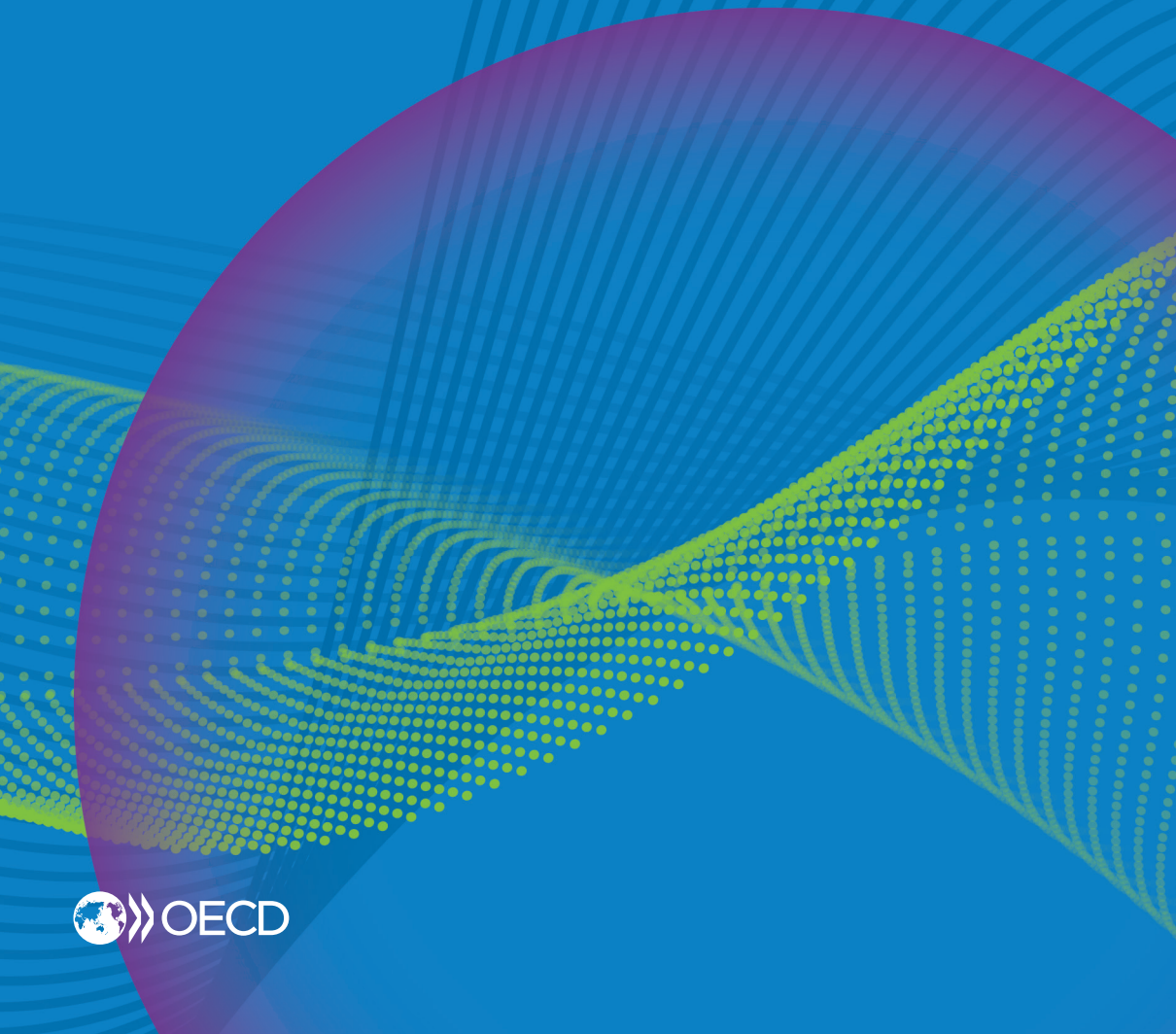
GLOBAL FORUM ON

TRANSPARENCY AND EXCHANGE OF INFORMATION FOR TAX PURPOSES

Peer Review Report on the Exchange of Information on Request

PARAGUAY

2023 (Second Round, Phase 1)



OECD

Global Forum on Transparency and Exchange of Information for Tax Purposes: Paraguay 2023 (Second Round, Phase 1)

PEER REVIEW REPORT ON THE EXCHANGE OF INFORMATION ON REQUEST

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Note by the Republic of Türkiye
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Reader's guide

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

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

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

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

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

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

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

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

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

Consideration of the Financial Action Task Force Evaluations and Ratings

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

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

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

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

More information

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

Abbreviations and acronyms

2016 ToR	Terms of Reference related to EOIR, as approved by the Global Forum on 29-30 October 2015
AFD	Development Finance Agency (*Agencia Financiera de Desarrollo*)
AML	Anti-Money Laundering
BCP	Central Bank of Paraguay (*Banco Central de Paraguay*)
CDD	Customer Due Diligence
CNV	National Securities Commission (*Comisión Nacional de Valores)*
EOI Unit	Department of Technical Advisory (*Departamento de Asesoría Técnica*) of the Vice Minister's Office
DGPEJBF	General Directorate of Legal Persons and Arrangements and Beneficial Owners (*Dirección General de Personas y Estructuras Juridicas y de Benefidarios Finales)* of the Ministry of Finance
DGRP	General Directorate of Public Registries (*Dirección General de los Registros Públicos*)
DTC	Double Taxation Convention
EAS	Simplified joint-stock company (*Empresa por Acciones Simplificadas)*
EUR	Euro
EJT	Transparent Legal Arrangements (*Estructuras Jurídicas Transparentes*)
EOI	Exchange of Information
EOIR	Exchange of Information on Request

Global Forum	Global Forum on Transparency and Exchange of Information for Tax Purposes
GDP	Gross Domestic Product
INCOOP	National Institute of Co-operativism (*Instituto Nacional de Cooperativismo)*
Multilateral Convention	Convention on Mutual Administrative Assistance in Tax Matters, as amended in 2010
PYG	Paraguay Guarani (national currency)
BO Register	Administrative Register of Beneficial Owners (*Registro Administrativo de Beneficiarios Finales)*
RAPEJ	Administrative Register of Legal Persons and Arrangements (*Registro Administrativo de Personas y Estructuras Jurídicas)*
RUC	Single Taxpayer Register (*Registro Único del Contribuyente*)
SAECA	Open capital issuing company (*Sociedad Anónima Emisora de Capital Abierto)*
SB	Superintendency of Banks (*Superintendencia de Bancos)*
SEPRELAD	Secretariat for the Prevention of Money Laundering or Asset Laundering (*Secretaría de Prevención de Lavado de Dinero o Bienes*)
SET	Undersecretariat of State of Taxation (*Subsecretaría de Estado de Tributación)*
SUACE	Unified System for the Opening and Closing of Businesses (*Sistema Unificado de Apertura y Cierre de Empresas)*
USD	United States Dollar

Executive summary

1. This report analyses the implementation of the standard of transparency and exchange of information on request for tax purposes in Paraguay on the second round of reviews conducted by the Global Forum. As Paraguay joined the Global Forum in 2016, no assessment of Paraguay was conducted under the first round of peer reviews. Therefore, this report is the first assessment of Paraguay.

2. Due to the limited practical experience of Paraguay in exchange of information on request (EOIR), and in accordance with the 2016 Methodology for peer reviews and non-member reviews, as amended in 2021, this report only assesses the legal and regulatory framework in force in Paraguay as of 17 April 2023 against the 2016 Terms of Reference (2016 ToR). The assessment of the practical implementation of this framework will be subject to a future Phase 2 review to be launched at the latest in June 2026 (see Annex 3).

3. This report concludes that Paraguay's legal and regulatory framework for the exchange of information for tax purposes is in place but requires improvement in several areas in respect of the availability and access to this information.

Summary table of determinations on the legal and regulatory framework of Paraguay

Element		Determination
A.1	Availability of ownership and identity information	Needs improvement
A.2	Availability of accounting information	Needs improvement
A.3	Availability of banking information	Needs improvement
B.1	Access to information	Needs improvement
B.2	Rights and Safeguards	In place
C.1	EOIR Mechanisms	Needs improvement
C.2	Network of EOIR Mechanisms	In place
C.3	Confidentiality	In place
C.4	Rights and safeguards	Needs improvement
C.5	Quality and timeliness of responses	Not applicable
	OVERALL RATING	**NOT APPLICABLE**

Note: The three-scale determinations for the legal and regulatory framework are: In place, In place but needs improvement, Not in place. (For the Phase 2 review, the four-scale ratings for the legal and regulatory framework and its implementation in practice are Compliant, Largely Compliant, Partially Compliant and Non-compliant.)

Transparency framework

4. Since joining the Global Forum in 2016, Paraguay has brought its legal and regulatory framework closer to the standard, including to require the availability of information on the legal and beneficial owners of legal entities and arrangements.

5. Ownership and identity information in relation to legal entities and arrangements in Paraguay is available in application of company law, tax law and Paraguay strengthened the system by introducing in 2019 requirements under the Administrative Register of Legal Persons and Arrangements. Paraguay also introduced in 2017 legislation for the conversion of existing bearer shares into registered shares and the prohibition to issue any new bearer shares.

6. Since 2019, the main sources for the availability of beneficial ownership information are the Administrative Register of Beneficial Owners administered by the Ministry of Finance and the legal persons and arrangements themselves. Beneficial ownership information may also be available from AML-obliged persons, when any such person has a business relationship with the relevant entity or legal arrangement. These sources of information suffer deficiencies.

7. The main provisions for the availability of accounting records in Paraguay are found in the commercial, tax and trust legislation and meet the standard except for specific situations.

8. With respect to banking information, its availability is enabled by the AML Law and its regulations.

9. Regarding access powers, the main provisions are contained in the Tax Law and Law No. 6657/2020 that gives powers to the competent authority to request information for complying with requests under international tax treaties. This law importantly lifts bank secrecy for exchange of information purposes but some limitations remain.

Key recommendations

10. The main recommendations for progress issued to Paraguay relate to the availability of beneficial ownership information as there are various shortcomings in both the AML and BO Register frameworks, which do not ensure that beneficial ownership information of all relevant legal persons and arrangements is available and accurate in all cases as required under the standard. Key recommendations refer to the alignment to the standard of the definition of beneficial owners in the legislation, for legal persons, partnerships and trusts and to deficiencies in the updating of beneficial ownership information. Recommendations have also been made in relation to transparency and beneficial ownership behind nominees and in case of simplified due diligence. The deficiencies under the AML Law also affect the availability of beneficial ownership information of bank accounts.

11. In relation to accounting information, in the specific cases of companies that cease to exist or that redomicile abroad, it is not clear whether accounting information remains available in all cases for a minimum of five years. For express trusts that are administered by a lawyer or accountant and for foreign trusts that are administered in Paraguay or in respect of which a trustee is resident in Paraguay, the availability of accounting information is not ensured in all cases.

12. With respect to access to information, the tax administration does not have clear powers to access beneficial ownership information held by some AML-obliged persons and the scope of their professional privilege is not clearly defined in Paraguayan law, and it might go beyond the scope allowed under the standard. There are also concerns in respect of the identification requirement of the person on whose bank account information is requested, which could also affect access to information in case of group requests.

13. It is therefore recommended that Paraguay addresses these shortcomings.

Exchange of information

14. Paraguay has a network of international instruments for the exchange of information on request which covers 147 jurisdictions, through the Convention on Mutual Administrative Assistance on Tax Matters (the Multilateral Convention) and five bilateral EOI instruments (Double Taxation Conventions). Exchange can take place with 138 partners with whom an EOI instrument is in force, but Paraguay's exchange of information experience is still very limited. Paraguay has limited experience in exchange of information on request and has mostly not engaged in other forms of exchange of information, with the exception of two spontaneous EOI received in 2022 from two jurisdictions.

15. This EOI framework has no material deficiencies so that no recommendation was issued on this aspect. However, the deficiencies in the domestic legislation on access powers prevent the full implementation of the EOI instruments of Paraguay in relation to some banking information and beneficial ownership information. Therefore, the same recommendations under access powers extend to the EOI network.

Next steps

16. This report only assesses Paraguay's legal and regulatory framework for transparency and exchange of information for tax purposes. It is determined to be "in place" for Elements B.2, C.2 and C.3 of the standard and "in place but needs improvement" for Elements A.1, A.2, A.3, B.1, C.1 and C.4. Each element will be rated and the overall rating given at the conclusion of the Phase 2 review.

17. This report was approved by the Peer Review Group of the Global Forum on 14 June 2023 and adopted by the Global Forum on 14 July 2023. A follow-up report on the measures taken by Paraguay to implement the recommendations made in this report should be provided to the Peer Review Group by 30 June 2024, and thereafter annually in accordance with the procedure set out in the 2016 Methodology for peer reviews and non-member reviews.

Summary of determinations, ratings and recommendations

Determinations	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 availability of beneficial ownership information of legal persons in Paraguay (companies, partnerships, co-operatives and simple companies) relies mainly on the AML framework and the Administrative Register of Beneficial Owners, complemented with transparency rules for some companies. However, the AML framework and the Administrative Register of Beneficial Owners have several shortcomings and scope limitations that mean that, even if both systems are taken together, they do not ensure that beneficial ownership information is complete and available in all circumstances, as required by the standard. The AML framework provides different regulations depending on the obliged subject and the regulations for notaries, lawyers and accountants have deficiencies, including the absence of a methodology for identifying the beneficial owners, the lack of a specified frequency for updating the information, the possibility that beneficial ownership information may not be adequately verified nor updated in simplified CDD, the absence of subcontracting rules, and the reliance on third parties has no clear requirement for the third party to be regulated by equivalent AML standards. Finally, the beneficial ownership information may not be	Paraguay is recommended to ensure the availability of adequate and accurate beneficial ownership information in respect of all legal persons.

Determinations	Factors underlying recommendations	Recommendations
	available because there is no requirement for all legal persons and arrangements to engage AML-obligated persons. The Administrative Register of Beneficial Owners would compensate the issue of scope of application and the lack of a specified frequency for updating information under the AML framework, but it also contains deficiencies in relation to the methodology for identifying the beneficial owners. These deficiencies also apply under the transparency rules for companies constituted by shares.	
	There are no requirements under Paraguayan law in relation to companies having nominee shareholdings in their ownership structure and disclosing the nominee status of the shareholders, to the company, or to the authorities. Without this information, the company and authorities would not know whether the shareholder is a nominee and therefore identity information of persons whom the nominees represent (the nominators) is not available with the company or the authorities.	Paraguay is recommended to ensure that nominee shareholders disclose their nominee status to the company and that accurate identity and beneficial ownership information is available in respect of nominee arrangements where nominees act as the legal owners on behalf of any other person.
	The determination of beneficial owners for partnerships follows the definition of companies, including using thresholds in shareholding participation or voting rights as a starting point. This approach is not necessarily in accordance with the form and structure of partnerships.	Paraguay is recommended to ensure that beneficial ownership information in line with the standard is available in respect of all partnerships.

Determinations	Factors underlying recommendations	Recommendations
	The availability of information on trusts in Paraguay is given by the AML framework, the Administrative Register of Legal Persons and Arrangements, the Administrative Register of Beneficial Owners, and Tax Law. There are various deficiencies in the legal framework that do not ensure its availability as required by the standard. With respect to identity information, there are no clear requirements under the legal framework to collect information on all the parties of a trust. As regards beneficial ownership, there are shortcomings in the methodology for the identification of the beneficial owners of all parties of a trust and regarding the updating of beneficial ownership information. In addition, not all trustees are required to collect identity and beneficial ownership information on the trusts they manage (i.e. lawyers and accountants). As regards foreign trusts that are administered in Paraguay or in respect of which a trustee is resident in Paraguay, the legal framework does not ensure the availability of identity and beneficial ownership information.	Paraguay is recommended to ensure that adequate, accurate and up-to-date identity and beneficial ownership information is systematically available for all Paraguayan trusts in accordance with the standard. Paraguay is also recommended to ensure that identity and beneficial ownership information in line with the standard is available in respect of all foreign trusts having nexus to Paraguay.
	In Paraguay, not-for-profit entities are relevant entities for the work of the Global Forum. There is no clear requirement that ensures the availability of identity information on all parties of the not-for-profit entity, namely the founders, board members, directors and other beneficiaries. With respect to beneficial ownership, as not-for-profit entities are in general legal persons in Paraguay, the determination of their beneficial owners follows the methodology of companies, which would not allow the identification of all beneficial owners as required by the standard.	Paraguay is recommended to ensure the availability of identity and beneficial ownership information of not-for-profit entities as required under the standard.

Determinations	Factors underlying recommendations	Recommendations
Jurisdictions should ensure that reliable accounting records are kept for all relevant entities and arrangements *(ToR A.2)*		
The legal and regulatory framework is in place but needs improvement	Paraguayan trustees of domestic and foreign trusts not authorised by the Central Bank and not registered with the tax administration are not required to keep accounting records that fully reflect the financial position and assets/liabilities of the trust.	Paraguay is recommended to ensure that accounting records as required under the standard are available for all domestic trusts and for foreign trusts with a nexus with Paraguay for a minimum of five years.
	There is no provision under Paraguayan laws that require the keeping of accounting records and supporting documents within Paraguay after the entity ceases to exist.	Paraguay is recommended to ensure that accounting information is available for a minimum of five years after the entity ceases to exist.
	Legal persons that redomicile out of Paraguay without dissolution have no specific obligation under Paraguayan laws to maintain full accounting records and underlying documentation in Paraguay for a minimum of five years after their departure.	Paraguay is recommended to ensure that accounting information is available for a minimum period of five years in relation to legal persons that redomicile out of Paraguay.
Banking information and beneficial ownership information should be available for all account-holders *(ToR A.3)*		
The legal and regulatory framework is in place but needs improvement	There is no obligation to retain bank information if the bank ceases to exist or a foreign bank ceases to operate in Paraguay.	Paraguay is recommended to ensure the availability of banking information when a bank ceases to exist or operate for at least five years.

Determinations	Factors underlying recommendations	Recommendations
	The methodology for the identification of beneficial owners of bank accounts globally follows the standard, but suffers some deficiencies as it does not capture all possible scenarios of controlling ownership interest and it does not provide any guidance on what "control through other means" could cover. In addition, the methodology to be used by banks for the identification of the beneficial owners of legal persons is applicable to partnerships and is not necessarily in accordance with their form and structure. With respect to trusts, the methodology does not require the identification of the beneficial owners of all parties of the trust. Further, there is no specified frequency in the legal framework for the updating of CDD and beneficial ownership information.	Paraguay is recommended to ensure that beneficial ownership information in line with the standard is available in respect of bank accounts. In addition, Paraguay is recommended to clarify the rules concerning the updating of the CDD and beneficial ownership information to ensure beneficial ownership information is always up to date.
	Banks can use intermediaries for the identification and/or verification of the identity of clients, subject to general subcontracting rules, but specific rules on subcontracting do not exist so it is not clear whether the rules applicable to banks are those of subcontracting or third party reliance, and what banks are expected to do when using intermediaries. If the applicable rules were those of third-party reliance, the regulations do not include the requirement to obtain immediately and upon request the information concerning CDD measures, the verification that the third party is regulated and supervised for compliance with CDD and record-keeping requirements, and that the delegating financial institution has verified that the third party is subject to equivalent AML standards. The General Guidelines on AML state that the third party must provide without delay and on request the supporting information relating to CDD and that reliance can be placed on third parties residing in other countries provided that the obliged person verifies that the source country does not represent a significant level	Paraguay is recommended to ensure that identity and beneficial ownership information is always available in line with the standard when banks rely on intermediaries or third parties for the performance of CDD measures.

Determinations	Factors underlying recommendations	Recommendations
	of risk, including not being categorised as non-co-operative by Financial Action Task Force. However, such guidance is not binding for AML-obliged persons.	
	It is not certain whether the verification and updating of beneficial ownership information is out of the scope of simplified CDD. The General Guidelines on AML, which do not have binding effects, ease the requirements for the verification of information, for the updating of identification data and allows the reduction of documentary requirements. Therefore, under simplified CDD, beneficial owners of all account holders may not be correctly verified or updated in some instances, contrary to what is required under the standard.	Paraguay is recommended to ensure that beneficial owners of all bank account holders are verified and regularly updated in all circumstances.
Competent authorities should have the power to obtain and provide information that is the subject of a request under an exchange of information arrangement from any person within their territorial jurisdiction who is in possession or control of such information (irrespective of any legal obligation on such person to maintain the secrecy of the information) *(ToR B.1)*		
The legal and regulatory framework is in place but needs improvement	In order to obtain banking information, banking legislation stipulates that the tax administration must identify a specific responsible person or taxpayer. This means that details of the person's identification must be provided (e.g. name, last name). This would prevent access to information in the case of a group request or when only a bank account number is available to the requesting authority, while the standard considers it as a sufficient identification method.	Paraguay is recommended to clearly provide for access to banking information in accordance with the standard in all cases, including when dealing with group requests.

Determinations	Factors underlying recommendations	Recommendations
	While Paraguay has taken measures to broaden the access powers of the tax administration in relation to information held by professionals and to reduce the scope of professional privilege, the protection of information held by professionals remains too broad and not clearly defined, as professionals can decline a request for information that is not considered to be of a "patrimonial" nature. The scope of information that meets the category of "patrimonial" is not defined, and it cannot be clearly ascertained whether professionals, such as lawyers or notaries, would invoke professional secrecy when information, including beneficial ownership information, is requested of them for EOI purposes.	Paraguay is recommended to bring the scope of professional privilege in line with the standard and to ensure that its access powers allow access to beneficial ownership information in all cases, as required by the standard.
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]		
Exchange of information mechanisms should provide for effective exchange of information *(ToR C.1)*		
The legal and regulatory framework is in place but needs improvement	In order to obtain banking information, banking legislation stipulates that the tax administration must identify a specific responsible person or taxpayer. This means that details of the person's identification must be provided (e.g. name, last name). This would prevent access to information when dealing with a group request and when only a bank account number is available to the requesting authority.	Paraguay is recommended to clearly provide for access to banking information in accordance with the standard in all cases, including when dealing with group requests.
The jurisdictions' network of information exchange mechanisms should cover all relevant partners *(ToR C.2)*		
The legal and regulatory framework is in place		

Determinations	Factors underlying recommendations	Recommendations
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]		
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 but needs improvement	While Paraguay has taken measures to broaden the access powers of the tax administration in relation to information held by professionals and to reduce the scope of professional privilege, the protection of information held by professionals remains too broad and not clearly defined, as professionals can decline a request for information that is not considered to be of a "patrimonial" nature. The scope of information that meets the category of "patrimonial" is not defined, and it cannot be clearly ascertained whether professionals, such as lawyers or notaries, would invoke professional secrecy when information is requested of them for EOI purposes.	Paraguay is recommended to bring the scope of professional privilege in line with the standard.
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.	

Overview of Paraguay

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

19. Paraguay (officially the Republic of Paraguay) is a landlocked country situated in South America, bordered by Argentina, Bolivia and Brazil. Paraguay covers 406 750 km² and has a population of about 7.22 million (2021). Its capital city is Asunción, which is also the largest city in Paraguay. The official languages of Paraguay are Spanish and Guaraní, and the official currency is the Guaraní (PYG).[1]

20. Paraguay is an upper middle-income country with a Gross Domestic Product (GDP, at current prices) of USD 39 billion in 2021.[2] Paraguay has a developing market economy that is based largely on agriculture, trade and light industries. Main trading partners of Paraguay include Brazil, China, Argentina and the United States.

Legal system

21. The Republic of Paraguay is a multiparty democratic republic with a civil law legal system; its head of state and of government is the president. Paraguay is a unitary state. The government in Paraguay is exercised by the legislative, executive and judicial powers in a system of independence of powers, balance, co-ordination and reciprocal control. The legislative body is the Congress, composed of the Senate and the Chamber of Deputies. All its members are elected by popular vote for 5-year terms, on the same date that the presidential elections are held.

22. Decentralisation implies that, despite the existence of a single centre of power at the national level, local powers have some derived or residual powers. Paraguay is divided into 17 *departamentos* (departments)

1. EUR 1 is equivalent to PYG 7 815.78 (as of 30 March 2023).
2. GDP data extracted from https://data.worldbank.org/indicator/NY.GDP.MKTP.CD?locations=PY.

and each department is further divided into *distritos* (districts). This administrative organisation does not have any consequence on the availability or access to information in Paraguay.

23. The hierarchy of laws in Paraguay is established in Article 137 of the Paraguayan Constitution, as follows:

- National Constitution of the Republic of Paraguay
- treaties, conventions and international agreements
- national laws passed by Congress
- other legal provisions of lower hierarchy, such as decrees, resolutions, agreements of the Supreme Court of Justice, municipal ordinances.

24. The judicial system is constituted by all the courts of the Paraguayan Republic, ordinary and special, under the direction of the Supreme Court of Justice, which appoints the judges of lower courts and magistrates, from a shortlist proposed by the Council of the Magistrature. The courts are in charge of knowing, judging and executing all those causes that the Constitution and the laws have placed in the sphere of their attributions. The Administrative Court (*Tribunal de Cuentas*) has competence on contentious-administrative appeals brought by an individual or by an administrative authority against decisions in tax matters.

Tax system

25. The Paraguayan tax system is based on the provisions of the Paraguayan Tax Law, which lays down rules for the taxation of income, assets, transactions and other relevant acts. The structure of the Paraguayan tax system, based on Article 179 of the Paraguayan Constitution for the creation of taxes, is made up as follows: corporate income tax, tax on dividends and profits, personal income tax (income and capital gains and personal services) and income tax for non-residents. Consumption taxes include the value added tax and the selective consumption tax.

26. In Paraguay, corporate income tax (*Impuesto a la Renta Empresarial*) is levied on a territorial basis. All income that comes from activities carried out, from assets located or from rights used economically in Paraguayan territory, is taxed regardless of nationality, domicile or residence of the parties involved. Likewise, income from capital located abroad is taxed when the beneficiary is an individual or legal entity domiciled in Paraguay.

27. For corporate income tax purposes, taxpayers are single-person companies, entities with or without legal personality, transparent legal structures, partnerships, corporations and other private entities of any nature.

Taxpayers are also persons domiciled or entities incorporated abroad and their branches, agencies or establishments in the country.

28. Transparent legal structures are legal instruments or structures used as a means of investment, administration or protection of money, goods, rights and obligations. For tax purposes, these structures are considered to have a neutral effect on the corporate income tax, as they mediate between the business subject to taxation and its beneficiaries. Included as transparent legal structures are fiduciary businesses, patrimonial investment funds, and temporary unions originating from shared-risk contracts, excluding consortiums formed to carry out public works.

29. Foreign companies with a permanent establishment located in Paraguay are treated in the same way as resident Paraguayan companies for corporate income tax purposes. Companies without a permanent establishment will have as domicile that of their representatives. A representative is a natural person domiciled in Paraguay who is authorised to perform all acts that the company may enter into and to represent it in court.

30. The corporate income tax is 10% and corporate tax is levied on the aggregate net income of various sources of business income, including capital gains on the transfer of business assets. The tax year is the calendar year.

31. The Ministry of Finance of Paraguay is organised into three Undersecretariats of State, which report to it: of Taxation, of Financial Administration and of Economy. The Undersecretariat of State for Taxation (*Subsecretaría de Estado de Tributación* – SET) is in charge of administering taxes in Paraguay.

Financial services sector

32. The financial system of Paraguay is made up of banks, finance institutions and other entities dedicated to financial intermediation and their subsidiaries, which must have prior authorisation from the Central Bank of Paraguay (*Banco Central de Paraguay* – BCP). The financial system is governed by the provisions of Law No. 861/1996 on Banks, Financial Institutions and Other Credit Entities and its amendments, the Organic Law of the BCP, the Civil Code and other legal provisions in force, in this specific stated order of precedence.

