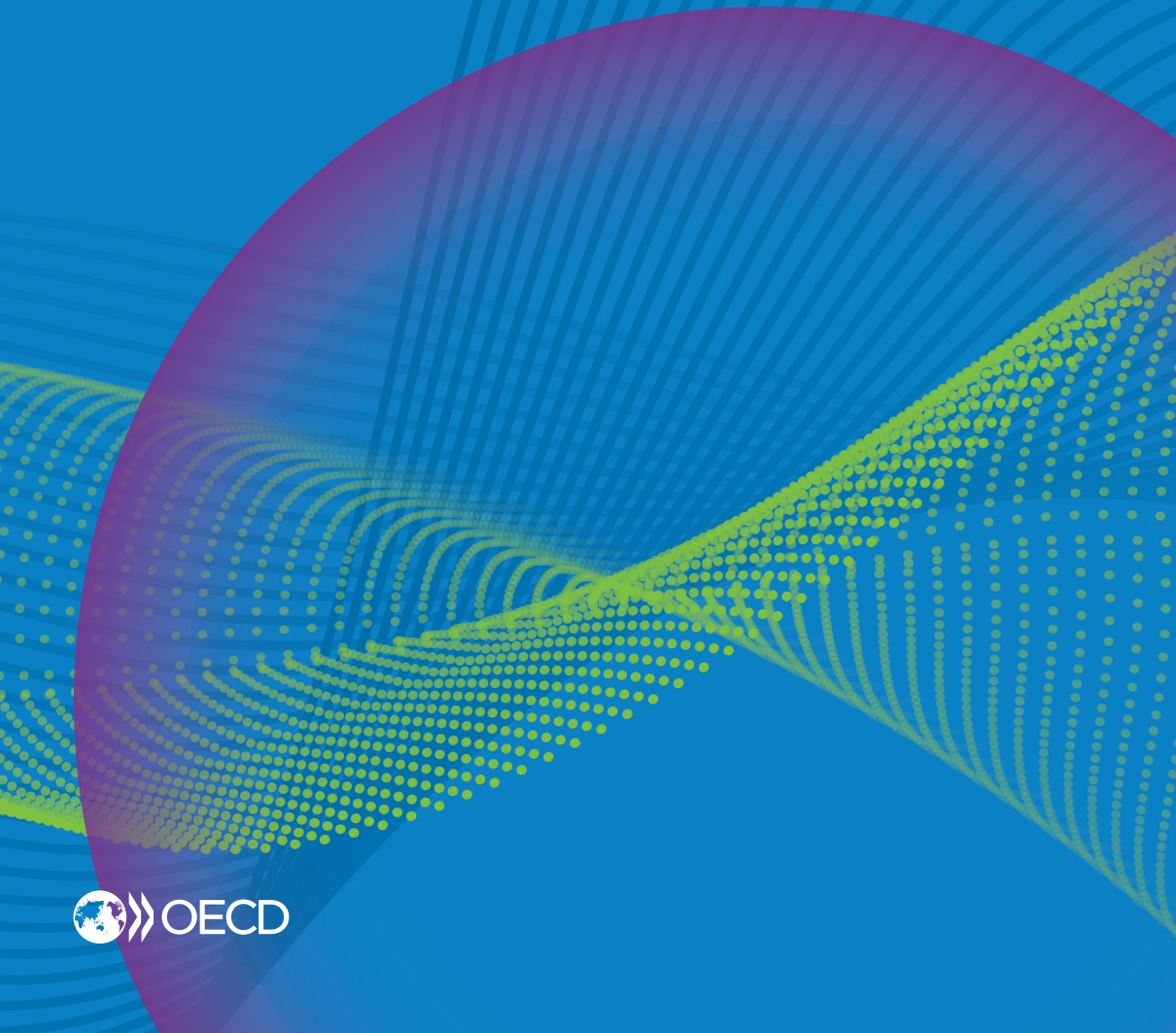
GLOBAL FORUM ON
TRANSPARENCY AND EXCHANGE OF INFORMATION FOR TAX PURPOSES

Peer Review Report on the Exchange of Information on Request

SAINT VINCENT AND THE GRENADINES

2023 (Second Round)



OECD

Global Forum on Transparency and Exchange of Information for Tax Purposes: Saint Vincent and the Grenadines 2023 (Second Round)

PEER REVIEW REPORT ON THE EXCHANGE OF INFORMATION ON REQUEST

BETTER POLICIES FOR BETTER LIVES

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

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

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

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

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

Please cite this publication as:
OECD (2023), *Global Forum on Transparency and Exchange of Information for Tax Purposes: Saint Vincent and the Grenadines 2023 (Second Round): Peer Review Report on the Exchange of Information on Request*, Global Forum on Transparency and Exchange of Information for Tax Purposes, OECD Publishing, Paris, https://doi.org/10.1787/f6d0eaf4-en.

ISBN 978-92-64-52333-3 (print)
ISBN 978-92-64-42133-2 (pdf)

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

Photo credits: OECD with cover illustration by Renaud Madignier.

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

Table of contents

Reader's guide 5

Abbreviations and acronyms 9

Executive summary 11

Summary of determinations, ratings and recommendations 17

Overview of Saint Vincent and the Grenadines 29

Part A: Availability of information 37

A.1. Legal and beneficial ownership and identity information. 37
A.2. Accounting records 87
A.3. Banking Information 106

Part B: Access to information 119

B.1. Competent authority's ability to obtain and provide information 119
B.2. Notification requirements, rights and safeguards 129

Part C: Exchange of information 133

C.1. Exchange of information mechanisms. 133
C.2. Exchange of information mechanisms with all relevant partners 139
C.3. Confidentiality 139
C.4. Rights and safeguards of taxpayers and third parties 149
C.5. Requesting and providing information in an effective manner 150

Annex 1: List of in-text recommendations 161

Annex 2: List of Saint Vincent and the Grenadines' EOI mechanisms 162

Annex 3: Methodology for the review 166

Annex 4: Saint Vincent and the Grenadines' response to the review report 170

Reader's guide

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

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

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

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

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

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

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

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

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

Consideration of the Financial Action Task Force Evaluations and Ratings

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

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

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

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

More information

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

Abbreviations and acronyms

AML	Anti-Money Laundering
AML/CFT	Anti-Money Laundering/Countering the Financing of Terrorism
AML&TF Code	Anti-Money Laundering and Terrorist Financing Code
AML & TF Regulations	Anti-Money Laundering and Terrorist Financing Regulations
AMLTF (Administrative Penalties) Regulations 2023	Anti-Money Laundering and Terrorist Financing (Administrative Penalties) Regulations 2023
BC	Business Company
CARICOM	Caribbean Community and Common Market
CIPO	Commerce and Intellectual Property Office
CDD	Customer Due Diligence
DTC	Double Taxation Convention
ECCB	Eastern Caribbean Central Bank
EOI	Exchange of Information
EOIR	Exchange of Information on Request
EUR	Euro
FIU	Financial Intelligence Unit
FSA	Financial Services Authority
Global Forum	Global Forum on Transparency and Exchange of Information for Tax Purposes
IBC	International Business Company

IC Act	International Co-operation (Tax Information Exchange Agreements) Act 2011
IRD	Inland Revenue Department
Multilateral Convention	Convention on Mutual Administrative Assistance in Tax Matters, as amended in 2010
LLC	Limited Liability Company
POCA	Proceeds of Crime Act 2013
RATL Act	Registered Agent and Trustee Licensing Act
TIEA	Tax Information Exchange Agreement
ToR	Terms of Reference
USD	United States Dollar
VAT	Value-added tax
XCD	East Caribbean Dollar

Executive summary

1. This report analyses the implementation of the standard of transparency and exchange of information on request for tax purposes in Saint Vincent and the Grenadines on the second round of reviews conducted by the Global Forum. It assesses both the legal and regulatory framework in force as at 24 April 2023 and the practical implementation of this framework against the 2016 Terms of Reference, including in respect of requests for information received and sent during the review period from 1 January 2019 to 31 December 2021.

2. This report concludes that Saint Vincent and the Grenadines continues to be rated overall Largely Compliant with the standard.

3. During the first round of EOIR peer reviews, Saint Vincent and the Grenadines was reviewed across two reports against the 2010 Terms of Reference (see Annex 3). In 2014, the Global Forum assigned Saint Vincent and the Grenadines an overall rating of Largely Compliant with the standard.

Comparison of ratings for First Round Report and Second Round Report

Element	First Round Report (2014)	Second Round Report (2023)
A.1 Availability of ownership and identity information	Largely Compliant	Partially Compliant
A.2 Availability of accounting information	Largely Compliant	Partially Compliant
A.3 Availability of banking information	Largely Compliant	Largely Compliant
B.1 Access to information	Compliant	Compliant
B.2 Rights and Safeguards	Compliant	Compliant
C.1 EOIR Mechanisms	Compliant	Compliant
C.2 Network of EOIR Mechanisms	Compliant	Compliant
C.3 Confidentiality	Compliant	Complaint
C.4 Rights and safeguards	Compliant	Compliant
C.5 Quality and timeliness of responses	Largely Compliant	Largely Compliant
OVERALL RATING	**LARGELY COMPLIANT**	**LARGELY COMPLIANT**

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

Progress made since previous review

4. The 2014 Report determined that Saint Vincent and the Grenadines' legal and regulatory framework for all elements was in place. No recommendations related to the legal and regulatory framework were issued, but Saint Vincent and the Grenadines nonetheless strengthened it.

5. Saint Vincent and the Grenadines has abolished its international business company and international trusts regimes with effect from 1 January 2019 – the entities previously subject to these regimes had to either cease existing or integrate into the domestic regime. In addition, bearer shares of international business companies have been fully abolished. These amendments reinforce the availability of ownership and accounting information as business companies (previously known as "international business companies") are now obliged to file membership information with the Registrar of Business Companies and to keep certain accounting information with their registered agent in Saint Vincent and the Grenadines.

6. Saint Vincent and the Grenadines also considerably expanded its EOI network to now cover 148 jurisdictions (up from 31 jurisdictions) mainly due to its participation in the Multilateral Convention on Mutual Administrative Assistance in Tax Matters since 2016.

7. In the 2014 Report, recommendations were made to Saint Vincent and the Grenadines as regards the implementation in practice of the legal and regulatory framework. It was recommended to monitor:

- service providers' compliance with their obligation to keep updated ownership and identity information and obtaining the information immediately in the case of introduced business
- the implementation of the new laws to ensure that accounting records and underlying documentation are kept in accordance with the standard.

8. Saint Vincent and the Grenadines has made some progress towards addressing these recommendations through its regular monitoring and supervisory activities, but not sufficient to meet the standard in some respect.

9. Progress is also noted concerning exchange of information. Saint Vincent and the Grenadines was recommended to monitor the practical implementation of its Competent Authority's organisational process and the level of resources committed to EOI to ensure effective EOI. Since the last review, the Competent Authority hired additional staff and received ongoing consultancy support from a senior expert. These additional resources have augmented the capacity of authorities to deal with requests

and additional EOI commitments. Resources of its Competent Authority are now sufficient for the number of exchange of information requests that it has been dealing with.

Key recommendations on transparency

10. Key recommendations on transparency aspects relate to both the legal framework and the monitoring and supervision activities to ensure availability of information.

11. The standard was strengthened in 2016 to require the availability of information on the beneficial owners of legal entities, arrangements and bank accounts. Saint Vincent and the Grenadines relies on its anti-money laundering (AML) framework to fulfil this aspect of the standard. However, not all relevant entities are required to engage with AML-obliged persons that are subject to customer due diligence requirements, so this framework has a scope narrower than the standard. Further, while the definition of beneficial ownership in the AML law generally meets the standard, there is very little guidance available on how to apply it in practice and therefore it is not ensured that the information available is accurate. Consequently, recommendations have been given both in respect of beneficial ownership of relevant entities and arrangements as well as bank accounts for Saint Vincent and the Grenadines to ensure that adequate, accurate and up-to-date information is available in line with the standard.

12. Saint Vincent and the Grenadines laws do not contain clear provisions for the keeping of records for at least five years after the relevant entities and arrangements cease to exist. While AML-obliged persons must keep records for at least seven years after the end of a transaction or business relations, the law is silent on what happens to the records in case the AML-obliged person ceases to exist. A similar issue arises in respect of accounting information of business companies and limited liability companies that cease to exist. In these cases, Saint Vincent and the Grenadines has been recommended to ensure that the beneficial ownership information and the accounting records and underlying documentation, as the case may be, be available for at least five years after the record keeper has ceased to exist.

13. Recommendations were made regarding the availability of accounting information and underlying documentation in respect of limited liability companies which hold records offshore and the monitoring of new legal obligations on business companies and registered trusts. Although there are legal obligations on these entities to keep the information, the law permits the records to be kept offshore and no data was available to support the monitoring and supervision of these entities' compliance with their

statutory obligations. In addition, new tax obligations under a territorial tax system apply to business companies and registered trusts established as of 1 January 2019 and they became effective for pre-existing registered trusts and business companies on 1 July 2021. Business companies are now subject to a new substance requirement legislation with effect from 1 July 2021 in respect of existing business companies and 1 January 2019 for all other entities. However, the implementation of these recent changes could not be assessed. Saint Vincent and the Grenadines was therefore given recommendations to monitor and supervise the relevant persons and entities to ensure the availability of accounting records and underlying documentation in line with the standard.

14. While the Vincentian authorities were able to demonstrate some monitoring activities that they had undertaken notwithstanding the intervention of several natural disasters, they are recommended to strengthen their supervision and enforcement activities to ensure the availability of both legal and beneficial ownership information and banking information. Contributing to these recommendations are the absence of evidence on the application of sanctions, varying levels of maturity of the supervisors, and the inability to apply administrative sanctions, particularly in respect of contravention of the AML law.

Exchange of information in practice

15. Saint Vincent and the Grenadines saw an increase in the exchange of information requests received since the previous review period: during the years 2019 to 2021, Saint Vincent and the Grenadines received 27 requests, against 2 in its 2014 review (for the years 2010 to 2012). The jurisdiction did not send requests during the current review period.

16. All requests received related to the international business sector, with 86% for banking information held by international banks and the remaining requests involving ownership and accounting information with respect to business companies.

17. During the review period, Saint Vincent and the Grenadines suffered from the ill-effects of the Covid-19 pandemic, a volcanic eruption and Hurricane Elsa. Notwithstanding, the authorities were able to answer 26 of the 27 requests that they received within 90 days. The remaining request was only fully answered within one year due to the inadvertent omission of attachments when the response was initially sent to the peer.

18. One peer reported sending 25 additional requests, which Saint Vincent and the Grenadines did not receive due to a lack of updating some of its contact information on its website and on the Global Forum

competent authorities secure website. This deficiency has had material effect, which Saint Vincent and the Grenadines attempted to remedy following the discovery of this issue. Of these requests, 12 requests were closed by the peer due to the domestic statute of limitations. There remain 13 pending requests, 9 of which have been answered and the competent authority is actively pursuing to answer the other 4.

19. Saint Vincent and the Grenadines has dedicated resources from the Financial Services Authority (FSA) and the Inland Revenue Department (IRD) to deal with exchange of information requests. Both the FSA and the IRD have added a legal officer to assist with responding to requests. There is also consultancy support and a working group on EOI and international tax matters. The arrangements so far have been adequate to deal with the level of requests that they have received and to ensure the confidentiality of the requests and the information pertaining to them.

Key recommendations on exchange of information on request

20. Despite the various natural disasters faced over the review period, Saint Vincent and the Grenadines has shown resilience and efficiency in responding to the exchange of information requests. Their exchange partners have been generally satisfied with the quality and timeliness of their responses. Nonetheless, the communication issues have led to a recommendation for the jurisdiction to ensure communication channels are always available to its exchange partners.

Overall rating

21. Saint Vincent and the Grenadines has been assigned a rating for each of the ten essential elements and an overall rating. Saint Vincent and the Grenadines has been rated Compliant for Elements B1, B2, C1, C2, C3, and C4, Largely Compliant on Element A3 and C5 and Partially Compliant on Elements A1 and A2. Consequently, the overall rating for Saint Vincent and the Grenadines is Largely Compliant, based on a global consideration of its compliance with the individual Elements.

22. This report was approved at the Peer Review Group of the Global Forum on 14 June 2023 and was adopted by the Global Forum on 14 July 2023. A follow up report on the steps undertaken by Saint Vincent and the Grenadines to address the recommendations made in this report should be provided to the Peer Review Group no later than 30 June 2024 and thereafter in accordance with the procedure set out under the 2016 Methodology.

Summary of determinations, ratings and recommendations

Determinations and ratings	Factors underlying recommendations	Recommendations
Jurisdictions should ensure that ownership and identity information, including information on legal and beneficial owners, for all relevant entities and arrangements is available to their competent authorities *(ToR A.1)*		
The legal and regulatory framework is in place but needs improvement	The respective registrars in Saint Vincent and the Grenadines may strike off an ordinary or non-profit company, Business Company or Limited Liability Company for not having operations or for non-compliance with their statutory obligations. In most cases, there is no time limit for their restoration. While ownership changes of ordinary companies require the signature of the registrar, non-profit companies, Business Companies and Limited Liability Companies could effect ownership changes without the involvement and knowledge of the registrars. There is no legal requirement on any kind of company to provide legal ownership information to the respective registrars upon restoration of the company.	Saint Vincent and the Grenadines is recommended to ensure that legal ownership information is available upon the restoration of any non-profit company, business or limited liability company that was struck off the register, as well as establishing a time limit for the restoration of ordinary and non-profit companies, Business Companies and Limited Liability Companies following their strike off.

Determinations and ratings	Factors underlying recommendations	Recommendations
	Saint Vincent and the Grenadines relies upon its anti-money laundering framework as the basis for availability of beneficial ownership information of Business Companies, Limited Liability Companies and trusts, which must engage an AML-obliged Registered Agent licensed in Saint Vincent and the Grenadines. On the opposite, there is no requirement for ordinary and non-profit companies, foreign trusts and partnerships to engage with an AML-obliged person so that not all relevant entities and arrangements are covered by customer due diligence arrangements under the AML law. Further, AML-obliged persons are not required to verify the identity of beneficial owners of legal entities and arrangements that are determined to present a low level of risk. Thus, beneficial ownership information may not be available for relevant entities and arrangements, and where it is available its accuracy may not be verified in all cases. The definition of beneficial owner in the AML law is circular and the definition and the guidance do not contemplate the requirement to identify individuals holding a senior managerial position when no person meets the definition of beneficial owner. Further, there is little guidance on how the definition should be applied, including whether the definition should be interpreted as cumulative or disjunctive and the meaning of "ultimate control over the management".	Saint Vincent and the Grenadines is recommended to ensure that adequate, accurate and up-to-date information on beneficial owners for all relevant entities and arrangements be available in line with the standard.

Determinations and ratings	Factors underlying recommendations	Recommendations
	The customer due diligence requirements of the AML law are the only source of beneficial ownership information in Saint Vincent and the Grenadines. AML-obliged persons are required to keep their records for a minimum period of seven years after the end of the business relationship. However, the law does not make any provision for what happens to the records in the case where the AML-obliged person ceases to exist.	Saint Vincent and the Grenadines is recommended to ensure that beneficial ownership information for all relevant entities and arrangements is kept for at least five years, including in the case where the AML-obliged person has ceased to exist.
	Saint Vincent and the Grenadines has a requirement for nominee shareholding to be notified to ordinary companies and the Commercial Registry with the limit that they must represent at least 10% of voting rights. There is no legal requirement for nominee shareholding to be notified to Business Companies or the Financial Services Authority although this is done in practice. Under the AML framework, only professional nominees have an obligation to conduct CDD on their customers, but they do not have an obligation to inform the concerned company of their nominee status.	Saint Vincent and the Grenadines is recommended to ensure that nominee shareholders disclose their nominee status to the company.
EOIR Rating Partially Compliant	Saint Vincent and the Grenadines' authorities reported some monitoring and enforcement action with respect to ensuring legal entities comply with the requirements to keep and file legal ownership information. This included the sending of notices to strike off ordinary and non-profit companies, imposition of monetary penalties and on-site visits to registered agents of Business Companies and Limited Liability Companies. However, while 15 non-profit companies were struck off, only 1 ordinary company was struck off during the review period and whereas Business Companies and Limited Liability Companies were struck off for a variety of reasons, no penalties were imposed on registered agents.	Saint Vincent and the Grenadines is recommended to strengthen its supervisory and enforcement activities to ensure that legal ownership information on all relevant legal entities is available in line with the standard.

Determinations and ratings	Factors underlying recommendations	Recommendations
	The AML supervisors in Saint Vincent and the Grenadines did not demonstrate a complete understanding of the legal provisions defining beneficial ownership and the methodology for applying it in practice and have not imposed any sanctions with respect to compliance with customer due diligence obligations.	Saint Vincent and the Grenadines should continue to strengthen its supervision and enforcement efforts with adequate guidance to assist AML-obliged persons with their obligations to identify the beneficial owners of customers to ensure that adequate, accurate and up-to-date beneficial ownership information is available in line with the standard.
	Saint Vincent and the Grenadines enacted on 31 March 2023 the AMLTF (Administrative Penalties) Regulations 2023, which sets out adequate and detailed administrative penalties on various contraventions to the customer due diligence requirements under the AML/CFT legislation. As the legislation is recent, it could not be assessed in practice.	Saint Vincent and the Grenadines should monitor the implementation of the AMLTF (Administrative Penalties) Regulations 2023 to ensure the application of effective, proportionate and dissuasive measures to enforce its AML/CFT framework requiring availability of beneficial ownership information.

Determinations and ratings	Factors underlying recommendations	Recommendations
Jurisdictions should ensure that reliable accounting records are kept for all relevant entities and arrangements *(ToR A.2)*		
The legal and regulatory framework is in place but needs improvement	Limited Liability Companies are required to keep accounting records and make them available to the Registrar, subject to penalties. No accounting records are required to be held by the local registered agent or at any other place within Saint Vincent and the Grenadines. If the Limited Liability Company is operating outside of the jurisdiction, there is no legal mechanism to ensure that the record-keeping obligations are being complied with or to enforce the obligation to make the records available to the Registrar. Regardless of where accounting records are kept, the standard requires that jurisdictions have a system that makes such records available to the Competent Authority in a timely manner.	Saint Vincent and the Grenadines is recommended to ensure that the legal and regulatory framework puts in place a system that permits the availability of accounting information and underlying documentation in a timely fashion, when Limited Liability Companies keep them at a place outside of Saint Vincent and the Grenadines.
	The accounting records of Limited Liability Companies are only held by the companies themselves. In the case the Limited Liability Company is struck off and dissolved by the Registrar, there is no requirement for the accounting records to be maintained for at least five years following striking off and dissolution, as required by the standard.	Saint Vincent and the Grenadines is recommended to ensure that all accounting records and underlying documentation on Limited Liability Companies, including where they have been dissolved, are available to the Competent Authority in a timely manner for exchange of information purposes for a minimum period of five years.

Determinations and ratings	Factors underlying recommendations	Recommendations
	Business Companies and ordinary companies may be dissolved after being struck off or liquidated. Filing obligations ensure that the commercial registrars, or in the case of a Business Company, the registered agent, will have the last accounting records prior to the entity ceasing to exist. The liquidator maintains records of the liquidation of legal entities including non-profit companies for seven years, but it is unclear this includes all accounting records and underlying documentation of the liquidated entity. In some cases, the property of Business and ordinary companies vests in the registrar following dissolution and the authorities interpret property to include the company's records.	Saint Vincent and the Grenadines should ensure that underlying documentation of entities that have been struck off or ceased to exist is available for at least five years in line with the standard.
EOIR Rating: Partially Compliant	Saint Vincent and the Grenadines' laws were amended in 2014 to require the keeping of accounting information and underlying documentation by Business Companies and Limited Liability Companies in line with the standard and their implementation could not be assessed during the previous review. During the years 2019 to 2021, the Financial Services Authority supervised Business Companies, Registered Trusts and Limited Liability Companies through their registered agents as well as the filing requirements with the Financial Services Authority. However, no sanctions were applied on any of the entities and the authorities did not provide statistics on compliance rate.	Saint Vincent and the Grenadines should ensure there is adequate monitoring and supervision activities on registered agents to ensure the availability of accounting records and underlying documentation in line with the standard.

Determinations and ratings	Factors underlying recommendations	Recommendations
	The Commerce and Intellectual Property Office has moved to digitise its companies register but is still in the process of ascertaining the total number of inactive companies in its register. During the peer review period, 15 non-profit companies and only 1 ordinary company was struck-off from the companies register. The lack of striking off policy for non-compliant companies and lack of data thereof could negatively affect the availability of accounting information for ordinary and external companies.	Saint Vincent and the Grenadines is recommended to continue cleaning up its commercial register by striking off and dissolving non-compliant ordinary, non-profit and external companies to ensure availability of accounting records in line with the standard.
	Saint Vincent and the Grenadines abolished the tax exemptions of new Business Companies and Registered Trusts on 1 January 2019 (1 July 2021 for existing Business Companies and Registered Trusts). These entities are now subject to the territorial tax system applicable to all companies and arrangements, must file annual tax returns and accounting information with the Inland Revenue Department, and will be subject to tax audits. The implementation of these recent changes could not be assessed.	Saint Vincent and the Grenadines is recommended to supervise the operation of the new provisions to ensure that accounting information of Business Companies and Registered Trusts is available in line with the standard.
	Saint Vincent and the Grenadines enacted a new requirement effective 1 January 2019 for Business Companies to keep quarterly financial records with their registered agent. This should ensure that financial records of such companies will be kept for at least seven years by the registered agent even in the case where the Business Company ceases to exist. The implementation of this recent change could not be tested in practice.	Saint Vincent and the Grenadines is recommended to supervise the availability of accounting information on Business Companies that cease to exist.

