of "[control through] any other means" for the purposes of identifying and reporting beneficial owners to the tax administration (see paragraphs 93, 153 and 173).
- **Element A.1**: The definition of beneficial owner in the National Securities Commission rules should be aligned on the UIF resolutions, or it should be clarified what definition applies to entities operating in the capital market (see paragraph 115).
- **Element A.2**: Argentina should improve the supervision carried out by the Public Registries of Commerce, and in particular the monitoring of inactive entities, and review its systems whereby a significant number of non-complying inactive companies remain with legal personality on the Public Registries (see paragraph 206).
- **Element B.1**: Argentina should continue to monitor the possible impact of professional secrecy on exchange of information on request and take measures where appropriate (see paragraph 281).
- **Element C.1**: Argentina should ensure its ability to gather information (including banking information) pursuant to group requests in an effective way (see paragraph 305).

- **Element C.1**: Argentina should work with Venezuela to ensure that this EOIR relationship is in line with the standard as the current DTC does not contain a language akin Article 26(5) of the OECD Model Tax Convention and the domestic laws of the partner jurisdiction might not allow for exchange of all types of information (see paragraph 312).
- **Element C.2**: Argentina should continue to conclude EOI agreements with any new relevant partner who would so require (see paragraph 325).
- **Element C.5**: Argentina should monitor and revise where needed the system in place to ensure timely responses and the provision of status updates on incoming requests, in case the number of requests should significantly increase over time (see paragraph 386).
- **Element C.5**: Argentina is encouraged to continue working at improving the quality of outgoing requests (see paragraph 393).

Annex 2: List of Argentina's EOI mechanisms

Bilateral international agreements for the exchange of information

	EOI partner	Type of agreement	Signature	Entry into force
1	Andorra	TIEA	26-Oct-09	15-Jun-12
2	Armenia	TIEA	07-Jul-14	28-Apr-17
3	Aruba	TIEA	30-Sep-13	31-May-14
4	Australia	DTC	27-Aug-99	30-Dec-99
5	Austria	DTC	06-Dec-19	Not in force
6	Azerbaijan	TIEA	17-Dec-12	22-Apr-13
7	Bahamas	TIEA	03-Dec-09	27-Jul-12
8	Belgium	DTC	12-Jun-96	22-Jul-99
9	Bermuda	TIEA	22-Aug-11	14-Oct-11
10	Bolivia	DTC	30-Oct-76	04-Jun-79
11	Brazil	DTC	17-May-1980 (amending Protocol 21 July 2017)	7-Dec-1982 (amending Protocol 24 May-2018)
		TIEA (Inter-agency)	21-Apr-2005	22-Apr-2005
12	Canada	DTC	29-Apr-93	30-Dec-94
13	Cayman Islands	TIEA	18-Oct-11	31-Aug-12
14	Chile	DTC	15-May-15	11-Oct-16
15	China (People's Republic of)	DTC	2-Dec-2018	Not in force
		TIEA	13-Dec-2010	16-09-2011
16	Costa Rica	TIEA	23-Nov-09	12-Jul-12
17	Curaçao	TIEA	14-May-14	08-Jan-16
18	Denmark	DTC	12-Dec-95	03-Sep-97
19	Ecuador	TIEA (Inter-agency)	23-May-11	24-May-11

	EOI partner	Type of agreement	Signature	Entry into force
20	Finland	DTC	13-Dec-94	05-Dec-96
21	France	DTC	04-Apr-79	01-Mar-81
22	Germany	DTC	13-Jul-78	25-Nov-79
23	Guernsey	TIEA	28-Jul-11	04-Jan-12
24	India	TIEA	29-Nov-11	28-Jan-13
25	Ireland	TIEA	29-Oct-14	21-Jan-16
26	Isle of Man	TIEA	14-Dec-12	04-May-13
27	Italy	DTC	15-Nov-79	15-Dec-83
28	Japan	DTC	27-Jun-19	Not in force
29	Jersey	TIEA	28-Jul-11	09-Dec-11
30	Luxembourg	DTC	13-Apr-2019	Not in force
31	Macau (China)	TIEA	5-Set-14	6-Nov-15
32	Mexico	DTC	04-Nov-15	23-Aug-17
33	Monaco	TIEA	13-Oct-09	07-Aug-10
34	Netherlands	DTC	27-Dec-96	11-Feb-98
35	North Macedonia	TIEA	26-Apr-13	17-Dec-13
36	Norway	DTC	08-Oct-97	30-Dec-01
37	Peru	TIEA (Inter-agency)	07-Oct-04	08-Oct-04
38	Qatar	DTC	19-Apr-18	31-Jan-21
39	Russia	DTC	10-Oct-01	16-Oct-12
40	San Marino	TIEA	07-Dec-09	16-Jun-12
41	South Africa	TIEA	02-Aug-13	28-Nov-14
42	Spain	DTC	11-Mar-13	23-Dec-13
43	Sweden	DTC	31-May-95	10-May-97
44	Switzerland	DTC	20-Mar-14	27-Nov-15
45	Türkiye	DTC	01-Dec-18	Not in force
46	Turkmenistan	TIEA	27-Apr-17	15-Aug-17
47	United Arab Emirates	DTC	3-Nov-2016	4-Feb-2019
		TIEA	5-Feb-2016	17-01-2017
48	United Kingdom	DTC	03-Jan-96	01-Aug-97
49	United States	TIEA	23-Dec-16	13-Nov-17
50	Uruguay	TIEA	23-Apr-12	07-Feb-13
51	Venezuela	TIEA (Inter-agency)	18-Feb-14	18-Feb-14