33. The financial sector of Paraguay is dominated by banking and financial institutions, which as of December 2021 held 86.7% of the total assets held by the financial sector, followed by savings and credit co-operatives with 10.4% and insurance companies with 2.2%. The remaining 0.7% were managed by exchange houses, warehouses and electronic payment institutions. The overall financial sector represents 76.1% of Paraguay's GDP and the

existing 17 banks and 8 financial institutions represent 66.4% of Paraguay's GDP. There are 46 savings and credit co-operatives and 34 insurance companies, which represent 8% of GDP and 1.7% of GDP, respectively.[3]

34. Banking and financial institutions are under the responsibility and supervision of the BCP, through the Superintendency of Banks (*Superintendencia de Bancos* – SB), the securities market is supervised by the National Securities Commission (*Comisión Nacional de Valores* – CNV), the National Institute of Co-operativism (*Instituto Nacional de Cooperativismo* – INCOOP) supervises savings and credit co-operatives, and the Superintendency of Insurance (*Superintendencia de Seguros*) is in charge of insurance companies.

Anti-money laundering framework

35. In Paraguay, the anti-money laundering (AML) framework is based on Law No. 1015/1997 that Prevents and Prosecutes Unlawful Acts for the Purpose of Laundering Money or Property (AML Law) and its amendments.

36. The Secretariat for the Prevention of Money Laundering or Asset Laundering (*Secretaría de Prevención de Lavado de Dinero o Bienes* – SEPRELAD) is the enforcement authority of the AML Law. The SEPRELAD has a Financial Analysis Unit (*Unidad de Análisis Financiero* – UAF) in charge of evaluating and analysing the suspicious transaction reports submitted by AML-obliged persons.

37. Regarding supervision of AML-obliged persons, as noted above, Paraguay has four supervisory bodies for the financial sector: the BCP/SB, the CNV, the INCOOP and the Superintendency of Insurance. With respect to non-financial business and professions subject to AML obligations, the SEPRELAD supervises those that do not have a natural supervisor, such as lawyers and accountants, and the Supreme Court of Justice (*Corte Suprema de Justicia* – CSJ) supervises notaries.

38. The Council of Supervisors of Obliged Persons under the AML system, created by Decree No. 1548/2019, has as objective to implement agreements, methodologies and protocols to facilitate co-ordination between the supervisory bodies in the AML sector. The Council comprises a President, who is the Executive Secretary of the SEPRELAD, and the following members:[4]

- the Superintendent of the SB

3. Exchange agencies, warehouses and electronic payment institutions represent 0.4% of the GDP.

4. Decree No. 1548/2019 (Art. 5) requests the collaboration of the Supreme Court of Justice to integrate the Council but to date it is not part of it.

- the Superintendent of the Superintendency of Insurance
- the President of the CNV
- the President of the National Gambling Commission (*Comisión Nacional de Juegos de Azar*)
- the President of the INCOOP
- the General Director of Supervision and Regulations of the SEPRELAD.

39. Paraguay underwent its fourth round of the Financial Action Task Force of Latin America (*Grupo de Acción Financiera de Latinoamérica* – GAFILAT) mutual evaluations in 2021. In general, the report considered that Paraguay has taken important steps for the transparency of legal persons and arrangements with the creation of the Administrative Registry of Legal Persons and Arrangements and the Administrative Registry of Beneficial Owners, as well as by introducing reforms to convert bearer shares to nominative shares. However, it also noted that those reforms are recent and are still in the process of implementation, so determining their effectiveness and whether improvements are needed is still pending. In addition, there are other areas that need improvement.[5]

40. Recommendation 10 on customer due diligence (CDD) was found Largely Compliant and Recommendation 11 on record keeping was found Compliant. Recommendation 22 on Designated Non-Financial Businesses and Professions was found Partially Compliant, because notaries, lawyers, other legal professionals and accountants do not comply with their CDD requirements. Recommendation 24 on the Transparency of Legal Persons was determined to be Largely Compliant, because it is not clear whether the information in the Administrative Registry of Legal Persons and Arrangements and Beneficial Owners is available to the general public or only to persons demonstrating a legal interest. In addition, although there is no basis for the obligation of companies to maintain the basic information of the company at the address notified to the Registry, the Registry in possession of the beneficial ownership information is within the country and can provide the information upon request. Recommendation 25 on the Transparency of Beneficial Ownership of Legal Arrangements was found Compliant.

5. The Mutual Evaluation Report of the Republic of Paraguay is available at https://www.fatf-gafi.org/content/dam/fatf-gafi/fsrb-mer/Mutual%20Evaluation%20Report%20of%20Paraguay-2022.pdf.

Recent developments

41. Since 2016, Paraguay has implemented several significant reforms to comply with the standard and to ensure the availability of information on the ownership of legal entities and arrangements, as well as new rules in relation to the transparency of bearer shares. These new legal provisions are described in this report.

42. On 20 April 2023, the Organic Law of the BCP was amended through Law No. 7066/2023. This amendment lifts the duty of secrecy when the Ministry of Finance, through the SET, requests information, data and documents from the BCP. It also states that requests must be justified and must refer to a specific person, and must necessarily be subject to an administrative inquiry, a judicial process, a tax verification process or an investigation. This amendment intends to align the Organic Law of the BCP to bank legislation (see paragraph 348) and means that details of a person's identification must be provided (e.g. name, last name) when requesting information to the BCP, potentially preventing access to the information and also in case of a group request. As this amendment entered into force on 20 April 2023, after the cut-off date for the present report, it is not taken into account in this report.

Part A: Availability of information

43. 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.

44. The main legal provisions requiring the availability of ownership and identity information in Paraguay can be found in company law, tax law and requirements under the Administrative Register of Legal Persons and Arrangements. Other relevant provisions can be found in the AML framework.

45. All Paraguayan companies and partnerships are required to register with three authorities: the General Directorate of Public Registries (*Dirección General de los Registros Públicos* – DGRP), the tax authority or Undersecretariat of State of Taxation (*Subsecretaría de Estado de Tributación* – SET) and the Administrative Register of Legal Persons and Arrangements (*Registro Administrativo de Personas y Estructuras Jurídicas* – RAPEJ). In doing so, they must provide their deed of incorporation, which includes means of identifying their (founding) members, as well as detailed identity information on the partners, associates, members or participants. There are mechanisms to ensure this information is updated.

46. In relation to foreign entities, identity and ownership information is required to be kept according to DGRP and RAPEJ requirements.

47. The standard was strengthened in 2016 with a new requirement that beneficial ownership on entities and arrangements be available. In Paraguay, the main sources of beneficial ownership information are the Administrative Register of Beneficial Owners (BO Register) created in 2019,

and the legal persons themselves. However, there are some shortcomings concerning the methodology for determining beneficial ownership, which would not ensure that accurate beneficial ownership information on companies is available in all cases as required under the standard. The anti-money laundering framework is a complementary source of information, but it is incomplete and not fully aligned with the standard, so it does not ensure the complete availability of beneficial ownership information either. Transparency concerns in relation to beneficial ownership information for nominee arrangements have also been identified.

48. Regarding bearer shares, Paraguay has enacted regulations for the conversion of bearer shares into registered shares. In connection to trusts, there are various deficiencies in the AML, RAPEJ and BO Register frameworks that do not ensure that accurate and up-to-date identity and beneficial ownership information is available in Paraguay.

49. In relation to not-for-profit entities, the availability of identity information is not ensured and the same beneficial ownership deficiencies in the AML and BO Register frameworks apply.

50. 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 availability of beneficial ownership information of legal persons in Paraguay (companies, partnerships, co-operatives and simple companies) relies mainly on the AML framework and the Administrative Register of Beneficial Owners, complemented with transparency rules for some companies. However, the AML framework and the Administrative Register of Beneficial Owners have several shortcomings and scope limitations that mean that, even if both systems are taken together, they do not ensure that beneficial ownership information is complete and available in all circumstances, as required by the standard. The AML framework provides different regulations depending on the obliged subject and the regulations for notaries, lawyers and accountants have deficiencies, including the absence of a methodology for identifying the beneficial owners, the lack of a specified frequency for updating the information, the possibility that beneficial ownership information may not be adequately verified nor updated in simplified CDD, the absence of subcontracting rules, and the reliance on third parties has no clear requirement for the third party to be regulated	Paraguay is recommended to ensure the availability of adequate and accurate beneficial ownership information in respect of all legal persons.

Deficiencies identified/Underlying factor	Recommendations
by equivalent AML standards. Finally, the beneficial ownership information may not be available because there is no requirement for all legal persons and arrangements to engage AML-obligated persons. The Administrative Register of Beneficial Owners would compensate the issue of scope of application and the lack of a specified frequency for updating information under the AML framework, but it also contains deficiencies in relation to the methodology for identifying the beneficial owners. These deficiencies also apply under the transparency rules for companies constituted by shares.	
There are no requirements under Paraguayan law in relation to companies having nominee shareholdings in their ownership structure and disclosing the nominee status of the shareholders, to the company, or to the authorities. Without this information, the company and authorities would not know whether the shareholder is a nominee and therefore identity information of persons whom the nominees represent (the nominators) is not available with the company or the authorities.	Paraguay is recommended to ensure that nominee shareholders disclose their nominee status to the company and that accurate identity and beneficial ownership information is available in respect of nominee arrangements where nominees act as the legal owners on behalf of any other person.
The determination of beneficial owners for partnerships follows the definition of companies, including using thresholds in shareholding participation or voting rights as a starting point. This approach is not necessarily in accordance with the form and structure of partnerships.	Paraguay is recommended to ensure that beneficial ownership information in line with the standard is available in respect of all partnerships.

Deficiencies identified/Underlying factor	Recommendations
The availability of information on trusts In Paraguay is given by the AML framework, the Administrative Register of Legal Persons and Arrangements, the Administrative Register of Beneficial Owners, and Tax Law. There are various deficiencies in the legal framework that do not ensure its availability as required by the standard. With respect to identity information, there are no clear requirements under the legal framework to collect information on all the parties of a trust. As regards beneficial ownership, there are shortcomings in the methodology for the identification of the beneficial owners of all parties of a trust and regarding the updating of beneficial ownership information. In addition, not all trustees are required to collect identity and beneficial ownership information on the trusts they manage (i.e. lawyers and accountants). As regards foreign trusts that are administered in Paraguay or in respect of which a trustee is resident in Paraguay, the legal framework does not ensure the availability of identity and beneficial ownership information.	Paraguay is recommended to ensure that adequate, accurate and up-to-date identity and beneficial ownership information is systematically available for all Paraguayan trusts in accordance with the standard. Paraguay is also recommended to ensure that identity and beneficial ownership information in line with the standard is available in respect of all foreign trusts having nexus to Paraguay.
In Paraguay, not-for-profit entities are relevant entities for the work of the Global Forum. There is no clear requirement that ensures the availability of identity information on all parties of the not-for-profit entity, namely the founders, board members, directors and other beneficiaries. With respect to beneficial ownership, as not-for-profit entities are in general legal persons in Paraguay, the determination of their beneficial owners follows the methodology of companies, which would not allow the identification of all beneficial owners as required by the standard.	Paraguay is recommended to ensure the availability of identity and beneficial ownership information of not-for-profit entities as required under the standard.

Practical Implementation of the Standard: The Global Forum is not in a position to issue a rating on this element, as it involves issues of practice that are dealt with in the Phase 2 review.

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

Types of entities and companies

51. The Civil Code (Law No. 1183/1985) establishes the ten types of legal persons that can be created in Paraguay (Art. 91). "Companies" (*sociedades de capital*) and "partnerships" (*sociedades de personas*) are

both legal persons. The ten types of legal persons are classified as follows for the purpose of the present report: five types of companies (see section A.1.1), two types of partnerships (see section A.1.3), and three types of not-for-profit legal persons (see section A.1.5). 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.

52. Five types of companies can be incorporated in Paraguay:

- Company constituted by shares (*Sociedad Anónima*), whose partners' participation is represented by shares and is liable for the company's obligations only with its capital (Civil Code, Art. 1048). As of 31 December 2021, there were 39 237 companies constituted by shares registered with the SET.
- Open capital issuing company (*Sociedad Anónima Emisora de Capital Abierto – SAECA*), which is constituted by shares but incorporated by public subscription (Civil Code, Art. 1 053 and Law No. 5810/2017 on the Securities Market). As of 31 December 2021, there were 65 SAECAS registered with the SET.
- Limited liability company (*Sociedad de Responsabilidad Limitada*), whose capital is divided into equal quotas of PYG 1 000 (EUR 0.13) or its multiple. It cannot have more than 25 partners, who are liable up to the value of their contributions (Civil Code, Art. 1160). A limited liability company is not allowed to engage in banking, insurance, capitalisation and savings operations. As of 31 December 2021, there were 21 081 limited liability companies registered with the SET.
- Company limited by shares (*Sociedad en Comandita por Acciones*), in which the general partners are liable for the company's obligations in the same way as partners in collective societies (see section A.1.3), and the limited partners have liability limited to the share capital they are obliged to contribute (Civil Code, Art. 1179). As of 31 December 2021, there were 45 companies limited by shares registered with the SET.
- Simplified joint-stock company (*Empresa por Acciones Simplificadas – EAS*), made up of one or more natural or legal persons and which is created through a simplified procedure, with the aim of formalising businesses and encouraging the creation of new companies. Shareholders are liable up to the amount of their

respective contributions. This type of company was introduced in 2020 through Law No. 6480/2020. As of 31 December 2021, there were 779 EAS registered with the SET.

53. In Paraguay, companies incorporated abroad (or foreign companies) are regulated by Articles 1196 to 1201 of the Civil Code. They are governed as to their existence and capacity by the laws of the country of their domicile but, for the regular exercise of acts within the object of their constitution, they must adjust to the laws of Paraguay. As of 31 December 2022, there were 449 foreign companies registered with the SET.

54. Companies in Paraguay acquire legal personality from their registration in the relevant register. Any company, including foreign, whose purpose is to carry out commercial activities, must be registered with the relevant register. Commercial activities include industrial activity aimed at the production of goods or services, intermediary activity in the movement of goods or services, transport in any form, the activity of insurance banking or stock exchange, and any other activity qualified as such by the Trader Law. However, the Civil Code also provides for the possibility that companies do not register, in which case the lack of registration would not render the company's contract null or void (Civil Code, Art. 967). These are called "de facto" entities and are analysed in section A.1.3.

Incorporation and registration of companies

55. Companies in Paraguay must register with several public registries, including:

- Register of Legal Persons and Commerce, administered by the DGRP of the Supreme Court at a central level. This register is divided in two sections: Legal Persons and Commerce, and Commercial Acts and Contracts.
- Administrative Register of Legal Persons and Arrangements and BO Register, both administered by the General Directorate of Legal Persons and Arrangements (RAPEJ) and Beneficial Owners (*Dirección General de Personas y Estructuras Jurídicas y de Beneficiarios Finales* – DGPEJBF) of the Ministry of Finance, which maintains the centralised register of legal and beneficial ownership information of all legal persons and arrangements in Paraguay.
- Single Taxpayer Register (*Registro Único del Contribuyente* – RUC) of the SET.

56. All types of commercial companies must register with the Legal Persons section of the Register of Legal Persons and Commerce of the DGRP to obtain legal personality, and in the Commercial Acts and Contracts

section to obtain the trader licence without which they cannot start activities in Paraguay.[6] The process of registration of companies is regulated by Law No. 879/1981 – Code of Judicial Organisation of the Supreme Court and by the General Technical Registry Regulations of the DGRP.

57. Registration with the DGRP requires the submission of the public deed of the company authorised by a notary. Public notaries and registered lawyers can apply for the registration of the company.[7]

58. The process of registration of EAS is distinct to reduce costs of registration and speed up their registration process, considering the simplified nature of this type of companies. EAS acquire legal personality when registered with the DGPEJBF and must first register with the Unified System for the Opening and Closing of Businesses (*Sistema Unificado de Apertura y Cierre de Empresas* – SUACE) of the Ministry of Industry and Commerce. The EAS must complete a registration form and enter it in the SUACE, along with its deed of incorporation, which is not required to be notarised.[8] Once the application is verified and approved, the SUACE submits the EAS' electronic file to the DGPEJBF for registration and granting of legal personality. Finally, the DGPEJBF forwards the electronic file of the EAS[9] to the DGRP only for information purposes.

59. Once the company is registered in its relevant register for the granting of legal personality, it has 30 days to register at the RUC of the SET (Decree No. 10122/1991, Art. 5 and Art. 7), and 45 days to register with the DGPEJBF.

60. Paraguay has indicated that it created the Administrative Register of Legal Persons and Arrangements with the DGPEJBF and thus maintains a double registration system (with the DGRP), to be more in line with the international standards, to modernise registration and systems, and to facilitate supervision and enforcement, as the DGRP has no enforcement powers (see also paragraphs 64 and 111).

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6. Agreement No. 1638/2021 of the Supreme Court, Art. 2. Paraguayan officials have indicated that the Register of Legal Persons and Commerce section does not have an IT platform for documentary support. The Commercial Acts and Contracts sections does have IT support.
7. Code of Judicial Organisation of the CSJ, Art. 118 and General Technical Registry Regulations of the DGRP, Art. 396.
8. Resolution No. 623/2020 and Instructive for Registration of EAS, available at the webpage of the Ministry of Industry and Commerce: https://eas.mic.gov.py/instructivos.
9. This electronic file contains all identity and ownership information, documentation and history of the EAS.

61. The RAPEJ and the BO Register, both administered by the DGPEJBF of the Ministry of Finance, were established by Law No. 6446/2019 with the purpose of creating an administrative register of legal persons and arrangements operating in Paraguay and a central register of beneficial owners. Obliged persons under the RAPEJ and the BO Register cover all relevant entities and arrangements for EOI purposes. They capture the legal persons regulated under the Civil Code,[10] the legal arrangements determined by Law No. 6446/2019,[11] and any legal person or arrangement created by any special law, prior or after the creation of the registers.[12]

62. In addition to the above, all entities that are part of the financial system must be incorporated in the form of companies constituted by shares with their capital being represented by registered shares, except in the case of an entity created by a specific law, or branches of foreign banks. The authorisation of the BCP or the CNV is required prior to their registration with the DGRP (Law No. 861/1996 on Banks, Financial Institutions and Other Credit Entities, Art. 10).

63. The number of companies registered with the relevant registers in December 2022 is reported in the following table.

Comparisons between the number of companies in the DGRP, the DGPEJBF and the RUC

Type of company	DGRP (Company Registrar)	RAPEJ/DGPEJBF (Ministry of Finance)	RUC (SET)
Company constituted by shares	not available	33 805	41 681
SAECA	not available	65	73
Limited liability company	not available	13 115	21 749
Company limited by shares	not available	10	45
EAS	not available	3 907	4 681
Foreign company	not available	262	449

10. Specifically: companies constituted by shares (including SAECAS), limited liability companies, companies limited by shares, simplified joint-stock companies, companies incorporated abroad; collective partnerships, simple limited partnerships; associations whose object is the common good; registered associations with restricted capacity; foundations; co-operatives, simple companies; churches; universities.
11. Specifically: fiduciary businesses (trusts and fiduciary assignments) and equity investment funds (mutual funds and investment funds)..
12. Decree No. 3241/2020, that regulates the Law No. 6446/2019

64. The DGRP does not maintain statistical information on the number of registered companies. The DGRP keeps the entries in paper format, without informatic support.[13] The DGRP started a numerical registration of entries only in 2015, and therefore it is not possible to quantify the total amount of companies registered with it in Paraguay.[14] These aspects, and their consequences in the availability of identity and ownership information will be analysed in the Phase 2 assessment (see Annex 1).

65. Paraguayan officials have indicated that the discrepancy between the two sets of figures with DGPEJBF and SET can be attributed to the fact that penalties for failure to register in the RAPEJ are not yet being systematically applied. As this aspect concerns implementation in practice, it will be further analysed in the Phase 2 assessment (see Annex 1).

Legal ownership and identity information requirements

66. The legal ownership information for companies is primarily available through company and tax law requirements and Law No. 6446/2019 (RAPEJ). Although under the provisions of the AML Law, non-financial businesses and professions are required to identify the customer that is a legal person, this is not sufficient to ensure the availability of information in all cases as entities have no obligation to maintain a continuous relationship with an AML-obliged person in Paraguay. The following table summarises these legal requirements.

Legislation regulating legal ownership information of companies[15]

	DGRP	Tax Law (RUC)	RAPEJ (DGPEJBF)	AML Law
Company constituted by shares	All	All	All	Some
SAECA	All	All	All	Some
Limited liability company	All	All	All	Some
Company limited by shares	All	All	All	Some
EAS	None	All	All	Some
Foreign company	All	None	All	Some

13. The DGRP has informatic support only for special registers, such as for the Real Estate Register and the Bankruptcy Register.

14. The DGRP has provided statistical information on the number of companies (including partnerships and foundations) registered in years 2019, 2020 and 2021, but as these numbers do not correspond to the whole universe of legal persons registered with the DGRP, they are not included in the report.

15. 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

Company law requirements

67. To register with the Register of Legal Persons and Commerce of DRGP, companies must present documents that include their minutes of incorporation and the public deed.[16]

68. A public deed must include the names and surnames, marital status and address of the founding partners (Code of Judicial Organisation, Art. 134). In particular, the act of incorporation of companies limited by shares must indicate the names and addresses of the general partners.

69. The public deed of incorporation of a company constituted by shares (the most common type of company) must state (Civil Code, Art. 1050):

- the name, nationality, status, profession and domicile of the members, and the number of shares subscribed for by each of them
- the name and address of the company and of any branch offices, inside or outside Paraguay
- the corporate purpose and duration of the company
- the amount of authorised, subscribed or paid-up capital, and the value of goods contributed in-kind
- the nominal value and number of the shares
- the rules according to which profits are to be distributed and any profit-sharing granted to the promoters or founding partners
- the number of directors and their powers of attorney, with an indication of which of them represent the company.

70. The registrar will verify compliance with the entry requirements and with the legal form and essential requirements established by law for each type of company.

71. Some legal ownership information is maintained by the BCP in relation to companies in the private financial sector (banks, financial institutions and other credit entities), given that prior to their registration with the DGRP they must obtain authorisation of the BCP. Applications for authorisation must include the list of shareholders and their participation in the capital (Law No. 861/1996, Art. 13). In addition, operations of purchase and sale or

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.

16. Once the conditions established by law for the constitution of a company constituted by shares or a limited liability company have been met, they must present the respective documentation to the Treasury Advocate of the Ministry of Finance, which will issue an opinion on whether they comply with the conditions for their registration with the DGRP (Civil Code, Art. 1 051).

transfer of shares cannot be completed without prior authorisation from the SB, when certain conditions are met.[17]

72. With respect to SAECAS, they must apply for authorisation of the CNV before registering with the DGRP.[18] SAECAS that have an capital of no less than 1 000 times the minimum monthly wage (EUR 326 000)[19] threshold at the time of registration must submit upon registration with the CNV information on the shareholders who hold 10% or more of the participation in the capital and on the shareholders that represent up to 51% of the capital and up to a maximum of 20 shareholders. Information on the shareholding structure as per the foregoing thresholds must be provided on a quarterly basis to the CNV.[20]

73. Foreign companies are only required to submit their articles of association to the DGRP (Code of Judicial Organisation of the Supreme Court, Art. 345(b)), and whether these include legal ownership information would depend on the laws of the jurisdiction in which the company was incorporated and in any event may be outdated. The General Technical Registry Regulations of the DGRP (under the competence of the Supreme Court) stipulate that when registering with the DGRP, branches/subsidiaries of foreign companies must submit their acts of incorporation. In addition, the Civil Code stipulates that establishments, agencies or branches set up in Paraguay must comply with the obligations and formalities laid down in Paraguay for the type of company most similar to that of their incorporation and that they will be considered as a local company for the purposes of compliance with incorporation formalities. Paraguayan officials have confirmed that the latter provisions and requirements determine the obligation of foreign companies to file identity information with the DGRP.

74. Paraguayan officials have indicated that the DGRP maintains registration data and documents submitted by the company indefinitely, even after the company ceases to exist, as there is no specific timeline in the law for maintaining the information.

75. The deeds of incorporation of companies must include information on the members/shareholders (see paragraphs 68 and 69), and there is

17. When for each operation or added to previous operations, they represent a direct or indirect holding or participation, individually or jointly with related persons, in a proportion equal to or greater than 5% of the capital with voting rights in the regulated entity (BCP's Resolution No. 7/2020 (Art. 5)).
18. Resolution No. 1/2019, which approves the General Regulation of the Securities Market.
19. Pursuant to Decree No. 7270/2022, from 1 July 2022 the minimum monthly wage is PYG 2 550 307 (EUR 326) and the daily minimum wage is PYG 98 089 (EUR 13).
20. Resolution No. 30/2021 that regulates the Securities Market, Title 4, Chapter 1, Art. 1.

no express requirement for any change of members/shareholders to be reflected in the acts of constitution. However, the Civil Code establishes that any stipulation not registered with the DGRP cannot be enforceable against third parties (Art. 967) meaning that shareholders and members could only exercise their rights if they are properly registered with the DGRP. Changes in deeds of incorporation and in the articles of association of companies must be registered with the DGRP (General Technical Registry Regulations of the DGRP, Art. 400 and Art. 396). and there is no specified timeline to update this information but, as noted above, any stipulation not registered with the DGRP will not be valid. The DGRP has no obligation to inform the DGPEJBF of changes in ownership, but companies are obliged to communicate this information to the DGPEJBF (see paragraph 92)

76. Regarding EAS, they must submit to the SUACE their deeds of incorporation as well as a completed registration form that includes identity information on the shareholders, including name and surname, identity card, phone number and email. Any modification in the structure of an EAS must be processed through the SUACE who then will communicate the changes to the DGPEJBF (Decree 3998/2020, Art. 2 and Art. 3). Paraguayan officials have indicated that the DGEPJBF maintains records filed by EAS indefinitely, as there is no specific timeline in the law for maintaining the information.

77. To conclude, information on the ownership of Paraguayan companies at the time of their incorporation and during the life of the company is available with the DGRP and the DGEPJBF (the latter for EAS) during the life of the company and after it ceases to exist. Some information may be available with the BCP and the CNV for companies in the private financial sector and for SAECAS.

Tax law requirements

78. The registration of companies with the tax authority (the SET) and in the RUC is regulated by the General Resolution No. 79/2021, amended by General Resolution No. 103/2021 that "Regulates the Registration in the RUC, the Updating of Data and the Cancellation". Registration is carried out electronically, through the *Marangatu* system.

79. Information that companies must submit for registration in the RUC includes the identity document of all the shareholders/partners, the deed of incorporation registered with the DGRP, the registration with the DGRP, and the trader licence.

80. Foreign companies are exempted from this requirement (i.e. branches, agencies or permanent establishments of companies domiciled or incorporated abroad) and therefore, identity and ownership information on foreign companies is not available with the SET.

81. Information required for the registration of EAS in the RUC is processed through the SUACE, and includes the identity document of the partners, the articles of association and the certification of legal personality issued by the DGPEJBF.

82. Within three business days following registration with the RUC, the SET will summon the legal representative of the company to confirm the data included in the registration application and sign it. Failure to attend this call will result in the blocking of the RUC of the company and not receiving the user's confidential access password to the online system (General Resolution No. 79/2021, Art. 26).

83. Any information recorded in the RUC must be updated within 30 days following the date on which the change occurred (Decree No. 10122/1991, Art. 15). Changes in directors, managers, partners or other members must be reported to the RUC by providing the identity document of the new members. The following companies must also submit the following documentation:

- companies constituted by shares: share register book or deed of the sale of shares, and proof of the last update of this information in the DGPEJBF
- limited liability companies: agreement of sale and purchase of shares and proof of the last update of this information in the DGPEJBF.

84. The updating of shareholder information of EAS must be processed through the SUACE and then communicated by the SUACE to the SET (the transmission of this information is electronic). These later procedures must also be communicated to the DGPEJBF (General Resolution No. 103/2021, Annex 2).

85. All taxpayers are obliged to validate or update the data declared in the RUC once a year according to an established monthly calendar.[21] The SET, through the *Marandu* Electronic Tax Mailbox (part of the *Marangatu* system), will notify each taxpayer of the obligation to validate or update the data and, if the data is not updated in accordance with the calendar, the taxpayer will not be able to access the options available in the *Marangatu* system, including the filing of tax returns, the payment of taxes, etc.