Determinations and ratings	Factors underlying recommendations	Recommendations
Banking information and beneficial ownership information should be available for all account-holders *(ToR A.3)*		
The legal and regulatory framework is in place but needs improvement	Banks are required to identify the beneficial owners of their customers as part of their customer due diligence obligations under the AML law. However, the definition of beneficial owner in the AML law is circular and the definition and the guidance do not contemplate the requirement to identify individuals holding a senior managerial position when no person meets the definition of beneficial owner. Further, there is little guidance on how the definition should be applied, including whether the definition should be interpreted as cumulative or disjunctive and the meaning of "ultimate control over the management". Further AML-obliged persons are not required to verify the identity of beneficial owners of legal entities and arrangements that are determined to present a low level of risk. Thus beneficial ownership information may not be available for relevant entities and arrangements and where it is available its accuracy may not be verified in all cases.	Saint Vincent and the Grenadines is recommended to ensure that adequate, accurate and up-to-date information on beneficial owners for all bank accounts is available in line with the standard.
	The number of international banks in Saint Vincent and the Grenadines has steadily decreased over the years as of the four banks reported in 2014, only one is operational. Two are currently in voluntary liquidation. During the peer review period, Saint Vincent and the Grenadines answered one request for banking information related to an international bank in liquidation. However, Saint Vincent and the Grenadines' legislation does not impose requirements for the keeping of the bank's records after the licence has been revoked or the bank has been liquidated although in practice, the authorities are confident it is kept by liquidators.	Saint Vincent and the Grenadines should ensure that banking information is kept for at least five years in the case where the bank has ceased to exist or a foreign bank has ceased its operations in the jurisdiction.

Determinations and ratings	Factors underlying recommendations	Recommendations
EOIR Rating: Largely Compliant	The AML supervisors did not demonstrate a complete understanding of the legal provisions defining beneficial ownership and the methodology for applying it in practice and have not imposed any sanctions with respect to compliance with customer due diligence obligations.	Saint Vincent and the Grenadines should strengthen its supervision and enforcement efforts with respect to the compliance of domestic and international banks with their obligations to identify the beneficial owners of customers to ensure that adequate, accurate and up-to-date beneficial ownership information is available in line with the standard.
Competent authorities should have the power to obtain and provide information that is the subject of a request under an exchange of information arrangement from any person within their territorial jurisdiction who is in possession or control of such information (irrespective of any legal obligation on such person to maintain the secrecy of the information) *(ToR B.1)*		
The legal and regulatory framework is in place		
EOIR Rating: Compliant		
The rights and safeguards (e.g. notification, appeal rights) that apply to persons in the requested jurisdiction should be compatible with effective exchange of information *(ToR B.2)*		
The legal and regulatory framework is in place		
EOIR Rating: Compliant		
Exchange of information mechanisms should provide for effective exchange of information *(ToR C.1)*		
The legal and regulatory framework is in place		

Determinations and ratings	Factors underlying recommendations	Recommendations
EOIR Rating: Compliant		
The jurisdictions' network of information exchange mechanisms should cover all relevant partners *(ToR C.2)*		
The legal and regulatory framework is in place		
EOIR Rating: Compliant		
The jurisdictions' mechanisms for exchange of information should have adequate provisions to ensure the confidentiality of information received *(ToR C.3)*		
The legal and regulatory framework is in place	Saint Vincent and the Grenadines law allows information that is obtained pursuant to its EOI agreements to be disclosed to persons employed or authorised by the government of the requesting party to oversee data protection. This disclosure does not require the express written consent of the EOI partner providing the information. To date, no such data protection agency has been created and the authorities confirmed there is no plan to establish one in the short or medium term.	Saint Vincent and the Grenadines is recommended to ensure that any future disclosure of information to any data protection agency which may come into existence is in line with the standard.
EOIR Rating: Compliant		
The exchange of information mechanisms should respect the rights and safeguards of taxpayers and third parties *(ToR C.4)*		
The legal and regulatory framework is in place		
EOIR Rating: Compliant		
The jurisdiction should request and provide information under its network of agreements in an effective manner *(ToR C.5)*		
Legal and regulatory framework:	This element involves issues of practice. Accordingly, no determination on the legal and regulatory framework has been made.	

Determinations and ratings	Factors underlying recommendations	Recommendations
EOIR Rating: Largely Compliant	Saint Vincent and the Grenadines has allocated sufficient human and material resources to its EOI activities, thereby ensuring quality and timeliness of responses in compliance with the standard. However, during the peer review period, Saint Vincent and the Grenadines received 27 out of the 52 EOI requests sent by partners. Failure to receive 25 requests from a peer has been caused by a lack of timely update of the Saint Vincent and the Grenadines Competent Authority's contact information. During the review, Saint Vincent and the Grenadines has worked together with the peer to answer any outstanding requests still open and to use an agreed communication platform.	Saint Vincent and the Grenadines is recommended to ensure that the contact details of the competent authority are up to date and available to its EOIR partners at all times.

Overview of Saint Vincent and the Grenadines

23. This overview provides some basic information about Saint Vincent and the Grenadines intended to serve as context for understanding the analysis in the main body of the report. Saint Vincent and the Grenadines is an archipelago of islands in the Eastern Caribbean. Its capital Kingstown is located on Saint Vincent, the largest of its group of 32 islands and cays. Saint Vincent and the Grenadines has a population of 111 000.[1]

24. The economy of Saint Vincent and the Grenadines is largely dependent on agriculture, primarily banana production. However, the services sector, driven mainly by tourism, is also important. While the tourism and services sectors have seen moderate growth in recent years, the country continues to diversify into new industries. There is also a small manufacturing and offshore financial sector. Among its main trading partners are the United States and the United Kingdom as well as Caribbean neighbours Barbados and Trinidad and Tobago. Foreign direct investment flows amounted to 3.5% of GDP in 2020. Its gross domestic product (GDP) per capita was USD 7 997 (XCD 21 592)[2] in 2021.[3] In 2021, in addition to tackling the effects of the COVID-19 virus, the country had to grapple with the impact of an explosive volcanic eruption on mainland Saint Vincent in April and hurricane Elsa in July.

25. Saint Vincent and the Grenadines is a member of two regional organisations, the Caribbean Community (CARICOM) and the Organisation of Eastern Caribbean States (OECS).

1. World Bank Data (n.d.) https://data.worldbank.org/indicator/SP.POP.TOTL?locations=VC (accessed 7 September 2022).
2. Rate of exchange: USD 1 = XCD 2.70.
3. Government of Saint Vincent and the Grenadines official website (n.d.) https://www.gov.vc/index.php/citizens/economy; World Bank Data (n.d.) https://data.worldbank.org/indicator/NY.GDP.PCAP.CD?locations=VC and https://data.worldbank.org/indicator/BX.KLT.DINV.WD.GD.ZS?locations=VC (accessed 7 September 2022).

Legal system

26. Saint Vincent and the Grenadines is an independent parliamentary democracy within the Commonwealth of Nations. The House of Assembly, the jurisdiction's unicameral legislature, comprises 23 members:15 elected members and 6 senators appointed by the Governor-General[4] (4 on the advice of the Prime Minister and 2 on the advice of the Leader of the Opposition), the Attorney General (appointed by the Governor-General), and the Speaker of the House who is appointed by the government members after consultation with the opposition. The written Constitution of Saint Vincent and the Grenadines is the supreme law, and its legal system relies on single national laws. The Constitution endows parliament with the power to make laws, which it exercises through the process of passing Bills. Bills passed by parliament become law after receiving the Governor-General's assent.

27. The legal system in Saint Vincent and the Grenadines is based on English common law. The Privy Council remains at the apex of the judicial system as its final appellate court. Below the Privy Council is a three-tiered hierarchical structure consisting of the Eastern Caribbean Court of Appeal, the Supreme Court of Judicature or High Court (in charge of proceedings on judicial review of administrative acts, see section B.2), and the Magistrates' Courts or lower courts. Although the Eastern Caribbean Court of Appeal is based in Saint Lucia, two of its judges reside in, but are not citizens of Saint Vincent and the Grenadines. One judge exercises jurisdiction over criminal appeals while the other presides over civil appeals.

28. Exchange of information instruments signed by Saint Vincent and the Grenadines are given effect once they are published in the Gazette in accordance with the International Cooperation (Tax Information Exchange Agreement) Act. The Minister of Finance is endowed with a wide power under this Act to remove any difficulties that may arise in respect of interpretation and implementation of exchange of information instruments.

Tax system

29. The tax administration of Saint Vincent and the Grenadines is the Inland Revenue Department (IRD), a department of Government under the supervision of the Minister of Finance. The IRD is headed by the Comptroller who is charged with collecting income tax, taxes on property, licence fees, travel tax, value-added tax (VAT) and excise duty. The Income Tax and Tax Administration Acts govern the administration of income tax while the Value Added Tax Act governs VAT.

4. The Governor-General is appointed by the Vincentian head of state, the British monarch.

30. Income tax is imposed on the worldwide income of individual residents accruing from all sources. Individuals qualify as tax resident of Saint Vincent and Grenadines if: (a) their permanent place of abode is located therein and they are physically present for some period of time during the year; (b) they are physically present there for at least 183 days during the tax year; and (c) they are physically present for some period of time during the tax year and the tax year is continuous with a period of physical presence in a preceding or succeeding calendar year lasting at least 183 days. Personal income tax is charged at a rate of 30% on the income of individuals and unincorporated businesses. Unincorporated businesses are not separate legal persons from their proprietors. They are registered by the IRD with their "trading as" name attached to the respective proprietor who is personally liable for the tax of the business. Individuals are entitled to an annual personal tax-free allowance of XCD 20 000 (EUR 6 966)[5] and are not obliged to file a return until their income exceeds this allowance. The Income Tax Act also imposes an obligation on employers to collect Pay As You Earn (PAYE) tax from employees on behalf of the IRD. The Income Tax Deduction Tables specify the amount of tax to be deducted with respect to specific amounts of salary starting at a minimum of XCD 1 670 (EUR 582) per month.

31. For companies and registered trusts, the income tax legislation has been amended with effect from 1 January 2021,[6] moving away from a worldwide income tax system for ordinary companies and an exemption system for Business Companies (BCs) and Registered Trusts. In contrast, Limited Liability Companies (LLCs) remain exempt from income tax. The new territorial tax system levies income tax on income accrued directly or indirectly from sources within Saint Vincent and the Grenadines. Sources of income liable to tax include income from business, rent and royalties, interest or discounts, premiums, commission, fees and licence charges; and any other gains or profits accruing to the person. Non-residents are only liable to tax on income accrued, directly or indirectly from sources in Saint Vincent and the Grenadines. All companies incorporated in Saint Vincent and the Grenadines or incorporated elsewhere but that are effectively managed and controlled in the jurisdiction are considered tax residents.

32. Income tax is levied at a rate of 30% of the income accruing from sources in Saint Vincent and the Grenadines on trusts and corporate entities.

5. Rate of exchange: EUR 1 = XCD 2.871.
6. Section 8(1) of the Income Tax Act (as amended by the Income Tax (Amendment) Act No. 20 of 2020).

33. Sections 7(5) and 66 of the Income Tax Act provide for the deduction of a withholding tax from certain payments to non-residents who are neither employed nor carrying on a business, in Saint Vincent and the Grenadines. A payment will be deemed to have been made to a non-resident where the payee has an address outside of Saint Vincent and the Grenadines. The responsibility is on the payor to deduct the requisite amount for withholding tax and remit it to the IRD. The categories of payment on which withholding tax is levied include interest or discounts, rental of real property, royalties, management charges, annuities, distribution of income of a trust that would be liable to tax in the hands of a resident, insurance premiums and any other payments of an income nature. The Income Tax Act subjects real estate rentals and intercorporate dividends to a 15% rate and all other payments to a rate of 20%. The rates are subject to any variation which Saint Vincent and the Grenadines has agreed to in a double taxation convention (DTC).

34. Saint Vincent and the Grenadines enacted the Automatic Exchange of Financial Account Information (Common Reporting Standards) Act in 2016 to implement the Common Reporting Standards (CRS) and commenced sending CRS data in September 2018. Saint Vincent and the Grenadines has also been participating in bilateral exchange of financial account information under the US Foreign Account Tax Compliance Act since 2016.

35. Saint Vincent and the Grenadines is a member of the OECD Inclusive Framework on Base Erosion and Profit Shifting (BEPS), and like all the members of the Inclusive Framework on BEPS, have committed to implementing the minimum standards. Work to accomplish this is ongoing.

Financial services sector

36. The financial sector in Saint Vincent and the Grenadines comprises domestic banks, domestic non-bank financial institutions and international financial services. There are four commercial banks (one local and three foreign-owned) and two indigenous non-bank financial institutions licensed to operate in Saint Vincent and the Grenadines under the Banking Act. These two non-bank financial institutions are member-owned and operate similar to co-operatives to ensure financial inclusion of the lower income population. They are regulated in the same way as commercial banks. The other non-bank institutions are 22 insurance companies, 119 insurance intermediaries, 1 association of Underwriters, 4 credit unions, 2 money services businesses, 1 building society, and 17 friendly societies.

37. Saint Vincent and the Grenadines has a small international financial services sector comprising 14 registered agents, 1 international bank (as 2

are currently in liquidation), 1 international insurance company, 2 international insurance managers or brokers, 52 mutual funds, 69 trusts, 3 437 business companies (BCs) and 1 353 limited liability companies. The imposition of tax on BCs had an initial negative effect on the renewals of these types of companies, however overall income generated from these companies, though fluctuating in 2020, increased in the period 2019-21. There was also a corresponding increase in incorporation of limited liability companies (LLCs) and the income generated therefrom within the same period, which served to record the highest combined income for the period under review in 2021.

38. The financial sector and service providers in Saint Vincent and the Grenadines which are relevant to EOIR are regulated and supervised either through a licencing regime or under the anti-money laundering and counter-financing of terrorism (AML/CFT) framework, or both. The domestic banking sector is regulated by the Eastern Caribbean Central Bank (ECCB) in accordance with the Banking Act, and the international banking sector by the Financial Services Authority (FSA) in keeping with the International Banks Act. The FSA, an autonomous statutory body, is responsible for the licensing and regulation of international insurance companies, managers and brokers. The Financial Services Authority Act 2011 designates the FSA as the regulator and supervisor of the non-bank financial sector.

39. Registered agents and trustees as international financial service providers are required to obtain and hold a valid licence in order to incorporate and register legal persons and arrangements in the international financial services sector. There are 14 licensed registered agents,13 of whom are also registered trustees in Saint Vincent and the Grenadines. International banks and international insurance companies are required to be licensed in accordance with the International Banks Act and International Insurance Act respectively. The Mutual Funds Act provides for the registration of public as well as private or accredited funds and licensing of fund managers and administrators. Building societies, credit unions, friendly societies and money services businesses are subject to the various pieces of legislation[7] under which they are established and are regulated by the FSA.

40. The financial sector in Saint Vincent and the Grenadines is modest. The total assets of the financial institutions licensed under the Banking Act is XCD 2.961 million (EUR 1.031 million) as at 31 July 2022. In 2021, the banking sector contributed 7.18% of the GDP of Saint Vincent and the Grenadines. As of 1 March 2023, there are four domestic commercial banks (one indigenous and three foreign-owned) licensed to operate in Saint Vincent and the Grenadines under the Banking Act. Only one Class B

7. Building Societies Act, Co-operatives Act, Friendly Societies Act and Money Services Business Act.

international bank licensed under the International Banks Act now operates in Saint Vincent and the Grenadines, three less than the four indicated in the 2014 Report. The Vincentian authorities attribute the reduction to a combination of the effect of the 2008 global financial crisis and de-risking which has made it difficult for banks in small jurisdictions to operate with the appropriate corresponding banking relations.

Anti-money laundering Framework

41. The Proceeds of Crime Act 2013 (POCA), the Anti-money Laundering and Terrorist Financing Regulations 2014 (AML&TF Regulations), the Anti-money Laundering and Terrorist Financing Code 2017 (AML&TF Code) and the Non-Regulated Service Providers (NRSP) Regulations 2020, together make up Saint Vincent and the Grenadines' domestic AML legal framework. The POCA is the primary legislation which allows for the creation of AML-specific regulations. It also establishes the National Anti-money Laundering Committee and creates offences. The AML&TF Regulations contain further details of the AML regime and define key terms, including service provider (the AML-obliged person and the primary subject of the regulations), customer due diligence (CDD) and beneficial owner. The Regulations also prescribe the CDD procedures. The AML&TF Code includes further guidance on the areas covered in the AML&TF Regulations.

42. Regulation 10 of the AML&TF Regulations obliges a service provider to obtain CDD information on every customer, third party and beneficial owner and verify the identity of the customer and any third party and to take reasonable measures on a risk sensitive basis to verify the identity of each beneficial owner. Service providers include persons carrying on any regulated businesses, persons providing certain intermediary services to third parties, persons conducting various financial services business and professionals such as accountants, auditors, real estate agents and independent legal professionals. The Financial Service Authority (FSA), Financial Intelligence Unit (FIU), Eastern Caribbean Central Bank (ECCB) and the Eastern Caribbean Securities Regulatory Commission (ECSRC) are the designated supervisory authorities with respect to specific classes of service providers.

43. Saint Vincent and the Grenadines was placed in the expedited follow-up process following the conclusion and adoption of its Third Round Detailed Assessment Report by the Caribbean Financial Action Task Force in July 2010.[8] The report adopted in 2010 assessed Saint Vincent and the Grenadines

8. https://www.cfatf-gafic.org/documents/cfatf-mutual-evaluation-reports/saint-vincent-and-the-grenadines-1.

as Non-Compliant for Recommendation 10 (Customer Due Diligence), Partially Compliant for Recommendation 24-Transparency and Beneficial Ownership of Legal Persons, and Non-Compliant for Recommendation 25-Transparency and Beneficial Ownership of Legal Arrangements. Saint Vincent and the Grenadines was removed from the Follow-up Process in 2018 after it promulgated several pieces of new legislation and made amendments to existing laws to comply with the core and key recommendations.[9] Among the laws promulgated to comply with the regulations were the Financial Services Authority Act 2011 which formally established the FSA and the Proceeds of Crime Act 2013 which repealed and replaced the Proceeds of Crime and Money Laundering (Prevention) Act of 2001. Saint Vincent and the Grenadines is undergoing the Fourth Round review.

Recent developments

44. Since the 2014 Report, Saint Vincent and the Grenadines has made significant changes in its tax system, including moving to a territorial tax system with respect to companies and trusts and removing tax exemptions that were in place for its international business companies and international trusts, albeit not for LLCs, and required resident entities, other than those defined in the Act as excluded entities, to satisfy economic substance requirements where they carry on specified geographically mobile activities. These changes, in addition to the enactment of the International Tax Co-operation (Economic Substance) Act 2020, were largely driven by Saint Vincent and the Grenadines' commitment to the European Union Code of Conduct Group and the OECD Base Erosion and Profit Shifting (BEPS) Inclusive Framework. Amendments were made to the International Business Companies and International Trusts Act in 2018 to open the international financial services sector to Vincentians and remove tax exemptions that were applicable only for foreigners. The new Tax Administration Act which took effect in December 2020 repealed numerous provisions of the Income Tax, VAT and Excise Tax Acts, updated the tax administration regime and addressed tax ruling requirements under BEPS Action 5.

45. In addition to the 2020 amendments, Saint Vincent and the Grenadines made further changes to its regulatory regime for businesses. Virtual assets service providers are now required to be registered and comply with the requirements in the Virtual Business Act 2022 and the reach of the Money Services Act has been widened to encompass microfinancing companies and mobile payment service providers.

9. https://www.cfatf-gafic.org/member-countries/saint-vincent-and-the-grenadines.

Part A: Availability of information

46. 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.

47. The 2014 Report concluded that ownership information on the legal entities and arrangements formed in Saint Vincent and the Grenadines was available in accordance with a combination of commercial, tax and AML/CFT legislation. The legal and regulatory framework was in place and Saint Vincent and the Grenadines was rated Largely Compliant with this element of the standard albeit with three recommendations for improvement subject to further monitoring:

- In the case of bearer shares, ownership information could be held outside of the jurisdiction by offshore custodians that would not be subject to enforcement activities in Saint Vincent and the Grenadines. Thus, it was recommended that information on legal owners of bearer shares be always made fully available within its jurisdiction. Saint Vincent and the Grenadines has addressed this recommendation by departing from immobilisation to full abolition of bearer shares. The International Business Companies (Amendment and Consolidation) Act was amended in 2018[10] to repeal the provision requiring the immobilisation of bearer shares and prohibit any business company[11] from issuing bearer shares. Business companies (BCs) with bearer shares have been filing amended articles of incorporation and the authorities have

10. The Business Companies (Amendment and Consolidation) (Amendment) Act, 2018.
11. Section 2 of the IBC (Amendment and Consolidation) (Amendment) Act, 2018 renames IBC as “business company”.

started monitoring the conversion process through the registered agents who were previously custodians.

- The second recommendation related to monitoring the operations of new provisions requiring service providers to keep updated ownership and identity information and obtain such information immediately in case of introduced business. The supervisory authorities in Saint Vincent and the Grenadines have been monitoring this obligation as part of their overall supervisory activities. Further, service providers met during the onsite visit reported that they do not rely on introducers to conduct CDD checks and that they conduct their own CDD even in the case of introduced business.
- Finally, Saint Vincent and the Grenadines was recommended to clarify how the availability of legal ownership information on international business companies (IBCs) and limited liability companies (LLCs) would be enforced as the information was only required to be held by the entities without clear penalties for non-compliance. New provisions have been introduced requiring BCs to file their register of members and any updates thereto with the Registrar of Business Companies but equivalent amendments have not been made with respect to LLCs. Monitoring of compliance with legal ownership requirements was undertaken mainly through checks of registered agents but no sanctions were applied and there was no data to support a high rate of compliance with these obligations. Thus, Saint Vincent and Grenadines is still recommended to strengthen its monitoring and enforcement activities in this area.

48. The standard was strengthened in 2016 to require the availability of beneficial ownership information for all relevant legal entities and arrangements. Saint Vincent and the Grenadines obtains this information through its AML/CFT legislation. Service providers[12] are required to collect and maintain beneficial ownership information as part of the CDD requirements before establishing a business relationship. BCs, LLCs and ordinary and registered trusts are obliged to engage with a registered agent in Saint Vincent and the Grenadines at all times. However, there is no requirement for ordinary companies, ordinary partnerships and foreign trusts without an AML-obliged trustee to engage with an AML-obliged person that would avail of beneficial ownership information. As there is no other requirement on all domestic companies regarding availability of beneficial ownership information, beneficial ownership information on ordinary companies may not be available in line with the standard.

12. The AML&TF Regulations uses the term “service provider” for the AML-obliged persons in Saint Vincent and the Grenadines.

49. Further, for the entities and arrangements that are captured within the AML framework, complete beneficial ownership information may not be available due to deficiencies in how the legislation defines "beneficial owner". Regulation 4 of the AML&TF Regulations simultaneously defines the beneficial owner of legal persons, partnerships and arrangements both in terms of ownership[13] and control over the management of the person although the Vincentian authorities indicate that they interpret the provision disjunctively. However, no guidance is provided for situations where control may be exercised by other means as provided for under the standard or when, if at all, the default of the person exercising control over the management of an entity or arrangement should be engaged. This could result in service providers failing to appropriately identify all the beneficial owners of a legal entity or arrangement.

50. Criminal penalties are provided for breaches of the Saint Vincent and the Grenadines AML/CFT laws. While the authorities have noted some non-compliance during their supervisory activities, no criminal penalties were imposed during the review period. The authorities did not apply these sanctions because they did not consider them to be proportional to the breaches they have encountered. Saint Vincent and the Grenadines enacted on 31 March 2023 the AMLTF (Administrative Penalties) Regulations 2023, which sets out adequate and detailed administrative penalties on various contraventions to the Customer Due Diligence requirements under the AML/CFT legislation. Saint Vincent and the Grenadines should monitor the implementation of the AMLTF (Administrative Penalties) Regulations 2023 to ensure the application of effective, proportionate and dissuasive measures to enforce its AML/CFT framework requiring availability of beneficial ownership information.

51. In addition, Saint Vincent and the Grenadines' laws allow for striking off legal entities that are defunct or non-compliant with various legal obligations. In most cases, the entities can be restored indefinitely upon remedying their non-compliance or restarting their operations. In such cases, there is no legal requirement that the companies provide legal ownership information upon being restored.

52. Saint Vincent and the Grenadines' laws permit nominee arrangements in relation to holding interests in legal persons but the rules do not ensure that the information on the nominee and nominator is available in all cases in line with standard. Although there are requirements for nominee shareholders who are acting in the course of a business or hold more than the 10% of the shares of an ordinary company to maintain ownership and identity information in respect of all persons for whom they act as legal owners, the rules do not cover nominees who may be acting otherwise than in these two cases.

13. The AML&TF Code clarifies that in respect of a legal person the ultimate beneficial owners are individuals who are the ultimate holders of 15% or more of the legal person.

53. Different authorities in Saint Vincent and the Grenadines share responsibility for monitoring and supervising entities' compliance with their obligations to maintain accurate and up-to-date legal and beneficial ownership information. They take different approaches to these obligations. However, due to the absence of statistics on compliance rates, failure to impose sanctions and in some cases uncertainty as to the terms of the obligations being enforced, recommendations have been made for Saint Vincent and the Grenadines to strengthen its supervisory and enforcement activities to ensure that legal and beneficial ownership information on all relevant legal entities is available in line with the standard.

54. During the review period, Saint Vincent and the Grenadines satisfactorily responded to requests for the legal ownership and beneficial ownership information of companies.