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

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

The Multilateral Convention was signed by Argentina on 3 November 2011 and entered into force on 1 January 2013 in Argentina. Argentina can exchange information with all other Parties to the Multilateral Convention.

The Multilateral Convention is in force in respect of the following jurisdictions: Albania, Andorra, Anguilla (extension by the United Kingdom), Antigua and Barbuda, Argentina, Armenia, Aruba (extension by the Netherlands), Australia, Austria, Azerbaijan, Bahamas, Bahrain, Barbados, Belgium, Belize, Bermuda (extension by the United Kingdom), Bosnia and Herzegovina, Botswana, Brazil, British Virgin Islands (extension by the United Kingdom), Brunei Darussalam, Bulgaria, 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,[64] Czech Republic, Denmark, Dominica, Dominican Republic, Ecuador, El Salvador, Estonia, Eswatini, Faroe Islands (extension by

63. 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.

64. 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

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, 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: Benin (entry into force on 1 May 2023), Gabon, Honduras, Madagascar, Papua New Guinea, Philippines, Togo, United States (the original 1988 Convention is in force since 1 April 1995, the amending Protocol was signed on 27 April 2010) and Viet Nam.

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.

Annex 3: Methodology for the review

The reviews are based on the 2016 Terms of Reference and conducted in accordance with the 2016 Methodology for peer reviews and non-member reviews, as approved by the Global Forum in October 2015 and amended in December 2020 and November 2021, 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 7 April 2023, Argentina's EOIR practice in respect of EOI requests made and received during the three year period from 1 January 2019 until 31 December 2021, Argentina's responses to the EOIR questionnaire, inputs from partner jurisdictions, as well as information provided by Argentina's authorities during the on-site visit that took place on 15-17 November 2022 in Buenos Aires.

List of laws, regulations and other materials received

National Constitution of Argentina

Laws

No. 11683 of 1932 – National Tax Procedures Law (extract)

No. 17811 of 1968 – National Securities Commission

No. 18924 of 1971 – Money Exchanges (Section 1)

No. 19550 of 1972 – General Companies Law

No. 20091 of 1973 – Insurers and theirs Supervision

No. 20337 of 1973 – Cooperatives Law (extract)

No. 20705 of 1974 – State-owned corporations (extract)

No. 21526 of 1977 – Financial Entities (extract)

No. 22315 of 1980 – Public Commercial Registry – Inspection Board of Legal Entities – Commercial Business Organisation (IGJ Organic Law)

No. 23271 of 1985 – Financial Entities

No. 25246 of 2000 – Anti-Money Laundering Law

No. 26047 of 2005 – National Registries

No. 26831 of 2012 – Capital Market Law

No. 26994 of 2014 – Civil and Commercial Code (CCCN) (extract)

No. 27349 of 2017 – Support to Entrepreneur Capital (extract)

Regulations

AFIP Disciplinary Regulation 185/2010

AFIP General Instruction 950/2013

AFIP G.R. 2811/2010

AFIP G.R. 3293/2012

AFIP G.R. 3312/2012

AFIP G.R. 38322016

AFIP G.R. 4298/2018

AFIP G.R. 4627/2019

AFIP G.R. 4697/2020

AFIP G.R. 4912/2021

AFIP G.R. 4991/2021

AFIP Joint General Regulation 1019/2017

AFIP Joint General Regulation 2325

AFIP Regulation 86/2018

AFIP Regulation 119/2018

AFIP Regulation 258/2010, amended by Regulation 64/2020

BCRA Communication A 6709

BCRA Communication A 7661, Bank Current Account Regulations

CNV G.R. 760 of 2018

IGJ G.R. 4/2016

IGJ G.R. 6/2015

IGJ G.R. 7/2015

UIF Resolution 65/2011

UIF Resolution 140/2012 (extract)