86. Paraguay has indicated that there is no time limit for the maintenance of records filed with the RUC, and the *Marangatu* system keeps the information indefinitely, even after the company ceases to exist.

21. The month in which the data must be updated or validated depends on the last digit of the taxpayer's RUC number.

87. To conclude, tax law requirements require domestic companies to submit information on their owners to the RUC of the SET upon registration and periodically, and is maintained during the life of the company and after it ceases to exist. While ownership information is not available with the SET for foreign companies it should be available with the RAPEJ, as described below.

Administrative Register of Legal Persons and Arrangements of the Ministry of Finance

88. Legal ownership information on companies should also be filed with the RAPEJ of the DGPEJBF. Decree No. 3241/2020, which regulates the Law No. 6446/2019, establishes that obliged persons, which includes all legal persons regulated under the Civil Code and any legal person or arrangement created by any special law, prior or subsequent to the entry into force of Law No. 6446/2019 (see paragraph 61), must submit information on their legal owners to the RAPEJ, as follows (non-exhaustive list) (Art. 4(2)):

- Details of partners, associates, members or participants:
  - names and surnames for natural persons; or denomination for legal persons
  - identity card, or passport number for foreigners
  - RUC number or Tax Identification Number for legal persons
  - address
  - profession or occupation
  - number of shares or quotas owned or participation in the legal person or arrangement, indicating the value of each one and the corresponding percentage or equivalent participation in the capital
  - category of shares or participation (nature of the voting or property rights of its members or associates).

89. This information is obtained by the DGPEJBF directly from the data contained in the RUC, and the obliged persons must complete the information that does not exist therein (Art. 4).

90. Companies obliged to report to the RAPEJ include “companies incorporated abroad” (Art. 2). Therefore, foreign companies incorporated as such in their country of origin are also subject to the requirement to file legal ownership information with the RAPEJ. However, the DBPEJBF obtains identity and ownership information directly from the RUC and foreign companies, while required to register with the RUC, are not required to file this information in the RUC. As this aspect concerns implementation in practice, it will be further analysed in the Phase 2 assessment (see Annex 1).

91. The DGPEJBF can carry out verifications and controls on the accuracy of the information provided, by requesting the obliged persons the submission of supporting documentation (Art. 11).

92. Obliged persons must communicate changes of data reported to the RAPEJ to the DGPEJBF within 15 days from the occurrence of the event (see paragraph 75 in relation to the obligation to report changes in ownership to the DGRP). In addition, all information declared in the RAPEJ must be updated annually by 30 June of each year, starting from fiscal year 2021 (Art. 10).

93. Paraguayan officials have indicated that the RAPEJ maintains data and documents submitted by the company indefinitely even after the company ceases to exist, as there is no specific timeline in the law for maintaining the information.

94. To conclude, information about the ownership of companies is available with the RAPEJ of the DGPEJBF at the moment of registration, during the life of the company and after it ceases to exist.

Anti-money laundering law requirements

95. There is no general requirement in Paraguay to engage in a continuous relationship with an AML-obliged person. However, banks and non-financial businesses and professions could be in the possession of legal ownership information of companies. This section will analyse the availability of legal ownership information with non-financial business and professions and the availability with banks will be discussed in part A.3 of this Report.

96. The AML Law establishes non-financial businesses and professions as AML-obliged persons but without listing the specific obliged persons under the category. Paraguayan authorities have indicated that the SEPRELAD has the power to designate AML-obliged persons when the risk of exposure warrants it, but it has not yet listed them in the AML Law. The AML Law provides the general framework for AML obligations and specific Resolutions are issued to regulate the activities of each AML-obliged person.[22] The Secretariat for the Prevention of Money Laundering or Asset Laundering (*Secretaría de Prevención de Lavado de Dinero o Bienes*

22. Resolution No. 70/2019 (banks and financial institutions), Resolution No. 71/2019 (insurance entities), Resolution No. 77/2020 (electronic payment means companies), Resolution No. 156/2020 (co-operatives), Resolution No. 172/2020 (securities market), Resolution No. 176/2020 (money remittance services), Resolution No. 196/2020 (buying and selling of motor vehicles), Resolution No. 201/2020 (purchase and sale of real estate), Resolution No. 222/2020 (trade in jewels, stones and precious metals), Resolution No. 248/2020 (exchange houses), and Resolution No. 258/2020 (games of chance).

– SEPRELAD) has issued the Resolution No. 325/2013 for notaries and public notaries, which are supervised by the Supreme Court and Resolution No. 299/2021 for lawyers and accountants, supervised by the SEPRELAD.

97. Notaries play a role in company creation in Paraguay, although not in all cases (i.e. EAS). Notaries are required to identify the customer. The operations in which notaries may intervene include the incorporation and the amendment of the articles of association of legal persons (whether commercial or non-profit) including where there are changes in ownership (see paragraph 75). For the identification of their customers which are legal persons, notaries are required to collect the deed of incorporation of the company and amendments thereto.

98. The AML Law establishes that CDD information must be maintained for five years after the end of the business relationship. In turn, Resolution No. 325/2013 stipulates that notaries must maintain records according to the provisions of the Code of Judicial Organisation, and such Code mandates that notaries maintain the records on their clients from the last three years, and files (including public deeds and certified minutes) beyond this period are transferred by the notaries to the General Archive of the Judicial Power. Paraguay has noted that the Judicial Power keeps the files indefinitely in practice. Paraguayan officials have indicated that in special laws that regulate the same subject, the later law prevails, so the five-year record-keeping period for CDD files under the AML Law – established under a 2019 amendment – would prevail for notaries. Nevertheless, Paraguay is currently working on the harmonisation of the record-keeping period of Resolution No. 325/2013 with that of the AML Law, expected for the second semester of 2023. The implementation in practice of the record-keeping requirement for notaries will be further analysed in the Phase 2 assessment (see Annex 1).

99. In case of resignation, death or cessation of activities of a notary, the inventory of records maintained by the notary will be transferred to the General Archive of the Judicial Power.[23]

100. Lawyers and accountants also play a role in company creation, in changes in the ownership structure of companies and can also act as nominee shareholders. In particular, they can intervene in the following operations or transactions (Resolution No. 299/2021 (Art. 1)):

- the management of client's money, securities and other assets
- the administration of bank, savings and securities accounts
- the creation, operation or administration of legal persons, whether domestic or foreign

23. Law No. 903/1996 that "Modifies some Articles of the Code of Judicial Organisation" (Art. 110).

- the creation of trusts (*fideicomisos*), investment funds and other affected patrimony, whether domestic or foreign
- the purchase and sale of shares or equity interests of legal entities
- acting (or arranging for another person to act) as trustee of an express trust (*fideicomiso expreso)*, or performing the equivalent function for another form of legal arrangement
- acting (or arranging for another person to act) as a nominee (*nominal*) shareholder for another person

101. Lawyers and accountants are required to perform CDD measures in operations or transactions listed in the paragraph above that exceed 50 minimum wages (EUR 16 323). For the identification of clients that are legal persons, lawyers and accountants are required to collect the deed of incorporation and its amendments.

102. Customer information, including data from CDD measures, must be retained by lawyers and accountants for five years from the date of the occasional transaction or from the date of termination of the customer relationship. There is no requirement to maintain this information in case the lawyer or accountant ceases in business. However, lawyers and accountants are not the only source of legal ownership information in Paraguay, which would be available with the RAPEJ.

103. To conclude, since there is no general requirement to engage in a continuous relationship with an AML-obliged person, the AML Law can be a complementary source but is not sufficient to ensure the availability of legal ownership information in all cases as required by the standard.

Availability with companies

104. Under company law, only companies constituted by shares are required to maintain legal ownership information with themselves. They must maintain a shareholder book which must contain (Law No. 1034/1983 – Trader Law, Art. 87) (non-exhaustive list):

- the name and surname of the subscribers
- the number and series of shares subscribed, and the payments made
- the transfer of registered securities
- the number of shares given in guarantee of good performance by the directors of the company, if required by the articles of association.

105. No information has been provided by Paraguay in relation to the authority in charge of the supervision of this obligation, whether changes in

the shareholders are required to be registered in the shareholder book to be valid, and in relation to sanctions in case of non-compliance. Paraguayan officials have indicated that in the circumstance of a share transfer, the DGPEJBF verifies whether the information declared in the shareholder book is correct. However, this verification only occurs occasionally, i.e. when a transfer of shares occurs.

106. Paraguayan officials have indicated that taxpayers are mandated to keep ownership and identity information with them because of the following Tax Law obligations: (i) to register in the relevant registers, and (ii) to present to tax administration officials the declarations or vouchers related to events that generate tax obligations (Art. 192). However, it is not clear whether ownership can be considered as an event that generates a tax obligation and it cannot be ascertained whether the Tax Law provisions above can enforce the obligation for companies to keep identity and ownership information with themselves.

107. There is no requirement under tax law or DGPEJBF requirements that mandates companies to maintain identity information with themselves. However, the information is available with the authorities (i.e. DGRP, RAPEJ and the SET).

Inactive companies

108. A company that suspends temporarily its activities must communicate this situation to the SET within 30 working days from the date of the start of the suspension and the period of suspension must not exceed 60 months, after which the RUC will be automatically set to "active" status. There is no requirement to communicate this to the DGRP or the DGPEJBF, as this is a suspension of commercial activities subject to a tax administered by the SET and not a suspension of company rights or obligations. During the period of suspension, the taxpayer will be exempted from the obligation to file monthly informative declarations to the SET (such as Value Added Tax Declarations) but not from the annual obligation to file tax returns, financial statements, and external audit tax reports. During the period of suspension, the taxpayer will also be exempted from the obligation to file identity information, but this information should be available with the RAPEJ. If the SET detects through control, investigation or audit processes that the suspended taxpayer is carrying out taxable activities, the suspension will be immediately revoked. The SET can also order ex-officio, the temporary suspension of activities of legal entities that do not have current authorisations and stamping of pre-printed documents.[24]

24. The stamping of documents is the numerical representation of the authorisation granted by the SET through its computer system, each time the taxpayer requires the printing and issuing of tax documents for a period. Documents that must be

109. The cancellation and removal of the RUC only occurs when requested by the taxpayer due to the cessation of its economic activity. For RUC cancellation, companies must submit the deed of dissolution or liquidation registered with the DGRP or the SUACE. There is no requirement to communicate the dissolution to the DGPEJBF, except for companies constituted by shares and limited liability companies.[25] After cancellation of the RUC and during the time the tax is not statute-barred (the statute of limitations is five years counting from 1 January of the year following that in which the obligation should have been fulfilled), the taxpayer is obliged to keep the trade and tax books, registers, and documents of taxable events.

110. Paraguay has indicated that at the end of 2022, 47.2% of companies were under suspension and 2% have had their RUC cancelled. The procedures for the suspension and cancellation of companies from the RUC in practice will be further analysed during the Phase 2 assessment (see Annex 1).

Legal ownership information – enforcement and oversight

111. Penalties are available under the Tax Law, Law No. 6446/2019 (RAPEJ) and the AML Law to enforce the availability of information on the identity of the owners on companies in Paraguay. Although there are no specific sanctions for failure to register with the DGRP, any act or change not registered will not be enforceable against third parties, as provided for Article 967 of the Civil Code (see also paragraph 75).

112. Regarding Tax Law, it is the duty of taxpayers to register in the relevant registers, to which they must provide information and update it in a timely manner. Failure to comply with laws and regulations establishing formal duties will be punishable with a fine of between PYG 50 000 and PYG 1 530 000 (EUR 6 to EUR 196) (Tax Code, Art. 176 and 192). How effective these levels of sanctions are in being dissuasive and in ensuring compliance with the provisions of the Tax Law will be further analysed during the Phase 2 assessment (see Annex 1).

113. In addition, when a company does not respond to requests for reports, clarifications or does not submit documents requested by the SET or when it does not update the tax domicile declared in the RUC, its RUC number can be blocked. When having their RUC number blocked, taxpayers are barred from updating data, from obtaining the tax compliance certificate, from obtaining authorisation for the stamping of documents, and from printing/issuing the tax identification card and the certification of registration

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stamped are sales vouchers, debit notes and credit notes, consignment notes and withholding vouchers.

25. As established by Resolution DGPEJBF No. 01/2023.

in the RUC. Paraguayan officials have indicated that the taxpayer is disabled to update all types of data, including identity information, and that the system will not be enabled until the taxpayer resolves the situation that motivated the blocking (General Resolutions No. 79/2021 and No. 97/2021 of the SET). Paraguay has indicated that currently, there are 1 972 companies blocked. However, this action does not automatically lead to the liquidation or dissolution, and the company retains its legal personality.

114. The DGPEJBF is the enforcement authority under the RAPEJ. Companies that have not complied with obligations under Law No. 6446/2019 will be subject to administrative and pecuniary sanctions,[26] as follows:

- **Impediments and prohibitions.** Applicable to companies that have not complied with the reporting and updating requirements within the prescribed timelines, until the situation is resolved:
  - impossibility to open new accounts, issue debt or participation securities, nor carry out deposit or remittance procedures, or carry out other operations whether active, passive or neutral with the entities that integrate the financial system and that are AML-obliged subjects
  - blocking of the RUC number
  - suspension of the processing of any other presentation before the DGPEJBF.
- **Sanctions for irregularities or non-compliance**. Non-compliant companies are those that have not reported information in the register, those that do not maintain an updated register of their beneficial owners, do not update their registered data or do not comply with their obligations outside of the prescribed timeline. Are considered as irregularities the filing of incomplete, false or erroneous data, the failure to provide supporting documentation or to retain the information for five years. Possible sanctions include:
  - fines of 50 to 500 daily minimum wages (EUR 628 to EUR 6 278) or up to 30% of the profits or dividends to be distributed to the shareholders or partners.

115. For the practical implementation of the “impediments and prohibitions”, the DGPEJBF will send to the BCP, the SEPRELAD, the SET, the INCOOP (see section A.1.5) and the CNV on a bimonthly basis, the list of companies that have not complied with the relevant obligations. For determining the amount of the monetary sanctions, the DGPEJBF will take into account the amount of capital of the obliged person and the purpose of the type of legal person or legal arrangement concerned.

26. Decree No. 3241/2020

116. Sanctions for violation of the AML Law and its regulations are enforced by the respective supervisor. These sanctions would be applicable to notaries, lawyers and accountants and include:

- administrative sanctions to non-compliant individuals:
  - warning notice
  - public reprimand
  - fine of up to 500 monthly minimum wages (EUR 163 227)
  - fine between 1% and 10% of the amount of the operation in which the infraction was committed (see paragraph 100)
  - removal from office with disqualification, for a period of three to ten years, for the exercise of management and administration positions
  - auditing of the legal persons that are obligated subjects of the AML Law
  - cancellation of authorisation
  - suspension of the distribution of dividends for up to three years to shareholders with management positions.
- administrative sanctions to non-compliant legal persons:
  - warning note
  - public reprimand
  - fine of up to 5 000 monthly minimum wages (equivalent to around EUR 1 632 265)
  - fine of up to 50% of the amount of the operation in which the infraction was committed (see paragraph 100)
  - suspension, closure or temporary disqualification of the licence to operate for up to one year
  - revocation of authorisation to operate.

117. The implementation in practice and the enforcement and oversight of legal requirements regarding the availability of legal ownership information will be assessed during the Phase 2 evaluation.

Availability of beneficial ownership information of companies

118. The standard was strengthened in 2016 with a new requirement that beneficial ownership information on companies should be available. In Paraguay, since 2019, the main sources of beneficial ownership information

are the BO Register of the DGPEJBF, which requires all legal persons to identify and register their beneficial owners, and the legal persons themselves. The legal and regulatory framework under the AML Law pre-existed the BO Register but it does not apply to all relevant companies, so it does not ensure the complete availability of beneficial ownership information. In Paraguay, there are no requirements under Tax Law that capture beneficial ownership information of companies and therefore, the tax authority does not collect any beneficial ownership information. Both the AML Law and the BO Register have several shortcomings and scope limitations that mean that, even if both systems were taken together, it is not possible to ensure that beneficial ownership information is available as required by the standard.

Legislation regulating beneficial ownership information of companies

	BO Register	AML Law	Tax Law
Company constituted by shares	All	Some	None
SAECA	All	Some	None
Limited liability company	All	Some	None
Company limited by shares	All	Some	None
EAS	All	Some	None
Foreign company	All	All*	None

*Where a foreign company has a sufficient nexus to the jurisdiction under evaluation, then the availability of beneficial ownership information is required to the extent that the company has a relationship with an AML-obligated services provider that is relevant for the purposes of EOIR. (ToR A.1.1, footnote 9).

Beneficial ownership information of companies under the AML framework

119. Non-financial businesses and professions were incorporated as obliged AML-persons in 2009 but there is no requirement for companies to engage their services (nor a bank, see section A.3) at all stages in their lifecycle. For example, not all companies are required to be incorporated by a notarised deed (such as EAS), and notaries, lawyers and accountants may also only intervene in occasional transactions such as when amending companies' deeds of incorporation or articles of association, or in the transfer of shareholdings, with possibly no such interventions for years. This situation does not ensure the continuous availability of beneficial ownership information with AML-obliged persons under the AML framework.

120. The existing obligations on beneficial ownership also present deficiencies compared to the standard, as analysed below.

121. All AML-obliged persons are required to conduct CDD in respect of their customers whether they are natural persons, legal persons or legal arrangements, when entering into a business or contractual relationship and continuously throughout the relationship. In addition, AML-obliged persons must identify their customers and verify their identity using reliable data/documents from independent sources, and identify the beneficial owners and take reasonable measures to verify their identity. The AML-obliged person must also understand the purpose or character that customers intend to give to the business or contractual relationship (AML Law, Art. 14 and 15).

122. A beneficial owner is defined in the AML Law (Art. 2) as:

> c) ***Beneficial owner***: is the natural person who ultimately owns or controls a customer, as well as the natural person on whose behalf a transaction is carried out. It also includes persons exercising ultimate effective control over a legal person or other legal arrangement.

123. The definition of beneficial owner under the AML Law is broadly aligned with the standard, as it designates the beneficial owner as a natural person who exerts control through ownership interests and control through other means. The AML Law does not set out methods of identification of the beneficial owners of an entity. For instance, it does not give guidance on how the concepts of "ultimate ownership or control" or "ultimate effective control" can be interpreted.

124. The SEPRELAD has issued specific regulations for each AML sector. Resolution No. 325/2013 regulates the activities of notaries, and Resolution No. 299/2021 those of lawyers and accountants.

125. Resolution No. 299/2021 states that lawyers and accountants must identify the beneficial owners of their clients. The two Resolutions (on notaries and on lawyers and accountants) do not list any guidance in relation to the identification of the beneficial owners of their clients, i.e. they do not provide a methodology for the identification of beneficial owners. There is no reference to the thresholds that apply with respect to majority shareholding or voting rights, to what means exercising control by other means, or to an exceptional, backstop rule when no natural person meets the definition of beneficial owner. They do however specify the information to collect to identify clients who are natural persons, namely the names and surnames, identification number or passport, date of birth and birthplace, address, telephone number, email and RUC number or in its absence, proof of non-taxpayer status issued by the SET. As the AML Law defines beneficial owners as natural persons, the identity details to collect on a beneficial owner would correspond to those to collect on a natural person. Therefore, it is difficult to know what notaries, lawyers and accountants do to identify their customers' beneficial owners and whether the information collected is accurate.

126. Resolution No. 299/2021 that applies to lawyers and accountants is more recent than Resolution No. 325/2013 that applies to notaries, and better frames other aspects of the CDD process. First, it establishes that where the due diligence procedure cannot be satisfactorily complied with, the lawyer/accountant must: (i) not enter into or continue the relationship, where the lawyer cannot adequately determine the identity of the client or beneficial owner, (ii) not enter into the transaction, and (iii) terminate the relationship initiated. In case the transaction is suspicious, it must be reported to the SEPRELAD.The same is not mentioned in Resolution No. 325/2013. It is expected that notaries would not issue/finalise documents when they cannot fully identify the beneficial owners of its clients, but this is not explicitly mentioned in legislation and will be checked in the Phase 2 of the review (see Annex 1).

127. Second, with respect to the updating of information, lawyers and accountants are required to monitor the transactions carried out with clients to obtain information to update or verify data, and to obtain more information when doubts arise on the accuracy or timeliness of the data, with a frequency that will depend on customer risk (Art. 13). No specified frequency is provided for updating the information and therefore, beneficial ownership information collected by lawyers and accountants may not always be up to date. For notaries, Resolution No. 325/2013 stipulates that notaries should pay particular attention to clients' acts which show inconsistencies in the data provided during the identification process, but no mention is made on the need to update the data collected at any point.

128. Customer information, including data from CDD measures, must be retained by lawyers and accountants for five years from the date of the transaction or from the date of termination of the customer relationship. Notaries must maintain the records on their clients from the last three years, after which they are transferred to the General Archive of the Judicial Power and kept indefinitely. In case the notary dies or ceases in business, their records will be transferred to the General Archive of the Judicial Power. In case the lawyer or accountant ceases in business, the law does not contain any requirement that ensures that the CDD information, including beneficial ownership information, is maintained. However, lawyers and accountants are not the main source of beneficial ownership information in Paraguay, which would be available with the BO Register.

129. Resolution No. 299/2021 also provides that lawyers and accountants can carry out simplified CDD measures for low-risk clients, which may consist of reduced documentary requirements, less frequent updating of identification data, and reduced monitoring. Resolution No. 325/2013 does not contain a similar provision.

130. In this respect, the SEPRELAD issued in 2020 the General Guidelines on AML,[27] to orient AML-obliged persons in applying the risk-based approach to their AML obligations. These General Guidelines ease the CDD requirements under simplified CDD and allow the reduction of the documentary requirements for verification of information, the reduction in the frequency of updating identification data and also allow the AML-obliged person to verify the identity of the customer and the beneficial owners after the relationship has been established (see also analysis in section A.3). The obliged person cannot conduct simplified CDD where there is suspicion of money laundering or terrorism financing. Resolution No. 299/2021 and the General Guidelines do not specify whether beneficial ownership information is out of the scope of the simplified CDD measures and there is no further explanation or parameters on the content of the simplified CDD and on its consequence in terms of the verification of the beneficial owners and on the frequency on the updating of the information on the beneficial owners. This would mean that in cases of low-risk customer, the information on the beneficial owners might not be adequately verified nor updated. Paraguayan officials have indicated that the General Guidelines are binding for AML-obliged persons but have not provided evidence to support this assertion.

131. Resolution No. 299/2021 (Art. 21) allows lawyers and accountants to rely on intermediaries for the identification and/or verification of clients, subject to general subcontracting rules. The Resolution also notes that lawyer and accountants can delegate the performance of CDD to third parties.

132. Under subcontracting rules, lawyers and accountants must take appropriate measures to obtain immediately and upon request, the information, copies of identification documents and other relevant documentation; as well as a sworn statement that the intermediary has taken the necessary measures to comply with CDD provisions. When delegating the performance of CDD to third parties, the following conditions must be met:

- The information obtained and the analyses carried out by the intermediary must be provided immediately, verifying compliance with the parameters established in Resolution No. 299/2021.
- The final responsibility for the customer identification, verification process and CDD measures lies with the lawyer or accountant.

133. Reliance on third parties has no requirement for the third party to be regulated by equivalent AML standards, but the General Guidelines on AML do indicate that reliance can be placed on third parties residing in other countries, provided that the obliged person verifies that the source country

27. Available at https://www.seprelad.gov.py/userfiles/files/GUIA_GENERAL_2020.pdf

does not represent a significant level of risk, including not being categorised as non-co-operative by the Financial Action Task Force. Paraguayan officials have indicated that the General Guidelines are binding for AML-obliged persons but has not provided evidence that supports this assertion and therefore it is uncertain whether this latter provision will be systematically applied. Paraguay has indicated that specific regulations on subcontracting rules do not exist, and it is not clear how subcontracting differentiates from reliance on third parties (see paragraph 317).

134. Resolution No. 325/2013 does not mention the possibility for notaries to rely on a third party to perform the CDD process.

135. To conclude, the AML Law in Paraguay establishes the general obligations for notaries, accountants and lawyers to conduct CDD and identify the beneficial owners of their clients, but these would not apply to all relevant entities as there is no obligation to maintain a continuous relationship with these professionals, and the regulations for each profession have various shortcomings that mean that it is not possible to ensure the availability of beneficial ownership information as required by the standard, namely:

- the absence of a beneficial ownership methodology and the lack of detail on the situations referred to in the beneficial ownership definition, such as ultimate ownership or control over a company
- the lack of a specified frequency for updating beneficial ownership information
- the possibility that beneficial ownership information may not be adequately verified nor updated in simplified CDD
- the absence of subcontracting rules and the reliance on third parties with no clear requirement for the third party to be regulated by equivalent AML standards.

Administrative Register of Beneficial Owners

136. Given that it is not mandatory for all companies in Paraguay to engage an AML-obliged person, the primary source of beneficial ownership information will be the companies themselves since 2019. This information is also maintained by the BO Register of the DGPEJBF, which is the centralised register of beneficial ownership information of all legal persons and arrangements in Paraguay.

137. The initial deadline to file beneficial ownership information was 30 April 2020, which was then moved to 31 July 2020, due to the COVID-19 pandemic.[28] From there, companies must provide the information once a

28. Decree No. 3572/2020

year according to an established monthly calendar (depending on the last digit of their RUC number).

138. Law No. 6446/2019 provides a definition of beneficial ownership, as well as a methodology for the identification of beneficial owners:

> **Article 4 – Beneficial Owner**.
>
> The Beneficial Owner refers to the natural person or persons who, directly or indirectly, hold a substantive participation or ultimate control over the legal person or legal arrangement, or benefit from the latter, in a manner that falls under at least one of the following conditions:
>
> a) Holds a substantive participation: the holding of shares or participations in a percentage equal to or greater than 10% with respect to the total capital of the legal person or legal arrangement;
>
> b) Controls more than 25% of the voting rights in the legal person or legal arrangement;
>
> c) Managers, administrators or those who frequently use or benefit from the assets owned by the legal person or legal arrangement or, on whose behalf or benefit a transaction of the legal person or legal arrangement is carried out;
>
> d) Not being contemplated in the preceding paragraphs, has the right to appoint or dismiss part of the administrative, management or supervisory bodies; or,
>
> e) Has the status of control of that legal person or legal arrangement by virtue of its bylaws, regulations or other instruments.
>
> **Article 5 – Register of Beneficial Owners**.
>
> […]
>
> The above paragraph includes information relating to the chain of ownership in cases where the beneficial owner is indirectly, or by other means exercises ultimate control.
>
> In the case of persons or legal arrangements resident in Paraguay, whose substantive participation in the capital belongs, totally or partially, to legal entities resident abroad, when it is impossible to identify the beneficial owner, it will be presumed that the beneficial owner is the legal representative of the legal person or legal arrangement in Paraguay.

139. The definition of beneficial owner under the BO Register is broadly aligned with the standard and in general does not contradict the AML Law definition, as it also defines a beneficial owner as a natural person who exerts control through ownership interests and control through other means.

140. Decree No. 3241/2020, which regulates Law No. 6446/2019, establishes that the steps for identifying the beneficial owners must be followed in cascade and not alternatively, i.e. when no natural person is identified under the first numeral of the methodology, the following numerals must be followed successively.

141. While the cascading approach per se is not an issue, the application of this methodology for the identification of the beneficial owner of a legal person has some deficiencies in Paraguay, considering the order of the steps, namely:

- Following a cascade approach in the proposed methodology, would mean that if beneficial owner(s) are identified under the first criteria of majority shareholding, then the company would stop there and would potentially miss identifying other beneficial owners that have controlling ownership interests due to voting rights or by means other than ownership, e.g. general partners in companies limited by shares. The standard requires that one should move to the second step in case of doubt that the persons identified in the first step are the real beneficial owners, for instance because a person not captured has the real control over the company. This is not contemplated in Article 4.
- Managers and administrators should not be identified as beneficial owners if they do not have control on the company through either ownership or other means. Applying the elements of Article 4 in a cascading approach would mean that steps d) and e) would rarely be used, while they capture persons that meet the definition of beneficial owners.
- Article 5 provides for a default treatment of legal representatives as beneficial owners if no other natural person is identified based on ownership, voting rights and control and indirect control, but: (i) it only applies to foreign companies and not to all companies as required by the standard, (ii) a legal representative will not always be senior management, raising the risk of legal representatives not holding senior management or decision-making positions being identified as beneficial owners, and (iii) the identification of a representative as beneficial owner should be clearly explained in the BO Register, as this means that it is impossible to identify the real beneficial owners who are abroad, not that there is no such person meeting the definition.