55. 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 respective registrars in Saint Vincent and the Grenadines may strike off an ordinary or non-profit company, Business Company or Limited Liability Company for not having operations or for non-compliance with their statutory obligations. In most cases, there is no time limit for their restoration. While ownership changes of ordinary companies require the signature of the registrar, non-profit companies, Business Companies and Limited Liability Companies could effect ownership changes without the involvement and knowledge of the registrars. There is no legal requirement on any kind of company to provide legal ownership information to the respective registrars upon restoration of the company.	Saint Vincent and the Grenadines is recommended to ensure that legal ownership information is available upon the restoration of any non-profit company, business or limited liability company that was struck off the register, as well as establishing a time limit for the restoration of ordinary and non-profit companies, Business Companies and Limited Liability Companies following their strike off.

Deficiencies identified/Underlying factor	Recommendations
Saint Vincent and the Grenadines relies upon its anti-money laundering framework as the basis for availability of beneficial ownership information of Business Companies, Limited Liability Companies and trusts, which must engage an AML-obliged registered agent licensed in Saint Vincent and the Grenadines at all times. On the opposite, there is no requirement for ordinary and non-profit companies, foreign trusts and partnerships to engage with an AML-obliged person so that not all relevant entities and arrangements are covered by customer due diligence arrangements under the AML law. Further, AML-obliged persons are not required to verify the identity of beneficial owners of legal entities and arrangements that are determined to present a low level of risk. Thus, beneficial ownership information may not be available for relevant entities and arrangements, and where it is available its accuracy may not be verified in all cases. The definition of beneficial owner in the AML law is circular and the definition and the guidance do not contemplate the requirement to identify individuals holding a senior managerial position when no person meets the definition of beneficial owner. Further, there is little guidance on how the definition should be applied, including whether the definition should be interpreted as cumulative or disjunctive and the meaning of "ultimate control over the management".	Saint Vincent and the Grenadines is recommended to ensure that adequate, accurate and up-to-date information on beneficial owners for all relevant entities and arrangements be available in line with the standard.
The customer due diligence requirements of the AML law are the only source of beneficial ownership information in Saint Vincent and the Grenadines. AML-obliged persons are required to keep their records for a minimum period of seven years after the end of the business relationship. However, the law does not make any provision for what happens to the records in the case where the AML-obliged person ceases to exist.	Saint Vincent and the Grenadines is recommended to ensure that beneficial ownership information for all relevant entities and arrangements is kept for at least five years, including in the case where the AML-obliged person has ceased to exist.
Saint Vincent and the Grenadines has a requirement for nominee shareholding to be notified to ordinary companies and the Commercial Registry with the limit that they must represent at least 10% of voting rights. There is no legal requirement for nominee shareholding to be notified to Business Companies or the Financial Services Authority although this is done in practice. Under the AML framework, only professional nominees have an obligation to conduct CDD on their customers, but they do not have an obligation to inform the concerned company of their nominee status.	Saint Vincent and the Grenadines is recommended to ensure that nominee shareholders disclose their nominee status to the company.

Practical Implementation of the Standard: Partially Compliant

Deficiencies identified/Underlying factor	Recommendations
Saint Vincent and the Grenadines' authorities reported some monitoring and enforcement action with respect to ensuring legal entities comply with the requirements to keep and file legal ownership information. This included the sending of notices to strike off ordinary and non-profit companies, imposition of monetary penalties and on-site visits to registered agents of Business Companies and Limited Liability Companies. However, while 15 non-profit companies were struck off, only 1 ordinary company was struck off during the review period and whereas Business Companies and Limited Liability Companies were struck off for a variety of reasons, no penalties were imposed on registered agents.	Saint Vincent and the Grenadines is recommended to strengthen its supervisory and enforcement activities to ensure that legal ownership information on all relevant legal entities is available in line with the standard.
The AML supervisors in Saint Vincent and the Grenadines did not demonstrate a complete understanding of the legal provisions defining beneficial ownership and the methodology for applying it in practice and have not imposed any sanctions with respect to compliance with customer due diligence obligations.	Saint Vincent and the Grenadines should continue to strengthen its supervision and enforcement efforts with adequate guidance to assist AML-obliged persons with their obligations to identify the beneficial owners of customers to ensure that adequate, accurate and up-to-date beneficial ownership information is available in line with the standard.
Saint Vincent and the Grenadines enacted on 31 March 2023 the AMLTF (Administrative Penalties) Regulations 2023, which sets out adequate and detailed administrative penalties on various contraventions to the customer due diligence requirements under the AML/CFT legislation. As the legislation is recent, it could not be assessed in practice.	Saint Vincent and the Grenadines should monitor the implementation of the AMLTF (Administrative Penalties) Regulations 2023 to ensure the application of effective, proportionate and dissuasive measures to enforce its AML/CFT framework requiring availability of beneficial ownership information.

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

56. The 2014 Report indicated that Saint Vincent and the Grenadines' laws allow for the incorporation and registration of several types of companies (below), partnerships (see section A.1.3) and other corporate bodies and non-profit companies (see section A.1.5). This remains the case with a few changes to certain entities.

- **Ordinary companies** are incorporated under the Companies Act for the purpose of carrying on a trade or business for gain. An ordinary company may be incorporated by one or more persons by signing and submitting articles of incorporation in the prescribed form to the Registrar. Shares in the company must be issued without nominal or par value and may be of such classes as the articles of the company allow. There were 291 ordinary companies registered in Saint Vincent and the Grenadines during the review period. There is uncertainty about the total number of active ordinary companies currently registered but 8 142 have been registered since 1909 and according to the 2014 Report there were 2 152 ordinary companies in the jurisdiction as at 30 June 2013.
- **Business companies (BCs) (formerly international business companies)** may be incorporated under the International Business Companies (Amendment and Consolidation) Act as companies limited by shares or guarantees or both. They may also be incorporated as unlimited, segregated cell and limited duration companies. The 2014 Report noted that IBCs were formed to carry out business activities outside of Saint Vincent and the Grenadines and enjoyed a wide range of tax benefits. This was changed in 2018 and BCs are now allowed to conduct any type of legal activity within or from Saint Vincent and the Grenadines. They are also now subject to tax at a rate of 30% on income they earn from domestic sources under the territorial tax system. The number of BCs incorporated in Saint Vincent has declined by nearly 42% since 30 June 2013. As of 31 December 2021, there were 3 437 BCs, including 4 segregated BCs registered in Saint Vincent and the Grenadines. Of this number, there were 52 mutual funds, 3 international banks and an international insurance company which are all firstly incorporated as BCs before obtaining the relevant licences to operate funds, insurance and banking business. Segregated cell companies have their assets and liabilities segregated into individual cells and may only be utilised by insurers and collective investment schemes. They must be approved by the FSA and be an international insurance company or a fund accredited or recognised under the Mutual Funds (Amendment) Act, 1998.

- **Limited liability companies (LLCs)** may still be formed under the Limited Liability Companies Act to carry on any lawful business, whether or not for profit. The rights of members of an LLC are set out in an LLC agreement as there is no share capital. Unlike BCs, LLCs are restricted from owning property in Saint Vincent and the Grenadines and selling goods and services to Vincentians. They also continue to be exempt from income tax. The number of LLC's incorporated in Saint Vincent and the Grenadines increased from only 44 on 30 June 2013 to 1 353 on 31 December 2021.

57. The Companies Act of Saint Vincent and the Grenadines continues to require the registration of foreign/externally formed, incorporated as well as unincorporated firms or other bodies of persons to be registered before they carry on business in the jurisdiction. As at 31 December 2021, there were 26 external companies registered to do business in Saint Vincent and the Grenadines.

Legal Ownership and Identity Information Requirements

58. The legal ownership and identity requirements for companies are found mainly in the company and AML laws. Although companies in Saint Vincent and the Grenadines are not generally required to file legal ownership information as part of their incorporation documentation,. this information along with updates are required to be filed with the respective Registrar and are used to populate registers of companies which are publicly accessible. The companies laws (i.e. the Companies Act, the Business Companies (Amendment and Consolidation) Act and the Limited Liability Companies Act) require the companies to maintain registers of members and directors. Additionally, business and limited liability companies can only be incorporated by a registered agent who must be provided with legal ownership information of their shareholders and directors. Companies whose operations require regulatory licences are also subject to requirements to submit information on their shareholders and directors to the regulator as part of the application process.

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

Companies covered by legislation regulating legal ownership information[14]

Type	Company Law	Tax Law	AML Law
Ordinary company	All	Some	Some
Limited liability company	All	None	All
Business company	All	Some	All
Foreign companies (tax resident)	All	All	Some
Mutual Funds	All	Some	All
International banks	All	Some	All
International insurance companies	All	Some	All

Companies Laws Legal obligations

60. Each legislation governing the creation of corporate entities requires an application for incorporation to be filed with a registrar containing prescribed information on the company and imposes record-keeping obligations with respect to the legal ownership of the company. The respective company laws govern the incorporation of corporate vehicles in Saint Vincent and the Grenadines:

a. the Companies Act – ordinary companies

b. the International Business Companies (Amendment and Consolidation) Act – BCs

c. the Limited Liability Companies Act – LLCs.

61. Incorporation of ordinary companies is done by the Commercial and Intellectual Property Office (CIPO) as the Registrar of Companies upon presentation of the articles of incorporation duly signed and accompanied by a notice of directors and a notice of registered office. There is no requirement for information on the legal ownership of the company to be presented. However, the incorporators may be entered in the register of members as soon as the company is registered. The CIPO maintains a register of companies with name of every body corporate that is incorporated, continued, registered or restored under the Act.

62. Annual returns are required to be filed by ordinary companies detailing changes of directors or secretary and containing a share capital

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

schedule with the names and addresses of shareholders and particulars of share transfers during the year. Failure to comply with this annual filing requirement is an offence committed by the company, its directors, and its officers.[15] The penalty is XCD 50 (EUR 17) per month or part thereof in which the non-compliance continues. The register and information required to be filed with the CIPO in respect of companies must be kept by the CIPO for at least six years from the date of receipt[16] and are publicly accessible upon payment of a fee.

63. In addition to the annual filing requirements, changes in the shareholding and directorship of an ordinary company during the year are also required to be notified to the CIPO. Share transfers must be disclosed and the Companies Act requires the instrument of transfer to be co-signed by the CIPO as a condition of its validity. The transferee of the shares is only entitled to be treated as the legal owner of the shares when the transfer is presented to the company for registration or the court orders registration of the transfer.[17] Section 77 of the Companies Act requires the company to notify the CIPO of any change of director within 15 days of the change being made.

64. The Companies Act obliges ordinary companies to keep a register of members within the jurisdiction.[18] The register should include each member's name, their shareholding, the latest known address, and the dates of commencement and cessation of membership. Failure to keep the record is a ground on which a company may be struck off under section 511 of the Act.

65. The availability of legal ownership information of ordinary companies in Saint Vincent and the Grenadines is ensured through obligations on companies to not only maintain a register of members and directors but also to file this information with the CIPO annually. The requirements for changes in the shareholding and directorship of companies to be notified to the Registrar also ensures the information held with the registrar is updated as this can be checked against the annual filings.

66. Based on the requirements of the Business Companies (Amendment and Consolidation) Act, up-to-date legal ownership information should be simultaneously available with the FSA, the registered agent and the BC. The requirements should cumulatively ensure that the legal ownership information in respect of a BC is always available within the jurisdiction, as set out below.

15. Section 194(3) of the Companies Act.
16. Section 507 and 495 of the Companies Act.
17. Section 195 of the Companies Act.
18. Section 177(2) of the Companies Act.

67. The application for incorporation of a BC must be made by a local licensed registered agent. It must be signed by the incorporators and articles of incorporation must detail the nature of the company (unlimited or limited by shares or guarantee or both) as well as the classes of shares to be issued. Additional requirements apply with respect to BCs incorporated as segregated cell companies. They need the prior consent of the FSA to incorporate and must include in their application details of the persons to be appointed as functionaries of the company, the list and identification of each segregated cell to be created and details of the functionary who the company will appoint to act in respect of each cell. Legal ownership information is not provided at the time of incorporation and registration.

68. The requirements to keep legal ownership information are shared amongst the BC, the registered agent and FSA as follows:

- BCs are required to keep a register of members.[19] The register must contain the name and latest known address of each shareholder, the number of each class and series of registered shares which they hold, the dates on which the shareholder was entered on the register and the date on which they ceased to be a shareholder.
- New filing requirements ensure that the FSA obtains up-to-date legal ownership information. The new requirements took effect on 1 January 2019 for BCs formed after that date but on 30 June 2021 for pre-existing BCs.[20] BCs are required to file a notice of each new member entered on its register with the FSA. The notice must be filed 35 days after the issue of its certificate of incorporation or 7 days after the first member has been entered on its register of members.[21] A notice of change to the membership or the name or address of a member must be filed within 10 days of the change or of the BC first becoming aware of the changes, whichever first occurs.
- In addition to the obligation for a registered agent to be involved in the incorporation of a BC, there is a continuing obligation on the BC to have a licensed registered agent in Saint Vincent and the Grenadines at all times.[22] The business company is required to keep records including its register of members or copies thereof at the office of its registered agent. Where the registered agent keeps a hard copy of the register, the BC must notify the registered agent of where the original register is kept and of any changes in the register within five days of such change.[23]

19. Section 54 of the BCs (Amendment and Consolidation) Act.
20. Pre-existing BCs are those incorporated prior to 1 January 2019.
21. Section 54A of the BCs (Amendment and Consolidation) Act.
22. Section 68 of the Business Companies (Amendment and Consolidation) Act.
23. Section 70 of the Business Companies (Amendment and Consolidation) Act.

69. A new section 91A of the Business Companies (Amendment and Consolidation) Act which took effect on 1 January 2019 (30 June 2021 for pre-existing BCs) obliges the registered agent to file with the FSA, a notice of director within 28 days of incorporating a BC or a notice of change of director where the initial directors have to be replaced before the BC has any members. Thereafter, the obligation to file a notice is placed on the BC in case of an appointment, or changes in the name or address, of a director. The notices must be filed within ten days of the change occurring or of the BC becoming aware of the change. A copy of each notice or other document filed by the BC must be kept by the registered agent for a period of ten years.

70. The law provides that entrance of the name of a person in the register of members of a BC is *prima facie* evidence that legal title in the shares is vested in the person. While shares may be transferred by a written instrument signed by the transferor containing the transferee's name and address, the BC is not required to treat the transferee as a shareholder until they have been entered in the register of members.

71. The conditions for the incorporation of LLCs are as follows:

- The application for the formation of an LLC must be made through a licensed registered agent. The articles of formation and relevant fees must be submitted to the Registrar of LLCs, also the FSA.
- The articles of formation must contain the name of the LLC, the nature of its proposed business activity and the address of its registered agent. The FSA registers this information and issues a certificate of formation.
- The minimal requirements for the formation of LLCs under the Limited Liability Companies Act are supplemented by the obligations of the registered agent under the AML law to obtain all CDD information on the manager and members of the LLC prior to making the application for formation.

72. The LLC must keep a record of members. Section 34 of the Limited Liability Companies Act indicates that a person becomes a member in accordance with the LLC agreement or may be subsequently admitted when their name appears in the LLC records in compliance with the LLC agreement or absent such provisions in the LLC agreement, upon consent of all its members. Consequently, the LLC has to establish and maintain a list of members. This is also the implication of the right of a member under section 38 of the LLC Act to obtain from the LLC a current list of the name, last known business address or mailing address of each member, holder of an economic interest and manager.

73. While LLCs are not required to file their membership information with the FSA, up-to-date legal ownership information is required to be held by the LLC as well as by the registered agent in keeping with their AML law obligations.

74. In addition to the foregoing requirements discussed in relation to BCs, many of the entities which participate in Saint Vincent and the Grenadines' offshore financial sector must first be incorporated as a BC and thereafter licensed or registered to operate their business. This is the case for mutual funds, international banks and international insurance companies. Each of these applications must once again be made through a registered agent and the FSA is also involved as the regulator and carries out due diligence on applicants. Final approval of international banks and international insurance is given by the Minister of Finance. In each case, the applications require information on the shareholders and directors of the entity. The FSA as part of the approval process conducts due diligence checks of the controlling persons of the entities to prevent the misuse of the financial sector by nefarious persons and their associates and continues checks on an ongoing basis.

75. However, as the legal ownership information is already available with the company, registered agent and the FSA, this additional approval process to carry on business as international banks, mutual funds and international insurance companies does not necessarily add to the sources of legal ownership information but may result in the FSA having more recent information due to the licensing and registration process.

Foreign companies

76. Foreign companies are regulated as external companies under the Companies Act. "External companies" is defined in the Act as any firm or other body of persons, whether incorporated or unincorporated, that is formed under the laws of a country other than Saint Vincent and the Grenadines.[24] They are required to register with the CIPO when they carry on business in Saint Vincent and the Grenadines. The following activities qualify as carrying on business when they are carried on from a location within Saint Vincent and the Grenadines:

- transacting the company's business from an office established or used for that purpose (including a Head Office company carrying on no other activities)
- establishment or use of a share transfer or registration office

24. Companies Action section 543.

- possessing or using assets for the purpose of the business, if the company seeks to obtain profit or gain directly or indirectly from the assets
- owning a legal or equitable interest in land.

77. Upon registration, foreign or external companies must provide a statement to the CIPO which includes details of:

- the jurisdiction of incorporation
- the extent to which liability of shareholders may be limited
- business activity of the company
- proposed date of commencement of business activity
- the authorised, subscribed and paid-up capital of the company
- the shares the company is authorised to issue, their nominal and par value, if any
- address of the principal office in Saint Vincent and the Grenadines
- the full names, addresses and occupations of the directors.

78. Foreign companies are subject to an annual filing requirement. They must include in their annual return to the CIPO any changes in their directors, registered officer, registered office, and lawyers.

79. Legal ownership information is not provided at the time of registration, but the annual return must also contain a share capital schedule with names and addresses of the direct shareholders during the past year, with particulars of share transfers since the last return. Notwithstanding, external companies are required to report all fundamental changes to the CIPO within 30 days of the change that occurs at any time after its registration.[25] A share transfer and change of director are considered as fundamental changes.

80. The filing and notification requirements of external companies under the Companies Act ensure that Saint Vincent and the Grenadines has updated legal ownership and identity information for foreign companies with sufficient nexus to the jurisdiction.

25. Section 355 of the Companies Act.

Companies that cease to exist, struck off companies, and restoration

81. Saint Vincent and the Grenadines laws make provision for companies that cease to exist either voluntarily or a result of action taken by the authorities. Legal ownership information on these companies is retained indefinitely by the CIPO and FSA, or by the AML-obliged registered agent for a minimum period of seven years after the end of the business relationship with the company.

82. Ordinary companies may be wound up voluntarily or by the court.[26] A company may be voluntarily wound up if a general meeting so resolves. The court may wind up a company in the following situations:

- where the members have by special resolution resolved that the company be wound up
- the company fails to commence business within a year or suspends its business for a year
- the company is unable to pay its debts
- the court opines that it is just and equitable to do so
- where an inspector is appointed, the inspector finds that the company cannot pay its debts or that it is in the public's or shareholders' interest that the company be wound up.

83. On completion of the court-ordered winding up process, the liquidator applies to the court to make an order of dissolution and the company is dissolved as of the date of the court order. The liquidator must then file the order with the CIPO who enters a minute of dissolution against the company in the register. The liquidator is also mandated to file the accounts and returns with the CIPO who registers them. Where the company is voluntarily wound up, dissolution is only effective three months after the liquidator provides an account of the final meeting with members and creditors to lay an account of the liquidation. Consequently, a company cannot effectively be dissolved without notice to the CIPO.

84. Companies also cease to exist when they are struck off the register and dissolved by the CIPO under section 483 of the Companies Act. The CIPO may take this action if satisfied that the company is defunct after sending the requisite letters and publishing a notice in the Gazette and no cause is shown for retaining the company on the register within three months of the date of the notice. The CIPO may also exercise this power where a company is being wound up, no liquidator is acting and the returns required to be made by the liquidator have not been made for a consecutive

26. Section 370 of the Companies Act.

six-month period. The CIPO may strike off the company on the expiry of the statutory period and publish a notice in the Gazette. The company is dissolved on the date of publication of the notice but may be reinstated by an application made to the court within 20 years of the date of striking off. However, the liability of the company's director, managing officer and members continues and may be enforced as if the company were not dissolved.

85. As external companies do not derive their existence from the laws of Saint Vincent and the Grenadines, they cease to exist in accordance with the laws under which they were incorporated. Where this occurs and the CIPO becomes aware, the CIPO may cancel the registration of the external company. Registration may also be cancelled voluntarily by the company where it ceases to do business in Saint Vincent and the Grenadines. The Minister of Trade may also suspend an external company's registration for any failure to meet the obligations imposed under the Act. The effect of the suspension or cancellation of registration is that the company is no longer allowed to carry on business or exercise any legal rights in Saint Vincent and the Grenadines.[27] Registration may be restored indefinitely and operates retroactively. Legal ownership information that would have been filed by an external company would be available with the CIPO as at the last filing of such information either in an annual return or through a notice of a fundamental change.

86. The CIPO is empowered to strike off ordinary companies from the register for non-compliance with statutory requirements. Ordinary companies, other than those that have had their registration revoked, been dissolved, or have merged with another company, may be struck off the register for failure to honour an undertaking to dissolve or change its name so that it is not similar to an existing entity. However, the power to strike off companies under section 511 of the Companies Act is mainly used where ordinary companies are in default of their filing or payment obligations. The CIPO issues a notice of non-compliance to the company setting out their default and allows them 30 days to remedy the default or be struck off for failure to comply. The company is struck off but not dissolved where the non-compliance is not remedied. The company may be restored indefinitely at any time before dissolution or liquidation on an application accompanied by the outstanding documents and payment of the appropriate fees. The CIPO may then restore the company and issue a Certificate of Restoration.

87. Ordinary companies retain their legal personality during the indefinite period between strike off and restoration. Consequently they may continue to operate. Due to the requirement for the involvement of the CIPO for any ownership changes, up-to-date legal ownership information

27. Sections 350-352 Companies Act.

would be available with the CIPO indefinitely even where the company has defaulted on its filing and reporting obligations. This would also be the case if the strike off is followed by dissolution or liquidation. An external company would be precluded from operating in Saint Vincent and the Grenadines and from exercising any legal rights until restoration. This however does not affect their liability to creditors or to suit within the jurisdiction.

88. A BC ceases to exist when it is continued as a company incorporated under the Companies Act (i.e. ordinary company) or it is dissolved in accordance with the provisions of Part XI of the Business Companies (Amendment and Consolidation) Act.

- Voluntary winding up may be commenced by a resolution of the directors if the BC has not previously issued shares or otherwise by a resolution of its members. Within 30 days of registering the articles of dissolution, the FSA must issue a notice that the BC is being wound up in the Gazette. On completion of liquidation, the liquidator must file a statement that the winding up and dissolution has been completed. The FSA, if satisfied that all the requirements have been met, strikes the company off the register and issues a certificate of dissolution certifying that the BC has been dissolved. Dissolution of the BC is effective from the date of the certificate.
- A BC may also cease to exist where it is compulsorily wound up by a resolution of its directors where its articles have an expiration date for the BC or prescribe that the company be wound up on the happening of an event.[28]
- The court is also empowered to order the liquidation and dissolution of a BC where the BC carries on business without having a member, is seriously and persistently in default of the Act, is unable to pay its debts or on just and equitable grounds. Where the court makes an order, the provisions of the Companies Act with respect to court-ordered liquidation and dissolution of ordinary companies apply.

89. LLCs are perpetual unless otherwise provided in the LLC agreement. However, an LLC may be dissolved by the court on similar grounds as BCs. The manager of the LLC or if there is none, the members or each class of members owning more than 50% of the shares or other interest in the profits of the LLC may also wind up the LLC. The FSA must be given notice of any order to wind up an LLC or the appointment of a liquidator within 21 days of the order, commencement of winding up or appointment of a liquidator, as appropriate. An LLC with no property or liabilities may also be dissolved by its manager by filing Articles of Dissolution with the FSA. Upon

28. Section 162 of the Business Companies (Amendment and Consolidation) Act.

being dissolved, the LLC is automatically cancelled or struck off in the FSA's Registry and Payment System and a Certificate of Dissolution is issued. The process is completed when the dissolution is published in the Gazette. The LLC is dissolved as at the date shown on the certificate of dissolution.

90. The FSA, as the Registrar of BCs and LLCs, is also empowered to strike a BC or an LLC off the register.[29] This may be done where the company does not have a registered agent, fails to file any statutory return or document or pay a fee or penalty or where the Registrar is satisfied that the company no longer carries on business or is doing so without a licence. The Registrar may instead of striking off refer the company for investigation if the Registrar believes the company is trading or has property or that there is some other reason the company should not be struck off.

91. After the relevant notices have been served on the company and no cause is shown by the company as to why it should not be struck off, the Registrar may proceed to strike off the company. This is effected by publishing a notice in the Gazette and the company is struck off and dissolved as of the date of its removal from the register. Of the 3 263 BCs struck off the register, 134 have been liquidated and the others have been dissolved as they had no assets to be subject to liquidation. Fourteen LLCs have so far been liquidated out of the 71 LLCs struck off the register. The legal ownership information of BCs that have been struck off but not liquidated would be available with their registered agent (to the extent that the company was not struck off for failure to have one), the FSA (due to filing obligations) and the BC. As there are no similar filing obligation for membership changes, in the case of LLCs, the information would only be available with the LLC and the registered agent.