UIF Resolution 112/2021

Practice

AFIP Procedure on the implementation of international tax information exchanges – incoming and outgoing requests, revision: 4, dated 22 March 2023

Other materials

Banks sample forms for clients on the indication of beneficial owners (see paragraph 102)

Authorities interviewed during on-site visit

Federal Administration of Public Revenue (AFIP, Tax Administration)

- International Tax Audit Directorate (and its relevant subdivisions, including the EOIR Unit)
- Directorate of Institutional Relations
- Directorate of Technical Co-ordination and Tax Audit Management Assessment
- Directorate of Specialised Tax Audit and Studies
- Directorate of Tax, Customs and Social Security Resources Intelligence
- Directorate of Operational Co-ordination and Evaluation
- Directorate of Collection Procedures
- Directorate of Collection Programmes and Regulations
- Directorate of Tax Audit Regulations and Systems
- Directorate of Financial Investigation
- Directorate of Information Security
- Directorate of Central Procedures Auditing
- Directorate of Tax Legal Affairs and Social Security Resources

Financial Information Unit (UIF)

Central Bank of the Argentine Republic (BCRA)

National Securities Commission (CNV)

General Inspection of Justice (IGJ, Public Registry of Commerce for the Autonomous City of Buenos Aires)

Provincial Directorate of Legal Entities of the Province of Buenos Aires (provincial Public Registry of Commerce)

Bank associations (ABA, ADEBA, ABAPPRA)

Federal Council of Notaries

Bar association (*Consejo de abogados*) of the Province of Buenos Aires

Professional Council of Economic Sciences

Current and previous reviews

Argentina previously underwent an EOIR peer review in 2012, conducted according to the ToR approved by the Global Forum in February 2010 (2010 ToR) and the Methodology (2010 Methodology) used in the first round of reviews.

Due to the COVID-19 pandemic, the on-site visit that was scheduled to take place in April 2020 could not take place. Hence, Argentina's Round 2 EOIR peer review was phased, starting with a desk-based Phase 1 on the compliance of the legal and regulatory framework that culminated in June 2021 with the adoption of the report assessing the legal and regulatory framework of Argentina's against the 2016 Terms of Reference (Round 2 Phase 1 report). The on-site visit in Argentina has since taken place in November 2022 and the present review complements the first report with an assessment of the practical implementation of the standard, including in respect of exchange of information requests received and sent during the review period from 1 January 2019 to 31 December 2021, as well as any changes made to the legal framework since the relevant Phase 1 review.

Information on each of Argentina's EOIR reviews are listed in the table below.

Summary of reviews

Review	Assessment team	Period under review	Legal framework as of	Date of adoption by Global Forum
Round 1 Combined: Phase 1 + Phase 2	Ms Monica Olsson from Norway; Ms Oshna Maharaj from South Africa; and Ms Gwenaëlle Le Coustumer from the Global Forum Secretariat.	2009-11	August 2012	November 2013
Round 2 Phase 1	Mr Stephen Coakley Wells from the Bahamas; Ms Marie Breal from France; and Mr Fabio Giuseppone and Mr Lloyd Garrochinho from the Global Forum Secretariat.	Not applicable	8 March 2021	18 June 2021
Round 2 Phase 2	Ms Marie Breal from France; Mr James Marshall from the United Kingdom; and Mr Fabio Giuseppone from the Global Forum Secretariat.	2019-21	7 April 2023	14 July 2023

Annex 4: Argentina's response to the review report[65]

Argentina would like to express its gratitude for the outstanding work carried out by the assessment team during the review process. We would also like to thank partner jurisdictions for their valuable contributions to the review.

Argentina agrees with the recommendations and findings of the final report and considers that it accurately reflects the exchange of information process in our country. Our understanding is that the peer review process is an opportunity to analyse our legal framework in depth and the EOIR procedures in practice, to identify deficiencies and to continue providing our commitment to improvement.

Argentina remains committed to the international standard for exchange of information upon request and will continue working to address the recommendations made in the report to further improve our legal framework and practices.

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

GLOBAL FORUM ON TRANSPARENCY AND EXCHANGE OF INFORMATION FOR TAX PURPOSES

Peer Review Report on the Exchange of Information on Request ARGENTINA 2023 (Second Round, Combined Review)

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 Combined Second Round Peer Review on the Exchange of Information on Request for Argentina.

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