142. The BO Register methodology is not consistent with the one banks use for the identification of the beneficial owners of bank account holders under the AML Law, which also has deficiencies (see section A.3). Therefore, the beneficial ownership information maintained by the companies, the BO Register, the banks and other AML-obliged persons would differ, leading to discrepancies and uncertainty when carrying out cross-checking of information. In fact, AML-obliged persons, the BCP, the SEPRELAD and the SET will have online access to the Integrated System of Administrative Registration and Control of Legal Persons, Legal Arrangements and Beneficial Owners (to be set up for the Ministry of Finance) for the verification of the accuracy and consistency of the information (Law No. 6446/2019, Art. 11 and Art. 13). Paraguay has informed that this Integrated System will be implemented in three phases not initiated yet, with full implementation expected by December 2023. The articulation between the different requirements and regulations on beneficial ownership will be further analysed in the Phase 2 evaluation (see Annex 1).

143. Decree No. 3241/2020 provides for a look-through approach when identifying the beneficial owners, and notes that chains of control or chains of ownership should not be an impediment to identify beneficial owners.

144. The details of the beneficial owners to be communicated to the BO Register and kept by the companies in a register, are (Decree No. 3241/2020, Art. 6):

- names and surnames
- identity card, or passport in case of being a foreigner
- RUC number, or tax identification in case of being a foreigner
- address
- nationality and residence
- date of birth
- profession or occupation
- condition by which the person has a beneficial owner status and, as the case may be:
  - the percentages of substantive participation
  - the percentages of voting rights
  - if there is chain of control or chain of ownership, the legal person or legal arrangement through which the natural person is indirectly considered as a beneficial owner and the amount of such condition

- if the chain of control or chain of ownership is given by legal persons or legal arrangements with substantive participation, total or partial, resident abroad, and it is impossible to identify the beneficial owner, it shall be presumed that the beneficial owner is the legal representative of the legal person or legal arrangement resident in Paraguay

- date as of which the natural person is a beneficial owner.

145. Companies are required to update any modification in the information filed with the BO Register within 15 days of the occurrence of the event. Further to that obligation, companies must update all information through an annual declaration to be filled by 30 June of each year, starting in fiscal year 2021.[29] BO Register regulations do not provide any specific means for companies to compel beneficial owners to disclose this status and ensure that they are timely aware of any change.

146. Companies must keep a register of their beneficial owners with themselves for a period of five years, which must include all the information listed in paragraph 144. This register can be virtual. There is no indication as to when the five-year record keeping period starts, and the practical consequence of this on the availability of beneficial ownership information will be further analysed in the Phase 2 assessment (see Annex 1). Although there is no specific requirement for companies to maintain this register within the territory of Paraguay or in the possession or control of a person within the territory of Paraguay, the BO Register is within the country and its information is accessible to relevant authorities.

147. The DGPEJBF can undertake verifications and controls over the information filed in the BO Register and may request information to cross-check the data and verify that they are correct and up to date. The Integrated System of Administrative Registration and Control of Legal Persons, Legal Arrangements and Beneficial Owners will serve to verify the accuracy and consistency of the information.

148. In conclusion, although the BO Register regulations provide for the identification of the beneficial owners of relevant companies in Paraguay, the shortcomings identified above concerning the methodology for determining beneficial ownership, mean that beneficial ownership information of companies cannot be regarded as available and accurate in all cases as required under the standard.

29. Law No. 6446/2019, Art. 7 and Decree No. 3241/2020, Art. 10

Transparency rules for some companies

149. In 2017, Paraguay enacted Law No. 5895/2017 with the purpose of establishing transparency rules for companies constituted by shares and to mandate the conversion of bearer shares into registered shares in Paraguay (see also A.1.2). The law also required companies constituted by shares, limited liability companies and companies limited by shares to maintain a register of beneficial owners and communicate this information to the Treasury Advocate of the Ministry of Finance (Decree No. 9043/2018 that regulates Law No. 5895/2017, Art. 7). Subsequently, Law No. 6446/2019 was enacted to create the BO Register, to come closer to the standard and to ensure beneficial ownership obligations extend to all legal entities in Paraguay. However, Law No. 5895/2017 was not repealed, and the beneficial ownership obligations therein are maintained. Law No. 6446/2019 transferred the enforcement responsibility of Law No. 5895/2017 to from the Treasury Advocate to the DGPEJBF.

150. Law No. 5895/2017 establishes that companies constituted by shares and companies limited by shares must maintain an updated register of their beneficial owners with identity details that include the name, identity card number or RUC number, address, profession and the reason for which he/she has been identified as a beneficial owner. They must also submit a copy of this register to the DGPEJBF at least once a year and updates must also be reported. In addition, they must report to the DGPEJBF, within five days, all share transfers and the identity details of the new beneficial owners of the shares. Decree No. 9043/2018 notes that further regulations will establish the requirements that limited liability companies must meet to update their data, and Paraguayan officials have indicated that these regulations have not been issued yet (but they are captured by the obligations on the BO Register).

151. Decree No. 3241/2020, which regulates the BO Register, stipulates that the definition of beneficial owner given by Law No. 6446/2019 and its formalities, including the obligation to update the data registered with the RAPEJ and the BO Register are extended to all persons and legal structures in Paraguay, and therefore cover those under Law No. 5895/2017.[30]

30. Decree No. 9043/2018 provided a beneficial owner definition as well as a methodology of identification:

> 4. Beneficial owner: beneficial owners are understood to be natural persons who, directly or indirectly, fall into at least one of the following categories:
>
> a. Holds at least ten percent (10%) of the company's shareholding.
>
> b. Exercises, including through other means, ultimate effective control over a company.

152. Considering the shortcomings regarding the methodology for the identification of beneficial owners of the BO Register, the recommendation of paragraph 156 also applies here.

Conclusion

153. In conclusion, beneficial ownership obligations exist mainly under the AML Law and the BO Register, complemented with the transparency rules for some companies, but the AML Law and the BO Register have several shortcomings and scope limitations that mean that, even if both systems were taken together, it is not possible to ensure that beneficial ownership information is complete and available in all circumstances, as required by the international standard.

154. The AML framework provides different regulations depending on the obliged subject and the ones for notaries, lawyers and accountants have deficiencies, including the absence of a methodology for identifying the beneficial owners, the lack of a specified frequency for updating the information, the possibility that beneficial ownership information may not be adequately verified nor updated in simplified CDD, the absence of subcontracting rules, and the reliance on third parties has no clear requirement for the third party to be regulated by equivalent AML standards. Finally, the beneficial ownership information may not be available because there is no requirement for all legal persons to engage AML-obligated persons.

155. The Administrative Register of Beneficial Owners would compensate the issue of scope of application and the lack of a specified frequency for updating the information under the AML framework, but it also contains deficiencies in relation to the methodology for identifying the beneficial owners. These deficiencies also apply under the transparency rules for companies. With respect to the AML framework, Paraguay should take measures to ensure that beneficial ownership information is kept up to date at all times (see Annex 1).

156. **Paraguay is recommended to ensure the availability of adequate and accurate beneficial ownership information in respect of all legal persons**.

c. Uses, enjoys or benefits from assets owned by the company; or, on whose behalf or for whose benefit a transaction of the company is carried out.

Nominees

157. Paraguayan law does not contain specific provisions relating to the Anglo-Saxon concept of nominee. The Civil Code nevertheless provides for the concept of *mandatario* (authorised person). Under the mandate contract, a person accepts from another person the power to represent him/her (the *mandante*) in the management of his/her interests or in the execution of certain acts. The mandate, conceived in general terms, will only include acts of administration (Art. 880 and 883).

158. The Civil Code provides for the possibility for the mandate contract to apply to the holding of shares in a company, as it establishes that the shareholders may be represented at assemblies, but *mandatarios* cannot be the directors, the liquidators, the managers and other employees of the company to avoid conflicts of interest. To incorporate a company constituted by shares, the deed must indicate the name of the members and the numbers of shares subscribed by each of them (see paragraph 69). To grant a mandate, a power of attorney with authenticated signature or registered with the company is sufficient, unless otherwise provided for in the articles of association (Art. 1085). These rules would make it possible to identify the owners of the shares.

159. On the opposite, lawyers and accountants can act as nominee (*nominal*) shareholders for another person (Resolution No. 299/2021, Art. 1) (see also paragraph 100). It is inferred from this that non-professional persons cannot act as nominees.

160. There are no requirements under Paraguayan law in relation to companies having nominee shareholdings in their ownership structure to disclose the nominee status of the shareholders, and nominee shareholders do not have to disclose the nominator information and/or their nominee status to the company, the DGRP or the RAPEJ. Without this information, the company and authorities would not know whether the shareholder is a nominee. Therefore, identity information of persons whom the nominees represent (the nominators) is not available with the company, the DGRP or the DGPEJBF.

161. Under the AML Law (Art. 16), when there are indications or certainty that the clients are not acting on their own account, AML-obliged persons are required to identify the person on whose behalf they are acting. AML-obliged persons must also identify the beneficial owners of their clients, which means that in some cases they would be able to identify nominee arrangements, but not systematically (considering the application of some ownership threshold).

162. Paraguayan officials have indicated that nominee directors are not provided for nor regulated in Paraguay laws, but some companies implement it in practice.

163. Paraguayan officials have indicated that BO Register requirements would ensure the availability of beneficial ownership information and access from authorities to it. However, given that Paraguayan laws do not require the disclosure of nominee arrangements to any authority, it is not certain that the BO Register would have complete availability of accurate beneficial ownership information in respect of nominees. **Paraguay is recommended to ensure that nominee shareholders disclose their nominee status to the company and that accurate identity and beneficial ownership information is available in respect of nominee arrangements where nominees act as the legal owners on behalf of any other person**.

Beneficial ownership information – enforcement and oversight

164. The enforcement measures applicable for the failure to comply with obligations under the AML Law are the same as those discussed in paragraph 116, and the enforcement authorities are the Supreme Court for notaries and the SEPRELAD for lawyers and accountants.

165. The enforcement measures applicable for the failure to comply with the BO Register are the same as those discussed in paragraphs 114 to 115, and the enforcement authority is the DGPEJBF.

166. The implementation in practice and the enforcement and oversight of legal requirements regarding the availability of beneficial ownership information will be assessed in detail during the Phase 2 evaluation.

A.1.2. Bearer shares

167. Law No. 5895/2017 that "Establishes Transparency Rules in the Regime of Companies Incorporated by Shares" provided for the conversion of bearer shares into registered shares in Paraguay. It established that the articles of incorporation of companies whose capital stock is represented by bearer shares are modified by virtue of law upon the entry into force of Law No. 5895/2017 (October 2017). Shareholders were required to convert their bearer shares into registered shares.

168. Obliged subjects are domestic companies constituted by shares and foreign companies constituted by shares which transfer their domicile to the Republic of Paraguay, as well as the shareholders of such companies (Decree No. 9043/2018 for the application of Law No. 5895/2017).

Conversion of bearer shares into registered shares

169. Law No. 5895/2017 gave 24 months (until October 2019) for the shareholders to carry out the exchange, and this deadline was subsequently moved to June 2020. At the outset, companies only had the obligation to

exchange up to 90% of their bearer shares as a minimum, but this percentage was then increased to 100%.

170. The detailed procedure for the conversion of shares is as follows:

- The amendments to the articles of association for the conversion of bearer shares to nominative ones must be reflected in the minutes of the board of directors and be notarised and registered in the DGRP.
- The company must proceed with the exchange of bearer shares to nominative shares under the following procedure:
  - The holder of the bearer share must present to the company the physical document of the share, indicating on what date and from whom the share to be exchanged was acquired, and take the corresponding nominative share.
  - At the time of the exchange, the company must proceed to cancel the bearer shares received stating on them the word "cancelled". This procedure will be recorded in minutes of the board of directors, and, within 15 days, the company will notify this act to the DGPEJBF.
  - The company must maintain the cancelled shares in physical and digitalised form for a period of five years counted from the notification of the exchange to the DGPEJBF.

171. Sanctions for shareholders that did not exchange their bearer shares to nominative shares include the suspension of their economic rights until the conversion is completed, and penalties of between 100 and 500 daily minimum wages (EUR 1 256 and EUR 6 278).

Diminution of capital of companies that still had unconverted bearer shares

172. The regulations[31] established that if by December 2020 there were still bearer shares in circulation, they would lose their validity as stock of the company. In addition, by June 2021 companies had to call an extraordinary assembly to reduce from the capital the value of the shares not exchanged. If a company had not taken any action for the conversion of their bearer shares to registered shares by December 2021, it had to initiate its dissolution and liquidation process. The Treasury Advocate also had the authority to initiate such dissolution and liquidation through the courts.

31. The laws were complemented by Decree No. 9043/2018, Resolution No. 418/2019, Decree No. 6583/2022.

173. Sanctions for companies that by June 2021 still had bearer shares include:

- Impediments and prohibitions:[32]
  - impossibility of carrying out active, passive or neutral operations with entities that integrate the financial system
  - blocking of their RUC number by the SET
- Monetary sanctions:
  - exchange of shares after the deadline: penalty of between 100 and 500 daily minimum wages (EUR 1 256 and EUR 6 278)
  - late notification of the exchange of shares: penalty of 100 daily minimum wages (EUR 1 256)
  - failure to maintain documentation supporting the exchange of shares: penalty of 400 daily minimum wages (EUR 5 022)
  - non-compliance with the suspension of the economic rights of the holders of bearer shares not exchanged: penalty of 200 daily minimum wages (EUR 2 511).

174. Paraguay then enacted a transitional regime to avoid the dissolution of non-compliant companies that by December 2021 had failed to convert their bearer shares to registered ones (Law No. 6872/2021). The regime established that the partners of the company had six months to "reconduct" the company (until June 2022) and proceed with the exchange of bearer shares to nominative shares in extraordinary assembly. In the event of holders of bearer shares not attending the assembly, the value of the shares not exchanged must be reduced from the issued capital. The reconduction of the company must be registered with the DGRP and the DGPEJBF, and a fine of 150 minimum daily wages must be paid to the DGPEJBF (EUR 1 883).

175. Paraguay established a timetable with deadlines to comply for the company's reconduction process based on the last digit of the company's RUC number and setting June 2022 as the final deadline. All companies that as of June 2022 had not amended their articles of association for the conversion of shares (including any diminution of capital) or had not exchanged their bearer shares for nominative shares should proceed to their liquidation and dissolution. The Treasury Advocate, at the request of the DGPEJBF, can request the dissolution of these companies (Art. 14).

32. For the enforcement of these impediments, the DGPEJBF will report bimonthly the list of non-compliant companies to the BCP, the SET and the SEPRELAD.

176. Decree No. 6583/2022 stipulated that companies that had carried out at least one exchange of bearer shares to registered shares but without completing the exchange of all bearer shares should proceed with the capital reduction and may continue to operate normally, but they must first comply with the capital reduction, and, in addition, the shares not exchanged will lose their validity. Paraguayan officials have noted that there are mechanisms to ensure this is enforced, such as the impossibility to carry out financial operations or activities as a taxpayer.

Implementation

177. Paraguay has indicated that as of August 2022, 1 000 to 1 500 companies had not carried out the conversion process yet and 147 companies were under the reconduction process. The number of bearer shares that have been converted are 5 318 in 2019, 5 653 in 2020 and 2 006 in 2021.

178. Whether the legislation has provided a definitive solution to the issue of bearer shares and whether the enforcement mechanisms have been applied in practice to ensure that all bearer shares still in circulation are no longer valid and no legacy issues remain will be further analysed in the Phase 2 assessment (see Annex 1).

A.1.3. Partnerships

179. The Civil Code allows for the creation of two types of partnerships:

- Collective partnership *(Sociedad Colectiva*), in which the partners assume subsidiary, unlimited and joint liability for partnership obligations (Art. 1025). As of 31 December 2022, there were 48 collective partnerships registered with the SET and 20 with the RAPEJ of the DGPEJBF.
- Limited partnership (*Sociedad en Comandita Simple*), in which the collective partners are jointly and unlimitedly liable for the partnership obligations, and the limited partners are liable up to the limit of their contributions. The participation quotas of the partners cannot be represented by shares (Art. 1038 and 1160). As of 31 December 2022, there were 45 limited partnerships registered with the SET and 9 with the RAPEJ of the DGPEJBF.

180. There is no information available on the number of collective partnerships and limited partnerships registered with the DGRP as of December 2022 (see paragraph 64). The discrepancies in registration between the SET and the RAPEJ can be the result of penalties for failure to register in the RAPEJ not yet being systematically applied (see also paragraph 65).

181. Collective partnerships and limited partnerships are incorporated as legal persons when registered in the Register of Legal Persons and Commerce administered by the DGRP. The Civil Code establishes that the provisions relating to collective partnerships apply to limited partnerships insofar as they are compatible with the rules for each type of partnership. Therefore, as confirmed by Paraguayan officials the provisions for collective partnerships will be described below as applying also to limited partnerships, where applicable.

Identity and ownership information

182. In Paraguay, the availability of identity information of partnerships is given by DGRP and DGPEJBF requirements.

183. The deed of incorporation of the collective and limited partnerships, which can be authorised by a public notary or not, must be submitted to the DGRP within 30 days for registration with the Register of Legal Persons and Commerce. The deed of incorporation of a collective partnership must include the following (non-exhaustive list) (Art. 1 028):

- the name and address of the partners
- the partners who have the administration and representation of the partnership
- the domicile of the partnership and its branches
- the purpose of the partnership
- the rules according to which the profits are to be distributed and the share of each partner in them and in the losses.

184. The deed of incorporation of limited partnerships must indicate who the collective partners and who the limited partners are but, if the limited partners have contributed in full, their names can be omitted from the deed indicating only the nature and amount of the contribution. This means that full identity information may not be systematically available with the DGRP. However, identity information on the partners of a domestic partnership should be available with the tax authorities and the DGEPJBF, as described further below.

185. Changes in the public deeds of incorporation of collective partnerships and limited partnerships must be registered with the DGRP within 30 days of its authorisation.[33]

33. General Technical Registry Regulations of the DGRP, Art. 396 and Art. 400; Civil Code, Art. 1029.

186. Regarding tax registration, Paraguayan partnerships must follow the same procedure for registration with the RUC as companies and submit the identity documents of all the partners, whether collective or limited, the deed of incorporation registered with the DGRP, the registration with the DGRP, and the trader licence, and are subject to the same sanctions in case of breach (see section A.1.1). Any change of information, including changes in partners, must be filed with the RUC within 30 days of the date on which the change occurred, and all data declared in the RUC must be validated or updated once a year.

187. The requirements for domestic partnerships for the filing of identity and ownership information with the RAPEJ of the DGPEJBF are the same as for companies, and identity information of the partners must be submitted upon registration and updated when changes occur and annually.

188. In relation to foreign partnerships operating in Paraguay, identity information on the partners should be available with the DGRP in the same way as foreign companies (see paragraph 73). With respect to registration in the RAPEJ of the DGPEJBF, Decree No. 3241/2020 establishes that companies incorporated abroad (*sociedades constituidas en el extranjero*) are required to file legal ownership information with the RAPEJ. Paraguayan officials have confirmed that partnerships are under the scope of the term "*sociedades*". As noted in paragraph 90, the DBPEJBF obtains identity and ownership information directly from the RUC, and foreign partnerships, while required to register with the RUC, are not required to file this information in the RUC. As this aspect concerns implementation in practice, it will be further analysed in the Phase 2 assessment (see Annex 1).

189. There are no express obligations for partnerships to maintain identity and ownership information with themselves, even if some information would be available in the accounting record.

Beneficial ownership information on partnerships

190. As for companies, beneficial ownership information of partnerships is collected mainly through a combination of sources, namely the AML Law and the BO Register, with the latter being the main source due to the narrow scope of the AML Law.

191. In Paraguay, in view of the Civil Law tradition, partnerships are legal persons are treated in the same way as companies and are established for the purposes of conducting commercial activities (unless they are not registered with the DGRP in which case they will have a non-commercial status and would be de facto partnerships, see section below on de facto entities). Financial and non-financial institutions providing services to partnerships are subject to the AML Law and they are obliged to conduct CDD when

partnerships are their clients. There is no legal or practical requirement in Paraguay to ensure that an AML-obliged service provider is always engaged by a partnership.

192. Given that partnerships are treated as companies in Paraguay, the same definition of beneficial owner for companies under the BO Register (see section A.1.1) and under the AML Law (see section A.3) applies to partnerships. However, as with all legal persons other than companies, the principle that should then be applied to partnerships is that the determination of beneficial ownership should take into account the specificities of their different forms and structures.

193. In respect of the structure of collective partnerships, the partners assume subsidiary, unlimited and joint liability for partnership obligations, i.e. the control of the collective partners does not depend on their contribution. This is a fundamental difference with companies, for example limited liability companies, where partners are liable up to the amount of their contributions.

194. In relation to limited partnerships, differences apply in the level of control when compared to collective partnerships, as the limited partners are liable for the partnership's obligations up to the limit of their contributions, and the administration of the partnership is delegated exclusively to the collective partners unless the deed of incorporation states otherwise.

195. As set out in the beneficial ownership definitions under the BO Register and under the AML regulation for banks and financial institutions, the beneficial owners of legal persons are identified using criteria that include thresholds in shareholding participation or voting rights or following a cascade approach. However, by applying the same approach as for companies for the identification of beneficial owners of partnerships, beneficial ownership regulations are not sufficiently considering the differences in the form and structures between these two types of legal persons. Instead, it would be more appropriate to, for example, always consider all collective partners as beneficial owners when they are natural persons, and the beneficial owners behind the corporate collective partners should also be identified. Depending on the circumstances of the partnership, there could be also other persons exercising effective control who should also be considered and identified as beneficial owners. **Paraguay is recommended to ensure that beneficial ownership information in line with the standard is available in respect of all partnerships**.

196. The shortcomings in the AML Law and in Law No. 6446/2019 identified in sections A.1.1 and A.3 below also apply here (see paragraphs 135, 141, 142, 311, 312, 313 and 316).

197. Given the facts described, **Paraguay is recommended to ensure the availability of adequate and accurate beneficial ownership information in respect of all partnerships**.

De facto entities

198. Article 967 of the Civil Code provides for the possibility of the existence of a "de facto" company, which is a company that has been constituted in front of a notary, but that has not completed the incorporation process by registering with the relevant register (e.g. DGRP). The Civil Code establishes that these entities will not acquire ownership or rights over the registrable assets contributed by the partners and their acts will not be opposable before third parties. Although de facto companies do not have legal personality, the lack of registration with the authority does not render the contract null or void.

199. The Civil Code also allows for the possibility that collective and limited partnerships may not be registered with the authority, in which case their relations with third parties will be governed by the provisions of the simple company (without being a simple company, as such companies must register with Paraguayan authorities, see paragraph 261) but without prejudice to the unlimited and joint liability of the partners and the limited liability of the limited partners. Simple companies are companies that do not fall within the "commercial" category and that are usually created by professionals, who wish to work together for the exercise of their profession. In simple companies, the partners who act on behalf of the company are jointly and severally liable for the company's obligations, but the other partners are only liable up to the limit of their contribution. Similar to companies, unregistered partnerships do not have legal personality and would be de facto partnerships.

200. Because the company/partnership that has not registered with the authorities is not able to acquire or hold property and because the acts of the entity are not opposable to third parties and therefore the members of the entity themselves are responsible, "de facto" entities are analysed as partnerships.

201. Paraguayan authorities do not have information on the number of de facto entities existing in Paraguay and do not hold identity and beneficial ownership information on de facto entities, as they do not register with any authority. For example, de facto entities do not register with the RUC, given that one requirement for registration with the tax authority is to submit the public deed registered with the DGRP. In addition, de facto entities do not have the obligation to register with the RAPEJ and the BO Register and to maintain beneficial ownership information with themselves.

202. Paraguayan officials have noted that being a de facto entity would impose limits for its operation in Paraguay. For example, de facto entities cannot buy property or open a bank account. Resolution No. 70/2019, that regulates the AML activities of banks and financial institutions, requires banks to identify their clients who are legal persons by collecting their public deed of constitution and their RUC number. The "legal person" and RUC requirements would prevent a de facto entity to open a bank account in Paraguay.

203. Paraguayan officials have indicated that one way Paraguay could access information about de facto entities is through the notary that authorised the public deed. The Supreme Court maintains a public register of notaries[34] and notaries are obliged to maintain the records on their clients of the last three years, and client files beyond this period are transferred to the General Archive of the Judicial Power. It is uncertain how information could be obtained as Paraguayan authorities do not know with which notary the de facto entity has been constituted. In addition, it is also not clear how notaries collect beneficial ownership information on their clients. Paraguayan officials have also noted that information could be obtained from lawyers or accountants engaged with the de facto entity. Nonetheless, there is no requirement on Paraguayan companies to maintain a continuous relationship with a notary, accountant or lawyer during the life of a company so the information kept would not be up to date.

204. There is an unknown number of entities not registered with any authority in Paraguay that could conduct transactions either internally or abroad without maintaining up-to-date identity and ownership information. As they do not hold legal personality, their activities are limited. The issue of de facto entities and their consequences in terms of the availability of identity and beneficial ownership information will be further analysed in the Phase 2 assessment (see Annex 1).

A.1.4. Trusts

205. The creation of fiduciary businesses is allowed in Paraguay and is governed by Law No. 921/1996 on "Fiduciary Businesses" and its regulations.

206. Law No. 921/1996 defines a fiduciary business (*negocio fiduciario*) as one where "one person (the settlor), delivers to another (the trustee), one or more specified assets, transferring or not the ownership of them, for the purpose of administering or disposing of them with a specified finality, either for the benefit of the settlor or of a third party (the beneficiary)". A trustee cannot be a settlor or beneficiary in a fiduciary business.

34. The public register of notaries is available at https://datos.csj.gov.py/data/escribanos.

207. If the fiduciary business involves the transfer of ownership of the assets, it should be called a trust (*fideicomiso*); otherwise, it should be called a fiduciary assignment (*encargo fiduciario*). In the trust the transfer of ownership gives rise to the formation of an autonomous estate. In the fiduciary assignment, the general elements of a trust are present, but the settlors retain their ownership and only allocate the assets to the fulfilment of a specified purpose. Therefore, fiduciary assignments are not relevant arrangements for the purposes of this review.

208. Fiduciary business under Law No. 921/1996 can fall into the following categories: investment trust, real estate trust, administration trust, securitisation process administration trust and guarantee trust. Fiduciary businesses must be formalised and concluded by written agreement between the parties. If the transfer of ownership is subject to registration (e.g. real estate), the fiduciary business must be recorded in a public deed and registered in the public register in which such property is registered.

209. The BCP is the authority in charge of regulating fiduciary businesses. Only banks, financial institutions and trust companies authorised by the BCP can act as trustees of a fiduciary business regulated by Law No. 921/1996. Paraguay's Development Finance Agency (*Agencia Financiera de Desarrollo* – AFD), which is supervised by the SB and thus by the BCP, can also act as trustee of a fiduciary business.[35] As of 31 December 2021, there were in Paraguay ten financial entities that operate as trustees of trusts (*fideicomisos*) (including the AFD) and 2 245 trusts. To date, there is no trust company authorised to operate in Paraguay.