92. The BC or LLC may be restored by the Registrar and an appeal lies to court where the Registrar refuses to restore the company (upon payment of fees). The restoration of BCs and LLCs requires the making of an application by an interested person and the payment of a prescribed fee as well as any outstanding fees. In the case of a BC it is stipulated that the Registrar must be satisfied that a licensed registered agent is willing to act for the BC and it would be fair and reasonable to restore the company, Neither the LLC Act nor the Business Companies (Consolidation and Amendment) Act provides a time limit for restoration of the company. A company which has been struck off the register may through prescribed persons apply for restoration at any time, continue to defend or carry on proceedings that started prior to the date of striking off. The respective legislation makes it clear that a BC or LLC that has been struck off the register can still incur liabilities, be

29. sections 8, 71 of the LLC Act and section 172 of the Business Companies (Amendment and Consolidation) Act.

sued by creditors and the court may appoint a liquidator in respect of such company. Where BC or LLC is struck off and liquidated, the legal ownership information would be available with the liquidator who is bound by the AML law to maintain the records for seven years after the end of liquidation. The procedure for liquidation of a LLC or BC is the same as that applicable to ordinary companies, requiring the liquidator to make reports to the FSA. This would ensure that the FSA also has legal ownership information of the companies as at the time of liquidation.

93. Property of a BC or LLC that has not been disposed of at the date of dissolution vests in the Registrar. [30] While the Vincentian authorities have never invoked this provision, they interpret property as inclusive of the dissolved company's records. Further, owing to the requirements for membership information to be kept with the registered agent and filed with the FSA, legal ownership information of the company immediately before liquidation (or before the company fell in default) would be available both with the FSA and the registered agent. The FSA keeps this information indefinitely and the registered agent is required to retain it for at least seven years from the date on which the business relationship ended or the last transaction was completed.[31]

94. There is no requirement for BCs or LLCs to provide legal ownership information to the Registrar upon restoration of the company and a significant period of time could elapse between strike off and restoration. BCs and LLCs could effect ownership changes without the involvement and knowledge of the FSA. There is no time limit for the restoration of BCs and LLCs. This carries the risk that BCs and LLCs may be operational during the period between strike off and restoration and no up-to-date legal ownership information would be available for such companies. **Saint Vincent and the Grenadines is recommended to ensure that legal ownership information is available upon the restoration of any non-profit company, business or limited liability company that was struck off the register, as well as establishing a time limit for the restoration of ordinary and non-profit companies, BCs and LLCs following their strike off**.

95. Each legislation which provides for the incorporation of companies in Saint Vincent and the Grenadines also provides procedures to be followed for such companies to cease to exist and empowers the various registrars to strike off a company for non-compliance. The laws do not include provisions for record-keeping obligations that are triggered when a company ceases to exist but the requirement of the standard for legal ownership information to be available for five years after the company ceases to

30. Section 178 of the Business Companies (Amendment and Consolidation) Act.
31. Regulation 2(5) and 22 of the AML&TF Regulations.

exist is met by the record-keeping requirements of the registrars (CIPO and FSA) and by the records held by AML-obliged service providers. However, LLCs and BCs could be struck off their respective registers and dissolved for non-compliance and no up-to-date legal ownership information would be available with the registrar or their registered agent during the period between their strike off and restoration.

AML law requirements

96. Legal ownership information may be available for companies to the extent that they deal with AML-obliged persons or service providers as they are referred to in the AML&TF Regulations. A service provider is required to obtain CDD information on every customer (see paragraph 293), third party and beneficial owner and verify their identity (see A.1.1 *Availability of beneficial ownership information*). Under the AML&CFT Code, the service provider must obtain, as part of the relationship information of a legal person, its "ownership information" and where the legal person is a company, the details of any group to which it belongs, including details of the ownership of that group.[32]

97. Whereas the incorporation of ordinary companies does not require the intervention of a service provider, the incorporation of BCs and LLCs must be done through a registered agent. BCs and LLCs are required at all times during their existence to appoint a licensed registered agent, failing which they may be struck off the register. Thus, registered agents as service providers under the AML law may be a source of some legal ownership information pertaining to BCs and LLCs, international banks, international insurance companies and mutual funds. The minimum retention period for maintaining the records of CDD is seven years.[33]

Tax law requirements

98. The Tax Administration Act mandates every person who is or may become liable for the payment of tax to register with the Comptroller of IRD within 30 days after commencing business and provide such information as prescribed.[34] The registration form for companies and partnerships requires the submission of information on the owners of the enterprise, including their name, address and percentage owned and the date their ownership became effective.

32. Paragraph 5(2)(d) of the AML&TF Code.
33. Regulation 3(5) of the AML&TF Regulations.
34. Section 10 Tax Administration Act.

99. The companies are also required to file annual tax returns. However, up-to-date information on the legal ownership of companies may not be available with the IRD as there is no requirement for the ownership details of the company to be updated or for them to be included in their annual tax returns.

100. The IRD receives ownership information from the CIPO under a Memorandum of Understanding (MOU). Under the MOU, the IRD was recently granted direct access to the CIPO's electronic database and can therefore access company ownership information at any time. The MOU also facilitates the bulk monthly submission of registration details of newly incorporated entities.

101. The advent of the International Tax Cooperation (Economic Substance) Act and the filing requirements thereunder may be another source of legal ownership information held by the IRD. Under this law, entities are required to file economic substance returns with the IRD to enable the Comptroller to determine whether the entity is a relevant entity, whether it was required to meet the economic substance requirements or if it met the economic substance requirements applicable to it. The returns would include legal ownership information of the entity in order for the Comptroller to make the various determinations. The Act however does not apply to LLCs. Compliance with this legislation would ensure annually updated legal ownership information on all domestic and BCs is available with the IRD. The legislation came into force on 1 January 2021 and the first set of returns were due to be filed in July 2022.

102. In preparation for these new requirements, the IRD has trained its staff and publicised information on the new obligations. An additional member of staff was hired to focus on international tax matters including economic substance requirements and there are plans to hire another person in the second quarter of 2023. The IRD has also allocated specific staff from their Taxpayer Services Unit to assist with the assessment of economic substance returns. The authorities have not provided information on the compliance rate, supervision and enforcement measures.

Legal ownership information – Enforcement measures and oversight

103. The FSA, IRD and CIPO are the authorities in Saint Vincent and the Grenadines that monitor and enforce the maintenance and filing of legal ownership information as mandated by the various laws. The IRD implements compliance actions to ensure taxpayers comply with their filing and payment obligations. Where it is relevant to the audits, the IRD checks the availability of legal ownership and identity information. This may be checked

in the course of an audit to verify payments to shareholders and to identify the responsible taxpayer.

104. The CIPO supervises ordinary companies, while the FSA supervises the legal entities involved in the provision of international financial services. Both the FSA and CIPO engage in compliance and enforcement activities but the effectiveness of their activities on the overall compliance on the entities under their supervision could not be demonstrated. This was due to the absence of data on compliance rates and very few sanctions being applied for non-compliance.

Financial sanctions available but not applied by the FSA in practice

105. A business company which fails to meet the requirement to file the notices as required by sections 54A (members) and 91A (directors) of the Business Companies (Amendment and Consolidation) Act or fails to comply with the requirement to keep a copy of the register of members at the office of its registered agent is liable to a fine of XCD 20 000 (EUR 6 966) in each case. Registered agents are only exposed to a sanction under this Act where they fail to file a notification when they appoint a director in accordance with the Act. Failure to pay a penalty is a ground on which the FSA may strike off a business company. The FSA reported it has never applied the penalty for failure to comply with the record-keeping requirements under Sections 54A and 91A of the Business Companies (Amendment and Consolidation) Act as corrective actions were taken by the companies in instances where non-compliance was identified.

106. An LLC which fails to comply with its statutory obligation, including to maintain a list of its members, may be liable on summary conviction to a fine not exceeding XCD 10 000 (EUR 3483). In addition, the court may order the person to comply with the provision of the Act which was contravened.[35] An LLC may also be liquidated and dissolved by the court for seriously and persistently failing to comply with the Act. Alternatively, the defaulting LLC may be struck off and dissolved by the FSA.[36] The FSA reported it has never applied any penalty on an LLC for failure to comply with the record-keeping requirements as when cases of non-compliance have been identified the LLCs have taken corrective action.

107. Penalties are provided under the AML&TF Regulations for a service provider who fails to apply the CDD procedures as required under the Regulations. A service provider found guilty of this contravention is liable on summary conviction to a fine of XCD 100 000 (EUR 34 831).

35. Sections 107-108 Liability Companies Act.
36. Limited Liability Companies Act sections 65, 69 and 71.

However, the FSA indicated that despite identifying minor non-compliance with these requirements during their monitoring activities, this penalty was not applied during the peer review period. Since 31 March 2023, under the AMLTF (Administrative Penalties) Regulations 2023, the AML supervisory authorities can impose administrative penalties ranging between XCD 5 000-XCD 7 500 (EUR 1 667-EUR 2 500) for an individual service provider and XCD 10 000-XCD 15 000 (EUR 3 334-EUR 5 001) for a body corporate service provider failing to comply with their CDD requirements under the AML&TF Regulations. The penalties are detailed and set out in a table with specific references to the provisions of the legislation. **Saint Vincent and the Grenadines should monitor the implementation of the AMLTF (Administrative Penalties) Regulations 2023 to ensure the application of effective, proportionate and dissuasive measures to enforce its AML/CFT framework requiring availability of beneficial ownership information**.

Supervision by the Financial Services Authority

108. The FSA checks for the availability and currency of legal ownership information of BCs and LLCs mainly through their registered agents which must be locally incorporated. During the review period there were 14 licensed registered agents operating in Saint Vincent and the Grenadines. The FSA uses a combination of desk-based and onsite monitoring. The FSA conducted four on-site examinations of registered agents in 2019, six in 2020 and one in 2021. The FSA reports that its on-site activities were curtailed as during the review period Saint Vincent and the Grenadines was affected by the Covid-19 pandemic, multiple volcanic eruptions followed by a hurricane. The FSA did not impose any sanctions on registered agents during the review period but issued requests for remedial actions based on the findings of its monitoring activities. Four such remedial actions were applied in 2019, five in 2020 and one in 2021, mainly for deficiencies in CDD information. The FSA monitors the obligations of the entities under its supervision using the powers provided in the laws under which the company is incorporated or formed, the FSA Act and the AML laws. Among the enforcement measures available to the FSA are those provided under section 152(3) and the Fourth Schedule of the Proceeds of Crime Act. They include the power to require the production of documents, to apply to the Magistrate's Court for a search warrant, undertake compliance visits, issue directives to service providers and the power to appoint an investigator.

109. BCs and LLCs which do not have a registered agent are liable to be struck off. The table below shows the number of BCs and LLCs that were struck off over the review period and the grounds for such striking off.[37]

110. BCs and LLCs struck off during the review period:

	2019	2020	2021	Total
BCs				
No. struck off	704	1 215	1 344	3 263
Grounds for striking off	Voluntary exit or cancellation Failure to appoint new registered agent	Voluntary exit or cancellation Non-payment of annual fees Failure to appoint new registered agent	Voluntary exit or cancellation Non-payment of annual fees	
LLCs				
No. struck off	15	44	12	71
Grounds for striking off	Registered agent licence revoked	Non-payment of annual fees Failure to appoint new registered agent	Voluntary exit or cancellation Non-payment of annual fees	

111. Where a BC is struck off the register for failure to comply with its filing obligations, the FSA may only restore the BC if it is satisfied that a licensed registered agent has agreed to act as its registered agent, and it would be fair and reasonable for the BC to be restored to the register. The FSA reports that as at the end of November 2022, a total of 24 289 or 47% of existing BCs were struck off the register. Of this number, 3 263 were struck off during the review period. A total of 237 BCs were reinstated during the review period.

Supervision by the Commerce and Intellectual Property Office

112. External companies may be sanctioned for non-registration with a penalty of XCD 350 (EUR 122) for each day of default. Such a company is also precluded from taking legal actions to enforce a contract made in the course of or in connection with any business in Saint Vincent and the Grenadines. The company would also be similarly affected where the Registrar of Companies strikes off the company for failure to file the prescribed annual returns.[38]

37. The data in the table also includes companies that were struck off due to voluntary dissolution and non-payment of annual fees.
38. Sections 340A, 356-357 Companies Act.

113. External companies which fail to file fundamental changes, such as a change in directors or a share transfer are liable to a penalty of XCD 100 (EUR 35) per day for long as the default continues. The CIPO is alerted to such failures where the company files annual returns with inconsistencies. The CIPO sends correspondence notifying the company of the inconsistency and requiring the fundamental changes to be filed along with payment of the appropriate fine. Where the company fails to comply within six months, the CIPO may proceed to strike off the external company or sue to recover the penalty. During the peer review period, no external companies were struck off from the register.

114. The CIPO supports its compliance programme with a public education programme including a weekly radio programme and cell phone blasts reminding customers of filing deadlines.

115. Following a project funded by multilateral partners, the CIPO has digitised all its company records from 1909 to present. This digitisation of records facilitates the CIPO's "seek and compliance" programme where it consistently checks its online company registration system to determine the level of compliance of companies in relation to the filing of annual returns and financial statements. The average filing compliance rate during the review period was 79% for ordinary companies and 84% for external companies.

116. The CIPO uses the power to strike off companies and the imposition of penalties to ensure compliance. Notices are issued to non-compliant companies. While the CIPO has issued notices to strike off during the review period (number unknown), 15 non-profit companies and only 1 ordinary company were struck off in 2019. Enforcement actions of the CIPO resulted in the imposition of penalties over the review period as shown in the table below.

Penalties applied by the CIPO during the review period

	2019	2020	2021
Amount of penalty applied (XCD)	758 604	245 712	469 727
Amount of penalty applied (EUR)	264 230	85 584	163 610

117. The authorities have not explained the reasons for the variation in the amounts of penalties applied over the years.

Conclusion

118. Currently, the main sources of legal ownership information for companies in Saint Vincent and the Grenadines are the companies, the company registrars as well as registered agents. Both the FSA and the CIPO, as the registrars and supervisors of companies' legal ownership requirements, have reported some compliance and enforcement action but their effectiveness in ensuring compliance could not be fully demonstrated. Whereas the CIPO has indicated that companies are responsive to notices to strike off, no statistics were provided on the number of such notices issued, the CIPO is still identifying its universe of non-compliant companies and only one ordinary company was struck off during the review period. Further, the CIPO has levied monetary penalties for non-compliance but there was no identifiable relation between the compliance rates and the quantum of penalties imposed. For example, in year 2019 which recorded the highest compliance rates for ordinary (82%) as well as external companies (86%), the highest amount of penalties was imposed. On the other hand, the FSA struck off BCs and LLCs for a variety of reasons but applied no sanctions on registered agents over the period.

119. Accordingly, **Saint Vincent and the Grenadines is recommended to strengthen its supervisory and enforcement activities to ensure that legal ownership information on all relevant legal entities is available in line with the standard**.

Availability of legal ownership information in EOIR practice

120. Saint Vincent and the Grenadines received four requests for legal ownership information for which it provided responses. The peers were satisfied with the responses.

Availability of beneficial ownership information

121. The standard was strengthened in 2016 to require that beneficial ownership information be available on companies. Saint Vincent and the Grenadines seeks to comply with this aspect of the standard through its AML/CFT framework which requires service providers to identify the beneficial owners of their customers. The Proceeds of Crime Act (POCA) is the primary AML/CFT legislation of Saint Vincent and the Grenadines. The rules in relation to CDD and the definition of beneficial ownership are set out in the AML&TF Regulations made pursuant to the Act which are expanded upon in the AML/CFT Code.[39]

39. The Code is subsidiary legislation issued by the National Anti-Money Laundering Committee under section 169 of the Proceeds of Crime Act.

122. Whereas the formation and continued existence of LLCs and BCs, including those licensed or registered as mutual funds, international banks and international insurance companies, require the appointment of a registered agent who is covered under the AML legislation as a service provider, there are no similar requirements for ordinary and foreign companies. There is also no requirement for them to engage the services of AML-obliged persons such as banks, albeit they are likely to do so. The scope of the AML framework is therefore narrower than the scope of relevant entities and arrangements under the standard. The AML/CFT regime is analysed below.

Companies covered by legislation regulating beneficial ownership information

Type	Company Law	Tax Law	AML Law
Ordinary company	None	None	Some
Limited liability company (LLC)	None	None	All
Business company	None	None	All
Foreign companies (tax resident)	None	None	All[40]
Mutual Funds	None	None	All
International banks	None	None	All
International insurance companies	None	None	All

Definition of beneficial ownership and method of identification

123. Beneficial owner in relation to a legal person, partnership or legal arrangement is defined in regulation 4 of the AML&TF Regulations as:

> (1) Subject to regulation (3), each of the following is a beneficial owner of a legal person, a partnership or a legal arrangement –
>
> (a) an individual who is the ultimate beneficial owner of the legal person, partnership or legal arrangement, whether or not the individual is the only beneficial owner; and
>
> (b) an individual who exercises ultimate control over the management of the legal person, partnership or legal arrangement, whether alone or jointly with another person or persons.

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

(2) For the purposes of subregulation (1), it is immaterial whether an individual's ultimate ownership or control of a legal person, partnership or arrangement is direct or indirect.

(3) An individual is deemed not to be the beneficial owner of a company, the securities of which are listed on a recognised stock exchange.

124. The definition contains several issues and is not in line with the standard.

125. Paragraph (a) of the definition is circular as the defined term "ultimate beneficial owner" is used in the definition without any further explanation of what the term means but paragraph (2) suggests this would cover "ultimate ownership". There is no ownership threshold in the definition although the provisions in relation to identifying a legal person in paragraph 10(2)(i) of the AML&TF Code requires a service provider to obtain identification information on individuals who are the ultimate holders of 15% or more of the legal person.

126. There is also no guidance in paragraph (b) of the definition on what it means to "exercise ultimate effective control over the management of a legal person". No guidance is provided on how to apply this clause, whether it could cover joint control, family ties, control through financial or contractual links, an individual benefiting from the assets of the company, etc.

127. The use of the conjunction "and" would appear to be more consistent with a cumulative rather than a cascading approach but the Vincentian authorities have indicated that "and" is interpreted as the disjunctive "or". However, very little written guidance is provided to service providers on how to apply the correct approach. The use of the disjunctive without any guidance on the methodology to identify beneficial owners gives the impression that a service provider could in each case determine whether they find the beneficial ownership by control through ownership interest (assuming this is what is meant in paragraph (a)) or control by other means.

128. There is also no indication in the definition or guidance in the AML&TF Code and Guidance Notes that the backstop option of identifying senior management officials as beneficial owners should be engaged at any time, while this should be the case when no individual meets the definition of beneficial owner. While this situation would not occur when the legislation does not set any ownership threshold, the AML&TF Code does set a 15% threshold. The authorities were unable to point to any additional guidance apart from the Code and Guidance Notes.

129. Guidance Notes issued by the National Anti-Money Laundering Committee under section 169(9) of the POCA aim to guide service providers on how to interpret the requirements of the POCA and the AML&TF

Regulations and Code. The Guidance Notes do not have the force of law, but the court is required to consider whether a person has followed them in deciding whether the person has committed an offence under the regulations.

130. While Part 2 of the Code and Guidance Notes focuses on CDD, there is very little explanation of the definition of beneficial ownership or the appropriate methodology to be applied in identifying beneficial owners of a legal person. Paragraph 5 of the Code gives details on what is to be captured as relationship information. Sub-paragraph (v) of the Guidance Notes explaining paragraph 5 of the Code repeats the definition of beneficial owner in the AML&TF Regulations 4(1)(b) without developing it further. Similarly sub-paragraph (iii) of the Guidance notes in relation to paragraphs 9 and 10 of the Code (dealing with identification of legal persons and individuals) repeats the definition in the regulations but includes a note, "all persons who are not individuals… are regarded as having a beneficial owner who is an individual." The Guidance Notes on paragraph 10-12 of the Code (identification of legal entities and verification of directors and beneficial owner) indicate that in deciding who the customer is, the service provider's objective is to know who has control over the funds, which form or otherwise relate to the relationship, and/or form the controlling mind and/or management of any legal person involved in the funds. This appears to be a reference to determining who is controlling the funds or decisions of the legal person. The Guidance Notes further advise the service provider to take account of the number of individuals, the nature and distribution of their interests in the entity and the nature and extent of any business, contractual or family relationship between them when deciding whose identity to verify following a risk-based approach.

131. Although the regulators indicated that service providers were trained and there is a common understanding of the approach to identify beneficial owners, the authorities did not demonstrate a complete understanding of the legal provisions defining beneficial ownership and the methodology for applying it in practice. While the definition appears to require a cumulative approach, the authorities interpret the definition disjunctively and it is unclear what this means in practice.

132. Based on discussions with Vincentian service providers, it appears that they focus on identifying the beneficial owner by controlling ownership interest. It was not clear at what point or under what circumstances the beneficial owner would be identified based on control by other means. The representatives of the banks indicated that their policy is to collect due diligence information on ultimate beneficial owners holding at least 10% interest in the relevant entity. On the contrary, registered agents reported that they did not apply a threshold and captured all owners of the entity in the CDD procedures. In conclusion, while financial institutions and service

providers appear to have an understanding of their CDD obligations with respect to applying the definition of beneficial owner through ownership threshold, little guidance is given to service providers on how to interpret the definition of beneficial owner entirely, notably regarding control through other means, and the correct methodology to apply to ensure that all beneficial owners are being consistently and accurately identified by service providers.

133. **Saint Vincent and the Grenadines is recommended to ensure that adequate, accurate and up-to-date information on beneficial owners for all relevant entities and arrangements be available in line with the standard**.

Anti-Money Laundering law – Customer due diligence obligations

134. The CDD obligations of service providers are set out in regulations 10-16 of the AML&TF Regulations. A risk sensitive approach must be applied to determine the extent and nature of the CDD measures to be applied to both the customer as well as any third party or beneficial owner. The service provider must obtain CDD information on every customer, third party[41] or beneficial owner, verify the customer and third party and take reasonable steps on a risk-sensitive basis to verify the beneficial owner's identity. The service provider must apply the CDD measures (i) before establishing a business relationship or carrying out an occasional transaction, (ii) where the service provider suspects money laundering or terrorist financing or doubts the veracity or adequacy of data previously obtained or (iii) when doing ongoing monitoring. The AML&TF Regulations provide that if a service provider cannot carry out CDD they should not conduct an occasional transaction or establish a business relationship. They should also terminate the business relationship where ongoing monitoring is not possible.

135. There is also a requirement to obtain information when there is a change in the identity information of the customer, a change in the beneficial owner of a customer, third party or beneficial owner of the third party. However, it is unclear how the service provider will be notified of these changes.

136. The service provider is required to conduct ongoing monitoring of a business relationship. This includes scrutinising transactions undertaken throughout the course of the relationship, to ensure that they are consistent with the service provider's knowledge of the customer and the customer's business and risk profile. The service provider is obliged to

41. Third party is defined in regulation 2 as "a person for whom a customer is acting".

keep documents, data or information obtained for the purpose of applying CDD measures up-to-date and relevant by undertaking reviews of existing records. In relation to existing customers, CDD must be updated on a risk-sensitive basis and at least every five years. This requirement is further broken down in the (non-binding) Guidance Notes in relation to "Updating customer due diligence". The Guidance Notes recommend the review of CDD information be done at least annually for a customer relationship presenting a higher risk and every three years for those presenting a normal or low risk.[42] During discussion with registered agents they indicated that they do frequent checks on their foreign clients as they fall into the high-risk category. However, the FSA identified updating of information as one of the main deficiencies in several of the onsite visits of registered agents (see paragraph 161).

Identification and Verification procedures

137. The procedures for identifying and verifying an individual as part of the CDD requirements are set out in paragraph 8 of the AML&TF Code. Copies of evidence of identity or information that enables such copies to be obtained and the supporting documents, data or information obtained as part of a business relationship must be kept by the service provider for at least seven years. The service provider must obtain the individuals' full name, former names and any other name they use, their gender, principal residential address and date of birth. In the case of individuals determined to present a higher level of risk, the service provider must collect two additional pieces of information which may be the individual's birthplace, nationality, official government identity number or other government identifier.

138. The verification procedures in paragraph 9 of the AML&TF Code are risk-based. Service providers must use these procedures to verify an individual's identity when required to do so and take reasonable measures to re-verify when there are changes in aspects of the individual's identity such as of marital status, nationality or address, after re-verification. Individuals presenting a low risk must be verified from at least one independent source of their full legal (former and other) names and either their principal residential address or date of birth. Individuals presenting a higher level of risk must be verified from two independent sources and their nationality, birthplace and gender must also be verified. The service provider must also verify their government issued identity number or other government identifier. The Code indicates that the best forms of identification for individuals are a current passport, national government issued identification card or

42. Guidance Notes (xxxi)(a)-(b).

driver's licence.[43] The identity of each beneficial owner and director must also be verified in any case where the service provider determines that the legal person presents more than a low level of risk.[44] Thus the identity of beneficial owners of a legal person presenting a low level of risk need not be verified. This is not in line with the standard. **Saint Vincent and the Grenadines is recommended to ensure that adequate, accurate and up-to-date information on beneficial owners for all relevant entities and arrangements be available in line with the standard**.

139. The AML&TF Regulations allow the verification of the identity of the customer, third party or beneficial owner to follow the establishment of the business relationship. This may be done if it is necessary not to interrupt the normal conduct of business, there is little risk of money laundering or terrorist financing occurring and the verification is done as soon as reasonably practicable after contact with the customer is first established.

140. The service provider is mandated to keep records such as identification evidence obtained while applying CDD measures, supporting documents in respect of the business relationship or occasional transaction and other accounting records. The records must be kept for a minimum period of seven years following the establishment of the business relationship or the date on which a transaction was completed. The Regulations indicate that the records must be kept in a manner that facilitates their ongoing monitoring and periodic review and ready access to them within Saint Vincent and the Grenadines. The record keeping should also enable the supervisory authority, auditors and other competent authorities to assess the effectiveness of the service provider's systems and controls to prevent and detect money laundering and terrorist financing.

141. There are no legal provisions that prescribe how the records should be dealt with where the service provider ceases to exist although the Vincentian authorities advise that in practice, the records are transferred to other active registered agents. Therefore, **Saint Vincent and the Grenadines is recommended to ensure that beneficial ownership information for all relevant entities is kept for at least five years, including in the case where the AML-obliged person has ceased to exist**.

Introduced business

142. The 2014 Report noted that Saint Vincent and the Grenadines had only recently introduced a requirement for service providers to immediately obtain ownership and identity information in the case of introduced business

43. Paragraph 9(7) of the AML&TF Code.
44. Paragraph 12(3) of the AML&TF Code.

and recommended the authorities to monitor its implementation. The AML&TF Regulations permit service providers to rely on an introducer or intermediary to apply CDD measures with respect to a customer, third party or beneficial owner. There are a number of pre-conditions that the service provider must fulfil before being able to take advantage of this facility. They include:

- ensuring the introducer/intermediary is a regulated or foreign regulated person
- obtaining the introducer's/intermediary's consent to be relied on
- obtaining written assurance that the introducer/intermediary has applied the CDD measures, keeps the record of identification evidence, will provide the information to the service provider and provide the record to the supervisory authority
- assessing the risk of relying on the intermediary/introducer.

143. Saint Vincent and the Grenadines' law is in line the standard. However, banks and registered agents met on the onsite visit reported that notwithstanding that clients may be introduced, they still routinely conduct their own CDD. The recommendation in the 2014 Report has been addressed.

Enhanced/simplified due diligence procedures

144. Regulation 15 of the AML&TF Regulations requires service providers to apply a risk-sensitive approach to determining the extent and nature of the CDD measures to be applied and the ongoing monitoring of the business relationship. There is guidance on the considerations that should form part of the risk assessment and the service provider is required to periodically update the CDD information it holds and adjust the risk assessment accordingly.

145. A service provider may apply the simplified due diligence procedure in regulation 15 of the AML&TF Regulations which allows the service provider to undertake the CDD procedures after (rather than before) establishing a business relationship or carrying out an occasional transaction. The service provider may apply simplified CDD where the service provider reasonably believes that the customer is a service provider, a foreign regulated person, a Vincentian public authority or a publicly traded company. It may also be used for life insurance business in respect of life insurance contracts within a prescribed premium threshold. In these cases, the service provider is required to obtain and retain documentation relied on to apply the simplified due diligence procedure. It may not be used where the customer is acting for a third party or there are money laundering and terrorist financing risks associated with the customer. Some guidance is provided in the AML&TF Guidance on the meaning of recognised exchange in relation to a public company and the entities that may be regarded as a public authority in Saint Vincent and the Grenadines.

146. The AML&TF Regulations provide for enhanced due diligence measures and enhanced ongoing monitoring. The nature of these measures is spelled out in the Guidance Notes that point to further identification and relationship information and further information on source of funds or wealth. Other measures are suggested for consideration, such as additional steps to verify the customer's CDD information, due diligence reports from independent experts, requiring senior management approval, more frequent reviews of the business relationships and lower transaction monitoring thresholds.

147. Enhanced CDD measures and enhanced ongoing monitoring are prescribed for customers who are not physically present, where the service provider has or proposes to have a business relationship or carry out an occasional transaction with a country that does not apply or does not sufficiently apply FATF recommendations or with a foreign politically exposed person or their close associate. Other situations requiring this form of due diligence include where a foreign politically exposed person or their close associate features as a beneficial owner, third party, person acting for a customer, where the transactions involve a company with nominee shareholders or bearer shares and any other situation that presents a higher risk of money laundering or terrorist financing. In practice, registered agents report that BCs, LLCs and Registered Trusts are always subject to enhanced due diligence requirements.

Beneficial ownership information – Enforcement measures and oversight

148. Different regulators in Saint Vincent and the Grenadines supervise AML-obliged persons. These entities are empowered to take enforcement measures for non-compliance.

Sanctions available but not applied during the review period

149. The AML&TF Regulations impose criminal sanctions on a service provider who fails to comply with their CDD and record keeping obligations. On summary conviction the offender is liable in each case, to a fine of XCD 100 000 (EUR 34 831).[45] These penalties have not been applied in practice during the peer review period. In addition, no other penalties or sanctions have been applied during the review period as there were no other available sanctions. Saint Vincent and the Grenadines has indicated that the application of criminal penalties was not proportionate to the breaches they encounter, and the practice is for service providers to be

45. Regulation 11(6).

given an opportunity to address the non-compliance before applying sanctions. The authorities explained that the sanctions may be applied as a last resort option for egregious cases of persistent non-compliance at the end of the ladder of escalating interventions (Memorandum of Understanding, Letter of Compliance, Directive).

150. Since 31 March 2023, under the AMLTF (Administrative Penalties) Regulations 2023, the FSA can impose administrative penalties ranging between XCD 5 000 and XCD 7 500 (EUR 1 667-EUR 2 500) for an individual service provider and XCD 10 000-XCD 15 000 (EUR 3 334-EUR 5 001) for a body corporate service provider failing to comply with their CDD requirements under the AML&TF Regulations. The penalties are detailed and set out in a table with specific references to the provisions of the legislation.

151. Several entities in Saint Vincent and the Grenadines are involved in the supervision of service providers relevant to the 2016 Terms of Reference in relation to the AML obligations and enforcing their compliance.

Supervisory authorities

152. In accordance with section 151 of the POCA, regulation 36 of the AML&TF Regulations designates the Financial Intelligence Unit (FIU) as the supervisory authority for non-regulated service providers (relevant providers are lawyers and accountants), the FSA for regulated service providers (e.g. registered agents, international banks, mutual funds), and the ECCB for externally regulated service providers who hold a licence under the Banking Act (i.e. domestic banks).

153. Section 152 of POCA outlines the objectives, functions and powers of the supervisory authorities, which includes to monitor the compliance of relevant service providers with their AML/CFT obligations and to take appropriate enforcement action against them for breach or non-compliance with their AML/CFT obligations. The supervisory authorities are given certain information gathering, enforcement and other powers which they may exercise to require information and production of documents, obtain search warrants, conduct compliance visits, enforcement actions, issue directives, appoint investigators and issue public statements.[46]

154. The supervisory authorities are at different levels of maturity in terms of the supervisory and monitoring activities.

46. Section 152(3) of the Proceeds of Crime Act.

Financial Intelligence Unit

155. The FIU is the most recent entity to officially commence its supervisory activities which began in 2018. Since that time, the FIU has conducted AML/CFT training and workshops, issued guidance and advisories to the industry, conducted annual compliance programmes to review the policies and systems of non-regulated service providers.

156. Since February 2022, with the passage of the Anti-Money Laundering and Terrorist Financing (Non-Regulated Service Providers) Regulations, entities are now required to be registered, which will enhance the FIU's ability to conduct more systematic monitoring.

157. The FIU has commenced the registration of service providers in March 2022 and report that the composition of the non-regulated service provider sector is as follows: 17 real estate agents, 21 car dealers, 54 law firms and 76 lawyers, 11 accountants/auditors, 9 jewellers and 0 casino.

158. The FIU has not yet conducted in-depth supervision of the actual CDD information kept by these persons.

Financial Services Authority and Eastern Caribbean Central Bank

159. During the review period, the FSA monitored the AML compliance of registered agents and international banks (see A.3 for details on international banks) through desk based as well as on-site examinations. These activities are programmed through a risk-based approach using the inherent money laundering and terrorist financing risks present and the quality of the controls associated with the sector or service provider's risk profiles as established by the FSA, the money laundering and terrorist financing risk present in the country based on the national risk assessment and the characteristics and risk profiles of the sectors and the individual service providers.

160. The off-site supervision is conducted using the regulatory reports and financial statements submitted by the entities. The on-site inspection assesses the qualitative risks that cannot otherwise be assessed and aims to verify the service provider's compliance with their AML obligations. The process involves interviews with management, inspecting written policies and procedures and testing the degree to which they are followed. There is also inspection of a sample of files to ensure that the CDD and record keeping requirements are being met. On conclusion of the examination, the findings are shared with the service provider in an exit meeting. A comprehensive report is subsequently issued with the areas of non-compliance, remedial actions (corrective actions, reprimands and fines) and the due dates for their completion. This is followed up with on-site examinations to ensure the issues identified are adequately addressed.

161. There are 14 registered agents in Saint Vincent and the Grenadines, and the FSA conducted 11 on-site visits to registered agents over the review period: 4 in 2019, 6 in 2020 and 1 in 2021. Two on-site visits were conducted in 2022. This resulted in the FSA issuing letters of recommended action to registered agents in almost all cases, i.e. 4 in 2019, 5 in 2020 and 1 in 2021. The main deficiencies identified were failure to perform ongoing monitoring and thus documents and data obtained during onboarding were not kept up to date, failure to conduct risk assessments, failure to collect information on the source of wealth of clients.

162. The FSA reports that onsite examinations were suspended from March 2020 and for 2021 with limited resumption in 2022 due to the COVID-19 pandemic and some natural disasters, and as a result, its desk-based monitoring activities were intensified. During this period, the FSA focused on reviews of information requested from or submitted by supervised entities. Contact was maintained with the entities through letters, email, telephone calls and virtual meetings. The off-site monitoring activities included:

- reviewing supervised entities policies and procedures on AML/CFT, investment and lending and internal controls
- following up on issues raised in the last onsite examination of the entity's operation
- monitoring new products and services and emerging risks, adjusting supervisory strategies and engaging with regional regulators to address the risks and emerging issues identified.

163. The ECCB also employs a risk-based monitoring and supervisory approach that leverages both on-site and remote examinations. These activities are further discussed under Element A.3 *Availability of Banking Information*.

Conclusion

164. Both the FSA and the ECCB have developed risk-based programmes to monitor the AML-obliged persons which they supervise. The FIU continues to develop its framework to monitor non-regulated service providers, benefiting from the experience of the more mature regulators as well as the recent requirement for registration of the sector. The supervisory authorities did not however demonstrate a complete understanding of how they supervise the requirements of AML-obliged persons to correctly identify the beneficial owners of their clients and conduct CDD. They also did not apply any sanctions during the period under review. **Saint Vincent and the Grenadines should continue to strengthen its supervision and enforcement efforts with adequate guidance to assist AML-obliged**

persons with their obligations to identify the beneficial owners of customers to ensure that adequate, accurate and up-to-date beneficial ownership information is available in line with the standard.

Availability of beneficial ownership information in EOIR practice

165. During the review period, peers sent five requests to Saint Vincent and the Grenadines involving beneficial ownership information of companies. The peers were satisfied with the responses provided.

Nominees

166. The standard requires that identity information be available on the legal and beneficial owners of companies, including in any case where a legal owner acts on behalf of any other person as a nominee or under a similar arrangement. Although there are provisions in the Companies Act and AML law for keeping information on nominee arrangements, they are not fully in line with the requirements of the standard.

167. In relation to ordinary companies, the Companies Act requirement for notification of substantial shareholding[47] (holding shares which entitle the holder to at least 10% of unrestricted voting rights) in the company enables information on persons acting as nominees to be available both with the company and the CIPO. Every substantial shareholder is required to give the company written notice giving full particulars of the shares held by them or their nominee (naming the nominee) and stating their full name and address. The person is required to give this notice within 14 days of becoming aware of having substantial shareholding. A similar notice is required to be filed within 14 days when the person ceases to be a substantial shareholder, stating the date on which and reason the person is no longer a substantial shareholder. The company is required to keep a register of the filings received and may be required to furnish the Registrar with a copy of this register. This would make available some information on nominee arrangements, but the threshold does not permit having information in all cases.

168. The substantial holding requirement does not apply to BCs and LLCs but professional nominees in respect of these entities are covered under the AML law. The AML&TF Regulations include as service providers, persons who by way of business act as nominee shareholders or arrange for other persons to so act as a service to a third party. Registered agents are the service providers who are licensed in accordance with section 2 of the Registered Agent and Trustee Licensing Act (RATL Act) to engage in international representation, which includes providing or appointing nominee directors, nominee shareholders or nominee officers.

47. Sections 181-184 of the Companies Act.

169. The AML law requires that, where registered agents act as professional nominees, the information be available on the nominee, legal owner (nominator) and beneficial owner. The service providers are required to comply with their CDD obligation to obtain information on their customer, third party (i.e. the person for whom the customer is acting) and beneficial owner of both the customer and the third party prior to establishing a business relationship. The service provider is also required to verify the identity of the customer and any third party and to take reasonable measures determined by risk to verify the identity of each beneficial owner of the customer and third party.[48] Further one of the triggers for enhanced CDD and monitoring in the AML&TF Regulations is where a customer, transaction or business relationship involves companies that have nominee shareholders.[49]

170. The FSA also reports that due to the new requirements for BCs to file information on their members and appointment of directors with the FSA,[50] in practice these filings include notification of the appointment of a nominee or alternate directors and nominee shareholders, but no supporting document was provided. This information is also included in the FSA's registry database.

171. The substantial holding and AML law requirements do not however cover nominee shareholders who are not acting in the course of a business or are holding less than the substantial holding requirement for ordinary companies. The 2014 Report noted that any person offering nominee services in any significant manner would most likely be considered doing so in the course of a business and would therefore be caught under the AML laws. Saint Vincent and the Grenadines has no requirement for the disclosure of nominee status. Under the AML framework, only professional nominees and reporting institutions have an obligation to conduct CDD on their customers, but they do not have an obligation of informing the concerned company of their nominee status. **Saint Vincent and the Grenadines is recommended to ensure that nominee shareholders disclose their nominee status to the company**.

A.1.2. Bearer shares

172. The 2014 Report included a recommendation for Saint Vincent and the Grenadines to ensure that information on the direct owners of bearer shares is made fully available within the jurisdiction. This recommendation stemmed from the existence of approved custodians operating outside of Saint Vincent and the Grenadines, thus affecting the availability of the

48. Regulation 6(1) of the AML&TF Regulations.
49. Regulation 14(2) of the AML&TF Regulations.
50. Sections 54A and 91A of the Business Companies (Amendment and Consolidation) Act.

ownership information within the jurisdiction and the ability to take enforcement action against such custodians.

173. Saint Vincent and the Grenadines has abandoned the custodial arrangements for immobilising bearer shares and has instead abolished bearer shares. The Business Companies (Amendment and Consolidation) (Amendment) Act, 2018, which took effect on 1 January 2019, repealed the provision permitting the immobilisation of bearer shares and now prohibits BCs from issuing any kind of bearer shares.[51] BCs must now include a statement in their Articles of Incorporation to the effect that the company is not authorised to issue a bearer share, convert a registered or ordinary share into a bearer share or swap a registered share for a bearer share.

174. Existing BCs which held bearer shares up to 2018 were required to convert their bearer shares into registered shares with a deadline of 30 June 2021. Further, entities were required to update their Articles of Incorporation to reflect the conversion and file the amendment with the FSA.

175. The new law provides no consequences for the failure to convert existing bearer shares. Consequently, bearer shares may continue to exist beyond 1 January 2019 until they are surrendered to the business company for conversion into a registered share.

176. However, the Vincentian authorities have reported that owing to extensive engagements with registered agents before and after the passage of the new legislation, the dissemination of periodic notices directing the implementation of the law, the abolition of the shares has generally been addressed by the registered agent. The FSA has also been checking that the requirements have been complied with through on-site visits of the registered agents of relevant companies. With respect to the outstanding amendments to BCs' articles, the FSA issued a notice in November 2022 indicating that BCs which have not made the relevant amendments to their articles of incorporation will not be renewed for the 2023 period.

177. Thanks to this robust monitoring, the number of BCs which have filed amended Articles of Incorporation to date is 892 of the total of 1 088 BCs, which had issued bearer shares (i.e. 82%). Of the remaining 196 BCs, 122 have been struck off and will thereby lose their legal personality. The FSA indicates that as at 8 May 2023, 74 BCs remain on the register for which updated articles are expected to be filed by 31 May 2023. Based on the checks done by the FSA of registered agents, bearer shares have been converted into registered shares. However, not all registered agents were subject to an on-site visit during the review period, and 74 remaining BCs have not yet amended their Articles of Incorporation as required.

51. Section 29(1A) to the Business Companies (Amendment and Consolidation) Act.

178. Saint Vincent and the Grenadines is encouraged to continue to monitor the conversion of bearer shares into registered shares and the amendments of the articles of incorporation of the relevant BCs to ensure the full abolition of bearer shares (see Annex 1).

A.1.3. Partnerships

179. The 2014 Report concluded that identity information of partnerships that carry on business or which have income, deduction or credits for tax purposes in Saint Vincent and the Grenadines is available. There has been no change to the legal framework since the 2014 Report. Further, the authorities report that partnerships are unpopular and are not commonly utilised for business purposes due to the unlimited liability of partners and its limited scope for tax incentives as compared with corporate structures.

Types of partnerships

180. Only ordinary partnerships that have no legal personality may operate in Saint Vincent and the Grenadines. Foreign partnerships cannot operate in or from within Saint Vincent and the Grenadines, as they are not considered separate entities and cannot be registered in Saint Vincent and the Grenadines.

181. The Partnerships Act governs ordinary partnerships and defines an ordinary partnership as a relation that subsists between persons carrying on a business in common with a view to profit.

Identity information

182. Ordinary partnerships do not have legal personality and are fiscally transparent. There are no express obligations on partnerships to maintain identity information of their partners. However, in practice the partnerships are established by a written deed and they are required to register with the IRD where they carry on business or derive taxable income under the Income Tax Act. Such partnerships are required to file tax returns containing a calculation of the chargeable income and tax payable by each partner and will therefore need to identify their partners and their respective drawings. Partners who are individuals pay tax on their worldwide income while corporate partners are taxed on a territorial basis. Information that must be provided to the IRD include the name, address and percentage owned by each owner and the date their ownership became effective. This information is provided in the Non-enterprise Registration Form that partnerships are required to submit to the IRD along with their partnership agreement. As of

31 December 2021, there were 121 taxable partnerships registered with the IRD. Their filing compliance rate was 85%.

183. Although there is no requirement for partnerships to engage with AML-obliged persons, identity information on their partners may also be available to some extent where the partnership engages with an AML-obliged person. The Guidance Notes provides in discussing the due diligence requirements of service providers:

> (ii) In essence, all persons who are not individuals, including companies, foundations, partnerships or trusts and any other type of arrangement are regarded as having a beneficial owner who is an individual.

184. The Guidance Notes provides that the identity of a partnership may be ascertained from the partnership agreement.[52] The AML law does not specify the information that must be collected in relation to partnerships, but the requirement to obtain identification information on and verify the identity of, any individual who is a beneficial owner of the customer or partnership would only be possible if partners are first identified. The service provider would therefore be required to obtain identification information on partners who are beneficial owners, such as the full legal name of the individual, their gender, principal residential address and their date of birth.

185. In conclusion, Saint Vincent and the Grenadines' laws only allow for the formation of ordinary partnerships which are not considered as legal persons. There are no registration requirements on partnerships, except for tax purposes. Partnerships which are taxable, the IRD and in some cases, AML-obliged service providers are required to hold Information to identify the partners of a partnership. Ownership and identity information would be held with the service providers where the partnership transacts business with such persons although there is no obligation for this to be done.

Beneficial ownership

186. While partnerships may engage with service providers, such as banks, in order to do business, there is no legal obligation to do so. Service providers are required as part of their due diligence obligations to collect information on the beneficial owners of partnerships. However, as partnerships are not legal persons, the 15% threshold should not apply to them. Consequently, the service provider should be required to identify all the individuals who are ultimate beneficial owners of the partnership or the individuals who exercise ultimate control over the management of the partnership. No guidance is given in the AML&TF Code on the identification of

52. Guidance Notes (ix) Verification of identity of a legal person.

beneficial owners of partnerships to ensure that accurate information is kept on them so the reasoning above is not set in any text. **Saint Vincent and the Grenadines is recommended to ensure that adequate, accurate and up-to-date information on beneficial owners for all relevant entities and arrangements be available in line with the standard**.

187. The availability of beneficial ownership information on partnerships may also be negatively affected by the absence of a requirement for such information to be held after the dissolution of the partnership or after the service provider ceases operations. Thus, **Saint Vincent and the Grenadines is recommended to ensure that beneficial ownership information for all relevant legal arrangements is kept for at least five years, including in the case where the AML-obliged person has ceased to exist**.

Oversight and enforcement

188. The IRD monitors the compliance of partnerships as part of its overall taxpayer monitoring activities. The main compliance strategy used by the IRD is its audit function, which is divided into two divisions. One division supervises large to medium taxpayers while the other is in charge of small and micro taxpayers under which partnerships fall. These two divisions carry out annual audits (field or desk based) covering 20% of the taxpayer population. The IRD bolsters its compliance activities with a six-person Intelligence and Investigative Unit which investigates taxpayer activities and gathers information to validate tax returns, books and records submitted to the IRD for review.

189. Partners are taxed as individuals or corporations on their share of partnership income. The IRD reports that compliance rate for individual taxpayers during the review period was approximately 80%. Penalties levied by the IRD on partners for the late filing of tax returns in respect of partnerships during the period 2019-22 amounted to XCD 104 474 (EUR 36 389) or 1.53% of the total penalties levied on all taxpayers including the government.

Availability of partnership information in EOIR practice

190. During the review period Saint Vincent and the Grenadines did not receive any requests for information in relation to partnerships.

A.1.4. Trusts

Types of trusts and partial registration requirements

191. The 2014 Report concluded that the legal framework with respect to trusts was in place. Saint Vincent and the Grenadines' laws allowed for the creation of two kinds of trusts: ordinary trusts governed by the common law and international trusts under the International Trusts Act.[53] In addition, nothing prevents a person in Saint Vincent and the Grenadines to act as a trustee of a foreign trust.

192. Amendments to the International Trusts Act (renamed Trusts Act) in 2018 abolished international trusts as an arrangement recognised under the law of Saint Vincent and the Grenadines. Consequently, as of 2018 Saint Vincent and the Grenadines now operates a unitary regime for all trusts under the Trusts Act. However, registration under the Act does not affect the validity of a trust and is not mandatory but a trust is invalid and unenforceable in Saint Vincent and the Grenadines unless at least one of its trustees is a registered trustee who would be an AML-obliged person.[54] Only trusts, whether established within or outside of Saint Vincent and the Grenadines, with at least one trustee licensed under the RATL Act are eligible to be registered. Thus if foreign trusts were to be administered in Saint Vincent and the Grenadines by a trustee that is not a registered trustee, it would not be valid and enforceable in Saint Vincent and the Grenadines in accordance with the Trusts Act.

193. The Registrar of Trusts will only register a trust where the trustee confirms in writing that, to the best of his/her knowledge and belief, the trust is valid and enforceable in accordance with the Act and that the settlor was not insolvent at the time of settling property to the trust or did not become insolvent by doing so. Only registered trusts benefit from exemptions from estate, inheritance, succession, gift tax, duty, levy or other charge payable by non-resident beneficiaries with respect to any income or assets of a registered trust and are only chargeable to income tax on income sourced in Saint Vincent and the Grenadines. These tax exemptions replace the income tax exemptions that were previously available to international trusts.

53. In addition to the requirements for the creation of ordinary trusts, to qualify as an international trust, the trust had to be evidenced by writing signed by the settlor or his/her nominee and the registered trustee licensed under the Registered Agents and Trustee Licensing Act (RATL Act), the settlor and beneficiary could not be resident at the time of creation of the trust and trust property could not include any property or interest in property located in Saint Vincent and the Grenadines. International trusts were also exempted from income tax once certain conditions were fulfilled.

54. Section 6A Trusts Act.

194. The RATL Act mandates the registration of trustees where they are involved in the registration of a trust pursuant to the Trusts Act or where they act as a local trustee or fiduciary for a trust that has or seeks exemption from taxation under the Trusts Act, whether or not such trust is registered or to be registered under the Act, or trust is settled elsewhere and subsequently adopts Saint Vincent and the Grenadines' Trust Law as the applicable law of the trust. The application for registration must be made by a registered trustee and be accompanied by the trust deed or deed of settlement and the applicable fees.

195. Prior to the 2018 amendment, the mandatory requirement for registration of international trusts and thus the need to have a registered trustee ensured that all international trusts were captured under the AML law. The scope of the Trusts Act has been widened and now includes ordinary trusts as requiring a registered trustee to be valid. Registration under the Trusts Act is no longer mandatory for any kind of trust although it is a precondition for certain tax exemptions. This requirement ensures that all trusts valid and enforceable in Saint Vincent and the Grenadines have an AML-obliged trustee and thus covered under the AML law.

196. As of 31 December 2021, there were 69 registered trusts.

Availability of identity information in relation to trusts

197. Identity information in relation to trusts will generally be held by the trustee. Whereas requirements under the Trusts Act and the Income Tax Act ensure the identification of beneficiaries, the obligations under the AML law cover all parties of a trust. Prior to the 2018 amendments, the obligation for trustees of ordinary trusts to maintain identity information derived from the common law and revenue laws. This obligation is now reflected by implication in section 21C of the Trusts Act where, the trustee of a trust, whether or not it is registered, is required to carry out and administer the trust in accordance with its terms and exercise his/her powers only in the interests of the beneficiaries. In order to perform these obligations, the trustee must be able to ascertain the identity of the beneficiaries of the trust. This provision codifies the trustee's common law duty to have full knowledge of the trust documents, act in the best interest of the beneficiaries and only distribute assets to the beneficiaries so entitled.

198. The Trusts Act also imposes record keeping requirements on trustees relating to the trust deed and other documents containing the terms of trust, records of trustee decisions, records of trust property and documents in relation to the appointment, removal and discharge of trustees.[55]

55. Section 21F of the Trusts Act.

The Act makes it clear that each trustee of the trust is required to keep the documents or copies thereof and the trustee must hand over the records to serving trustees when the trustee demits office. The Trusts Act also makes non-compliance with the trustee's record keeping obligations a criminal offence and subject to a fine of XCD 40 000 (EUR 13 932).