210. According to Resolution No. 299/2021, lawyers and accountants can intervene in the creation of *fideicomisos*, or act as a trustee of an express trust (*fideicomiso expreso)* or perform the equivalent function for another form of legal arrangement (see paragraph 100). Paraguayan officials have noted that express trusts are not regulated in Paraguayan law and Law No. 921/1996 limits the scope of the role of trustee only to banks, financial institutions, the AFD and trust companies (see paragraph 213) and under no circumstance to an individual of a profession. However, *express trusts* do not correspond to any of the different types of fiduciary businesses (see paragraph 208) and there is no legal provision ruling the scope of a *fideicomiso expreso* and of trusts regulated by other laws. Paraguay has also indicated that it is currently working on an amendment of Resolution No. 299/2021 to eliminate the possibility for lawyers and accountants to act as trustees of express trusts. Paraguay should clarify the scope and rules of an express trust to ensure a proper application of the standard (see Annex 1).

35. The Development Finance Agency is a second-tier public bank that promotes economic development and employment generation through the channelling of financial resources and the provision of specialised services.

211. In Paraguay, there are no legal restrictions that prevent a Paraguayan resident from acting as a trustee of a trust created under foreign laws.

Identity and beneficial ownership information available pursuant to the anti-money laundering framework

212. Some identity and beneficial ownership information in relation to trusts is available under the AML framework and RAPEJ and BO Register requirements. Some identity information may also be available with the SET pursuant to tax law requirements. However, these provisions do not ensure that beneficial ownership information is systematically available on Paraguayan trusts and on foreign trusts in all cases.

213. Trustees of fiduciary businesses (i.e. banks, financial institutions, the AFD and trust companies) are persons subject to SEPRELAD's Resolution No. 70/2019 (SEPRELAD's Resolution No. 316/2021).

214. Resolution No. 70/2019 establishes that obliged subjects must perform enhanced CDD when clients are *fideicomisos* (Art. 27(b), which can include the increase in the frequency in the updating of information and enhanced monitoring of the transactions. Resolution No. 70/2019 does not set out what information to collect on a trust, including the identity of all partners of a trust, i.e. the trustee(s), settlors, protectors (if any) and the beneficiaries, as set out by the standard.

215. Regarding beneficial ownership, obliged persons have the obligation of identifying the beneficial owners of their clients and to understand their ownership and control structure. Resolution No. 70/2019 defines a beneficial owner as "a natural person who, without necessarily having the status of customer, has ultimate ownership or ultimate control of the activities of the customer or of the person on whose behalf the transaction is carried out. It also includes natural persons who exercise effective ultimate control over a legal person or legal arrangement". This definition of beneficial owner is broadly aligned with the international standard.

216. Resolution No. 70/2019 provides the methodology for the identification of beneficial owners and establishes that when the client is a trust, the AML-obliged person must identify the trustee and where applicable, the identity of the recipient of the remaining assets (or beneficiary). Where there are more than five trustees, the representatives and procurators designated by the board must also be identified. This methodology has some deficiencies, namely:

- It only requires the identification of the beneficial owner of the trustee and not of the other parties of a trust, including the settlor, the protector (if any), the beneficiaries and class of beneficiaries and any other person exercising ultimate effective control over the trust.

- It is not clear whether, where there are less than five trustees, all the parties of the trust will be identified, including the representatives and procurators designated by the board.
- It is not clear who will be identified in case the parties of a trust are legal persons. Paraguayan officials have indicated that it is understood that in this case, the methodology for legal persons should be applied, but no legal provision that supports this interpretation has been provided.

217. With respect to record-keeping obligations, the AML-obliged person must maintain the information related to the client's relationship and transactions, including all CDD information for a period of five years counted from the end of the business relationship or from the date of the occasional transaction. While there is no requirement to maintain this information in case the AML-obliged person ceases in business, they are not the only source of identity and beneficial ownership information, which would be available with the RAPEJ and the BO Register.

218. The CDD information must be maintained updated based on the risk of the client. Under the CDD monitoring stage, banks can seek more information in case of doubt on the accuracy and timeliness of the information provided by customers. Resolution No. 70/2019 establishes that enhanced CDD must be applied to trusts (Art. 27). Under enhanced CDD, the updating of client information must be done more frequently, and every year for legal persons when the shareholders or partners have a participation of more than 10%. The latter updating provision is not applicable to trusts, and the Resolution does not specify further updating requirements.

219. Lawyers and accountants can act as trustees of an *fideicomiso expreso* or perform the equivalent function for another form of legal arrangement. They are expected to collect identity details on their clients, including the identification of the beneficial owners of clients who are legal arrangements (Resolution No. 299/2021, Art. 14(b)). However, the requirement is general and there is no provision nor methodology either in the AML Law or in Resolution No. 299/2021 that guides lawyers and accountants on what they are expected to do to identify all parties of a trust (trustee, settlor, protector if any, beneficiaries and persons exercising ultimate effective control over a trust) when establishing a business relationship with a trust as required under the standard. From the information provided by Paraguay, there is no impediment for non-professional persons to act as trustees and they are not covered nor regulated by the AML Law in Paraguay. For general obligations of lawyers and accountants, see paragraphs 100 to 102.

220. With respect to trusts created abroad, there is nothing in Paraguayan law to prevent a foreign trust to be administered in Paraguay. Thus, banks, lawyers or accountants acting as trustees of foreign trusts would be obliged to apply CDD measures regarding those customers. However, as noted

above, the information collected under the AML framework in the context of foreign trusts would not necessarily include the identity of all parties and beneficial owners of the trust.

Identity information available pursuant to tax law

221. Law No. 6380/2019 on "The Modernisation and Simplification of the National Tax System" introduced the concept of Transparent Legal Arrangements (*Estructuras Jurídicas Transparentes* – EJT) for tax purposes with EJT considered as corporate income tax taxpayers. EJT are considered as legal instruments used as a means of investment, administration or protection of money, assets, rights and obligations. EJT can be fiduciary businesses created under Law No. 921/1996, patrimonial investment funds and temporary risk-sharing contracts.[36]

222. Trust businesses, through the trustee, are required to register with the RUC as taxpayers and must provide upon registration the Board of Director's minutes that approve the creation of the trust (General Resolution No. 103/2021). These minutes do not include identity information on the parties of the trust.

223. The EJT must submit annually to the beneficiaries a report on its operations and that will be used for the determination of the income tax corresponding to each of them. When beneficiaries are not residents in Paraguay, the EJT will be responsible for the payment of the tax on behalf of the beneficiaries. The trustee is responsible for the submission of the report to the beneficiary (Decree No. 3182/2019, Art. 10 and 12).

224. The EJT report must be presented to the beneficiaries in digital format and accompanied by documentation supporting the data and information contained therein. The EJT report for fiduciary businesses must contain the following identity information (General Resolution No. 75/2020, Art. 3):

- settlor: name, RUC number and tax domicile
- trustee: name, RUC number, tax domicile, legal representative, number of public deed of incorporation, and resolution of authorisation of operations issued by the BCP

36. Patrimonial investment funds are created under Law No. 5452/2015 and formed with monetary resources of natural or legal persons that are collected by companies specialised exclusively in the administration thereof on behalf of and at the risk of the participants. A temporary risk-sharing contract can be a *consortium* (association that is constituted by means of a contract between two or more natural or legal persons, by which they are linked for the execution of a work or activities of commercialisation of goods or services) or a *corporate-rural contract* (in which the owners of agrarian real estate may form a partnership with a company who directly takes over the use of all or part of the property).

- beneficiary: nature of the beneficiary (natural person, legal person or legal arrangement), name and surname, name or company name, RUC number, migration card number or other identification document from the country of origin, identification of the legal representative if the beneficiary is a non-resident legal person, legal representative if a legal entity, number of the public deed of incorporation.

225. As indicated by Paraguayan officials, the EJT report is not submitted to the SET by beneficiaries along with their tax returns although the tax authority can obtain it upon request to the trustee or the beneficiary.

226. Lawyers and accountants can also act as trustees of an express trust or similar legal arrangement. Paraguayan laws do not require the disclosure of this trustee status to the SET so the tax authority does not maintain identity and beneficial ownership information on trusts not regulated by the BCP.

227. There is no requirement to file beneficial ownership information on trusts with the tax authority.

Administrative Register of Legal Persons and Arrangements and Administrative Register of Beneficial Owners

228. Fiduciary businesses (i.e. trusts and fiduciary assignments) are reporting entities and must submit legal and beneficial ownership information to the RAPEJ and the BO Register, respectively (Decree No. 3241/2020, Art. 2).[37]

Identity information

229. The information to be filed to RAPEJ by legal persons and legal arrangements is (Art. 4):

1. Basic data of the legal person or legal arrangement:
   (a) Name;
   (b) Legal form or type;
   (c) RUC or tax identification number;
   (d) Document or Act of its existence or creation or incorporation;
   (e) Articles of associations or by-laws or basic regulatory powers;

37. Pursuant to Decree No. 3241/2020 other reporting entities under the "legal arrangement" category are investment equity funds (i.e. mutual funds and investment fund)

(f) Power of attorney granted in the country (for branches of foreign legal persons); and

(g) Business address and legal domicile.

2. Information on its partners, associates or members:

(a) Names and Surnames or Name (for associates, members or partners who are legal persons);

(b) Identity Card or Passport Number (for foreigners);

(c) RUC or tax identification number (for associates, members or partners who are legal persons);

(d) Address;

(e) Profession or occupation;

(f) Number of shares or quotas owned or held in the person or legal arrangement, indicating the value of each share or quota and the corresponding percentage or equivalent shareholding in the capital; and

(g) Category of shares or participation (nature of the voting rights or property rights of its members or associates).

3. Information on its directors or officers and/or representatives:

(a) Names and Surnames;

(b) Identity Card or Passport Number (for foreigners);

(c) Address;

(d) Position, date of assumption and term of office;

(e) Profession or occupation; and

(f) Last assembly of members or associates for the election of authorities.

230. While the information listed above appears exhaustive on the general identity details that must be collected on legal arrangements, it is not stated that the identity information must be reported for each of the parties of a trust (i.e. the trustee(s), settlors, the beneficiaries and the protector, if any). The terms of "partners, associates or members" do not correspond to the parties of a trust, and the term "directors or officers" might apply to trustees, but no further explanation is provided in legal texts. Therefore, identity information about the parties of a trust as required by the standard is not ensured under RAPEJ requirements.

Beneficial ownership information

231. With respect to beneficial ownership, a beneficial owner must always be a natural person and in the case of a fiduciary business the beneficial owner must be identified for each participant, as per the following (Decree No. 3241/2020 Art. 5 and. 6(a)):

a. In fiduciary businesses: the beneficial owner of the settlor, trustor or grantor; of the trustee, and of the fiduciary or beneficiary.

232. The methodology for the identification of the beneficial owners of fiduciary businesses and trusts is not fully aligned with the standard. Although the methodology states that the beneficial owner of the settlor, trustee and beneficiary must be identified, it does not provide for the identification of all beneficial owners of the trust as required by the standard, including beneficiaries or class of beneficiaries and any other natural person exercising ultimate effective control over the trust.

233. The identity details to be collected on the beneficial owners of a trust are the same as those listed in paragraph 144. Decree No. 3241/2020 provides for a look-through approach to identify the beneficial owners, and notes that chains of control or chains of ownership in a legal arrangement should not be an impediment to identify beneficial owners.

234. Lawyers and accountants can also act as trustees of a *fideicomiso expreso* or express trust and they are not required to report to the RAPEJ and the BO Register, so those registers do not maintain identity and beneficial ownership information on express trusts not regulated by the BCP. In addition, there is no legal impediment for Paraguayan residents to act as trustees of foreign trusts, and they are not required to report legal and beneficial ownership information to the RAPEJ or the BO Register.

235. The requirements to update the beneficial ownership information are the same as for companies (see paragraph 145).

Conclusion

236. To conclude, identity information of Paraguayan trusts is not systematically available. AML and RAPEJ requirements have various shortcomings that do not ensure its availability in accordance with the standard, namely the absence of clear requirements to collect identity information on all the parties of a trust. The Tax law has some requirements that provide that identity information on a trust regulated by the BCP is held by the trustee and beneficiary for tax return purposes and is available to the tax authority upon request. However, this requirement does not cover express trusts administered by a lawyer or an accountant. **Paraguay is recommended to ensure that identity information is systematically available for all Paraguayan trusts in accordance with the standard**.

237. As regards beneficial ownership on trusts, there are various deficiencies in the legal framework that do not ensure its availability as required by the standard. The AML framework shows shortcomings in the methodology for the identification of the beneficial owners of all parties of the trust and regarding the updating of beneficial ownership information. The BO Register's methodology does not provide for the identification of the beneficial owners of all parties of a trust. In addition, not all trustees are required to collect identity and beneficial ownership information on the trusts they manage (i.e. lawyers and accountants). **Paraguay is recommended to ensure that adequate, accurate and up-to-date beneficial ownership information is systematically available in respect of all Paraguayan trusts**.

238. As regards foreign trusts that are administered in Paraguay or in respect of which a trustee is resident in Paraguay, the legal framework does not ensure the availability of identity and beneficial ownership information on them. **Paraguay is recommended to ensure that identity and beneficial ownership information in line with the standard is available in respect of all foreign trusts having nexus to Paraguay**.

Enforcement and oversight

239. For the enforcement measures and oversight on trusts, the same provisions and penalties described in paragraph 114 to 115 and 116 are also applicable by the DGPEJBF (for RAPEJ and BO Register) and by AML authorities. In relation to tax law requirements, sanctions are the same as those mentioned in paragraph 112. Enforcement measures and oversight in practice will be reviewed in the Phase 2 assessment.

A.1.5. Foundations

240. The Civil Code recognises the following types of not-for-profit legal persons in Paraguay (Art. 91):

- Associations recognised as being of public utility, formed by persons wishing to set up a non-profit association whose objective is the common good (Civil Code, Art. 102 to Art. 117). As of 31 December 2022, there were 1 297 associations recognised as being of public utility registered with the SET and 3 143 with the DGPEJBF.
- Registered associations with restricted capacity, which are non-profit associations that have not been recognised as legal persons by the Executive Power (i.e. Presidency of the Republic) but can be conferred that status provided that certain conditions are met (Civil Code, Art. 118 to Art. 123). As of 31 December 2022, there were 6 546 registered associations with restricted capacity registered with the SET and 2 351 with the DGPEJBF.

- Foundations, constituted by the will of one or more persons who allocate certain assets in perpetuity for the creation of an entity for the common good (Civil Code, Art. 124 to Art. 131). As of 31 December 2022, there were 336 foundations registered with the SET and 543 with the DGPEJBF.

241. There is no information available on the number of not-for-profit legal persons registered with the DGRP as of December 2022 (see paragraph 64). As indicated by Paraguayan officials, the discrepancies in registration between the SET and the RAPEJ can be the result of penalties for failure to register in the RAPEJ not yet being systematically applied (see also paragraph 65).

242. Not-for-profit legal persons in Paraguay are relevant entities for the work of the Global Forum, for the following reasons:

- There is no legal impediment for them to have identifiable beneficiaries. Paraguayan officials consider that not-for-profit-entities cannot have identifiable beneficiaries as their purpose is the common good and the Executive Power can deny authorisation if this requirement is not met, but no legal basis to support this interpretation has been provided.
- They have no impediment to do distribution to its members/founders. The Civil Code establishes that profits/assets will have the destination indicated in their articles of association. Paraguayan officials have indicated that because of their not-for-profit nature, profits/assets cannot be distributed between their partners or members, but there is no legal basis that supports this assertion, so the distribution will ultimately depend on what is established in the articles of association.
- Their not-for-profit nature is not supervised. In Paraguay, not-for-profit entities are obliged subjects under the AML Law and are supervised by SEPRELAD under Resolution No. 490/2022. The supervision verifies that the not-for-profit entities identify their donors, record receipts and disbursement of money or goods, verify and record their origin and destination, and identify unusual incomes or expenses without monitoring that the entities are always managed in line with their not-for-profit purpose.

243. According to the Tax Law (Art. 83(4)), the income generated by foundations and other not-for-profit legal persons is tax exempted, if they are not-for-profit and that the profits or surpluses are not distributed directly or indirectly among their associates or members, which must be used solely for the purposes for which they were created.

244. Associations recognised as being of public utility and foundations exist as legal persons upon authorisation provided by the Executive Power,

but must report their existence to the DGRP. Registered associations with restricted capacity can be constituted as legal persons provided that they are registered with the DGRP (Art. 118). If not registered with the DGRP, their acts will not be opposable to third parties.

245. The information that the three types of not-for-profit entities must report to the DGRP includes:

- the minutes of registration, original public deed and its authenticated photocopy. The public deed must include the names and surnames, marital status and address of the founders.
- authenticated photocopy of the Executive Power authorisations, for associations recognised as being of public utility and foundations. Information required to be submitted for this authorisation includes the identity card or passport of the board of directors.

246. Resolution N 490/2022 establishes obligations and supervision levels for not-for-profit entities, depending on their segmentation level. The level of segmentation depends on the size, complexity and exposure to certain risk factors of the not-for-profit entity, with the latter (risk exposure) representing a greater weight in the measurement and determination of segmentation. Not-for-profit entities of levels 2 and 3, are required to present to SEPRELAD the updated list of the members of their Governing Body (*Máxima Autoridad de Dirección*) within 30 working days of the change of authority. The Resolution defines the Governing Body as the body with authority to manage the resources of the not-for-profit entity for the fulfilment of its mission and gives as examples of governing bodies the board of directors, board of trustees or similar. All not-for-profit entities must keep a documentary record of all operations and the identification of beneficiaries for a period of five years from the date of the operation. The provisions of Resolution 490/2022 do not ensure that complete identity information on all the parties of a not-for-profit entity is available as required by the standard, as the Governing Body's updating requirement does not apply to all not-for-profit entities, and there is no specific requirement to maintain information on the founders. There is no additional requirement in Paraguay for not-for profit legal entities to maintain identity information with themselves, even if some information would be available in the accounting records.

247. Changes in the public deed of not-for-profit entities must be reported. However, public deeds do not include complete identity information on all the parties of the not-for profit entity. The specific updating requirements are as follows:

- for associations recognised as being of public utility and foundations: changes in the public deed must be authorised by the Executive Power to have valid effect, and then should be reported to the DGRP

- for registered associations with restricted capacity: changes in the public deed must be reported to the DGRP in order to be valid.

248. Regarding tax obligations, not-for-profit entities must register with the RUC (General Resolution No. 103/2021). Information to be provided upon registration does not include complete identity information as required by the standard and includes the notarised articles of association registered with the DGRP (for registered associations with restricted capacity) and the identity card of the legal representative and other authorities. Paraguayan officials have indicated that the "other authorities" comprise the director, manager, representative or auditor.

249. Not-for-profit entities are subject to the obligation to register with and report to the RAPEJ and the BO Register. Identity information to be provided is the same as that indicated in paragraph 88 and covers the partners, associates, members or participants of the entity. This information does not capture all parties of a not-for-profit entity as required by the standard, i.e. founders, board members, directors and any other beneficiaries.

250. With respect to beneficial ownership, as not-for-profit entities are in general legal persons in Paraguay, the methodology of identification of paragraph 138 would apply to them. It cannot be fully ascertained whether the BO Register requirements ensure that information on the beneficial owners of foundations is available in accordance with the standard. Members of the foundation council could be covered under paragraphs 4.d) and 4.e), and the beneficiaries could be covered by 4.c). However, a cascading approach applies to the beneficial ownership methodology, which would mean that steps 4.d) and 4.e) would not necessarily be used (see paragraph 141). Further, there is no binding guidance available to not-for-profit entities to guide them in the beneficial owner identification process, and it cannot be concluded that all beneficial owners of a not-for-profit entity are covered as per the standard.

251. The analysis in this section does not permit to ascertain that complete and updated identity and beneficial ownership information on all not-for-profit entities as per the standard is available within the jurisdiction. **Paraguay is recommended to ensure the availability of identity and beneficial ownership information of not-for-profit entities as required under the standard**.

Other relevant entities

252. In Paraguay, co-operatives and simple companies are considered as legal persons (Civil Code, Art. 91) and are subject to registration with authorities and to the reporting of identity and beneficial ownership with the RAPEJ and the BO Register, respectively. The issues regarding the

availability of ownership, identity and beneficial ownership information are similar to those discussed in relation to companies and partnerships.

Cooperatives

253. The Civil Code provides for the incorporation of co-operatives as legal persons, which are regulated by Law No. 438/1994. A co-operative is the voluntary association of persons, who associate to organise a non-profit economic and social enterprise, with the purpose of satisfying individual and collective needs. Legal persons may be members of a co-operative if they are non-profit and pursue a social interest.

254. Co-operatives in Paraguay acquire legal personality upon their registration in the Register of Co-operatives administered by the INCOOP, which regulates and supervises co-operative entities. Co-operatives are not registered with the DGRP. As of 31 December 2022, there were 648 co-operatives registered with the INCOOP, 1 566 with the SET and 531 with the DGPEJBF. The discrepancies in registration between the SET and the RAPEJ may be attributed to penalties for failure to register in the RAPEJ not yet being systematically applied (see also paragraph 65).

255. Co-operatives must submit for registration with the INCOOP the list of founding members, stating the name and surname, nationality, marital status, profession, age, real address, amount of subscribed and paid-in capital, identity card number and signature of each one. Paraguayan officials have indicated that the INCOOP maintains the information filed by co-operatives indefinitely.

256. Regarding updates, changes in the articles of association are required to be filed with the INCOOP (Law No. 438/1994, Art. 21), but the articles of association of co-operatives do not necessarily include identity information of the members of the co-operative, as noted in Law No. 438/1994 (Art. 16). Regarding tax law requirements, co-operatives must only submit for registration in the RUC the authorisation issued by the INCOOP. However, identity and ownership information should be available with the RAPEJ, as described further below.

257. Foreign co-operatives can only operate in Paraguay if they have been certified and legally constituted in their country of origin by an official authority similar to INCOOP.

258. Co-operatives are obliged to report identity and ownership information to the RAPEJ and to update the information in the same way as companies.

259. In terms of beneficial ownership information, the provisions of the AML Law and its regulations apply to the extent that a co-operative has a business relationship with an AML-obliged person. Co-operatives must also report information on their beneficial owners to the BO Register. Therefore,

the shortcomings in relation to beneficial ownership identified in AML regulations (non-financial businesses and professions) and in BO Register provisions also apply in respect of co-operatives. **Paraguay is recommended to ensure the availability of adequate and accurate beneficial ownership information in respect of co-operatives**.

Simple companies

260. Simple companies are regulated in the Civil Code (Art. 1013 to Art. 1024). They are companies that do not have any of the characteristics of any of the other companies regulated by the Civil Code and the object of a "simple" company cannot be the exercise of a commercial activity. Commercial activities include industrial activity aimed at the production of goods or services, intermediary activity in the movement of goods or services, transport in any form, the activity of insurance banking or stock exchange, and any other activity qualified as such by the Trader Law. Paraguayan authorities have explained that simple companies are usually created by professionals, such as lawyers, accountants, doctors, consultants or other, who wish to work together for the exercise of their profession.

261. Simple companies are subject to registration with the DGRP and must provide their deed of incorporation upon registration and changes therein must also be reported (General Technical Registry Regulations of the DGRP, Art. 403). Simple companies are also subject to registration with the RUC, the RAPEJ and the BO Register in the same was as companies.

262. Where beneficial ownership information is concerned, the shortcomings identified in section A.1.1 are also valid in respect on simple companies. **Paraguay is recommended to ensure the availability of adequate and accurate beneficial ownership information in respect of simple companies**.

A.2. Accounting records

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

263. In Paraguay, the main provisions for the availability of accounting records are found in the commercial, tax and trust legislation. Companies, partnerships and trusts are required to keep accounting records and supporting documents for at least five years. Some deficiencies are nonetheless noted in specific situations. In the cases of companies that cease to exist or redomicile abroad, it does not appear ensured that accounting information remains available in all cases for a minimum of five years. For express trusts administered by lawyers and accountants, the availability of

accounting records is not ensured. For foreign trusts that are administered in Paraguay or in respect a trustee resident in Paraguay, the availability of accounting information is not available in all cases, unless the trustee of the foreign trust is the AFD, a bank, a financial institution or a trust company authorised by the BCP and registered with the RUC. Paraguay is thus recommended to align its legal and regulatory framework on the standard.

264. 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
Paraguayan trustees of domestic and foreign trusts not authorised by the Central Bank and not registered with the tax administration are not required to keep accounting records that fully reflect the financial position and assets/liabilities of the trust.	Paraguay is recommended to ensure that accounting records as required under the standard are available for all domestic trusts and for foreign trusts with a nexus with Paraguay for a minimum of five years.
There is no provision under Paraguayan laws that require the keeping of accounting records and supporting documents within Paraguay after the entity ceases to exist.	Paraguay is recommended to ensure that accounting information is available for a minimum of five years after the entity ceases to exist.
Legal persons that redomicile out of Paraguay without dissolution have no specific obligation under Paraguayan laws to maintain full accounting records and underlying documentation in Paraguay for a minimum of five years after their departure.	Paraguay is recommended to ensure that accounting information is available for a minimum period of five years in relation to legal persons that redomicile out of Paraguay.

Practical Implementation of the Standard: The Global Forum is not in a position to issue a rating on this element, as it involves issues of practice that are dealt with in the Phase 2 review.

A.2.1. General requirements

265. In Paraguay, the provisions to ensure that reliable accounting records are kept for all relevant entities are included in company law, tax law and trust law.

Company law

266. Requirements about accounting records can be found at Law No. 1034/1983 (Trader Law), which establishes that traders must keep accounting books, correspondence and documents relating to the operations of their business (Art. 11) for five years from the date of the last entry made in them, and vouchers for five years from the date on which they were issued (Art. 85).

267. The requirements under the Trader Law apply to all companies carrying out commercial activities and to all persons professionally carrying out acts of commerce (Art. 3). These requirements apply to companies constituted by shares, SAECAS, limited liability companies, companies limited by shares, EAS, collective partnerships, limited partnerships, and foreign companies and partnerships (i.e. all relevant entities under sub-Elements A.1.1 and A.1.3).

268. The Trader Law adds that those who accidentally carry out acts of commerce are not considered to be traders but the consequences of such acts are subject to commercial law (Art. 5). Paraguayan officials have indicated that this provision would apply to not-for-profit entities (associations recognised as of being of public utility, registered associations with restricted capacity and foundations) and, because of their nature, would not apply to simple companies.

269. Every trader whose capital exceeds the amount of 1 000 daily minimum wages (EUR 12 556), must maintain orderly and regular accounts that enable to determine the assets and liabilities as well as the results of activities. They must also keep the business correspondence and the accounting documents required by the nature of the business (Art. 74 and 75) and must employ a registered accountant (Art. 77). There are no accounting requirements for traders whose capital is below this threshold. However, they are covered under the accounting provisions of the Tax Law (see paragraph 276).

270. The trader must keep necessarily a journal and an inventory book, without prejudice to the other books required for certain types of activities. The journal must record in detail the day-to-day operations of the trader in the order in which they were carried out. The inventory book must record:

- the net worth situation at the start of operations, with an indication and valuation of the assets and liabilities
- the assets and liabilities situation and the corresponding results at the end of each financial year, with a table showing profits and losses
- details of the inventory when it does not appear in other registers
- supplementary financial statements may also be included.

271. Traders must prepare within the first three months of each year, the balance sheet of its operations, which must contain a precise account of its assets, debts and shares, as well as the liabilities outstanding at the balance sheet date.

272. There is no express requirement under the Trader Law to maintain accounting records within the jurisdiction. However, Paraguayan officials indicate that under Tax Law requirements (see paragraph 274), obliged persons must comply with requests of information from the tax administration, including the presentation of declarations, reports, documents, vouchers, and merchandise acquisition vouchers related to events giving rise to tax obligations, in a manner that would ensure access to the information.

273. Accounting obligations for co-operatives are established in Law No. 438/1994. Co-operatives must keep accounts in accordance with Generally Accepted Accounting Standards and for a period of five years (Art. 49).

Tax law

274. Under the Tax Law (Art. 192), taxpayers, including those exempt, must:

- keep the books, files and records and issue documents and supporting documents related to their activities and operations
- keep, in an orderly manner and while the tax is not statute-barred (i.e. five years), the trade books and the documents of the operations and situations that constitute taxable events
- present to tax officials the declarations, reports, documents, vouchers, and merchandise acquisition vouchers related to events giving rise to tax obligations
- adjust their accounting and inventory systems to the standards issued by the tax administration and, as an alternative, to adequate accounting systems that comply with tax legislation.