199. Trustees also have obligations under the Income Tax Act to identify the beneficiaries of the trust they administer. Trusts which derive taxable income in Saint Vincent and the Grenadines are required to be registered with the IRD and provide the beneficiaries' name, address and percentage owned by each of them and the date on which their ownership or entitlement to trust income became effective.[56] Income tax is charged at a rate of 30% on the income of a trust although only the domestic source income of registered trusts is subject to income tax.

200. The requirements of the Trusts Act and Income Tax Act operate along with the common law to ensure that identity information in relation to trusts is available. The requirements of the AML laws discussed below in relation to beneficial ownership information also applies to identity information in relation to trusts.

Availability of beneficial ownership information in relation to trusts

201. Under the standard as strengthened in 2016, beneficial ownership information on trusts is required to be available. The only source of beneficial ownership information in Saint Vincent and the Grenadines is from obligations under its AML laws. Schedule 1 of the AML&TF Regulations designates registered trustees as service providers and as such they are obliged to apply the due diligence measures in respect of the trusts they administer. However, the AML law does not capture Vincentian residents who are trustees of foreign trusts and are not registered trustees under the RATL Act or are not attorneys-at-law.

202. The definition of beneficial owner in regulation 4 of the AML&TF Regulations covers trusts as legal arrangements. Guidance on the CDD requirements for trusts is found in paragraph 13(1) of the AML&TF Code. It provides that where a service provider is required to identify a trust, it must obtain the following identification information:

- the name of the trust
- date of its establishment
- identification information and mailing address of each trustee of the trust

56. Sections 2, 15 Income Tax Act and the Income Tax Registration Form.

- identification information on each settlor of the trust
- identification information on each beneficiary or class of beneficiaries of the trust[57]
- identification information on each protector or enforcer
- identification information of any other natural person(s) exercising ultimate effective control over the trust
- trustees' confirmation that they have provided all the information requested and they will update the information in the event that it changes.

203. While further guidance is given on the identification information that must be obtained when any of the persons required to be identified is a legal person, the requirement to verify the identity of beneficial owners is dependent on the trust presenting a higher level of risk. The service provider has to obtain information regarding the identifying characteristics of the legal person, directors' names, the identification information on the directors with authority to give instructions to the service providers concerning the business relationship or occasional transaction and identification information on individuals who are the ultimate holders of 15% or more of the legal person. During discussion with services providers, one registered agent confirmed that he applies the look-through approach to ascertain the beneficial owner whenever any person required to be identified is a legal person.

204. The requirements in the AML&TF Regulations and Code are in line with the definition of beneficial owners of a legal arrangement in the standard as they require the identification of all the parties to a trust, i.e. the trustee, settlor, beneficiaries, protector and enforcer as well as the natural persons exercising ultimate effective control over the trust. The requirements also espouse a "look through" approach as information is required to be obtained on the individuals who are the ultimate holder of 15% or more of a legal person that is a party to the trust.

205. The recommended frequency for updating beneficial ownership information given in the Guidance Notes applies equally to trusts. The review of CDD information for a customer relationship presenting a higher risk is recommended to be done at least annually while those presenting a normal or low risk are recommended to be reviewed every three years,

57. This requirement does not apply to a discretionary trust, a trust with one or more classes of beneficiaries or to charitable trusts. In the case of a discretionary trust or one with more than one classes of beneficiaries, information should be obtained to enable the identity of a beneficiary to be established at the time the beneficiary receives property, benefits from the trust or exercises any vested right. In the case of charitable or purpose trust information must be obtained on the objects of the trust.

notwithstanding the outer limit of five years prescribed by the AML&TF Regulations.

206. However, similar to legal entities and partnerships, the reliance on the AML law as the only source of beneficial ownership information could lead to the unavailability of beneficial ownership information in the case where the trust ceases to exist and the registered trustee also ceases to exist within five years. In this case although the registered trustee is subject to a minimum seven-year retention period, there are no legal provisions that prescribe how the registered trustee's records should be disposed of when they cease to exist. **Saint Vincent and the Grenadines is recommended to ensure that beneficial ownership information for all relevant arrangements is kept for at least five years, including in the case where the AML-obliged person has ceased to exist**.

207. In conclusion, as the 2018 amendment to the Trusts Act requires all trusts to have a registered trustee, the AML framework should capture all legally enforceable trusts in Saint Vincent and the Grenadines. However, these requirements do not capture foreign trusts with a trustee resident in Saint Vincent and the Grenadines who is not a registered trustee and the identity of beneficial owners of trusts are not required to be verified in all cases. **Saint Vincent and the Grenadines is recommended to ensure that adequate, accurate and up-to-date information on beneficial owners for all relevant entities and arrangements be available in line with the standard**.

Oversight and enforcement

208. The FSA is the designated supervisory authority under the AML laws for registered trustees licensed under the RATL Act.[58] Section 152 of POCA outlines the objectives, functions and powers of the supervisory authority which includes monitoring the compliance of relevant service providers with their AML/CFT obligations and to take appropriate enforcement action against them for breach or non-compliance with their AML/CFT obligations. Ordinary trusts are monitored by various authorities for different purposes. The IRD monitors them for tax purposes while the Financial Intelligence Unit, the FSA and the National Anti-Money-Laundering Committee monitor them for institution specific and country risk assessment purposes.

209. The AML&TF Regulations provide criminal sanctions for service providers who fail to comply with their CDD obligations. On summary conviction

58. Section 151 and 151(2) of the Proceeds of Crime Act and section 36 of the AML&TF Regulations.

the offender is liable to a fine of XCD 100 000 (EUR 34 831). Further, a trustee who is licensed under the RATL Act is also required to maintain at its principal place of business books or records that accurately reflect the business of international representation of the licensee. Failure to comply with this obligation is a basis on which the registered trustee's licence may be suspended and thereafter revoked if the non-compliance is not rectified. Since 31 March 2023, under the AMLTF (Administrative Penalties) Regulations 2023, the FSA can impose administrative penalties ranging between XCD 5 000 – XCD 7 500 (EUR 1 667 – EUR 2 500) for an individual service provider and XCD 10 000 – XCD 15 000 (EUR 3 334 – EUR 5 001) for a body corporate service provider failing to comply with their CDD requirements under the AML&TF Regulations.

210. The FSA conducts offsite and onsite monitoring of registered agents, some of whom are also licensed as registered trustees. The FSA did not conduct any on-site examination of any service provider acting as a registered trustee during the review period. **Saint Vincent and the Grenadines should strengthen its supervision and enforcement efforts with respect to the compliance of AML-obliged persons with their obligations to identify the beneficial owners of customers to ensure that adequate, accurate and up-to-date beneficial ownership information is available in line with the standard**.

Availability of trust information in EOIR practice

211. During the review period, Saint Vincent and the Grenadines' peers did not request any information concerning the identification or beneficial ownership of a trust.

A.1.5. Foundations

212. Saint Vincent and the Grenadines' law does not recognise the concept of foundation. Therefore, it is not possible to create a foundation in Saint Vincent and the Grenadines.

Non-profit entities

213. Saint Vincent and the Grenadines' laws allow for the incorporation and registration of other corporate bodies:

- **Non-profit companies** may also be formed under the Companies Act. They cannot be incorporated without prior approval of the Attorney General and the purposes for which they are formed is restricted by section 328 of the Act to charitable and socially useful causes. There were 92 non-profit companies incorporated in

Saint Vincent and the Grenadines during the review period. It was uncertain the total number of non-profit companies incorporated but there were 253 incorporated as at the end of 2013. The obligations of registration and keeping a register of members of non-profit companies is the same as for ordinary companies (see A.1.1), except for the share capital schedule to be filed annually with names of members, as they have no share capital. The CIPO supervises non-profit companies in the same way as ordinary companies (see A.1.1). During the review period, 15 non-profit companies were struck off in 2019. Due to the pre-requisite approval by the Attorney General, the limited number of non-profit companies and supervision by the CIPO, non-profit companies are of limited materiality for this review, but it remains that assets can be distributed among members in case of winding up.

- **Co-operative societies** are member-owned and controlled business enterprises providing socially desirable and economically beneficial services to their members on a joint action and non-profit basis. They are formed under the Co-operative Societies Act. Co-operatives may be financial (called credit unions) or non-financial entities. Membership in co-operatives is restricted to citizens or residents of Saint Vincent and the Grenadines or citizens of other CARICOM member states. Co-operatives continue to be exempt from income tax. As of 31 December 2021, there were four credit unions and 21 non-financial co-operatives registered in Saint Vincent and the Grenadines. Non-financial co-operatives are mainly involved in agriculture and fishing. Co-operatives are regulated and supervised by the Registrar of Co-operative Societies. Due to the characteristics of credit unions and non-financial co-operatives, they are not relevant for the current review.
- **Building societies** are non-bank financial institutions owned by their members, which deliver mainly savings and mortgage lending services to their members. They are incorporated under the Building Societies Act for the purpose of accepting member subscriptions which they use to make mortgage loans to their members on real property. The 2014 Report found that they were not relevant for the purposes of the review because of the limited scope of their activities, their self-contained nature and the fact of there being only one. These factors remain unchanged and as such they do not appear relevant for the current review. As of 31 December 2021, there is still only one building society registered in Saint Vincent and the Grenadines.

- **Friendly societies** are another class of member-owned, self-contained financial institutions and are formed under the Friendly Societies Act. They are established for the purposes of encouraging savings and thrift among members and providing a death benefit for funeral expenses from the subscription of members. They serve large portions of the population which are not otherwise served by the formal banking sector as they can only afford to save small amounts. As of 31 December 2021, there were 17 friendly societies registered but like building societies they do not appear to be relevant to this review.

A.2. Accounting records

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

214. The 2014 Report concluded that all entities and arrangements were required by the commercial, AML and tax laws to keep adequate accounting records, including underlying documentation, for at least five years. Saint Vincent and the Grenadines had introduced in 2014 record keeping obligations for LLCs and IBCs in their governing laws. Consequently, Saint Vincent and the Grenadines received a recommendation to monitor the practical implementation of these new laws and was rated Largely Compliant on this element.

215. Since the 2014 Report, Saint Vincent and the Grenadines has further strengthened the legal framework related to availability of accounting information.

- Amendments made to the legislation governing BCs impose a requirement on them to keep accounting records and in specified cases file financial returns with the FSA.
- Where the accounting records are kept outside of Saint Vincent and the Grenadines, legal requirements have been imposed on the BC to keep quarterly financial records with the registered agent and to keep the registered agent informed of the location of accounting records at all times. (Similar amendments were not made with respect to LLCs as such they are not similarly obliged to keep their accounting records and underlying documentation within Saint Vincent and the Grenadines.)
- The 2019 Tax Administration Act is now the source of the record keeping requirements for the purposes of taxation. These were formerly imposed in the Income Tax Act.

216. The standard was strengthened in 2016 to require jurisdictions to ensure accounting information is kept for at least five years even in cases where the legal entity or arrangement has ceased to exist. Saint Vincent and the Grenadines relies on accounting records filing obligations under commercial laws, tax laws and upon the AML obligations of liquidators and registered trustees to fulfil this requirement. However, for entities that cease to exist without being liquidated there are no clear legal obligations on any person for the keeping of the company's accounting records and in particular underlying documentation after they cease to exist.

217. The obligations to relevant entities to keep reliable accounting records are monitored by the CIPO, IRD and FSA. The FSA monitors the keeping of accounting records by BCs through their registered agent. However, the FSA does not have a similar recourse with respect to LLCs that choose to retain their accounting records at a place outside of Saint Vincent and the Grenadines. New recommendations have therefore been made in this regard.

218. No sanctions were applied to any entities for non-compliance with the requirement to keep accounting records and the authorities did not provide data supporting a high compliance rate to explain the absence of sanctions. A recommendation to ensure adequate monitoring and supervision has therefore been given.

219. During the review period, Saint Vincent and the Grenadines exchanged accounting information to the satisfaction of its peers.

220. 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
Limited Liability Companies are required to keep accounting records and make them available to the Registrar, subject to penalties. No accounting records are required to be held by the local registered agent or at any other place within Saint Vincent and the Grenadines. If the Limited Liability Company is operating outside of the jurisdiction, there is no legal mechanism to ensure that the record-keeping obligations are being complied with or to enforce the obligation to make the records available to the Registrar. Regardless of where accounting records are kept, the standard requires that jurisdictions have a system that makes such records available to the Competent Authority in a timely manner.	Saint Vincent and the Grenadines is recommended to ensure that the legal and regulatory framework puts in place a system that permits the availability of accounting information and underlying documentation in a timely fashion, when Limited Liability Companies keep them at a place outside of Saint Vincent and the Grenadines.

Deficiencies identified/Underlying factor	Recommendations
The accounting records of Limited Liability Companies are only held by the companies themselves. In the case the Limited Liability Company is struck off and dissolved by the Registrar, there is no requirement for the accounting records to be maintained for at least five years following striking off and dissolution, as required by the standard.	Saint Vincent and the Grenadines is recommended to ensure that all accounting records and underlying documentation on Limited Liability Companies, including where they have been dissolved, are available to the Competent Authority in a timely manner for exchange of information purposes for a minimum period of five years.
Business Companies and ordinary companies may be dissolved after being struck off or liquidated. Filing obligations ensure that the commercial registrars, or in the case of a Business Company, the registered agent, will have the last accounting records prior to the entity ceasing to exist. The liquidator maintains records of the liquidation of legal entities including non-profit companies for seven years, but it is unclear this includes all accounting records and underlying documentation of the liquidated entity. In some cases, the property of Business and ordinary companies vests in the registrar following dissolution and the authorities interpret property to include the company's records.	Saint Vincent and the Grenadines should ensure that underlying documentation of entities that have been struck off or ceased to exist is available for at least five years in line with the standard.

Practical Implementation of the Standard: Partially Compliant

Deficiencies identified/Underlying factor	Recommendations
Saint Vincent and the Grenadines' laws were amended in 2014 to require the keeping of accounting information and underlying documentation by Business Companies and Limited Liability Companies in line with the standard and their implementation could not be assessed during the previous review. During the years 2019 to 2021, the Financial Services Authority supervised Business Companies, Registered Trusts and Limited Liability Companies through their registered agents as well as the filing requirements with the Financial Service Authority. However, no sanctions were applied on any of the entities and the authorities did not provide statistics on compliance rate.	Saint Vincent and the Grenadines should ensure there is adequate monitoring and supervision activities on registered agents to ensure the availability of accounting records and underlying documentation in line with the standard.

Deficiencies identified/Underlying factor	Recommendations
The Commerce and Intellectual Property Office has moved to digitise its companies register but is still in the process of ascertaining the total number of inactive companies in its register. During the peer review period, 15 non-profit companies and only 1 ordinary company was struck-off from the companies register. The lack of striking off policy for non-compliant companies and lack of data thereof could negatively affect the availability of accounting information for ordinary and external companies.	Saint Vincent and the Grenadines is recommended to continue cleaning up its commercial register by striking off and dissolving non-compliant ordinary, non-profit and external companies to ensure availability of accounting records in line with the standard.
Saint Vincent and the Grenadines abolished the tax exemptions of new Business Companies and Registered Trusts on 1 January 2019 (1 July 2021 for existing Business Companies and Registered Trusts). These entities are now subject to the territorial tax system applicable to all companies and arrangements, must file annual tax returns and accounting information with the Inland Revenue Department, and will be subject to tax audits. The implementation of these recent changes could not be assessed.	Saint Vincent and the Grenadines is recommended to supervise the operation of the new provisions to ensure that accounting information of Business Companies and Registered Trusts is available in line with the standard.
Saint Vincent and the Grenadines enacted a new requirement effective 1 January 2019 for Business Companies to keep quarterly financial records with their registered agent. This should ensure that financial records of such companies will be kept for at least seven years by the registered agent even in the case where the Business Company ceases to exist. The implementation of this recent change could not be tested in practice.	Saint Vincent and the Grenadines is recommended to supervise the availability of accounting information on Business Companies that cease to exist.

A.2.1. General requirements

221. The standard on availability of accounting information is generally met by a combination of commercial, tax and AML law requirements. The various legal regimes and their implementation in practice are analysed below.

Companies Act

222. In accordance with Companies Act, ordinary and non-profit companies must place financial statements, operational results as may be mandated by its articles, by-laws or shareholder agreement and any further information on the financial position of the company before shareholders at each annual general meeting.[59] The requirement may be varied by the

59. Sections 149, 150 and 187 Companies Act.

Registrar who may permit a company to omit such items from their financial statements as the Registrar considers detrimental to the company. In practice the Registrar does not exercise this power. The Companies Act requires companies to prepare and maintain adequate records, i.e. those prepared in accordance with the approved accounting standards. Financial statements, by regulation 8 of the Companies Act Regulation, must include a balance sheet, statement of retained earnings, statement of income and statement of changes in financial position.

223. The Companies Act allows ordinary companies to keep their accounting records at a place outside of Saint Vincent and the Grenadines. However, in such cases, accounting records that are adequate to enable the directors to ascertain the financial position of the company with reasonable accuracy on a quarterly basis must be kept within Saint Vincent and the Grenadines. Such records must be held either at the company's registered office or some other place which the directors designate.[60] There is no express requirement for external companies to keep accounting records but they must file annual returns which include financial information. The Companies Act imposes a six-year minimum retention period for the accounting records. The returns filed are kept indefinitely by the CIPO.

224. Ordinary companies are also required to file annual financial statements with the CIPO. This takes the form of comparative financial statements in the case of public and private ordinary companies with gross revenue in excess of XCD 4 million (EUR 1 393 243).[61] They must include a balance sheet, statement of retained earnings, statement of income and a statement of any change in the company's financial position.[62] Holding companies may file consolidated financial statements detailing their subsidiaries accounts and where this is done, subsidiaries do not need to file accounts.

225. Ordinary companies below the gross revenue threshold are required to file annually with the CIPO a Certificate of Solvency signed by at least one director and the auditor, if any. There is no mandatory auditing requirement. The certificate must be made with reference to the company's assets and liabilities at the date when the financial statements were laid before shareholders.[63] The Certificate must state the total value of fixed assets, current assets, investments and other assets, the total debt and liabilities accrued due at or accruing due within a year after the date at which the balance sheet is made out as shown in the company's balance sheet. The Certificate of Solvency should also state whether in the auditor's opinion the

60. Section 187 of the Companies Act.
61. Sections 149-154 Companies Act.
62. Regulation 8 of the Companies Regulations.
63. Section 155 of the Companies Act.

company was, at the date at which the balance sheet was made out, able to pay its debts and liabilities as they fell due.

226. Non-profit and external companies also have annual filing requirements. For non-profit companies this takes the form of a duly audited and approved balance sheet and statement of revenue and expenditure in accordance with regulation 20 of the Companies Regulations. This requirement along with the requirement to lay financial statements before an annual general meeting ensure that non-profit companies meet the requirements of the standard for accounting records. External companies are required to file annual returns in the prescribed form by 1 April of the following year.[64] However, it was not clear what are the contents of the financial statements filed with the annual return of external companies but they are retained by the CIPO indefinitely.

Business Companies

227. The Business Companies (Amendment and Consolidation) Act was amended in 2018 to impose new accounting record keeping requirements beginning on 1 January 2019 for new BCs and from 1 June 2021 for existing BCs. A BC is required to keep financial records including underlying documentation that are sufficient to explain its transactions and enable its financial position to be determined with reasonable accuracy at any time.[65] The directors of a BC may choose to keep accounting records at the office of its registered agent or at a place within or outside of Saint Vincent and the Grenadines. Where the hard copies of the BC's accounting records are kept at a place other than the office of its registered agent, the BC is required to ensure that the registered agent has at all times a written and up-to-date record of the place where the accounting records are kept as well as quarterly financial records of the BC that show the BC's financial position with reasonable accuracy.[66] The registered agents informed that their clients have been sending them quarterly financial statements, such as, balance sheets, profit and loss statements, statements of equity and cash flow and underlying documents to comply with this requirement.

228. Therefore, while allowance is made for accounting records kept offshore, the new amendments seek to ensure that some accounting records updated with reasonable frequency are available within Saint Vincent and the Grenadines. In addition, the BC is obliged to ensure that their registered

64. Section 356 of the Companies Act.
65. Section 72 of the by section International Business Company (Amendment and Consolidation) Act as amended by the International Business Company (Amendment and Consolidation) (Amendment) Act 2018.
66. *Ibid.*

agent is always kept abreast of where the financial records are kept and notification of change of location must be provided within five working days of such change. The record keeping obligations remain with the BC at all times.

229. Further, annual filing requirements have now been imposed on BCs which in the relevant financial year have gross revenue of more than USD 4 million or total assets of more than USD 2 million.[67] The new BCs that fall within this category have since 2019, and since June 2021 for existing BCs, been required to file a copy of their financial statements with the Registrar within five months of their balance date.[68] The Vincentian authorities have indicated that they have been receiving the financial returns of new BCs.

230. The Business Company (Amendment and Consolidation) Act prescribes a minimum retention period of seven years after the end of the financial year to which the records relate. These requirements also cover regulated entities, i.e. international banks, international insurance companies or mutual funds, which are subject to further record keeping obligations pursuant to the respective legislation under which they are licensed.

231. In addition to the record keeping requirements that apply to BCs, entities registered or licensed by the FSA are also required to maintain accounting records. For international banks, this requirement derives from section 8(1)(a) of the International Banks Act. A licensee is bound to have a physical place of business in Saint Vincent and the Grenadines where all books and records are kept. This is coupled with the requirements for filing annual audited accounts and quarterly returns with the FSA.

232. BCs which are licensed as international insurance companies are required to prepare annual accounts in accordance with generally accepted accounting principles which must be audited by an independent auditor.[69] Additionally, they are required to prepare an annual actuarial valuation of assets and liabilities, certified by an actuary to be submitted to the FSA as proof of solvency. There was only 1 international insurance company on 31 December 2021.

233. Every registered public fund under the Mutual Funds Act is required to maintain adequate accounting records and prepare financial statements in accordance with generally accepted accounting principles and keep the

67. The threshold is quoted in US dollars in the legislation. It is equivalent to XCD 54 000 (EUR 18 809).

68. The "balance date" of a business company is the close of 31 December in each year or such other date adopted by resolution of the board of the business company with the approval of the FSA.

69. Section 22(6) of the International Insurance Act and Regulation 11 International Insurance Regulations.

records and financial statements available for examination by the FSA. The financial statements are required to be audited by an auditor acceptable to the FSA in accordance with generally accepted accounting principles. The records may be kept at their place of business or registered office within Saint Vincent and the Grenadines or at another place as its officers see fit but, in such circumstances, the copies of the records as the FSA considers adequate are to be kept within Saint Vincent and the Grenadines.[70] The FSA has not issued guidelines on the adequacy of copy records to be kept within the jurisdiction as there have been no instances where mutual funds have kept their records outside of their registered office or registered agent.

Limited Liability Companies

234. The Limited Liability Companies Act was amended in 2014 to introduce accounting requirements on LLCs. Pursuant to section 51A, LLCs must keep and make available to the Registrar at all reasonable times, accounting records sufficient to record and explain their transactions and enable their financial position to be determined with reasonable accuracy. LLCs must keep accounting records for a minimum period of seven years from the date of preparation.

235. The records should be kept at the registered office of the LLC or at such other place as the members determine by resolution. LLCs must have a registered office within Saint Vincent and the Grenadines but, unlike BCs, they are not required to file accounting records or keep financial records at that registered office. It is therefore possible for the accounting records of LLCs to be kept outside of Saint Vincent and the Grenadines. Regardless of where accounting records are kept, the standard requires that jurisdictions have a system that permits the authorities to gain access to such records in a timely manner. In order to meet the standard, the Competent Authority should be able to exercise its access powers (see discussion under section B.1) in relation to whoever has a corresponding obligation to hold or provide the records. Within the context of availability of information, the system in place should enable the Competent Authority to obtain such records in a timely fashion.

236. There is a penalty of XCD 20 000 (EUR 6966) for a company and XCD 10 000 (EUR 3 483) for an individual found liable of contravening the requirement to keep accounting records.[71] However, when the records of the LLC are kept at a place outside of Saint Vincent and the Grenadines, it is not clear how the authorities will supervise these obligations to ensure that reliable accounting records have been kept. If these LLCs do not respond

70. Section 13 of the Mutual Funds Act.
71. Section 51A of the LLC Act as amended by the Financial Laws (Miscellaneous Amendments) Act 2014.

to notices to produce information, the Competent Authority will be limited in the sanctions it can apply to secure information.

237. **Saint Vincent and the Grenadines is recommended to ensure that the legal and regulatory framework puts in place a system that permits the availability of accounting information and underlying documentation in a timely fashion, when limited liability companies keep them at a place outside of Saint Vincent and the Grenadines**.

Partnerships and trusts

238. Partners are required by section 30 of the Partnership Act to "render true accounts and full information of all things affecting the partnership or partner or his legal representatives". There were no requests involving accounting information of partnerships during the review period. Partnership records must be kept within Saint Vincent and the Grenadines under the tax laws (see paragraph 243).

239. Trustees resident in Saint Vincent and the Grenadines have a fiduciary duty under the common law to keep proper records and accounts of trust property. Beneficiaries are entitled to inspect such accounts and where the trustee fails to produce the accounts for inspection, the beneficiary may call upon the courts to seize the accounts.

240. Trustees' duty to keep proper records has been codified in the Trusts Act. Trustees are required to keep or cause to be kept, accurate records relating to the trusteeship and financial affairs of the trust.[72] The financial records and accounts required to be kept must be sufficient to show and explain transactions in relation to the trust and the administration of the trust. Financial records are required to be maintained under the Trusts Act for a period of six years.