275. These requirements apply to all entities registered with the RUC, so they apply to all entities analysed under section A.1, with the exception of de facto entities.

276. SET's Resolution No. 412/2004 establishes that record-keeping requirements apply to taxpayers covered by Art. 74 of the Trader Law, i.e. those whose capital exceed 1 000 daily minimum wages (EUR 12 556), and to those who under tax obligations also follow Trader Law requirements. Paraguayan officials have confirmed that the latter provision, together with Art. 192 of the Tax Law, oblige all taxpayers to maintain accounting records, including those whose capital is below the threshold of 1000 daily minimum wages.

277. Taxpayers must keep in addition to the journal and the inventory book, a general ledger and sales and purchase books (Resolution No. 412/2004, Art. 2). The general ledger must record and classify the accounting events already recorded in the journal. The sales and purchase books must record all transactions carried out.

278. In addition, income tax taxpayers must maintain the documentation that supports their operations as well as records and accounting and tax books for the period of prescription of the tax (i.e. five years).[38] Further, taxpayers must follow the accounting provisions of the Trader Law, and accounting records must be fair, objective, material, reliable, complete, comparable, verifiable, and consistent.[39]

De facto entities

279. As explained in section A.1.3, de facto entities are those that have been constituted in front of a notary, but that have not completed the incorporation process by registering with the relevant register. De facto entities do not have legal personality but the lack of registration with the authority does not render the contract null or void.

280. Paraguayan officials have indicated that as the accounting provisions of the Trader Law and the Tax Law apply to any company carrying out commercial activities, they would also apply to de facto entities. However, as de facto entities do not register with any authority (DGRP, SET, DGPEJBF) their number is unknown, and therefore Paraguayan authorities do not hold any information on them. The issue of de facto entities and their impact in terms of the availability of accounting information will be further analysed in the Phase 2 assessment (see Annex 1).

Accounting records for trusts

Paraguayan trusts

281. Trusts are subject to the accounting record-keeping requirements of Law No. 921/1996 on Fiduciary Businesses and of Tax Law.

282. Law No. 921/1996 requires the trustee (banks, financial institutions, the AFD and trust companies) to maintain accounts that make it possible to ascertain the financial position of each fiduciary business, in accordance with generally accepted accounting standards and principles (Art. 25).

38. Law No. 6380/2019 on the Modernisation and Simplification of the National Tax System, Art. 22.
39. Decree No. 3182/2019 that regulates Law No. 6380/2019.

The trustee must elaborate, for each fiduciary business, the statement of position or balance sheet of the fiduciary business and the profit and loss statement or income statement and must include the notes to the financial statements (Art. 35). Trustees of fiduciary businesses must maintain all information related to customer relationship and related transactions for a period of five years from the termination of the business relationship or from the date of the occasional transaction (Resolution No. 70/2019).

283. According to Tax Law, trusts are EJT and are taxpayers for corporate income tax purposes, the income derived from a trust is attributable to the beneficiary and, for the purpose of determining the income tax payable, the EJT must submit annually to the beneficiary a report on the operations of t he EJT (see paragraph 223). The EJT report must include (General Resolution No. 75/2020):

- table of depreciation of the assets entrusted
- details of transactions in the reported fiscal period or fiscal year and the type of documentary support, including income, costs and expenses attributable to the settlor and the trustee
- basic financial statements for each trust: statement of situation or balance sheet of the trust, profit and loss statement or income statement, accompanied by the notes to the accounts.

284. As EJT have to register with the tax authority (RUC), the SET maintains a record of trusts administered by banks, financial institutions, trust companies or the AFD in Paraguay, and would be able to request either to the beneficiary or the trustee the EJT report and the information on the accounting records contained therein. The EJT report will be part of the tax file of the EJT for the statute of limitations of tax obligations (General Resolution No. 75/2020, Art. 4), i.e. five years counting from 1 January of the year following that in which the obligation should have been fulfilled (Tax Code, Art. 164).

285. Lawyers and accountants can also act as trustees of an express trust or *fideicomiso expreso* (according to Resolution No. 299/2021) or perform the equivalent function for another form of legal arrangement. Express trusts are not regulated under Paraguayan laws and are not considered as EJT (see paragraphs 210 and 221) and therefore they have no legal requirement to maintain accounting records of the trusts they manage. Paraguayan laws do not require the disclosure of this trustee status to any authority. **Paraguay is recommended to ensure that accounting records as required under the standard are available for all domestic trusts for a minimum of five years**.

Foreign trusts

286. In the case of foreign trusts administered by a business or non-financial professional (e.g. lawyer) or a non-professional, which are not required to disclose their trustee status or register with the SET, accounting records may not be available.

287. Some rules apply only when the trustee is the AFD, a bank, a financial institution or a trust company authorised by the BCP and registered with the RUC. In these cases, when the beneficiaries are not resident in Paraguay, the EJT will be responsible for the payment of the tax on behalf of the beneficiary (Decree No. 3182/2019, Art. 10). Beneficiaries resident in Paraguay will be responsible for the payment of the tax (see paragraph 223). Therefore, **Paraguay is recommended to ensure that accounting records as required under the standard are available for foreign trusts with a nexus with Paraguay for a minimum of five years**.

Retention period and entities that cease to exist

288. Taxpayers can request the cancellation of the RUC due to the cessation of their economic activity (see paragraph 109). Without prejudice to the cancellation of the RUC, taxpayers are obliged to keep the trade and tax books, registers, and documents of taxable events for as long as the tax is not statute-barred, and they must present them to the tax authority upon request (General Resolution No. 79/2021, Art. 22). However, the cancellation of the RUC does not entail a liquidation or dissolution, and the entity retains its legal personality.

289. Paraguayan officials have indicated that the dissolution of the company should be registered with the DGRP and until that time, the company will continue to maintain accounting records in accordance with the provisions of the Trader Law and the Tax Law. Before communicating the dissolution to the DGRP, the company will make a last accounting entry and proceed with cancellation of the RUC, so it can be inferred that the accounting records must be kept even after the dissolution of the company with the same tax retention period. However, there is no express provision under Paraguayan laws that support this interpretation and that require the keeping of accounting records and supporting documents within Paraguay after the entity ceases to exist (i.e. after dissolution or liquidation of a company or partnership). **Paraguay is recommended to ensure that accounting information is available for a minimum of five years after the entity ceases to exist**.

290. Trustees of fiduciary businesses must maintain all information related to customer relationships and related transactions, which would include accounting records, for a period of five years from the termination of the business relationship (Resolution No. 70/2019).

291. It is also possible for Paraguayan legal persons to redomicile out of Paraguay without dissolution, and there is no specific legal obligation to support the availability of full accounting records and underlying documentation in Paraguay for a minimum of five years in that circumstance. **Paraguay is recommended to ensure that accounting information is available for a minimum period of five years in relation to legal persons that redomicile out of Paraguay**.

A.2.1. Underlying documentation

292. The Trader Law states that supporting documents must be maintained in an orderly manner so that their verification be possible, for five years from the date on which they were issued (Art. 85).

293. With respect to tax law requirements, all accounting operations must be backed by their respective supporting documents or vouchers, which must be kept for audit purposes for the term of the statute of limitations (General Resolution No 412/2014, Art. 4). In addition, corporate income tax, IRE Simple[40] and value added tax taxpayers must file starting July 2021, the supporting documentation or vouchers in the *Marangatu* system (General Resolution No. 90/2021). Although this provision makes no longer mandatory the physical conservation of the sales and purchase books and/or income and expenditure books, the taxpayer must keep all supporting documents for the period of limitation of the tax, i.e. five years (Art. 11).

Oversight and enforcement of requirements to maintain accounting records

294. The compliance with the obligation to keep accounting records pursuant to the Tax Law is supervised and enforced by the SET. Taxpayers must follow the accounting provisions of the Trader Law, so compliance with the accounting provisions of such Law are also supervised and enforced by the SET.

295. The contravention of the provisions of the Tax Law will be punishable with a fine of between PYG 50 000 and PYG 1 530 000 (EUR 6 and EUR 196) (Decree No. 5046/2021). General Resolution No. 13/2019 graduates the application of penalties of the Tax Law depending on the specific contravention, and establishes that the failure to keep the books, files, registers, systems, documents or vouchers of the operations and situations that constitute taxable events will be punishable with a fine of PYG 300 000 (EUR 38).

40. The simple corporate income tax is a simplified income tax regime for midsize businesses.

296. Where the taxpayer does not keep accounting records, the intention to defraud the treasury is presumed (Tax Law, Art. 173(2)), and it will be presumed that the fraud has been committed if the tax books are missing or are kept without observing regulations, are hidden or destroyed (Art. 174(2)). Fraud will be punishable by a fine of between one and three times the amount of the tax defrauded or intended to be defrauded (Art. 175).

297. Co-operatives that do not comply with obligations under Law No 438/1994, which includes accounting obligations, will be sanctioned with penalties proportional to the seriousness of the offence, including a reprimand, a fine of no more than 200 daily minimum wages (EUR 2 600), intervention and cancellation of the legal personality.

298. The implementation in practice and the enforcement of the oversight of legal requirements regarding the availability of accounting information will be assessed in greater detail during the Phase 2 evaluation.

A.3. Banking Information

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

299. In Paraguay, the availability of banking information for all account holders is enabled by the AML Law and its regulations. The framework includes requirements on beneficial ownership information, but it is not completely in line with the standard due to deficiencies in the methodology for identification of beneficial owners, the lack of a specified frequency and the ease of requirements in the verification and updating of beneficial ownership information under simplified CDD. In addition, intermediary or third-party reliance rules do not ensure that identity and beneficial ownership information on bank account holders would be available in all cases. Finally, there is no requirement to retain bank information when a bank ceases to exist.

300. The conclusions are as follows:

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

Deficiencies identified/Underlying factor	Recommendations
There is no obligation to retain bank information if the bank ceases to exist or a foreign bank ceases to operate in Paraguay.	Paraguay is recommended to ensure the availability of banking information when a bank ceases to exist or operate for at least five years.

Deficiencies identified/Underlying factor	Recommendations
The methodology for the identification of beneficial owners of bank accounts globally follows the standard, but suffers some deficiencies as it does not capture all possible scenarios of controlling ownership interest and it does not provide any guidance on what "control through other means" could cover. In addition, the methodology to be used by banks for the identification of the beneficial owners of legal persons is applicable to partnerships and is not necessarily in accordance with their form and structure. With respect to trusts, the methodology does not require the identification of the beneficial owners of all parties of the trust. Further, there is no specified frequency in the legal framework for the updating of CDD and beneficial ownership information.	Paraguay is recommended to ensure that beneficial ownership information in line with the standard is available in respect of bank accounts. In addition, Paraguay is recommended to clarify the rules concerning the updating of the CDD and beneficial ownership information to ensure beneficial ownership information is always up to date.
Banks can use intermediaries for the identification and/or verification of the identity of clients, subject to general subcontracting rules, but specific rules on subcontracting do not exist so it is not clear whether the rules applicable to banks are those of subcontracting or third party reliance, and what banks are expected to do when using intermediaries. If the applicable rules were those of third-party reliance, the regulations do not include the requirement to obtain immediately and upon request the information concerning CDD measures, the verification that the third party is regulated and supervised for compliance with CDD and record-keeping requirements, and that the delegating financial institution has verified that the third party is subject to equivalent AML standards. The General Guidelines on AML state that the third party must provide without delay and on request the supporting information relating to CDD and that reliance can be placed on third parties residing in other countries provided that the obliged person verifies that the source country does not represent a significant level of risk, including not being categorised as non-co-operative by Financial Action Task Force. However, such guidance is not binding for AML-obliged persons.	Paraguay is recommended to ensure that identity and beneficial ownership information is always available in line with the standard when banks rely on intermediaries or third parties for the performance of CDD measures.

Deficiencies identified/Underlying factor	Recommendations
It is not certain whether the verification and updating of beneficial ownership information is out of the scope of simplified CDD. The General Guidelines on AML, which do not have binding effects, ease the requirements for the verification of information, for the updating of identification data and allows the reduction of documentary requirements. Therefore, under simplified CDD, beneficial owners of all account holders may not be correctly verified or updated in some instances, contrary to what is required under the standard.	Paraguay is recommended to ensure that beneficial owners of all bank account holders are verified and regularly updated in all circumstances.

Practical Implementation of the Standard: The Global Forum is not in a position to issue a rating on this element, as it involves issues of practice that are dealt with in the Phase 2 review.

A.3.1. Record-keeping requirements

301. The Paraguayan banking sector consists of 17 banks: ten local banks (with majority local ownership, including one state-owned) and seven foreign banks (three branches and four with majority foreign ownership), supervised by the Central Bank of Paraguay (BCP), through the Superintendency of Banks (SB).

Availability of banking information

302. Banks are subject to general AML obligations pursuant to the AML Law, and to more detailed regulations under SEPRELAD's Resolution No. 70/2019 that regulates the AML activities of banks and other financial institutions.

303. As obliged-AML persons, banks must identify and record all operations carried out by their clients (including documents, files and correspondence that adequately evidence or identify the transactions and the customer) as well as the records obtained through CDD measures (AML Law, Art. 17). The accounting obligations under the Tax Law and the Trader Law (Element A.2) also apply to banks.

304. Resolution No. 70/2019 adds that banks must collect as part of the general CDD regime, minimum identity information on the client who is a legal person, including its name, the public deed of incorporation and its updates, the updated list of partners and shareholders, as well as the identification of partners and shareholders holding directly or indirectly more than 10% of the share capital, contribution or participation of the legal

person. The identity details that AML-obliged persons must collect for clients who are natural persons include: complete names and surnames, type and number of identity document, nationality, address, telephone number and/or email (Art. 25). As a result, anonymous accounts are not allowed in Paraguay.

305. Banks must maintain the information relating to customer relationships and transactions, including all information obtained and/or generated in application of CDD measures, for a period of five years from the end of the business relationship or from the date of the occasional transaction (Art. 42).

306. There is no obligation to retain information if the bank ceases to exist or a foreign bank ceases to operate in Paraguay. **Paraguay is recommended to ensure the availability of banking information when a bank ceases to exist or operate for at least five years**.

Beneficial ownership information on bank accounts

307. The standard was strengthened in 2016 to state clearly the requirement for beneficial ownership information on all bank accounts to be available. In Paraguay, there is no requirement for legal persons to engage the services of a bank at all stages in their lifecycle and Paraguayan authorities have noted that they cannot confirm whether all legal persons have a local bank account.

308. The AML Law sets the general obligation for AML persons to identify the beneficial owner of their customers and take reasonable measures to identify his/her identity (Art. 15). Resolution No. 70/2019 adds that banks have the duty to identify the beneficial owner of their customers in order to verify their identity and understand the ownership and control structure of their customers (Art. 23).

309. Resolution No. 70/2019 provides a definition of beneficial owner and a methodology for the identification of beneficial owners, as follows:

> **Annex A 7**
>
> Beneficial owner. A natural person who, without necessarily having the status of customer, has ultimate ownership or ultimate control of the activities of the customer or of the person on whose behalf the transaction is carried out. It also includes natural persons who exercise effective ultimate control over a legal person or legal arrangement.

Article 23. Knowledge of the beneficial owner of the client.

It is the ongoing duty of regulated entities to identify the beneficial owners of their customers in order to verify their identity, understand their ownership and control structure, taking into account the provisions of Annex 6.

For this purpose, the natural persons who control or may control, directly or indirectly, a legal person or legal structure without legal personality, who own, directly or indirectly, more than ten percent (10%) of the capital or voting rights, or who by other means exercise their ultimate control, directly or indirectly, must be identified.

Annex 6

In the case of customers who are legal persons, the obliged person is required to identify and take reasonable steps to verify the identity of the beneficial owners by means of the following information:

a) The identity of the natural person or persons who are the ultimate majority shareholder(s) of the legal person (greater than 10%); and

b) To the extent that there is a doubt as to point (a) as to whether the person or persons holding the majority shareholding are the ultimate beneficial owners or, where no natural person exercises control through shareholdings, the identity of the natural person or persons (if any) exercising control of the legal person or legal arrangement through other means; and

c) Where no natural person is identified in accordance with (a) or (b) above, the identity of the relevant natural person who holds the position of the most senior managerial official.

Where the customer or majority owner is a publicly traded company subject to disclosure requirements (whether by stock exchange rules or by virtue of law or compulsory means) that impose requirements to ensure adequate beneficial ownership transparency or is a majority-owned subsidiary of such a company, it is not necessary to identify and verify the identity of any shareholder or beneficial owner of such companies. Relevant identification data can be obtained from a public register, the customer or other reliable sources.

310. The definition of beneficial owner of Annex A 7 is aligned with the standard as it establishes that a beneficial owner has to be a natural person who ultimately exerts control through ownership interests and control through other means. It also clearly sets that all the persons that meet the definition must be identified and that control can be either formal or through other ways, as long as the person as effective control over the client.

311. The methodology of Annex A 6 also globally follows the standard, but suffers some deficiencies. First, step a) does not capture all possible scenarios of controlling ownership interest, because it only considers situations where legal persons issue equity, i.e. companies constituted by shares, limited liability companies and simplified joint-stock companies. It does not capture other scenarios such as controlling ownership interests in legal persons that do not issue equity (e.g. companies limited by shares, collective and limited partnerships) or controlling ownership interests due to voting rights. Although Article 23 mentions that controlling ownership interest due to voting rights should be considered, the differing provisions and the absence of guidance in this aspect may lead to confusion in banks and financial institutions as of what procedures to apply when identifying their beneficial owners.

312. In addition, the AML framework does not provide any guidance on what "control through other means" could cover for instance family connections, through financial or contractual links, or the individual who benefit from the assets held by the entity.

313. The methodology to be used by banks for the identification of the beneficial owners of legal persons is applicable to partnerships and is not necessarily in accordance with their form and structure. With respect to trusts and as analysed in section A.1.4, there are shortcomings in Resolution No. 70/2019 with respect to the methodology for the identification of the beneficial owners of all parties of the trust. Therefore, the same issues and recommendations as described in A.1.3 and A.1.4 for beneficial ownership apply here (see paragraphs 190 to 197, paragraphs 212 to 220, and paragraph 237 and 238).

314. Given these shortcomings, **Paraguay is recommended to ensure that beneficial ownership information in line with the standard is available in respect of bank accounts**.

315. AML-obliged persons must identify their clients and take reasonable measures to verify the information provided by them in relation to their beneficial owners at the start of the business or contractual relationship. However, AML-obliged persons can also start the business relationship before verifying the identity of the customer, provided that they have adopted risk management procedures, but the delay in verification must not exceed 60 days (Resolution No 70/2019, Art. 24(b) and Annex 6). This aspect will be further analysed and verified during the Phase 2 assessment (see Annex 1).

316. Regarding the updating of information, information on customer relationships and transactions, including that obtained and/or generated in application of CDD measures must be maintained and updated based on the risk of the client (Resolution No. 70/2019. Art. 43). Under the monitoring stage of the CDD process, banks can seek more information in case of doubt on the accuracy and timeliness of the information provided by customers. Banks will determine the frequency of the monitoring process based on the risks identified. For high-risk clients under the enhanced CDD procedure (e.g. trusts, not-for-profit entities), updating of client information must be done more frequently, and every year for legal persons when the shareholders or partners have a participation of more than 10%. The latter provision only applies to certain types of legal persons (as it depends on the contribution) and would omit the updating of CDD information where partners/shareholders own less than 10% of the company, even if the company is high-risk. No additional specified frequency for the updating of CDD information, including beneficial ownership information, is provided. Therefore, **Paraguay is recommended to clarify the rules concerning the updating of the CDD and beneficial ownership information to ensure beneficial ownership information is always up to date**.

Introduced business and subcontracting CDD

317. Banks can rely on intermediaries for the identification and/or verification of the identity of clients, subject to general subcontracting rules. When using intermediaries, banks must take appropriate measures to obtain the information, copies of identification documents and other relevant documentation, as well as an affidavit in which the intermediary declares that it has taken the necessary measures to comply with CDD provisions. However, the regulated entity retains responsibility for the due diligence process and must monitor compliance with regulatory requirements (Resolution No. 70/2019, Art. 35). Paraguay has indicated that specific regulations on subcontracting rules do not exist but according to their interpretation and understanding, the outsourced entity does not have a different process from the bank and applies the same procedure established in the regulations in force for banking entities. This means that the outsourced entity (domestic or foreign) applies its own procedures based on the AML framework in force in its own jurisdiction (third party reliance), as opposed to doing CDD on behalf of the delegating financial institution and applying the exact same procedures of the delegating financial institution (subcontracting). In the absence of guidance, it is not clear whether the rules applicable to banks are those of subcontracting or third party reliance, and what banks are expected to do when using intermediaries.

318. If the applicable rules were those of third-party reliance, Resolution No. 70/2019 does not include the requirement to obtain immediately and upon request the information concerning CDD measures, the verification that the third party is regulated and supervised for compliance with CDD and record-keeping requirements, and that the delegating financial institution has verified that the third party is regulated by equivalent AML standards. The General Guidelines on AML state that the third party must provide without delay and on request the supporting information relating to CDD and that reliance can be placed on third parties residing in other countries provided that the obliged person verifies that the source country does not represent a significant level of risk, including not being categorised as non-co-operative by Financial Action Task Force. However, such guidance is not binding for AML-obliged persons.

319. There are no clear rules on subcontracting and Resolution No. 70/2019 does not meet the requirements for the reliance on third parties. **Paraguay is recommended to ensure that identity and beneficial ownership information is always available in line with the standard when banks rely on intermediaries or third parties for the performance of CDD measures**.

Simplified due diligence

320. Simplified CDD allows for the reduction of some minimum information requirements applicable to the customer identification stage, based on the level of risk (Resolution No. 70/2019, Art. 26). Simplified CDD can be undertaken in: (i) low risk clients for certain products and services,[41] and (ii) with the previous authorisation from SEPRELAD in respect of certain products and services.

321. Under simplified CDD, the minimum information to be obtained in the case of legal persons includes the name of the entity, the identification of the *mandatarios*, and of the legal representatives.

322. The General Guidelines on AML further distinguishes CDD and simplified CDD:

- General CDD requirements applicable to all clients include the identification and verification of the beneficial owner.
- Simplified CDD eases the requirements for the verification of information, for the updating of identification data and allows the reduction

41. Such as local currency savings bank, credit card, foreign exchange transactions and transfers received as family allowance, provided they do not exceed certain limits set out in Resolution No. 70/2019.

of documentary requirements. It also allows AML-obliged persons to verify the identity of the customer and the beneficial owners after the relationship has been established, without establishing a maximum timeline.

323. It is not certain whether the verification and updating of beneficial ownership information is out of the scope of simplified CDD under Resolution No. 70/2019. As the General Guidelines are not binding for AML obliged persons, this lack of mandatory guidance on simplified CDD may result in situations where the beneficial owner is not adequately verified, or where the information on beneficial ownership is not kept up to date in accordance with the standard.

324. In conclusion, under simplified CDD, beneficial owners of all account holders may not be correctly verified or updated in some instances, contrary to what is required under the standard. **Paraguay is recommended to ensure that beneficial owners of all account holders are verified and regularly updated in all circumstances**.

Enforcement and oversight

325. The enforcement measures applicable for the failure to comply with obligations under the AML Law are the same as those discussed in paragraph 116, and the enforcement authority is the SB of the BCP.

326. The implementation in practice and the enforcement of the oversight of legal requirements regarding the availability of identity and legal ownership information of all account holders will be assessed in greater detail during the Phase 2 evaluation.

Part B: Access to information

327. Sections B.1 and B2 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).

328. The Paraguayan competent authority has powers to obtain information, including to process EOI requests. The Tax Law sets the obligations of taxpayers and third parties, and Law No. 6657/2020 gives powers to the competent authority to request relevant tax information for complying with requests from foreign competent authorities under international tax treaties.

329. However, the tax administration does not have clear powers to access beneficial ownership information held by non-financial AML-obliged persons. There are also concerns in respect of the identification requirement of the person on whose bank account information is requested.

330. In addition, while Paraguay has taken measures to broaden the access powers of the tax administration in relation to the information held by professionals and to reduce the scope of professional privilege, the latter is not clearly defined in Paraguayan law and could go beyond the scope allowed under the standard.

331. 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
In order to obtain banking information, banking legislation stipulates that the tax administration must identify a specific responsible person or taxpayer. This means that details of the person's identification must be provided (e.g. name, last name). This would prevent access to information in the case of a group request or when only a bank account number is available to the requesting authority, while the standard considers it as a sufficient identification method.	Paraguay is recommended to clearly provide for access to banking information in accordance with the standard in all cases, including when dealing with group requests.
While Paraguay has taken measures to broaden the access powers of the tax administration in relation to information held by professionals and to reduce the scope of professional privilege, the protection of information held by professionals remains too broad and not clearly defined, as professionals can decline a request for information that is not considered to be of a "patrimonial" nature. The scope of information that meets the category of "patrimonial" is not defined, and it cannot be clearly ascertained whether professionals, such as lawyers or notaries, would invoke professional secrecy when information, including beneficial ownership information, is requested of them for EOI purposes.	Paraguay is recommended to bring the scope of professional privilege in line with the standard and to ensure that its access powers allow access to beneficial ownership information in all cases, as required by the standard.

Practical Implementation of the Standard: The Global Forum is not in a position to issue a rating on this element, as it involves issues of practice that are dealt with in the Phase 2 review.

B.1.1. Ownership, identity and banking information

332. The Undersecretariat of State of Taxation (SET) of the Ministry of Finance is the tax administration of Paraguay. It is the competent authority for EOIR purposes, and the Vice Minister of Taxation of the SET has the status of competent authority by delegation.

Accessing information generally

333. The access powers for the SET are provided in the Tax Law and Law No. 6657/2020 that "Promotes the Implementation of International Standards on Tax Transparency".

334. Under Art. 189 of the Tax Law, the SET has the general powers to:

- require taxpayers and responsible parties to show their books and documents related to a taxable activity
- seize or retain books, files, documents, manuals or computerised records, subject to judicial authorisation, for a period up to 30 days and extendable once for the same period
- request information from third parties related to facts that they have contributed to carry out or that they are aware of, as well as display documentation related to such situations and that is linked to taxation
- carry out inspections in premises occupied by taxpayers, responsible parties or third parties (a judicial authorisation warrant will be required if the latter do not give their consent for this purpose)
- summon taxpayers, responsible persons and third parties.

335. Judicial authorisations to seize and retain documents and to carry out inspections must be issued within a period of 24 hours. Judicial authorisations are released by the judge, provided that the SET proves the plausibility of the right it invokes, the related risks and the urgency of the measure.

336. Paraguay enacted in 2020 the Law No. 6657/2020 that "Promotes the Implementation of International Standards on Tax Transparency", which gives powers to the competent authority to demand the presentation of "relevant tax information"[42] for the purposes of complying with requests from foreign competent authorities under international tax treaties. Persons and entities are obliged to provide to the SET, upon request, relevant tax information of which they are aware of about themselves or about third parties and that is known to them because of economic, professional or financial relationships. These persons and entities include natural persons, legal persons and legal arrangements, public authorities, professional associations and notaries (Art. 4).[43] Financial institutions are also subject to the obligation to provide relevant tax information to the SET (Art. 5).

42. "Relevant tax information" will be considered to be any data, declaration or document, in any form, required by the Tax Administration for the fulfilment of its purposes, in accordance with the provisions of the tax legislation in force. It will also include any information required by virtue of international tax treaties (Art. 3).

43. The list also includes economic units and collective entities under private law; the heads or those in charge of civil, military or police offices and other national or territorial public bodies, autonomous bodies and mixed-economy companies, binational entities; chambers and corporation and professional associations, social security or pension entities; the Courts and Tribunals of the Republic; and those who in general, exercise public functions.