241. The accounting information and underlying documents of legal arrangements after they cease to exist may be held by AML-obliged persons or the tax authority. Upon the termination of a trust, the registered trustee, as an AML-obliged person, is required to maintain the accounting records of the trust for a minimum of seven years. This would include the underlying documentation (see paragraph 250). Accounting information included with tax returns of both taxable partnerships and trusts is held by the IRD for at least five years after the arrangement has ceased to exist. In the case of partnerships or trusts that do not fall within the remit of the tax laws or are not covered by the AML law, such accounting information and underlying documents may not be available within Saint Vincent and the Grenadines. The Vincentian authorities

72. Section 21 H of the International Trusts Act as amended by the International Trust (Amendment) Act, 2018.

indicate that the incidence of non-taxable partnerships and non-professional trustees acting for foreign trusts in Saint Vincent and the Grenadines would be very rare. Saint Vincent and the Grenadines should monitor the situation of foreign trusts and non-taxable partnerships to ensure the availability of accounting information and underlying documentation in a timely fashion including for five years after they cease to exist (Annex 1).

Tax Law

242. The Tax Administration Act 2019 which took effect on 31 December 2019 contains the record keeping obligations of taxpayers. Legal entities and arrangements are subject to the tax law requirements to the extent that they are required to pay income tax[73] or the person has an obligation to withhold or deduct tax and pay it to the IRD. In the case of trusts, the trustee is the representative taxpayer that must fulfil the tax obligations of the trust in addition to their own personal tax liability. Partners are assessable to tax based on their share of partnership income and are required to file returns on this basis.

243. The Act imposes on a taxpayer engaged in business or independent professional activity or a person required to make a return under a tax law, the obligation to maintain in the jurisdiction up-to-date records of documents, books and transactions to ascertain the gains and profits made or the loss incurred in respect of those transactions. The records must be kept for seven years from the date of the transaction at the taxpayer's place of business, unless the Comptroller approves of them being kept elsewhere. The Comptroller gives approvals for records to be kept outside of Saint Vincent and the Grenadines on a case-by-case basis after consideration of the various determining factors. The factors include the type of business, the relationship between the taxpayer and the offshore custodian of the records and the custodian's ability to have systems in place to facilitate timely access to the records by the IRD.

244. Further, the Income Tax Act requires every person that is liable to tax to file a return of income with the IRD on an annual basis. Such returns must be accompanied by a copy of the final accounts of the business together with a reconciliation of the income shown in the accounts with the chargeable income disclosed in the return. Where the final accounts are prepared by a professionally qualified auditor, they must include a statement of reconciliation of accounting profit and taxable income, balance sheet, statements of income or of comprehensive income, cash flow, changes in equity, a capital allowance schedule and notes to the financial statements including disclosure of related party transactions. Where the returns are not

73. Value Added Tax Act; Excise Tax Act; Income Tax Act; Valuation and Rating Act; Provisional Collection of Tax Act; Stamp Act; Insurance Business Tax Act.

prepared by a professionally qualified auditor, they must include a statement of reconciliation of accounting profit and taxable income, statement of income and expenditure, a capital allowance schedule and balance sheet.

A.2.2. Underlying documentation

245. The 2014 Report noted that Saint Vincent and the Grenadines had enacted new laws to ensure the keeping of accounting information and underlying documentation by BCs, LLCs and co-operatives in line with the standard. The requirements for the keeping of underlying documents of external and ordinary companies are set out in the tax law.

246. The 2014 amendment to the LLC Act inserted a requirement for an LLC to keep and make available to the Registrar at all reasonable times accounting records sufficient to record and explain the LLC's transactions and enable its financial position to be determined with reasonable accuracy. The new provision also inserted a definition of accounting records as including "all books, vouchers, invoices, contracts, financial statements and any other relevant records pertaining to the financial affairs, including the assets and liabilities of an LLC". The accounting records are required to be kept for a minimum of seven years from their date of preparation.[74]

247. Since the 2014 Report, Saint Vincent and the Grenadines has made further amendments in certain cases to clarify the requirement for the keeping of underlying documentation. The records must be kept for at least seven years after the end of the financial year to which they relate. The 2018 amendment to the Business Company (Amendment and Consolidation) Act expressly includes underlying documentation as part of the financial records required to be kept by section 72. The Act goes further and includes a definition for underlying documentation:

> includes invoices, receipts, contracts and any other documents that –
>
> (a) evidence-
>
> (i) a transaction entered into by the business company;
>
> (ii) a sum of money received or expended by the business company; or
>
> (iii) asset or liability of the business company; or
>
> (b) assist in determining the financial position of the business company.

74. Section 51A of the LLC Act as amended by the Financial Laws (Miscellaneous Amendments) Act 2014.

248. The International Trusts Act, renamed the Trusts Act (covering ordinary and registered trusts), was also amended in 2018[75] to include underlying documents such as invoices and contracts as part of the records required to be kept by trustees. The new provision enumerates a list of matters pertaining to which the records must be kept and includes all sums of money representing trust property that the trustee receives and expends, acquisitions or disposals of trust property and all transactions relating to the trust that affects the trust property and any liabilities attributable to the trust. The records are required to be maintained for at least six years after the end of the financial year to which they relate. The record-keeping obligations of foreign trusts may be covered under the Trusts Act to the extent that they are registered under the Act or would otherwise be covered by the record-keeping provisions in the AML law to the extent that the trustee resident in Saint Vincent and the Grenadines is a licensed trustee or an attorney-at-law.

249. Section 20(5) of the Tax Administration Act also makes specific reference to retaining source documents and underlying documentation used in the creation of the records and accounts. The Act sets out a non-exhaustive list of examples of source documents. These documents must be kept for at least seven years from the date on which the transaction took place. This provision applies to all relevant entities and arrangements except for LLCs and foreign trusts administered by a resident trustee who is not an AML-obliged person. The materiality of this issue is low in Saint Vincent and the Grenadines, but Saint Vincent and the Grenadines should nonetheless monitor the situation of foreign trusts and non-taxable partnerships to ensure the availability of accounting information and underlying documentation in a timely fashion, including for five years after they cease to exist (Annex 1).

250. The AML&TF Regulations in specifying the records required to be kept by section 22 also lists “the supporting documents, data or information that have been obtained in respect of a business relationship or occasional transaction which is the subject of CDD measures or ongoing monitoring”. The correspondences related to the business relationship or occasional transactions are also required to be maintained. Further, the recording of transaction details must include sufficient information to enable the reconstruction of individual transactions.

251. Underlying documents are thus required to be kept by all entities and arrangements for at least five years in line with the standard.

75. Section 21H of International Trusts Act as amended by the International Trust (Amendment) Act, 2018.

Companies that ceased to exist and retention period

252. The annual filing requirements of ordinary, non-profit and external companies ensure that the accounting records are held with the CIPO even after the company has been struck off or otherwise ceases to exist. The CIPO records have been digitised and the company records held date back to 1909. However, whereas obligations of liquidators under the AML law and a disposal mechanism in Companies Act may operate to ensure that underlying documents of ordinary and non-profit companies are kept for at least five years after an ordinary and non-profit company ceases to exist, there is no explicit requirement for the underlying documents of companies to be kept by any person.

253. Section 477 of the Companies Act includes a mechanism for the disposal of records when a company has been wound up and is about to be dissolved. The decision on how the company's and the liquidator's records should be disposed of may be taken by the court, a general meeting of the company or the company's creditors depending on the manner in which the company is being wound up. The Act does not explicitly place the responsibility on any person and no sanction is imposed for any default in keeping the records. However, the provision releases the company, liquidator or the person to whom custody of the records were committed from responsibility to any person who claims to be interested in them after five years.

254. During liquidation, the accounting records and underlying documents of an ordinary company will be held by the liquidator who is subject to oversight of the CIPO and is also regulated by the FIU as an AML-obliged person. The Companies Act contains provisions for the books and records of the company to be handed over to the liquidator. Section 396 indicates that where the winding up order has been made and a provisional liquidator has been appointed, the person takes into his/her custody or under his/her control, the property and things in action to which the company is or appears to be entitled. The court may also order delivery of any assets, books and papers in his/her hand to which the company may be entitled. The liquidator also has to keep records of the liquidation and file an account of his/her receipts and payments to the CIPO at least twice per year.[76] The Companies Act does not stipulate where the liquidator's books should be kept but section 400 prescribes that the liquidator should keep proper books and allow for creditors to inspect such books and make copies of them. This would necessitate keeping or providing access to the records within the jurisdiction. The CIPO must cause the accounts to be audited and keep a copy of the audit report and file one with the court. The CIPO advises that voluntary liquidation of ordinary companies can take between nine months and two years.

76. Sections 400-402 of the Companies Act.

255. The record keeping requirements of the liquidator as a service provider under the AML law endures for seven years after the end of the liquidation. Under sections 21 and 22 of the AML&TF Regulations, liquidators should keep a record detailing each transaction they carry out in the course of any business relationship and all account files. Paragraph 37(2) of the AML&TF Code further indicates that the AML-obliged person is required to keep all customer files and business correspondence relating to the relationship. Whereas the accounting records of ordinary and non-profit companies that cease to exist would be held with the CIPO and that of external companies with the IRD, the requirements in the AML law do not clearly impose an obligation to keep the accounting records and underlying documentation of a liquidated company In addition the requirement in section 477 of the Act in relation to ordinary and non-profit companies does not clearly entrust the responsibility for retaining the records of the company to any particular person with sanctions for failure to retain the records for five years. **Saint Vincent and the Grenadines should ensure that underlying documentation of ordinary and non-profit companies that have been struck off or ceased to exist is available for at least five years in line with the standard**.

256. The filing requirements for large BCs[77] ensure that accounting records are available with the FSA after the company ceases to exist. The requirement for BCs to keep quarterly financial records with its registered agent as required by section 72 of the Business Companies (Amendment and Consolidation) Act also requires that some financial records be kept after the BC ceases to exist. In this case, the minimum retention period for such records under the AML&TF Regulations is seven years. However this requirement is new and could not be tested in practice. **Saint Vincent and the Grenadines is recommended to supervise the availability of accounting information on Business Companies that cease to exist**.

257. There is no requirement for the LLCs to file accounting records or for such records to be kept by a registered agent. Thus in the case an LLC ceases to exist, the accounting records of the LLC may not be available for five years in line with the standard. **Saint Vincent and the Grenadines is recommended to ensure that all accounting records and underlying documentation on Limited Liability Companies, including where they have been dissolved, are available to the Competent Authority in a timely manner for exchange of information purposes for a minimum period of five years**.

77. A large business company is defined as one with gross revenues above USD 4 million (XCD 21.6 million or EUR 3 732 004) or total assets above USD 2 million (XCD 10.8 million or EUR 1 866 002) in respect of a financial year.

Oversight and enforcement of requirements to maintain accounting records

258. Sanctions for non-compliance with the various obligations to maintain accounting records are provided for in the corresponding laws. Supervision of compliance with the obligation to keep accounting records is shared among various authorities. The CIPO is responsible for monitoring compliance of ordinary and external companies, the IRD supervises taxpayers, and the FSA oversees licensed financial institutions, non-bank financial institutions and BCs, LLCs and registered trusts. Although all Vincentian authorities pointed to monitoring activities conducted over the review period, the absence of data on compliance rates coupled with the lack of application of sanctions, made it difficult to assess the effectiveness of the monitoring and supervisory activities.

Sanctions available

259. The Business Companies (Amendment and Consolidation) Act makes non-compliance with the obligation to keep accounting records a criminal offence for which a fine of USD 20 000 is provided. In addition, BCs which are also licensed or registered under the International Banks Act, the International Insurance Act and Mutual Funds Act are liable to additional penalties under their sector-specific legislation.

260. Failure by an international bank to file audited accounts with the FSA within three months of the end of its financial year results in a fine of XCD 5 000 (EUR 1 742) per day of default and failure to file quarterly returns attracts a daily fine of XCD 250 (EUR 87).

261. It is an offence under the International Insurance Act, when the FSA calls upon the insurer, for the insurer to refuse or neglect to answer to the query, and non-compliance with the requirement to keep accounting records is made an offence by section 46, the punishment for which is a maximum fine of XCD 10 000 (EUR 3 483) and imprisonment for a term not exceeding two years and in the case of a corporate body, XCD 10 000 (EUR 3 483).

262. The Mutual Funds Act has a general provision that addresses contraventions of provisions of the Act without reasonable cause for which no other penalty is provided such as in the case of failure to keep accounting records as required under section 13. The contravention is made a criminal offence and on summary conviction the offender is liable in the case of body corporate or unincorporated to maximum fine of XCD 50 000 (EUR 17 420), and in the case of an individual to a maximum fine of XCD 5 000 (EUR 1 742) or a month's imprisonment or to both.[78]

78. Section 40 of the Mutual Funds Act.

263. Failure to keep accounting records by LLCs may be sanctioned under section 51A(5) of the LLC Act as it is an offence to which a penalty of XCD 20 000 (EUR 6 966) is attached. The penalty in respect of the same offence for trusts is found in section 21H of the Trusts Act as amended in 2018 and the offender is liable to a fine of XCD 50 000 (EUR 17 420).

264. In addition, for the entities that fall within the scope of the AML law, failure to keep records is criminally sanctioned under the AML&TF Regulations. Upon summary conviction, the offender is liable to imprisonment for two years or a fine of XCD 100 000 (EUR 34 831) or both.

265. The Tax Administration Act 2019 levies an administrative fine of XCD 50 (EUR 17) per day where a person fails to maintain proper documents as required by the Act. Before assessing the penalty, the Comptroller must first issue the person with a warning notice and compliance with the warning notice within the time specified relieves the person from liability to any penalty. Further, section 88(2)(k) creates the offence of wilfully impeding or attempting to impede the IRD in its administration of the Act if the person fails to maintain the required records. Such a person is liable on summary conviction to a penalty not exceeding XCD 20 000 (EUR 6 966) or imprisonment for a year or both.

266. The keeping of accounting records and underlying documentation after the end of the liquidation is not required by the commercial law but this is supplemented by the requirements under the AML law. Once the liquidator has been released from his/her duties or the company has been dissolved, there is no longer any requirement under the Companies Act[79] for the liquidator to keep the company's records and documents (but see paragraph 255).

Supervision by the Commerce and Intellectual Property Office

267. The CIPO's companies register is fully digitised, which allows it to electronically seek non-compliant companies and launch compliance actions. This strategy is called the "seek and compliance programme". In addition to public education efforts, compliance with filing requirements is mainly enforced through notices to strike the company off the register.

268. However, the CIPO was unable to quantify the number of such companies as its system is in the process of being updated to identify all inactive companies. As inactive companies are identified, notices to strike off are dispatched to them for them to regularise their status.

79. Section 404 of the Companies Act.

269. Under section 483 of the Companies Act, the CIPO may strike off defunct companies from the register of companies, after sending the requisite letters and thereafter publishing a notice in the Gazette and mailing one to the company indicating the intention to strike the company off the register unless cause is shown to the contrary within three months of the expiration of the date of the notice. The CIPO may also act similarly where a company is being wound up, no liquidator is acting and the returns required to be made by the liquidator have not been made for a consecutive six-month period. When a company is struck off the register pursuant to section 483, it is dissolved but can be reinstated by an application to the court made within 20 years of the date it was struck off.

270. In addition, section 511 of the Companies Act empowers the CIPO to strike off a company for failing to comply with filing and payment obligations imposed by the Act. The company may be restored at any time upon application to the CIPO accompanied by the outstanding documents and payment of the appropriate fees. However, the liability of the company's director, managing officer and members continues and may be enforced as if the company were not struck off. In these cases, the same issue of retention of information applies, as in cases of liquidation of companies (see paragraph 255).

271. In practice, the CIPO is still in the process of seeking out the inactive companies in its register. During the review period, only 1 domestic ordinary company was struck off while 15 non-profit companies were. The table below shows filing compliance rate of ordinary as well as external companies.

Filing compliance rates of companies supervised by CIPO

	2019	2020	2021
Ordinary companies	82%	75%	80%
External companies	86%	84%	81%

272. The failure to quantify the number of non-compliant companies may negatively affect the availability of accounting information for ordinary and non-profit companies in Saint Vincent and the Grenadines. Whereas there were only 26 external companies registered in Saint Vincent and the Grenadines, the filing compliance rates indicates some non-compliance among this small sector. **Saint Vincent and the Grenadines is recommended to continue cleaning up its commercial register by striking off and dissolving non-compliant ordinary, non-profit and external companies to ensure availability of accounting records in line with the standard**.

Supervision by the Financial Services Authority

273. The FSA has been monitoring the implementation of the requirement for BCs and LLCs to maintain accounting records through on-site examinations of their registered agents. In accordance with a checklist, the FSA checks the authenticity and completeness of the accounting records of LLCs and BCs. The FSA also places reliance on statements of auditors and accountants who have been approved by the FSA.

274. The on-site examinations are done on a risk sensitive basis but in any case, every 12-18 months. Where deficiencies have been observed, recommendations or in some cases, directives have been issued to the entities. Due to the COVID-19 pandemic, the FSA was unable to continue its usual schedule of on-site examinations and carried out desk-based monitoring instead. However, on-site examinations of 11 registered agents which included checks of their record keeping practices were carried out during the review period. The FSA did not issue any sanctions during the review period but issued 10 letters for remedial action to be taken.[80] While the checklist for on-site visits includes checks of financial statements, no remedial action was directed at gaps in the keeping of accounting records or underlying documentation and no statistics were provided on the compliance rates for the entities in respect to these obligations.

275. The FSA, as the Registrar of BCs and LLCs, is also empowered to strike a BC or an LLC off the register.[81] This may be done where the company does not have a registered agent, fails to file any return or document under the Business Companies (Consolidation and Amendment) Act or pay a fee or penalty or where the Registrar is satisfied that the company no longer carries on business or is doing so without a licence. The Registrar may instead of striking off refer the company for investigation if the Registrar believes the company is trading or has property or that there is some other reason the company should not be struck off. After the relevant notices have been served on the company and no cause is shown by the company as to why they should not be struck off, the Registrar may proceed to strike off the company. This is effected by publishing a notice in the Gazette and the company is struck off and dissolved as of the date of its removal from the register. Of the 3 263 BCs struck off the register, 134 have been liquidated. Fourteen LLCs have so far been liquidated out of the 71 LLCs struck off the register.

276. The BC or LLC may be restored by the Registrar and an appeal lies to court where the Registrar refuses to restore the company (upon payment

80. Number of registered agents reviewed: 4 in 2019, 6 in 2020 and 1 in 2021. Number of letters for remedial actions: 4 in 2019, 5 in 2020 and 1 in 2021.

81. sections 8, 71 of the LLC Act and section 172 of the Business Companies (Amendment and Consolidation) Act.

of fees). The Act does not prescribe a time limit in which restoration must be done. A company which has been struck off the register may through prescribed persons apply for restoration, continue to defend or carry on proceedings that started prior to the date of striking off. The Act makes it clear that a business company that has been struck off the register can still incur liabilities, be sued by creditors and the court may appoint a liquidator in respect of such company. Where the company is liquidated, the liquidator is bound by the AML law to maintain the records for seven years after the end of liquidation but this is subject to the limitation noted above in paragraph 255. Property of the company that has not been disposed of at the date of dissolution vests in the Registrar. The Vincentian authorities interpret property to include the company's accounting records and underlying documentation but in practice these records are not being retained by the FSA. **Saint Vincent and the Grenadines should ensure that underlying documentation of entities that have been struck off or ceased to exist is available for at least five years in line with the standard**.

277. Saint Vincent and the Grenadines' laws were amended during the previous review to strengthen the keeping of accounting information and underlying documentation by BCs. The laws took effect after the previous peer review period. During the current review period, the FSA supervised BCs, registered trusts and LLC through their registered agents as well as the filing requirements with the FSA. However, no sanctions were applied on the entities and the authorities did not provide statistics on compliance rate. **Saint Vincent and the Grenadines should ensure there is adequate monitoring and supervision activities on registered agents to ensure the availability of accounting records and underlying documentation in line with the standard**.

Supervision by the tax administration

278. The IRD monitors taxpayer obligation to maintain accounting records as part of its overall taxpayer compliance activities. This includes public education to alert taxpayers to their responsibilities and through auditing. The IRD has two audit divisions, one dedicated to large and medium taxpayers and the other to small and micro taxpayers. Both divisions actively identify and audit segments of the taxpayer population and ensure one-fifth of the taxpayer population is audited annually. Audits may be desk-based or on-site in which case the auditors also review the taxpayer's books, records and accounting methodology.[82]

82. The Large and Medium taxpayer Division conducts 80% on-site and 20% desk based audits annually while the percentages for Small and Micro Taxpayers Divisions are 10% on-site and 90% desk based.

279. It also collaborates with the FSA and the CIPO using memoranda of understanding where the registrars share information on new entity registrations with the IRD. To ensure BCs and registered trusts are now captured in the tax net, since 1 January 2019 the FSA has been forwarding all newly registered business company and registered trusts to the IRD for them to be registered for the payment of income tax. The information is forwarded quarterly.

280. In order to deal with the influx of registration of BCs and registered trusts, the IRD augmented the staff of its Registration and Taxpayer Services Unit. This was done by transferring staff from other internal units. The IRD also created a separate categorisation within its taxpayer database for BCs and international business services to ensure the efficient registration of BCs particularly after the grandfathering period for existing BCs ended on 30 June 2021. Since 1 June 2019 the IRD has registered 1 868 BCs. As the requirements were recent, the IRD reported that compliance statistics with respect to filing obligations were not available.

281. **Saint Vincent and the Grenadines is recommended to supervise the operation of the new provisions to ensure that accounting information of Business Companies and Registered Trusts is available in line with the standard**.

Availability of accounting information in EOIR practice

282. Saint Vincent and the Grenadines' peers sent four requests regarding accounting information of companies incorporated in Saint Vincent and the Grenadines. The peers were generally satisfied with the responses received.

A.3. Banking Information

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

283. The 2014 Report concluded that the combination of legal obligations in the Banking Act, International Banking Act and the AML regime for licensed banks and other financial institutions ensure that all records relating to bank accounts and their associated financial and transactional information are available. The 2014 AML&TF Regulations had been recently amended to mandate service providers, including banks, to immediately obtain CDD information concerning the customer, third party or beneficial owner in the case where they rely on any intermediary or introducer. Saint Vincent and the Grenadines was rated Largely Compliant with respect to this element and received a recommendation to monitor the operations of the amended AML Regulations on introduced business and their enforcement.

284. The FSA and the ECCB have been monitoring the compliance of banks with their CDD obligations, including in respect of introduced business through off-site and on-site activities. In practice, the banks report that they do not rely on introducers and intermediaries but undertake their own CDD in all cases. This was confirmed by the FSA and ECCB. The monitoring recommendation is therefore removed.

285. The standard was strengthened in 2016 to require the availability of beneficial ownership information of account holders. Saint Vincent and the Grenadines' AML law requires banks to collect beneficial ownership information as part of their CDD activities when onboarding clients and to keep this information up to date. However, some issues have been identified that may affect the availability of information in some cases. Saint Vincent and the Grenadines is therefore recommended to take measures to address them.

286. During the review period, Saint Vincent and the Grenadines did not encounter any difficulties in processing 25 requests for banking information, except for a delay in receiving the information from banks in two cases. In one case the bank in question had re-domiciled since 2017 and the other case involved an international bank that was in voluntary liquidation. However, this delay in receiving the information did not affect the timeliness of the response to the EOI partners as the responses were sent within 90 days in most cases.

287. 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
Banks are required to identify the beneficial owners of their customers as part of their customer due diligence obligations under the AML law. However, the definition of beneficial owner in the AML law is circular and the definition and the guidance do not contemplate the requirement to identify individuals holding a senior managerial position when no person meets the definition of beneficial owner. Further, there is little guidance on how the definition should be applied, including whether the definition should be interpreted as cumulative or disjunctive and the meaning of "ultimate control over the management". Further AML-obliged persons are not required to verify the identity of beneficial owners of legal entities and arrangements that are determined to present a low level of risk. Thus beneficial ownership information may not be available for relevant entities and arrangements and where it is available its accuracy may not be verified in all cases.	Saint Vincent and the Grenadines is recommended to ensure that adequate, accurate and up-to-date information on beneficial owners for all bank accounts is available in line with the standard.

Deficiencies identified/Underlying factor	Recommendations
The number of international banks in Saint Vincent and the Grenadines has steadily decreased over the years as of the four banks reported in 2014, only one is operational. Two are currently in voluntary liquidation. During the peer review period, Saint Vincent and the Grenadines answered one request for banking information related to an international bank in liquidation. However, Saint Vincent and the Grenadines' legislation does not impose requirements for the keeping of the bank's records after the licence has been revoked or the bank has been liquidated although in practice, the authorities are confident it is kept by liquidators.	Saint Vincent and the Grenadines should ensure that banking information is kept for at least five years in the case where the bank has ceased to exist or a foreign bank has ceased its operations in the jurisdiction.

Practical Implementation of the Standard: Largely Compliant

Deficiencies identified/Underlying factor	Recommendations
The AML supervisors did not demonstrate a complete understanding of the legal provisions defining beneficial ownership and the methodology for applying it in practice and have not imposed any sanctions with respect to compliance with customer due diligence obligations.	Saint Vincent and the Grenadines should strengthen its supervision and enforcement efforts with respect to the compliance of domestic and international banks with their obligations to identify the beneficial owners of customers to ensure that adequate, accurate and up-to-date beneficial ownership information is available in line with the standard.

A.3.1. Record-keeping requirements

288. As of 1 March 2023, there are four domestic commercial banks (one indigenous and three foreign-owned) licensed to operate in Saint Vincent and the Grenadines under the Banking Act.