337. The obligations set out in Law No. 6657/2020 are to be complied with in the manner and by the deadlines established by the SET (Decree No. 5029, Art. 2). Although such deadlines have not been defined yet, the SET can establish timelines for obliged persons on a case-by-case basis as permitted under the law (see also C.5.1).

338. For the purposes of undertaking international administrative assistance, the SET can carry out the acts and procedures allowed under the relevant international treaty and the tax legislation, provided that the latter do not contradict the treaty provisions (Law No. 6657/2020, Art. 11). Therefore, the SET can make use of its domestic access powers under Article 189 of the Tax Law to gather information requested by a foreign competent authority under an EOI agreement. Paraguayan officials have indicated that when requesting information to the information holder, the powers of both Article 179 of the Tax Law and of Law No. 6657/2020 are invoked (see also analysis in B.2.1 below).

Accessing legal ownership information

339. Access to legal ownership information is obtained under the domestic powers set out above.

340. In particular, the competent authority has direct availability to the *Marangatu* system, i.e. identity information on the shareholders/partners, the deed of incorporation registered with the DGRP and the trader licence.

341. In addition, the SET can request information on legal ownership through the following:

- Register of Legal Persons and Commerce of the DGRP
- RAPEJ, until the Integrated System of Administrative Registration and Control of Legal Persons, Legal Arrangements and Beneficial Owners is implemented and direct access to the SET is enabled.

Accessing beneficial ownership information

342. As the SET does not keep beneficial ownership information, access to beneficial ownership information is obtained under the domestic powers set out above. In particular, the competent authority can obtain this information from the BO Register upon request until the Integrated System of Administrative Registration and Control of Legal Persons, Legal Arrangements and Beneficial Owners is implemented and direct access to the SET is enabled.

343. The AML Law establishes that obliged persons must not disclose to third parties the actions or communications they carry out as part of their AML-obligations and does not contain a specific provision that gives the

SET powers to access beneficial ownership information maintained by an AML-obliged person (Art. 20).

344. Law No. 6657/2020 gives powers to the tax administration to collect relevant tax information which is known by persons as a result of their economic, professional or financial relations (Art. 4). It does not specifically mention AML-obliged persons as covered under its provisions, but it stipulates that banks and financial entities are obliged to provide to the SET any type of relevant tax information on financial operations and transactions (see next section on accessing banking information, paragraph 347). Although beneficial ownership information is not a financial operation, it is linked to financial operations, so Paraguayan officials affirmed that beneficial ownership information can be requested and obtained from banks under those access rights. This aspect, including what information does or does not fall within the scope of "relevant tax information", will be further analysed during the Phase 2 review (see Annex 1).

345. In relation to other AML-obliged persons, Law No. 6657/2020 gives powers to the SET to request relevant tax information to notaries and professionals (which would include lawyers), and this information should only refer to "patrimonial" data. However, "patrimonial" information is not defined under domestic law and so it is not clear whether it includes beneficial ownership information (see also section B.1.5). Paraguayan officials have noted that the term "patrimonial", until expressly indicated in law or regulation, should be interpreted broadly to cover all relevant tax information, including beneficial ownership information. Given that the law establishes that tax information that is both relevant and of a "patrimonial" nature can be accessed, it is uncertain whether the authorities would be able to access relevant tax information if it is not of a patrimonial nature or not deemed to be so by the information holder. **Paraguay is recommended to ensure that its access powers allow access to beneficial ownership information in all cases, as required by the standard**.

346. The articulation of the provisions of Law No. 6657/2020 with those of the AML Act and its impact on the ability of the SET to obtain beneficial ownership information from all AML-obliged persons in practice will be analysed during the Phase 2 review (see Annex 1).

Accessing banking information

347. The general access powers under Article 189 of the Tax Law do not apply to banking information but the competent authority can obtain banking information from financial institutions based on Law No. 6657/2020. Financial institutions must provide the SET with the relevant tax information on transactions, operations and balance sheets, as well as all kinds of

information on the movement of current and savings accounts, deposits, time certificates, loan and credit accounts, trusts, individual investments, among other operations, whether active or passive (Art. 5).

348. Banking legislation provides that information requested by the SET must relate to a specific responsible person or taxpayer.[44] This means that details of the person's identification must be provided (e.g. name, last name). This provision was established in the context of obtaining bank information for Paraguayan tax purposes. Paraguayan officials have indicated that even if Law No. 6657/2020 does not explicitly set an exception to this condition, it gives broad powers to the SET to request relevant tax information from financial entities, even if no details of the person's identification are provided. The Procedure for Exchange of Information at International Level No. PR_F1_01 (EOI Procedure) does not indicate that the name of the bank account holder is mandatory when gathering information from a bank. Paraguay has not engaged in EOIR yet (see C.5 below), so this interpretation has not been tested in practice.

349. However, the financial institutions might deny the request, if it does not comply with the provisions of banking legislation and include complete identification details, considering the absence of express provision in Law No. 6657/2020 on this aspect. Such condition may also prevent access by the SET to information in the case of a group request, in which the taxpayers are not individually identified, or when only a bank account number is available to the requesting authority, while the standard considers it as a sufficient identification method.

350. Therefore, **Paraguay is recommended to clearly provide for access to banking information in accordance with the standard in all cases, including when dealing with group requests**. The practices and timing needed to gather information, including banking information, will be further verified and analysed in the Phase 2 review.

B.1.2. Accounting records

351. Access to accounting records is applied under the domestic powers set out in section B.1.1. In particular, the SET has direct access to documents held in the *Marangatu* system, including documents and vouchers that support all accounting operations (see paragraph 293).

44. Law No. 5787/2016 (Art. 86(d)) and Law No. 861/1996 (Art. 86).

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

352. 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.

353. Before the enactment of Law No. 6657/2020, domestic tax interest was required in Paraguay to lift bank secrecy.

354. Law No. 6657/2020 now expressly stipulates that administrative assistance actions should not be conditioned to the existence of a domestic tax interest for the SET, it being enough that the requesting foreign competent authority has a tax interest in the information. Therefore, the legal framework enables the SET to obtain all requested information (all types of information, including banking information) without regards to any domestic tax interest.

355. The implementation in practice of this aspect will be analysed during the Phase 2 evaluation.

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

356. Both Law No. 6657/2020 and the Tax Law contain enforcement provisions to compel the production of information to the SET:

- Art. 13 of Law No. 6657/2020 establishes that obliged persons who do not comply with the provisions established in such Law will be subject to direct fines that may vary between 50 and 500 daily minimum wages (around EUR 628 and EUR 6 278).
- Art. 1 of Decree No. 5046/2021 establishes the liability for the contravention of the provisions of the Tax Law (such as the provision of information under article 189), will be punishable with a fine of between PYG 50 000 and PYG 1 530 000 (around EUR 6 and EUR 196).

357. In addition, search and seizure of documents can take place with the prior authorisation of a judge, as mentioned under B.1.1.

358. The implementation in practice of enforcement measures will be analysed during the Phase 2 evaluation.

B.1.5. Secrecy provisions

359. Jurisdictions should not refuse to respond to an information request made under an information exchange mechanism on the grounds of secrecy (e.g. banking or professional secrecy).

Bank secrecy

360. Bank secrecy is stipulated in Banking Law No. 861/1996. In addition, the Tax Law states that the tax administration has broad powers of administration and control and can request information from third parties, except from those persons who by express legal provision may invoke professional secrecy, including in banking activities (Art. 189(5)).

361. Before the enactment of Law No. 6657/2020, bank secrecy could only be lifted for internal tax purposes, so Paraguay's competent authority could only obtain bank information in the course of a tax audit,[45] which meant that Paraguay's competent authority could only make use of its access powers when the information was required for domestic purposes or in relation to a Paraguayan taxpayer.

362. Bank secrecy is no longer an impediment to exercise access powers in Paraguay. Financial institutions are obliged to provide the SET with the relevant tax information it may require on transactions, operations and balance sheets, information on the movement of current and savings accounts, deposits, fixed-term certificates, loan and credit accounts, trusts, individual investments, investments in joint portfolios, stock market transactions, local and international transfers and other operations, whether active or passive (Law No. 6657/2020, Art. 5). Paraguayan officials have indicated that this list of information is not exhaustive and there is no limitation on the information that could be asked to a bank. This information can also cover other non-financial institutions which carry out transactions that can be qualified as financial.

363. The practices and timing needed to gather banking information, will be further verified and analysed in the Phase 2 review.

Professional secrecy

364. Under the standard, a competent authority may decline a request if the information requested is protected by the attorney-client privilege, defined as covering any information that constitutes confidential communication between a client and an attorney, solicitor or other admitted legal representative, if such communication is produced for the purposes of

45. Law No. 861/1996 (Art. 84 and Art. 86)

seeking or providing legal advice or is produced for the purposes of use in existing or contemplated legal proceedings. Jurisdictions cannot oppose a broader privilege to EOI.

365. The Tax Law establishes that the tax administration has broad powers of administration and control and can request information from third parties that they have learned of in the course of their activities, except from those persons who by express legal provision may invoke professional secrecy (Art. 189(5)).

366. The Code of Professional Ethics of the Paraguayan Bar Association establishes that professional secrecy is a duty in relation to the facts entrusted to the lawyer by virtue of their profession and subsists even after the lawyer has ceased to provide services. The Penal Code establishes sanctions (imprisonment for up to one year or a fine) for lawyers, notaries or notaries public (or their assistants or trainees) who disclose secrets known to them in the exercise of their profession and about which they are legally obliged to keep silent (Art. 147).

367. While the provisions above remain unchanged, Law No. 6657/2020 establishes obligations for professionals to provide relevant tax information to the SET. Professional associations and professions (lawyers, accountants and notaries) are obliged to provide relevant tax information that is required by the tax administration by virtue of international tax treaties (Art. 4). It also specifies that the obligation of professionals to provide relevant tax information should only relate to patrimonial data known to them by reason of their activities, unless this information refers to court proceedings or to any other process from which a penalty or sanction may derive (Art. 6). However, "patrimonial" information is not defined and the scope of information that meets the category of "patrimonial" is not clear, and it cannot be ascertained whether professionals such as lawyers or notaries, would invoke professional secrecy when, for example, beneficial ownership is requested of them by the SET (see also section B.1.1).

368. In conclusion, while Paraguay has taken measures to reduce the scope of professional privilege, the protection of information held by professionals remains broad and not clearly defined, as Law No. 6657/2020 gives the possibility to professionals to decline a request for information that is not considered to be of a "patrimonial" nature (see also paragraph 345). **Paraguay is recommended to bring the scope of professional privilege in line with the standard**.

B.2. Notification requirements, rights and safeguards

The rights and safeguards (e.g. notification, appeal rights) that apply to persons in the requested jurisdiction should be compatible with effective exchange of information.

369. The rights and safeguards applicable to individuals in Paraguay are compatible with effective information exchange. There is no requirement in Paraguayan law for the SET to inform the taxpayers concerned of requests of information received from foreign authorities.

370. The conclusions are as follows:

Legal and Regulatory Framework: in place

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

Practical Implementation of the Standard: The Global Forum is not in a position to issue a rating on this element, as it involves issues of practice that are dealt with in the Phase 2 review.

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

Notification

371. In Paraguay, there is no legal obligation to notify the person who is the subject of a request for information prior to or after providing information to the requesting jurisdiction.

372. The EOI Procedure establishes a sequence of steps to follow when a request for information is received from a foreign competent authority. When there is need to request information to other entities, the SET must send a note to the information holder, indicating the legal basis for the request and the high level of confidentiality of the request in accordance with the applicable international treaty and the internal regulations of the requested entity. Despite this statement, the Paraguayan officials clarified that in practice the note to the information holder does not reference the applicable international treaty. The practical impact of this EOI Procedure provision in terms of EOI will be analysed during the Phase 2 review (see Annex 1).

373. The EOI Procedure does not specifically require the tax authority to disclose details of the EOI request with the information holder or the taxpayer. Although the EOI Procedure has not been used yet in practice, Paraguayan

authorities have indicated that if information had to be requested, the level of information disclosed on the foreign request would be very limited and would contain only the minimum information necessary to enable the taxpayer or information holder to respond to the request. The letter requesting the information should include a standard introductory text invoking the relevant powers of the SET (Tax Law and Law No. 6657/2020) and should not include under any circumstance the fact that the request refers to international administrative assistance and the name of the requesting jurisdiction. As the EOI Procedure for obtaining information has not yet been used, its practical application will be analysed during the course of the Phase 2 review covering the practical aspects of implementation of Paraguay's legal framework (see Annex 1).

374. Given that the provisions of Law No. 6657/2020 have to be invoked to request information to the information holder, then such holder could infer the possible existence of an EOI request. Paraguayan laws do not include anti-tipping off provisions that prohibit the information holder to inform the person concerned of the existence of a foreign request. The information holder could also inform the person concerned of the existence of this request. That could be considered as an indirect and informal disclosure of the existence of the EOI request to the taxpayer subject to the enquiry. Paraguayan officials have indicated that invoking Law No. 6657/2020 would not notify de facto the existence of an EOI request because such Law defines "relevant tax information" as: (i) any data, declaration or document, in any form, required by the SET for the fulfilment of its purposes, and (ii) any information required by virtue of the signing of international tax treaties. Therefore, such Law not only regulates requests for information related to EOI but also to any information that the SET requires to carry out its domestic functions. Further, Paraguayan officials have indicated that Law No. 6657/2020 is invoked in domestic cases. The probability and the impact in practice of such disclosure by the information holder will be analysed during the Phase 2 review (see Annex 1).

Appeal

375. The Tax Law gives taxpayers the possibility to lodge administrative and judicial appeals against rulings issued by the SET (Art. 234 and Art. 236). Paraguayan officials have indicated that these appeal rights only apply to domestic rulings of the SET and the SET does not issue rulings in the context of EOIR. Consequently, there is no legal basis under Paraguayan laws for appealing the powers used to collect the information or the act of exchange itself.

Part C: Exchange of information

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

377. Jurisdictions generally cannot exchange information for tax purposes unless they have a legal basis or mechanism for doing so. Paraguay's EOI network covers 147 jurisdictions through the Convention on Mutual Administrative Assistance in Tax Matters (the Multilateral Convention) and five ratified Double Taxation Conventions (DTCs) with Chile, Qatar, Chinese Taipei, the United Arab Emirates and Uruguay (see Annex 2). Paraguay has also signed one DTCs which is not yet in force but is complemented by the Multilateral Convention which fully meets the standard.[46] Exchange can take place with 138 partners with whom an EOI instrument is in force.

378. The Multilateral Convention was signed by Paraguay on 29 May 2018 and entered into force on 1 November 2021 in respect of this jurisdiction.

379. All of Paraguay's EOIR relationships meet the standard, but one with Chinese Taipei, with which Paraguay is encouraged to work to ensure that their EOI relations are in line with the standard.

46. With Brazil. This agreement, signed in 2000, was rejected by the Chamber of Senators of Paraguay through Resolution No. 286/2004 and the EOI relationship with this jurisdiction is now covered by the Multilateral Convention. In addition, the authorities from Paraguay, as well as the authorities from Brazil in their own EOIR report, have not included Paraguay as treaty partner. Thus, this treaty which was signed but is not in force will not be considered for this report.

380. In relation to the foreseeable relevance of group requests, it is unclear whether identity details of the person concerned will always be required when asking information to banks or whether the provision of the bank account number as a way of the identification of the person will suffice. Therefore, Paraguay is recommended to clearly provide for access to banking information in accordance with the standard in all cases, including when dealing with group requests.

381. Paraguay has not yet received requests for information under its international agreements. It received two requests but both outside the legal framework for EOI (no international agreement with the requesting jurisdiction) so they are not taken into consideration in this review. The requesting jurisdiction is Paraguay's EOI partner under the Multilateral Convention, but the two requests were received when the Multilateral Convention was not yet in force in Paraguay (2019). Paraguay has informed that one of the requests was replied to as the information requested was publicly available, and the other was declined. The implementation and interpretation by the Paraguayan competent authority of the provisions of the EOI instruments will take place during the Phase 2 of the review of Paraguay at a later stage.

382. 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
In order to obtain banking information, banking legislation stipulates that the tax administration must identify a specific responsible person or taxpayer. This means that details of the person's identification must be provided (e.g. name, last name). This would prevent access to information when dealing with a group request and when only a bank account number is available to the requesting authority.	Paraguay is recommended to clearly provide for access to banking information in accordance with the standard in all cases, including when dealing with group requests.

Practical Implementation of the Standard: The assessment team is not in a position to issue a rating on this element, as it involves issues of practice that are dealt with in the Phase 2 review.

C.1.1. Standard of foreseeable relevance

383. The standard for exchange of information envisages information exchange to the widest possible extent, but does not allow speculative requests for information that have no apparent nexus to an open inquiry or investigation (i.e. "fishing expeditions"). The balance between these two

competing aspects is expressed in the concept of "foreseeable relevance" contained in Article 26(1) of the OECD Model Tax Convention.

384. All of Paraguay's DTCs, including the one with Chinese Taipei not supplemented by the Multilateral Convention, contain articles for EOIR purposes that provide for exchange of information that is "foreseeably relevant" or "necessary" to the administration and enforcement of the domestic laws of the contracting parties concerning taxes covered in the DTCs. The OECD Model Tax Convention recognises in its commentary to Article 26 that the terms "necessary" and "relevant" allow the same scope of exchange of information as does the term "foreseeably relevant". The Multilateral Convention complements all DTCs signed and ratified by Paraguay, with the exception of the DTC with Chinese Taipei. Paraguayan officials have confirmed that the term "necessary" is considered as equivalent to "foreseeably relevant".

385. Therefore, the scope of the DTCs concluded by Paraguay can be considered to be consistent with the standard, as there are no limitations that restrict the exchange of information that is considered necessary or foreseeably relevant.

Clarification of foreseeable relevance

386. The Department of Technical Advisory of the Office of the Vice Minister of Taxation of the SET is the EOI unit in charge of the day-to-day EOI operations. Paraguay's internal EOI Procedure and EOI Flowchart – No. FG_FI_01 detail the steps and requirements for carrying out international information exchange.

387. The EOI Procedure stipulates that the EOI Unit will verify the validity of the agreement on which the request is based as well as the legitimacy of the person requesting the information. Then it will do an assessment of the request, without specific points or details that a foreign competent authority must include for the information requested to be considered foreseeably relevant. However, the EOI Procedure states that in case clarifications are required, the Paraguayan competent authority will contact the requesting competent authority.

388. In the last few years, Paraguay has not received any requests for the exchange of information within the framework of the bilateral agreements in force, and the Multilateral Convention only entered into force on 1 November 2021. Therefore, the interpretation of the principle of foreseeable relevance is still untested in practice. This will be assessed during the Phase 2 evaluation.

Group requests

389. The Multilateral Convention ensures the possibility to exchange information pursuant to a group request. The bilateral agreements signed and ratified by Paraguay do not exclude the possibility of group requests. Group requests are not covered in the EOI Procedure. Paraguayan officials have indicated that group requests may be answered if they have all the necessary information that allows the tax administration to search for the relevant information requested, and the procedure to follow with group requests would be the same as that applied to individual requests according to the provisions of the EOI Procedure (see also discussion under Element C.5).

390. However, as noted in section B.1.1, it is uncertain whether identity details of the person concerned will always be required when asking information to banks or whether the provision of the bank account number as a way of the identification of the person will suffice. If identity details are required by banks, then the Paraguayan competent authority would not be able to access banking information on group requests, which by definition refer to taxpayers not individually identified. Therefore, **Paraguay is recommended to clearly provide for access to banking information in accordance with the standard in all cases, including when dealing with group requests**.

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

391. 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.

392. Of Paraguay's bilateral EOI relationship that cannot rely on the Multilateral Convention, the DTC with Chinese Taipei (Art. 26.1), while not restricting the scope of the exchange of information provisions to certain persons, does not explicitly foresee either the possibility to exchange information on persons not covered by this DTC. This provision also provides for an exchange of information necessary to carry out the domestic laws of the parties, which may apply to all taxpayers, whether they are residents or citizens of the contracting parties or not. However, Paraguay officials have indicated that Article 26.1 is interpreted to mean that EOI requests can only be made in relation to residents of either of the signatory jurisdictions. Paraguay has also noted that no exchange of information on request (incoming or outgoing) has been carried out to date with Chinese Taipei and

that the country is currently co-ordinating a future schedule of meetings for the possible renegotiation of the DTC with Chinese Taipei. Paraguay should work with this EOI partner to ensure that their EOI relations are in line with the standard (see Annex 1).

C.1.3. Obligation to exchange all types of information

393. Jurisdictions cannot engage in effective EOI if they cannot exchange information held by financial institutions, nominees or persons acting in an agency or a fiduciary capacity (see Article 26(5) of the OECD Model Tax Convention).

394. Two of Paraguay's DTCs, with Chile and Chinese Taipei, do not contain similar language, explicitly providing for the obligations of the contracting parties to exchange information held by financial institutions, nominees, agents and ownership and identity information. Chile is already covered by the Multilateral Convention, so EOIR can take place in compliance with the standard.

395. The commentary to Article 26(5) indicates that while paragraph 5, added to the OECD Model Tax Convention in 2005, represents a change in the structure of the Article, it should however not be interpreted as suggesting that the previous version of the Article did not authorise the exchange of such information. However, the pre-2005 wording of DTCs may be a concern in respect of Chinese Taipei, as it is a non-Global Forum member and has not undergone peer reviews, so it may have legal restrictions to access bank or other information for EOI purposes under its domestic laws. The exchange of such information would then be subject to reciprocity and will depend on the domestic limitations (if any) in the laws of this treaty partner. Paraguayan officials have indicated that the absence Article 26(5) would not pose a problem as there are no limitations in their domestic legislation to provide such information and it would not be contrary to public policy. However, considering that no exchange of information on request has been carried out to date with Chinese Taipei, whether such information is finally exchanged would be subject to reciprocity. Accordingly, Paraguay should work with this EOI partner to ensure that their EOI relations are in line with the standard (see Annex 1).

C.1.4. Absence of domestic tax interest

396. 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.

397. There are no domestic tax interest restrictions on Paraguay's powers to access information in EOI cases. Four of the five DTCs signed by Paraguay and the Multilateral Convention contain provisions similar to Article 26(4) of the OECD Model Tax Convention, which obliges the contracting parties to use their access powers to obtain and provide information to the requesting jurisdiction even in cases where the requested party does not have a domestic tax interest in the requested information. The wording of the remaining DTC, with Chinese Taipei, may be of concern given that Paraguay's ability to obtain information will be subject to reciprocity and will depend on the domestic limitations (if any) in the laws of its treaty partner. Therefore, Paraguay should work with this EOI partner to ensure that their EOI relations are in line with the standard (see Annex 1).

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

398. Information exchange may be requested both for tax administration purposes and for tax prosecution purposes. The principle of dual criminality provides that assistance can only be provided if the conduct being investigated (and giving rise to an information request) would constitute a crime under the laws of the requested jurisdiction if it had occurred in the requested jurisdiction. In order to be effective, exchange of information should not be constrained by the application of the dual criminality principle.

399. All of Paraguay's EOI instruments provide for exchange of information in both civil and criminal tax matters. In addition, there are no such provisions in any of Paraguay's EOI instruments (or domestic law) which would indicate that a dual criminality principle would restrict EOI for tax purposes.

C.1.7. Provide information in specific form requested

400. In some cases, a contracting party may need to receive information in a particular form to satisfy its evidentiary or other legal requirements. Such formats may include depositions of witnesses and authenticated copies of original records. Contracting parties should endeavour as far as possible to accommodate such requests. The requested party may decline to provide the information in the specific form requested if, for instance, the requested form is not known or permitted under its law or administrative practice. A refusal to provide the information in the form requested does not affect the obligation to provide the information.

401. There are no restrictions in Paraguay's EOI agreements or domestic laws that would prevent it from providing information in a specific form.

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

402. 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 take all steps necessary to bring them into force expeditiously.

403. All Paraguay's instruments are in force but the Multilateral Convention is still not in force in respect of nine jurisdictions. Exchange can take place with 138 partners with whom an EOI instrument is in force.

404. In Paraguay, the ratification of international agreements requires parliamentary approval and promulgation by the Executive Power for its entry into force. The procedure for negotiation and ratification of international tax agreements is described in Procedure No. PR_FI_03. The Ministry of Foreign Affairs, the Ministry of Finance and the Undersecretariat of State of Taxation, send the bill to the Senate, through the Executive Power, for the approval of the treaty. Once the bill is submitted to the Senate, it is referred to the Foreign Affairs and International Affairs Committee, and in the case of tax matters, also to the Finance and Budget Committee. Such committees have the power to rule on the approval, approval with modifications or rejection of the bill. A recommendation is then submitted to the Senate, which approves or rejects the agreement.

405. When incorporating the agreement into domestic legislation, the competent authority must notify such circumstance to the counterpart, accompanying the corresponding text. When the parties have incorporated the agreement into their domestic laws, it will enter into force simultaneously in the parties to the agreement. Provisions to that effect should be included in the text of the agreement. Simultaneous validity is usually provided 30 or up to 60 days after the last communication. The international treaty approved by law and subsequently ratified will have a higher hierarchy than domestic laws and other norms of lower hierarchy in accordance with the provisions of Article 137 of the National Constitution.

406. In practice, Paraguay deposited its instruments of ratification of the Multilateral Convention three years after its signature, and ratification of the latest DTCs took between 18 months and 3 years, depending on the technical and current political circumstances.

407. An analysis of the treaty network of Paraguay is presented below.

EOI mechanisms

Total EOI relationships, including bilateral and multilateral or regional mechanisms	147
In force	138
In line with the standard	137
Not in line with the standard	1
Signed but not in force	9 [a]
In line with the standard	9
Not in line with the standard	0
Total bilateral EOI relationships not supplemented with multilateral or regional mechanisms	1 [b]
In force	1
In line with the standard	0
Not in line with the standard	1
Signed but not in force	0

Notes: a. Multilateral Convention not in force in Benin, Gabon, Honduras, Madagascar, Papua New Guinea, Philippines, Togo, United States and Viet Nam.

b. Chinese Taipei.

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.

408. Paraguay has an extensive EOI network covering 147 jurisdictions through five DTCs and the Multilateral Convention which expands Paraguay's EOI network based on DTCs by 142 jurisdictions. Paraguay's EOI network covers a wide range of counterparts including its main trading partners, all OECD members and all G20 countries. Paraguay has also started negotiations of DTCs or Protocols with new or existing partners.

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

410. The conclusions are as follows:

Legal and Regulatory Framework: in place

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

Practical Implementation of the Standard: no rating is assigned on this element, as it involves issues of practice that are dealt with in the Phase 2 review.

C.3. Confidentiality

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

411. Paraguay's EOI instruments contain the confidentiality provisions for safeguarding all information regarding exchange of information. Such information is to be shared only with authorities and persons covered by the DTCs and the Multilateral Convention. Such confidentiality also extends to other information exchanged between competent authorities.

412. Paraguay's laws and regulations require that information received under an EOI mechanism be treated as confidential and be disclosed only to the extent permitted by the agreements.

413. The conclusions are as follows:

Legal and Regulatory Framework: in place

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

Practical Implementation of the Standard: no rating is assigned on this element, as it involves issues of practice that are dealt with in the Phase 2 review.

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

414. Governments would not engage in information exchange without the assurance that the information provided would only be used for the purposes permitted under the EOI instrument and that its confidentiality would be preserved. Information exchange instruments must therefore contain confidentiality provisions that spell out specifically to whom the information can be disclosed and the purposes for which the information can be used. In addition to the protections afforded by the confidentiality provisions of information exchange instruments, jurisdictions with tax systems generally impose strict confidentiality requirements on information collected for tax purposes.

International instruments

415. All of Paraguay's EOI instruments have provisions to ensure the confidentiality of exchanged information in compliance with the international

standard. They establish that the information obtained will be kept secret under the same conditions as those established for information obtained pursuant to domestic law and will be provided only to the persons or authorities that assess or collect tax.

416. The DTC with Chinese Taipei does not contain a clause on the use of the information exchanged within the judicial framework. Paraguayan officials have indicated that the "persons concerned with the assessment or collection of the taxes" under the DTC with Chinese Taipei includes judicial authorities and would thus be interpreted in accordance with the standard.

Domestic legislation

417. In Paraguay, confidentiality safeguards in tax matters are laid out in the Tax Law and Law No. 6657/2020 that Promotes the Implementation of International Standards on Fiscal Transparency. The Tax Law establishes that the declarations, documents or information received and obtained by the tax administration may only be used for the purposes of the administration and may not be disclosed (Art. 190), and Law No. 6657/2020 requires that the staff of the tax administration maintain absolute confidentiality regarding the relevant tax information provided by obliged persons under such Law (Art. 8). The same duty of secrecy will apply to those who do not belong to the tax administration and carry out tasks that involve the handling of the confidential information (Law No. 6657/2020, Art. 8).

418. With respect to exceptions to the duty of confidentiality, Law No. 6657/2020 provides that the duty of secrecy of the relevant tax information will not include the cases in which the tax administration must provide information by a well-founded resolution to either the courts, when they are essential for the fulfilment of their purposes, or fiscal agents and administrative authorities responsible for tax-related matters. In no case, however, the provision of the required information will mean unrestricted access to the tax administration database. There is not any domestic provision providing for exception to the confidentiality of the information obtained through EOIR. Consequently, the confidentiality requirements of the EOI instruments directly apply to this information.

419. Public officials who disclose confidential information are liable to administrative and criminal penalties (Law on Public Function, Art. 57, Art. 68 and Art. 69, and Criminal Code, Art. 147 and Art. 148). In addition, tax administration personnel that violate confidentiality will be liable to the penalty of dismissal. Article 147 of the Criminal Code establishes that whoever discloses a secret which has come to their knowledge in their capacity as a fiscal assessor will be punished by imprisonment or a fine. Paraguayan officials have indicated that the term "whoever" can be interpreted as an

obligation to maintain the confidentiality of the information even after cessation of employment. The implementation in practice of the confidentiality obligations after cessation of employment will be further analysed in the Phase 2 assessment (see Annex 1).

420. The ToR, as amended in 2016, clarified that although it remains the rule that information exchanged cannot be used for purposes other than tax purposes, an exception applies where the EOI agreement provides that the information may be used for such other purposes under the laws of both contracting parties and the competent authority supplying the information authorises the use of information for purposes other than tax purposes. The Multilateral Convention provides for this possibility. Paraguay reported that in the last few years it did not engage in EOIR so this provision was not applied.

Disclosure of an EOI request

421. According to the Tax Law, the interested parties and their representatives, agents or *mandatarios* and lawyers may have access to and may consult or examine the records of the tax administration proceedings concerning them, from the beginning of these proceedings, and may request certified copies of photocopies of them (Art. 191). Paraguayan officials have indicated that in the context of EOI, the "interested party" is considered to be the taxpayer on whom the information is requested, as well as their representatives, agents and lawyers. They also indicated that because treaty provisions prevail over domestic law, the EOI confidentiality provisions will supersede Art. 191 of the Tax Law, even if the interested party asks to access the EOI file.

422. The confidentiality of the information is ensured in practice by keeping the EOI files separate from domestic files. The EOI files, including the request letters, are maintained by the Department of Technical Advisory of the Vice Minister's Office, which carries out the function of EOI Unit. The EOI Procedure establishes that when a request is received, a file with respect to the EOI request is created and this original EOI file is kept in the custody of the EOI Unit. Paraguay has also noted that a domestic file would only contain the result of an EOI procedure or a mention to the EOI procedure, but under no circumstance it would contain the EOI documents themselves. The EOI Procedure also establishes that the EOI file will be sent to the SET department in charge of collecting the information. Paraguayan officials have indicated that the information sent to the SET department is a note requesting the information needed and with the minimum details required. The implementation in practice of the confidentiality provisions of the EOI Procedure will be further analysed in the Phase 2 assessment (see Annex 1).

C.3.2. Confidentiality of other information

423. Paraguay has indicated that communications between the competent authorities of partner jurisdictions in the context of information exchange (other than the requested information per se) are covered by the confidentiality obligations of Article 190 of the Tax Law. This is confirmed by Resolution No. 192/2018,[47] which states that the confidentiality provisions established in the international tax agreements and in Article 190 of the Tax Law will apply to all the information sent and received by the competent authorities (Art. 9).

424. The confidentiality provisions of Law No. 6657/2020 do not cover the communications between competent authorities but only the relevant tax information exchanged in the context of a request received by Paraguay.

425. Paraguayan officials have indicated that the information obtained through EOI is not clearly identified as such, although it will be maintained only in the possession of authorised persons within the EOI Unit (see paragraph 445). The lack of labelling of the information exchanged will be analysed during the Phase 2 review (see Annex 1).

Confidentiality in practice

426. Paraguayan authorities have informed that, in practice, measures are in place to ensure the confidentiality provisions are implemented. These include measures for the protection of premises, human resources controls, access controls, confidentiality training and physical and cyber security controls to protect the information itself. The practical implementation of confidentiality provisions will be assessed in the Phase 2 review.

C.4. Rights and safeguards of taxpayers and third parties

> The information exchange mechanisms should respect the rights and safeguards of taxpayers and third parties.

427. 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 may arise.

428. In Paraguay, an EOI request could be declined where the requested information would disclose confidential communications protected by the attorney-client privilege. Section B.1 above discusses this issue and, considering

47. Resolution No. 192/2018 by which the SET is assigned the power of competent authority in matters of international tax agreements.

that the scope of professional secrecy is not defined in Paraguayan law and could go beyond the scope allowed under the international standard, it includes a recommendation. This same recommendation is reflected in this section.

429. 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
While Paraguay has taken measures to broaden the access powers of the tax administration in relation to information held by professionals and to reduce the scope of professional privilege, the protection of information held by professionals remains too broad and not clearly defined, as professionals can decline a request for information that is not considered to be of a "patrimonial" nature. The scope of information that meets the category of "patrimonial" is not defined, and it cannot be clearly ascertained whether professionals, such as lawyers or notaries, would invoke professional secrecy when information is requested of them for EOI purposes.	Paraguay is recommended to bring the scope of professional privilege in line with the standard.

Practical Implementation of the Standard: no rating is assigned on this element, as it involves issues of practice that are dealt with in the Phase 2 review.

C.4.1. Exceptions to the requirement to provide information

430. In addition to the Multilateral Convention, all of Paraguay's DTCs include articles for exchange of information on request and contain a provision equivalent to the exception provided in Article 26(3) of the OECD Model Tax Convention, which allows jurisdictions to refuse to exchange certain types of information, which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information the disclosure of which would be contrary to public policy.

431. In relation to professional secrecy, as explained in B.1.5, the Tax Law establishes that the tax administration has broad access powers, but they are limited when they refer to persons who may invoke professional secrecy ((Art. 189(5)). Paraguay took measures to reduce the scope of those privileges in Law No. 6657/2020, by stipulating the obligation of professionals to provide relevant tax information to the tax administration for EOI purposes when that information refers to "patrimonial" information. However, the term "patrimonial" is not defined under domestic law and the protection

of information held by professional bodies remains too broad and has the potential to limit effective exchange of information. Therefore, **Paraguay is recommended to bring the scope of professional privilege in line with the standard**.

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.

432. Paraguay has not received any EOI requests under its network of DTCs or the Multilateral Convention. Paraguay sent four requests under the Convention in 2022.[48] This low experience has been taken into account in accordance with the Methodology to conduct the review of this jurisdiction in two phases. As a consequence, this report focuses on the legal and regulatory aspect of the EOI framework of Paraguay.

433. The evaluation of the effectiveness of the requests and of the responses to requests for information involves issues of practice that will be dealt with in the Phase 2 review.

434. 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: no rating is assigned on this element, as it involves issues of practice that are dealt with in the Phase 2 review.

C.5.1. Timeliness of responses to requests for information

435. In order for exchange of information to be effective, it must be provided in a timeframe that allows tax authorities to apply the information to the relevant cases. If a response is provided only after a significant lapse of time, the information may no longer be of use to the requesting jurisdiction. This is particularly important in the context of international co-operation as cases in this area must be of sufficient importance to warrant making a request.

48. Two of these requests were declined by the partners, as the fiscal periods of the information requested are prior to the entry into force of the Convention. The remaining two requests have not been answered yet.

436. Paraguay's DTCs and the Multilateral Convention do not specify the timeframes of responses to requests for information.

437. The SET internal EOI Procedure establishes that the maximum period for completing the activities related to the receipt and answer of requests is 90 days. It also establishes that the SET can request clarifications to the requesting jurisdiction and if these are not addressed within six months counting from the date the request for clarification was sent, the request for information received will be archived. No additional timelines, including on status updates, are specified in the EOI Procedure.

438. Law No. 6657/2020 establishes that persons and entities are obliged to provide to the SET relevant tax information for replying to EOI requests. Although the deadlines to provide such information have not been defined yet, the SET can establish deadlines on a case-by-case basis depending on the characteristics of the information requested and as permitted under the law and SET procedures (see paragraph 337). The practical consequence of the absence of clear deadlines in terms of the SET's ability to provide timely responses to requests for information will be analysed during the Phase 2 review (see Annex 1).

439. The EOI Procedure also states that statistics on the responses to EOI requests sent and received should be maintained. Each letter received is regarded as one request, regardless of the number of taxpayers involved. The evaluation of the timeliness of responses for requests for information involves issues of practice that will be dealt with in the Phase 2 review.

C.5.2. Organisational processes and resources

440. It is important that a jurisdiction has appropriate organisational processes and resources in place to ensure a timely response.

Organisation of the competent authority

441. The competent authorities for the Multilateral Convention in Paraguay are, based on Law No. 6656/2020, the Minister of Finance, the Vice Minister of State of Taxation of the SET and their authorised representatives. In addition, by virtue of Resolution No. 192/2018, the Vice Minister of Taxation of the SET is also the competent authority in matters of exchange of information for tax purposes under bilateral or multilateral agreements.

442. The EOI Unit dependant on the Co-ordination of the Vice Minister's Office is in charge of the daily tasks related to the exchange of information (Resolution No. 192/2019, Art. 10).

Resources and training

443. The EOI Unit consists of two officials in charge of dealing with EOI requests. This work is carried out on a part-time basis, and EOI Unit officials also work as technical tax advisors to the Vice Minister of Taxation's Office. Several other departments are involved in the information exchange process, including audit areas and other areas that may hold relevant tax information. Paraguayan officials have indicated that the small number of staff and language qualifications are constraints and there are plans to increase the number of officials working on EOI tasks.

444. EOI officials have received various specialised trainings in EOI matters, face-to-face and virtual, over the last few years. Paraguay has adopted a tool in excel format for the management and monitoring of EOI requests.

Incoming requests

445. The EOI Procedure stipulates the following steps for handling an EOI request received from a partner jurisdiction:

- The EOI request is received by the Vice Minister of Taxation office.
- The EOI request is transferred to the EOI Unit, through the *Marangatu* system and with the label of "confidential". Paraguayan officials have indicated that the EOI request itself is not entered in the *Marangatu* system and the creation of a file in such system is only for the purposes of numbering and tracking.
- A file with the request letter and related information is created and remains in the custody of the EOI Unit.
- The EOI request is analysed by the EOI Unit, which will verify the validity of the agreement on which the request is based, the legitimacy of the person requesting the information and will do an assessment of the request.
- A file is sent to the SET department responsible for collecting the information. Paraguayan officials have indicated that the information sent to the SET department is a note requesting the information needed and with the minimum details required to help those responsible to find the information.
- If the information is held by an external party, a notice requesting the information will be sent to the concerned information holder. This notice has binding effects as it is part of the EOI Procedure and invokes the SET's powers to request the information.
- If clarifications are needed, a request for clarification will be sent to the requesting jurisdiction.

- Once the information is gathered, a response to the requesting jurisdiction is prepared and it is reviewed and approved by the Vice Minister of Taxation.
- Once the response is approved, it is sent to the requesting jurisdiction.

446. All EOI information received is classified and labelled as "confidential" at the top and bottom of each page. All documents classified as such must have a cover showing the classification of the information it contains. The confidentiality of EOI information is ensured in practice by keeping the EOI files separate from domestic files (see paragraph 422). EOI information is securely stored with access allowed only to Department of Technical Advisory of the Vice Minister's Office. Authorised staff who handle this information must ensure that: (i) documents are securely stored, (ii) unauthorised persons do not access the information, (iii) documents are securely disposed of.

447. Paraguayan officials have indicated that requests received in electronic format are printed and maintained in the confidential EOI file. Only the Vice Minister of Taxation and the person in charge of co-ordination of the Vice Minister's cabinet have access to the email on which an EOI request is received.

Outgoing requests

448. The EOI Procedure stipulates the following steps for sending an EOI request:

- The SET audit area identifies the need of doing an EOI request.
- The SET audit area prepares a note to the EOI Unit, indicating the following:
  - country from which the information is to be requested and the international agreement on which the request is based
  - identity of the person subject to audit (name or company name, date of birth or incorporation, marital status – where applicable), identification number, address, and e-mail address and/or website when known, as well as any other information necessary for the identification of the taxpayer. Paraguayan officials have indicated that these requirements are not limiting for making an EOI request and in cases where the Paraguayan competent authority has only a bank account, for example, as means of identification, it would still send the request to the foreign partner.

- details of the tax audit carried out (taxes subject to review, tax periods audited, tax periods for which the information is requested and statute of limitations period, currency when figures are mentioned)
- relevant background information
- details of the related entities abroad from which information is required and details of any related third parties
- details of the information requested and the tax purpose for which it is required, as well as the reasons why the information is requested from the foreign State and the deadline for response
- statement confirming that all available domestic means have been used to obtain the information.

- The relevance of the request is analysed and verified by the EOI Unit.
- Once approved, the EOI Unit sends the EOI request for review and approval of the Vice Minister of Taxation.
- Once approved, the Vice Minister of Taxation sends the request to the competent authority of the foreign jurisdiction.

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

449. Exchange of information assistance should not be subject to unreasonable, disproportionate, or unduly restrictive conditions. There are no legal or regulatory requirements in Paraguay that impose unreasonable, disproportionate or unduly restrictive conditions. Whether any unreasonable, disproportionate, or unduly restrictive conditions exist in practice will be reviewed under the Phase 2 review.

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**: Paraguay should take measures to ensure that beneficial ownership information is kept up to date at all times (paragraph 155).
- **Element A.1**: Paraguay should clarify the scope and rules of an express trust to ensure a proper application of the standard (paragraph 210).
- **Element C.1**: Paraguay should work with Chinese Taipei to ensure that their EOI relations are in line with the standard in respect to the exchange of information in respect of all persons, the obligation to exchange all forms of information, and the absence of domestic tax interest (paragraphs 392, 395 and 397).
- **Element C.2**: Paraguay should continue to conclude EOI agreements with any new relevant partner who would so require (paragraph 409).

In addition, the Global Forum may identify aspects of the legal and regulatory framework that require follow-up in Phase 2. A non-exhaustive list of these aspects is reproduced below for convenience.

- **Element A.1**: on the lack of information of companies registered with the DGRP and its impact on the availability of identity and ownership information (paragraph 64).
- **Element A.1**: on the application of penalties for failure to register in the RAPEJ (paragraph 65).

- **Element A.1**: on the filing of legal ownership information with the Administrative Register of Legal Persons and Arrangements by foreign entities (paragraphs 90 and 188).
- **Element A.1**: on the implementation in practice of the record-keeping requirement for notaries (paragraph 98).
- **Element A.1**: on the procedures for the suspension and cancellation of companies from the RUC in practice (paragraph 110).
- **Element A.1**: on the effectiveness of the level of sanctions of the Tax Law to ensure compliance with the provision of identity and ownership information to the SET (paragraph 112).
- **Element A.1**: on the procedures that notaries will follow when they cannot fully identify the beneficial owners of (paragraph 126).
- **Element A.1**: on the articulation between the different requirements and regulations on beneficial ownership (paragraph 142).
- **Element A.1**: on the impact in practice of the absence of any indication as to when the five-year period for keeping beneficial ownership information begins (paragraph 146).
- **Element A.1**: on the implementation in practice of legal provisions on bearer shares (paragraph 178).
- **Element A.1**: on the availability of identity and beneficial ownership information of de facto entities (paragraph 204).
- **Element A.2**: on the availability of accounting information of de facto entities (paragraph 280).
- **Element A.3**: on the verification of beneficial ownership not exceeding 60 days after the start of the business relationship (paragraph 315).
- **Element B.1**: on what information does or does not fall within the scope of “relevant tax information” (see paragraph 344).
- **Element B.1**: on the ability of the SET to obtain beneficial ownership information from all AML-obliged persons in practice (paragraph 346).
- **Element B.2**: on the implementation in practice of the EOI Procedure for obtaining information (paragraphs 372 and 373).
- **Element B.2**: on the probability and the impact in practice of disclosure of information to the information holder (paragraph 374).

- **Element C.3**: on the implementation in practice of the confidentiality obligations after cessation of employment (paragraph 419).
- **Element C.3**: on the implementation in practice of the confidentiality provisions of the EOI Procedure (paragraph 422).
- **Element C.3**: on the lack of labelling of the exchanged information (paragraph 425).
- **Element C.5**: on the practical impact of the absence of clear deadlines in terms of the SET's ability to provide timely responses to requests for information (paragraph 438).

Annex 2: List of Paraguay's EOI mechanisms

Bilateral international agreements for the exchange of information

	EOI partner	Type of agreement	Signature	Entry into force
1	Chile	DTC	30 August 2005	26 August 2008
2	Qatar	DTC	11 February 2018	16 March 2020
3	Chinese Taipei	DTC	28 April 1994	3 June 2010
4	United Arab Emirates	DTC	16 January 2017	20 January 2019
5	Uruguay	DTC	8 September 2017	30 March 2019

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).[49] 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.

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

The Multilateral Convention was signed by Paraguay on 29 May 2018 and entered into force on 1 November 2021 in Paraguay. Paraguay 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,[50] Czech Republic, Denmark, Dominica, Dominican Republic, Ecuador, El Salvador, Estonia, Eswatini, Faroe Islands (extension by Denmark), Finland, France, Georgia, Germany, Ghana, Gibraltar (extension by the United Kingdom), Greece, Greenland (extension by Denmark), Grenada, Guatemala, Guernsey (extension by the United Kingdom), Hong Kong (China) (extension by China), Hungary, Iceland, India, Indonesia, Ireland, Isle of Man (extension by the United Kingdom), Israel, Italy, Jamaica, Japan, Jersey (extension by the United Kingdom), Jordan, Kazakhstan, Kenya, Korea, Kuwait, Latvia, Lebanon, Liberia, Liechtenstein, Lithuania, Luxembourg, Macau (China) (extension by China), North Macedonia, Malaysia, Maldives, Malta, Marshall Islands, Mauritania, Mauritius, Mexico, Moldova, Monaco, Mongolia, Montenegro, Montserrat (extension by the United Kingdom), Morocco, Namibia, Nauru, Netherlands, New Zealand, Nigeria, Niue, Norway, Oman, Pakistan, Panama, Paraguay, Peru, Poland, Portugal, Qatar, Romania, Russia, Rwanda, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, San Marino, 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.

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

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

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.

Annex 3: Methodology for the review

The reviews are based on the 2016 ToR 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 in 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, decrees, regulations and procedures in force or effective as at 17 April 2023 and Paraguay's responses to the EOIR questionnaire. As Paraguay has limited experience in exchange of information on request, the review of this jurisdiction is in 2 phases, in accordance with the new section V of the Methodology, as amended in 2021. As the first Phase of the review only refers to the legal and regulatory framework, no questionnaire peer input was required at the launch of this review.

List of laws, regulations and other materials consulted

Company law

Law No. 1183/1985, Civil Code

Law No. 6480/2020 that Creates Simplified Joint-Stock Companies

- Decree No. 3998/2020 that Regulates Law No. 6480/2020
- Resolution No. 623/2020 that Regulates the Process of Opening of Simplified Joint-Stock Companies
- Instructive for Registration of EAS

Law No. 879/1981, Code of Judicial Organisation of the Supreme Court

- General Technical Registry Regulations of the DGRP
- Agreement No. 1638/2021 of the Supreme Court

Law No. 6446/2019 that Creates an Administrative Register of Legal Persons and Arrangements operating in Paraguay and a Central Register of Beneficial Owners

- Decree No. 3241/2020 that Regulates Law No. 6446/2019
- Decree No. 3572/2020 that Amends Decree No. 3241/2020

Law No. 1034/1983, Trader Law

Bearer shares: Law No. 5895/2017 that Establishes Transparency Rules in the Regime of Companies Constituted by Shares

- Decree No. 9043/2018 that Regulates Law No. 5895/2017
- Law No. 6399/2019 that Amends Law No. 5895/2017
- Resolution No. 418/2019 that Regulates Law No. 6399/2019
- Law No. 6872/2021 that Establishes a Transitional regime for the Reconduction of Companies non-compliant with Law No. 5895/2017
- Decree No. 6583/2022 that Regulates Law No. 6872/2021

Law No. 921/1996 on Fiduciary Businesses

- Resolution No. 12/2011 that Regulates Law No. 921/1996
- Resolution No. 316/2021 that Implements Resolution No. 70/2019 in respect of Law No. 921/1996 on Fiduciary Businesses

Law No. 438/1994 on Cooperatives

Tax legislation

Law 125/1991, Tax Law

Law No. 6380/2019 on the Modernisation and Simplification of the National Tax System

- Decree No. 3182/2019 that Regulates the Corporate Income Tax established in Law No. 6380/2019
- Decree No. 10122/1991 that Regulates the RUC
- General Resolution No. 79/2021, amended by General Resolution No. 103/2021 that Regulates the Registration in the RUC, the Updating of Data and the Cancellation
- General Resolution No. 13/2019 that Graduates the Application of Penalties of the Tax Law

Resolution No. 412/2004, which brings the regulatory provisions on accounting records and their use by computerised means into line with current legislation

General Resolution No. 90/2021 that Implements the Electronic Register of Vouchers in the Marangatu System

Resolution No. 192/2018 that designates the Under Secretary of State of Taxation of the SET as Competent Authority in Matters of International Tax Treaties

Law No. 6657/2020 that Promotes the Implementation of International Standards on Tax Transparency

Procedure for Exchange of Information at International Level – No. PR_F1_01

EOI Procedure and EOI Flowchart – No. FG_FI_01

Financial and anti-money launder framework

Law No. 1015/1997 that Prevents and Prosecutes Unlawful Acts for the Purpose of Laundering Money or Property (AML Law) and its amendments

Law No. 861/1996 on Banks, Financial Institutions and Other Credit Entities

Law No. 5787/2016 on the Modernisation and Strengthening of the Rules that regulate the Operation of the Paraguayan Financial System

Law No. 5810/2017 on the Securities Market

- Resolution No. 7/2020 on the Rules for Holding Positions in other Supervised Entities, Integration, Purchase, Sale or Transfer of Shares, Definition of Influence and Control of a Supervised Entity
- Resolution No. 1/2019 that Approves the General Regulation of the Securities Market
- Resolution No. 30/2021 that Regulates the Securities Market

Resolution No. 325/2013, that Regulates the AML/CFT activities of Notaries and Public Notaries

Resolution No. 299/2021, that Regulates the AML/CFT activities of Lawyers and Accountants

Resolution No. 70/2019, that Regulates the AML/CFT activities of Banks and Financial Institutions

General Resolution No. 75/2020 that Regulates the EJT Report

Resolution No. 453/2011 that Regulates the AML/CFT Activities of Not-For-Profit Entities

General Guidelines on AML/CFT

Current review

Due to the limited practical experience of Paraguay in EOIR, this report analyses only Paraguay's legal and regulatory framework in relation to the standard of transparency and EOIR, in the second round of reviews conducted by the Global Forum. As Paraguay joined the Global Forum in 2016, it was not assessed in the first round.

In accordance with the 2016 Methodology for peer reviews and non-member reviews, as amended in 2021, a Phase 2 review, on the practical implementation of the legal and regulatory framework, will be scheduled at the earlier of: (i) the expiry of a period of four years from the date of launch of the Phase 1 review, i.e. June 2026 in the case of Paraguay, and (ii) the establishment of EOIR experience in respect of criteria that include the number of requests received (around 10 requests over a 3-year review period); the number of taxpayers involved in the requests; the amounts involved; and the complexity of the requests received, as well as the existence of outgoing requests and their nature and characterisation, subject to a contrary indication by the Steering Group of the Global Forum. Progress made since the adoption of the Phase 1 report will be assessed during the Phase 2 review.

Information relating to the review of Paraguay is listed in the table below

Summary of reviews

Review	Assessment team	Period under review	Legal framework as of	Date of adoption by Global Forum
Round 2 Phase 1	Ms Gioconda Medrano (Costa Rica) Ms Joyce Mwangi (Kenya) Ms Agnes Rojas (Global Forum Secretariat)	Not applicable	17 April 2023	14 July 2023

Annex 4: Paraguay's response to the review report[51]

The first assessment of Paraguay's implementation of the standard of transparency and exchange of information on request for tax purposes was very challenging for Paraguay but, at the same time, a great opportunity to identify different areas to improve the legal and regulatory framework for Exchange of Information on Request in force in Paraguay up to April 2023.

Considering the importance of this Review, the Executive Power created an interinstitutional Commission to work together, led by the Ministry of Finance. During this process, we recognise that for the Tax Administration, as the technical leader, it was challenging to articulate all the changes needed in our legal framework and in all the components evaluated. However, through this Phase 1 Review and with the commitment of all the team members, we had the opportunity to assess from an external perspective Paraguay's legal framework and continue working on the deficiencies found in each of its elements.

This work, that started even before the official launch date in June 2022, gave us the opportunity to renew the relationship with other institutions and it was a very interesting process that made us recognise that, even though Paraguay made amendments to laws and regulations in force and enacted some new legislation, there were still some points that we have to revise and adapt to meet the standard according to what is reflected in the Report.

Paraguay is very grateful with the Assessment Team and would like to express its agreement with the overall outcomes of the Report. The determinations and recommendations on each of the components and the reasons that support each of them will serve us as guidance to improve our regulatory framework.

Lastly, as a member of the Global Forum since 2016 and current president of the Latin America Initiative - Punta del Este Declaration, Paraguay

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

reaffirms its commitment to implement the recommendations given and work on the practical process to demonstrate implementations made, guided by the findings and recommendations in this Report considering the approximate date of the launch of the Phase 2 review.

GLOBAL FORUM ON TRANSPARENCY AND EXCHANGE OF INFORMATION FOR TAX PURPOSES

Peer Review Report on the Exchange of Information on Request PARAGUAY 2023 (Second Round, Phase 1)

The Global Forum on Transparency and Exchange of Information for Tax Purposes is a multilateral framework for tax transparency and information sharing, within which over 160 jurisdictions participate on an equal footing.

The Global Forum monitors and peer reviews the implementation of international standard of exchange of information on request (EOIR) and automatic exchange of information. The EOIR provides for international exchange on request of foreseeably relevant information for the administration or enforcement of the domestic tax laws of a requesting party. All Global Forum members have agreed to have their implementation of the EOIR standard be assessed by peer review. In addition, non-members that are relevant to the Global Forum's work are also subject to review. The legal and regulatory framework of each jurisdiction is assessed as is the implementation of the EOIR framework in practice. The final result is a rating for each of the essential elements and an overall rating.

The first round of reviews was conducted from 2010 to 2016. The Global Forum has agreed that all members and relevant non-members should be subject to a second round of review starting in 2016, to ensure continued compliance with and implementation of the EOIR standard. Whereas the first round of reviews was generally conducted as separate reviews for Phase 1 (review of the legal framework) and Phase 2 (review of EOIR in practice), the EOIR reviews commencing in 2016 combine both Phase 1 and Phase 2 aspects into one review. Final review reports are published and reviewed jurisdictions are expected to follow up on any recommendations made. The ultimate goal is to help jurisdictions to effectively implement the international standards of transparency and exchange of information for tax purposes.

This publication contains the 2023 Second Round Peer Review on the Exchange of Information on Request for Paraguay. It refers to Phase 1 only (Legal and Regulatory Framework).

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