289. International banks may be licensed under the International Banks Act either as a Class A or Class B bank. Both types of entities are required to offer services to non-resident persons. In the case of a Class A bank its licence permits it to carry on international banking business involving the administration, management, investment of or otherwise dealing with, trust assets. The restriction on a Class B licensee is that it can only offer

international banking services, or otherwise receive and solicit funds by way of trade or business from specifically named persons in the undertaking that accompanies its application for a licence. Only one Class B international bank licensed under the International Banks Act now operates in Saint Vincent and the Grenadines, three less than the four indicated in the 2014 Report. The Vincentian authorities attribute the reduction to a combination of the effect of the 2008 global financial crisis and de-risking which has made it difficult for banks in small jurisdictions to operate with the appropriate corresponding banking relations.

Availability of banking information

Transactional information

290. The record-keeping obligation of banks is imposed in the statute under which they are licensed as well as the AML and tax laws. It is implied in the Banking Act in relation to domestic banks, as the Act empowers a person authorised by the Central Bank to request the bank to furnish explanation or information as necessary, and makes it an offence if the bank is unable to produce the accounting information pertaining to its business. In relation to international banks, section 8(1)(a) of the International Banks Act requires a licensee to have a physical presence in the jurisdiction, including a physical place of business where all books and records are kept. Further, section 19(3) gives the FSA power to request an auditor, director, officer or employee of a licensee to produce all books, minutes, cash, securities, vouchers and other documents and records relating to its assets, liabilities and business generally. In both cases the banks would therefore need to keep the relevant records to be able to comply with the requirements of the respective regulatory authority.

291. The record-keeping obligations of banks in the AML law are more explicit. The service provider must maintain a record of the details of each transaction carried out in the course of a business relationship or occasional transaction. The transaction records should be kept in such detail that enables the reconstruction of individual transactions.

Client identification

292. Both domestic and international banks are subject to AML requirements as service providers. In this regard, they are required to carry out CDD procedures to identify and verify their client prior to forming any business relationship, including opening a bank account or carrying out an occasional transaction. An occasional transaction is a single or two or more

linked transactions that amount to XCD 10 000 (EUR 3 483) or more if the transaction is carried out otherwise than as part of a business relation.

293. The CDD obligations require the banks to collect identification information in respect of their customer. This includes the customer's full name, gender, principal residence address and date of birth. The equivalent information to be collected from corporate entities includes the full name and any trading name used, date of incorporation, any official identifying number, their registered office, name and address of their registered agent, if any, mailing address, principal place of business and identification of certain directors, and identification information on ultimate holders of 15% or more of the legal person. The requirements for partnerships and unincorporated businesses include information on the identity of all partners or beneficial owners and a copy of the agreement establishing the partnership or unincorporated business.

294. The AML&TF Regulations allow for the verification of a bank account holder after the account has been opened, provided there are adequate safeguards to ensure that, before verification has been completed, the account is not closed and transactions are not carried out by or on behalf of the account holder, including any withdrawal from the account by the account holder. Anonymous and fictitious accounts are prohibited and non-compliance with this prohibition exposes the bank to liability on summary conviction to a fine of XCD 100 000 (EUR 34 831).

Retention and penalties

295. Regulation 21 of the AML&TF Regulations requires that the documents collected as part of the CDD process and in relation to transactions be kept in a form that enables them to be made available to the relevant authorities when lawfully required.

296. The AML&TF Regulations further stipulate the manner in which the records are to be kept. The records should be kept in manner that makes them readily accessible to the bank in Saint Vincent and the Grenadines and "enables the supervisory authority, internal and external auditors and other competent authorities to assess the effectiveness of the systems and controls that are maintained by the service provider to prevent and detect money laundering and terrorist financing".[83]

297. The minimum retention period for information required to be kept under the AML&TF Regulations is seven years from the date on which the business relationship ends or the date on which a particular transaction was completed.

83. Regulation 23.

298. Penalties are provided where the bank fails to keep the records, customer and account information as required. A penalty of XCD 25 000 (EUR 8 708) is applied upon summary conviction where the bank is unable to produce the accounting information pertaining to its business, and in case the offence continues after the conviction, a further penalty of XCD 1000 (EUR 348) for each day the offence continues thereafter. Failure to keep the records as required under the AML&TF Regulations is an offence and on summary conviction, the offender is liable to imprisonment for two years or to a fine of XCD 100 000 (EUR 34 831) or both. The FSA as the regulatory authority of international banks may also address non-compliance with the obligation to keep the records and customer and account information by taking prescribed actions such as issuing written warnings, cease and desist orders or written directions. The FSA may, with the advice of the Minister, also revoke the bank's licence or impose new or additional conditions on the licensee.

299. The Tax Administration Act 2019 also requires a bank or financial institution to keep an account of all transactions with a client, including the identity of the client. Failure to comply with this requirement would expose the bank to a penalty of XCD 50 (EUR 17) per day for each day the failure continues. Before assessing the penalty under this section, the Comptroller must first issue a warning notice and no penalty lies where the bank complies with the warning notice.[84]

Beneficial ownership information on account holders

300. The standard was strengthened in 2016 to specifically require that beneficial ownership information be available in respect of all account holders. As AML-obliged service providers, banks are required to identify and verify the beneficial owners of customers and keep these records for at least seven years after the end of the business relationship.

301. The analysis under Element A.1 in relation to the deficiency in relation to the lack of guidance on the definition of beneficial owner and the methodology for identification of beneficial owners apply equally to banks as well as the lack of verification of certain low risk beneficial owners. This could result in inconsistent application of the concept resulting in the identification of the beneficial owner that is not in line with the standard.

302. **Saint Vincent and the Grenadines is recommended to ensure that adequate, accurate and up-to-date information on beneficial owners for all bank accounts is available in line with the standard**.

84. Sections 21 and 79 of the Tax Administration Act.

303. As noted in the 2014 Report, a new regulation 17(3) was introduced in 2014 to require that banks relying on a foreign or local introducer or intermediary must immediately obtain the CDD information concerning the customer, third party or beneficial owner. The 2017 AML&TF Code gives further guidance on safeguards to ensure the records are available with the banks relying on an introducer or intermediary. This includes a requirement that the bank obtain adequate assurance from the introducer or intermediary to provide the CDD information held on the customer at the service provider's request. In addition, as part of the risk assessment the bank must undertake in order to determine if it is appropriate to rely on the introducer/intermediary, the bank is required to consider the adequacy of the AML/CFT supervisory regime to which the introducer/intermediary is subject. The Code places the ultimate responsibility for ensuring the CDD procedures comply with the Code on the bank and a penalty of XCD 4000 (EUR 1 393) is provided for contravention of the requirements of the Code.

304. Representatives of domestic banks in Saint Vincent and the Grenadines indicated that they are currently not relying on CDD by intermediaries or introducers. They also indicated that domestic banks in Saint Vincent and the Grenadines have a 95% local-based clientele and even with foreign customers they found it easier to conduct their own due diligence.

305. As noted under Element A1, the requirement to update CDD information is risk-based. The Guidance Notes recommend review of CDD information in respect of customers presenting a higher risk be done at least annually while those presenting a normal and low risk be reviewed every three years. Representatives of domestic banks report that to ensure they keep their correspondent banking network, they tend to apply a higher standard, notably with reluctance for enrolling BCs, LLCs and Registered Trusts, which are classified as high-risk customers.

306. Representatives of Vincentian banks informed that updates to CDD are event driven (i.e. updated whenever there is an event that requires them to pull the customer file). Otherwise, it is done annually for all customers.

Oversight and enforcement

307. The Eastern Caribbean Central Bank (ECCB) is the regulatory authority supervising the prudential and AML requirements of the four domestic banks while the FSA supervises the prudential and AML requirements of the three international banks.

Eastern Caribbean Central Bank

308. The ECCB uses a risk-based two-pronged approach to its supervisory function that includes on-site examinations as well as remote surveillance of the banks it supervises. The ECCB's supervisory process consists of off-site surveillance, planning and scoping of examinations based on the bank's money-laundering/terrorist-financing (ML/TF) risk profile, on-site examinations, post examination assessment and revision of the ML/TF risk profile and monitoring and follow-up of remedial action plans. The off-site activities are used to evaluate the risks of each bank, identify any AML/CFT shortcomings or areas of non-compliance, to establish an early warning system and develop supervisory action plans.

309. Banks are required to file prudential returns with information on various transactions, customers and products which the ECCB uses to conduct a risk assessment. Since the Covid-19 pandemic, the ECCB has also been implementing remote testing of systems and sampling of files. In addition, the ECCB conducts media surveillance for emerging ML/TF risks as well as legislative changes. It also co-ordinates with the FIU on AML/CFT matters.

310. On-site examinations are programmed based on the risk profile of the bank. There is a minimum examination frequency which ranges from once every three years for banks presenting a low risk to once in every year for banks considered high risk. On-site examinations may be full scope where all areas are checked, including the banks AML/CFT governance framework, CDD, ongoing monitoring, reporting and record retention. The ECCB indicated that they check the sample of files for all CDD requirements including the documents provided to ascertain the beneficial owner(s) such as group structures, share transfer contracts and passports. The ECCB did not however, provide any details of the steps they take to check that the bank has applied the correct methodology to identify the beneficial owner.

311. Owing to the small number of banks and the ECCB's ongoing off-site monitoring activities, the ECCB conducted four on-site examinations of Vincentian banks in 2019 from which it issued sanctions. Four remedial actions were issued based on deficiencies identified: two memorandum of understanding, one letter of commitment and a directive. There is a ladder of escalation of sanctions from a memorandum of understanding, letter of commitment, directive to revocation of licence to criminal sanctions. Two remedial actions were also issued in 2020 based on off-site monitoring activities. Deficiencies were noted in the CDD measures, ongoing monitoring, reporting obligations and record retention practices along with other areas. Action items with a specified timeline are included as part of the remedial actions document. The ECCB follows up its on-site and off-site activities by checking on the bank's progress with the remedial action using supervisory action plans.

312. Training is also part of the ECCB's compliance strategy and the ECCB partners with other institutions to deliver training to banks to raise awareness and capacity in relation to AML/CFT measures and resilience. All training during the review period was virtual. In the last quarter of 2020, the ECCB collaborated with the Association of Anti-Money Laundering Specialists to facilitate a three-part webinar series on various AML/CFT topics including risk management, risk-based approach to politically exposed persons, correspondent banking relationships and the impact of de-risking in the region. No training was delivered on identification of beneficial ownership but the ECCB included information on the definition of beneficial owner by FATF in the fourth issue of its AML/CFT newsletter. Membership in the ECCB's training initiative provides continuous learning for participants who are representatives of domestic banks.

Financial Services Authority

313. The FSA assesses compliance of international banks with their record keeping and CDD obligations through on-site examinations. The on-site examinations include introductory meetings and meetings with key staff. The bank records are also checked to ensure compliance with AML obligations. After the examination, the findings are shared with the bank. The authority subsequently issues a detailed report, highlighting areas of non-compliance, remedial actions and due dates for their completion. The authority then follows up to ensure that the issues are addressed satisfactorily.

314. Two of the three international banks are in voluntary liquidation. The process for granting approval for voluntary liquidation also requires the FSA to closely review the banks compliance with their legal obligations. The FSA must approve the liquidation as well as the liquidator chosen. Neither the approval process for the liquidation of the banks nor the on-site examination revealed any breaches of the banks' record-keeping obligations including in relation to obtaining information from introducers or intermediaries.

315. The FSA held one on-site examination of an international bank in 2019. For the two years immediately preceding the review period, the FSA conducted seven on-site examinations of international banks. There were four focused-scope examinations in 2017 and in 2018 one full scope and two focused scope examinations. The on-site examination identified issues with AML risks as needing improvement but the FSA did not issue any remedial actions for breach of any AML obligations.

316. The FSA's on-site supervisory activities were suspended from March 2021 with limited resumption in 2022, and off-site monitoring activities increased. This was in the form of desk-based reviews of information submitted by or requested from international bank and follow-up by letters,

email and virtual meetings. The desk-based monitoring activities conducted during the period were:

a. reviewing, interpreting and analysing quarterly and annual audited financial statements of licensed banks to ensure they meet their prudential requirements

b. reviewing the AML/CFT policies and procedures

c. following up with active international banks on issues identified in previous on-site examination

d. monitoring new products and services, emerging risks and adjusting supervisory strategies accordingly

e. collaborating with regional regulators to address the risks and emerging issues identified.

317. These desk-based monitoring activities do not cover sampling customer files to check the accuracy and currency of their identity and beneficial ownership information.

318. Despite the supervisory activities of the FSA and the ECCB with respect to the compliance of banks with their CDD and record keeping obligations, they did not demonstrate a complete understanding of the definition of beneficial ownership or the methodology for applying it under the AML law and did not apply any sanctions with respect to compliance with CDD obligations. Regarding the understanding of the definition of beneficial owner, the authorities pointed to the detailed AML&TF Code and detailed Guidance Notes indicating they were clear. However, they did not explain how they were applying the definition and methodology in their assessments of the banks. **Saint Vincent and the Grenadines should strengthen its supervision and enforcement efforts with respect to the compliance of domestic and international banks with their obligations to identify the beneficial owners of customers to ensure that adequate, accurate and up-to-date beneficial ownership information is available in line with the standard**.

Banks that ceased to exist

319. International banks are BCs incorporated under the Business Companies (Amendment and Consolidation) Act and as such may cease to exist in accordance with the provisions of the Act (see paragraph 88). This includes the process for voluntary liquidation of banks outlined in section 162-171 of that Act. The FSA reports that the liquidator is expected to file reports periodically on the status of the liquidation and a final liquidation report at end of the process. The final report enables the FSA to issue a

certificate of dissolution if satisfied the legislative requirements have been met.[85]

320. An international bank that is being wound up voluntarily may surrender its banking licence where it has repaid all capital deposits and is solvent and able to repay its depositors and other creditors on demand. Approval of the surrender by the FSA must be published in the Gazette and the previous licensee is obliged to appoint a liquidator approved by the FSA.

321. The licence of an international bank may also be revoked by the FSA with advice of the Minister under section 21(1) of the International Banks Act where the FSA is satisfied that a licensee is in liquidation, is wound up or being wound up, or otherwise dissolved. The FSA may, upon the advice of the Minister, also revoke the licence of an international bank if satisfied the bank is likely to become unable to meet its obligation or it is in the interests of the public, depositors or other creditors. This revocation triggers involuntary liquidation proceedings against the bank.

322. The Vincentian authorities report that the majority of banks whose licences are revoked are liquidated by a liquidator approved by the FSA. Liquidators must be accountants or lawyers with financial experience and are therefore service providers regulated under the AML law. The Vincentian authorities explained that the FSA would require the liquidator to be operating within Saint Vincent and the Grenadines unless in exceptional cases, there is justification for the use of a regional liquidator operating in a jurisdiction with equivalent AML/CFT standards.

323. Domestic banks may cease to exist as a result of compulsory liquidation initiated by the ECCB, voluntary liquidation with the approval of the ECCB, acquisitions or disorderly exit.[86] With the exception of disorderly exit, the bank's records may be available for at least five years after the bank ceases to exist due to the AML record keeping obligations of liquidators or the acquiring bank which are both regulated as service providers under the AML law.

324. While the AML law requires the records of the liquidation and the CDD details of the bank to be kept for seven years after the liquidation, there is not an explicit requirement for the liquidator to retain the banking information of the clients of the liquidated bank. The Vincentian authorities advise that in practice the liquidators retain the banking information of the bank's customers and they have during the period obtained banking information

85. Section 167(4) of the Business Companies (Amendment and Consolidation) Act.

86. The term "disorderly exit" refers to the unforeseen and unplanned exit of a bank from Saint Vincent and the Grenadines. This would take place contrary to the rules in Parts X, XI and XII of the Banking Act where exiting banks are required to notify and seek the authorisation of the ECCB.

from a liquidator to respond to an exchange of information request. The fact that the information was available in one case is positive but does not address the underlying legal issue.

325. Consequently, **Saint Vincent and the Grenadines should ensure that banking information is kept for at least five years in the case where the bank has ceased to exist or a foreign bank has ceased its operations in the jurisdiction**.

Availability of banking information in EOIR practice

326. Most of the requests sent by peers to Saint Vincent and the Grenadines concerned banking information, such as the account opening documents, bank statements and closing dates, held by international banks. Of the 27 requests Saint Vincent and the Grenadines reported receiving from peers, 25[87] were for information held by international banks, including in one case where the information was obtained from an international bank that had redomiciled in 2017 and another that was in liquidation. One peer who requested the banking information related to legal entities was also able to obtain information to trace the beneficial owners of the accounts within their jurisdiction. Saint Vincent and the Grenadines was able to provide the information requested. All peers who received the information requested were satisfied with the responses received.

87. See Element C.5 for discussion on disparity in the number of requests sent by peers and the requests received by Saint Vincent and the Grenadines.

Part B: Access to information

327. Sections B.1 and B.2 evaluate whether competent authorities have the power to obtain and provide information that is the subject of a request under an EOI arrangement from any person within their territorial jurisdiction who is in possession or control of such information, and whether rights and safeguards are compatible with effective EOI.

B.1. Competent authority's ability to obtain and provide information

Competent authorities should have the power to obtain and provide information that is the subject of a request under an exchange of information arrangement from any person within their territorial jurisdiction who is in possession or control of such information (irrespective of any legal obligation on such person to maintain the secrecy of the information).

328. The 2014 Report concluded that Saint Vincent and the Grenadines was compliant with this element of the standard as its Competent Authority had the requisite powers to access information that is subject of a request under an exchange arrangement. It noted that the Competent Authority could request the information by way of a notice to the information holder or in certain cases by an order or search and seizure warrant issued by the High Court. As the legal professional privilege was defined in line with the standard, there were no secrecy provisions that prevented the competent authority from accessing information in response to a valid request for exchange of information. This remains the case in the present review.

329. Both the FSA and the IRD exercise competent authority functions in relation to EOI. Both authorities have broad powers in the statutes under which they are established or which they administer, to obtain all types of relevant information. This includes ownership and banking information and accounting records from any person within Saint Vincent and the Grenadines. Further, the International Cooperation (Tax Information Exchange Agreements) Act 2011 (IC Act) empowers the Competent Authority to access any information it may need with respect to an EOI request from any person within the time limits specified in the IC Act or

as varied by the Competent Authority. Criminal penalties are provided in the various pieces of legislation for failure to comply with the Competent Authority's request.

330. During the review period, Saint Vincent and the Grenadines has been able to access information requested by its EOI partners, including in one case where the information was obtained from an international bank that had redomiciled in 2017 and another that was in liquidation.

331. The conclusions are as follows:

Legal and Regulatory Framework: in place

No material deficiencies have been identified in the legislation of Saint Vincent and the Grenadines in relation to access powers of the competent authority.

Practical Implementation of the Standard: Compliant

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

B.1.1. Ownership, identity and banking information

332. The Minister responsible for finance is the Competent Authority of Saint Vincent and the Grenadines for the purposes of EOI under TIEAs, the DTC with the United Arab Emirates and the Multilateral Convention, while the IRD is the Competent Authority under the regional CARICOM tax treaty.[88] Except for receiving EOI requests and sending responses, the Minister has delegated, since 1994, the performance of all EOI-related functions to the FSA.

Provisions on access to information

333. The IC Act is the principal legislation under which EOI requests under TIEAs, DTCs, the CARICOM tax treaty and the Multilateral Convention are processed. The information gathering powers granted under the IC Act may be exercised by the Competent Authority or the delegated authority "in aid of a valid request", i.e. one in compliance with the relevant EOI arrangement (see Element C.1.1 below). The powers can be exercised to gather ownership and identity information, banking information as well as accounting records through the issue of a notice of information by the Competent Authority, an application to the High Court for the giving of

88. The "CARICOM tax treaty" is a regional double taxation convention between member states of the Caribbean Community (CARICOM); see Annex 2.

evidence, an order of the High Court in criminal tax matters, or by way of search and seizure warrants.

334. Section 8 of the IC Act authorises the Competent Authority, by written notice served on any person in Saint Vincent and the Grenadines, to require the person to provide any information that may be needed with respect to an EOI request.

335. A person is not required to comply with the request if the information is not in that person's possession or control.[89] There is no sanction under the IC Act, even if the person has a legal obligation to maintain the information. If the FSA wants to check that the person is telling the truth, the FSA can use powers under the IC Act or the FSA Act to compel such information. Under the FSA Act, the FSA has the power to investigate the existence of the information, including by exercising powers of search and seizure and several other powers for the production of information. In case the information holder does not have the information under his/her possession or control but has a legal obligation to maintain the information, the FSA can use its requesting, investigation and seizure powers under the FSA Act, as it is an offence not to produce the information. The FSA can also reach out to its strategic partners at the FIU and the IRD, both entities having powers to request the production of information via its own statutory powers or by obtaining a court order. Failure to produce the information required under the respective FIU Act, Income Tax Act, Tax Administration Act, is criminalised and non-compliance with a production order of the court is also a criminal offence. During the peer review period, this situation never occurred.

336. However, where the information is in the possession or control of the person, regardless of the presence of a statutory duty to keep that information, they will be required to provide the Competent Authority with the requested information.

337. Section 10 of the IC Act provides for an application to be made to the High Court where the request requires any person to give evidence (witness testimony), for the High Court to receive such evidence, which must be provided to the requesting jurisdiction. The procedure may be employed for requests related to civil or criminal tax matters.

338. Section 10 of the IC Act allows the Competent Authority to apply for a court order if it considers it necessary to obtain information requested to be used in criminal proceedings or related investigations. Although never used in practice, this procedure would be considered when it is specifically stated that the information requested would be used in "criminal proceedings".

89. Section 9(4) of the IC Act.

339. Finally, section 11 of the IC Act also allows the Competent Authority to apply to the High Court for the issue of a search warrant for specified premises to search for and seize specified information or information of a specified description (see also B.1.4).

340. In addition to the access powers which the FSA and the IRD can invoke in their capacity as Competent Authority under the IC Act, there are other legislative options which they may use to access information to respond to a request, although they have not had to use them in practice. The Comptroller of the IRD is empowered by section 29 of the Tax Administration Act to require a person who is or may be liable to tax or any other person to furnish at such time as may be specified, such further return of income, statement of assets and liabilities or other information as may be required. The FSA may also utilise its powers under section 22 of the Financial Services Authority Act to request information from a registered or licensed entity. The Executive Director of the FSA may, pursuant to section 15(3) of the Registered Agents and Trustee Licensing Act, require a licensee at all reasonable times to produce for examination such books, records and other documents that the licensee is required to maintain pursuant to section 18[90] and require a licensee to supply such information or explanation as the Executive Director may reasonably require to enable him/her to perform his/her functions under the Act. Similarly, as the Registrar of trusts, the FSA has the power to request the provision of any information and the production of any documents from a registered trustee (sections 55A-55B of the Trusts Act). These documents may be requested whenever they are reasonably required.

341. The FSA, as a domestic regulatory authority listed under the Exchange of Information Act (EOI Act), has additional access powers under that legislation. Under section 4 of the EOI Act, a domestic regulatory authority which receives a request from another domestic regulatory authority or a foreign regulatory authority may request any person to furnish the requested information. The FSA is a domestic regulatory authority under the Act as well as the CIPO, the ECCB and the Registrar of Shipping among others. The use of this power appears to be more indirect than the powers accorded under the IC Act.

90. This section imposes an obligation on the licensee to prepare annual accounts for its business of International Representation in accordance with generally accepted accounting principles and also annual accounts with respect to any duties the licensee performs a financial fiduciary.

Accessing information generally

342. The information gathering process used by Saint Vincent and the Grenadines depends on the Competent Authority responding to the request and the source of the information. For requests handled by the FSA, where the FSA is the custodian of the requested information, a search of the institution's records (e.g. BCs and LLC registers) is conducted and the information can be immediately sent to the requesting jurisdiction. Where the request seeks information regarding a taxpayer or relevant entities within the scope of the recently enacted Economic Substance legislation,[91] the FSA seeks assistance from the Comptroller of the IRD. In the case where the information is held by another government authority, a formal request is sent by letter under confidential cover to the relevant entity. Where the FSA requires information from a third party other than a taxpayer or other government entity, the FSA serves a notice on the person requesting provision of the information within 14 to 21 days. The FSA will usually obtain the information from the service provider or the entity itself. Notices are usually sent to the Registered Agents (where they relate to BCs or LLCs) and when relevant, directly to a licensed entity, such as an international bank. Notices served on the entity or the service provider are hand-delivered. Since the pandemic, hand-delivery is accompanied by an electronic transmission.

343. Information in relation to a taxpayer that is sourced from the Comptroller of the IRD may be gathered using one of two methods. Where the requested information is in the possession of the IRD, the information is retrieved and forwarded directly to the FSA. This sharing of confidential taxpayer information is facilitated by the disclosure exemption in section 6 of the Income Tax Act to any person authorised by Cabinet or by any other written law, in this case the IC Act, to receive the information. Where the information has to be obtained directly from the taxpayer, the Comptroller of the IRD may employ the powers granted under section 29 of the Tax Administration Act to require the taxpayer to provide the requisite information.

344. The information gathering procedures of the IRD would also apply where they have received an EOI request directly from a requesting jurisdiction under the CARICOM tax treaty. In this case, the information, when gathered, would be sent directly to the requesting jurisdiction. However, no requests were received under the CARICOM tax treaty during the review period.

345. Saint Vincent and the Grenadines did not experience any difficulties accessing information to fulfil the requests it received from its peers during the review period.

91. Section 9 of the International Co-operation (Economic Substance) Act.

Accessing information in criminal tax cases

346. In addition to the notice under section 8, the Competent Authority may also apply for a court order to compel the production of information in cases where the requesting jurisdiction requires the information for court proceedings or related investigations. This procedure would be utilised where the peer has indicated that the information is to be used as evidence in a court case. In such cases, the Competent Authority has to apply to the High Court for the court to issue the summons and take the relevant evidence. The evidence is then transmitted by the Competent Authority to the requested state. The High Court may grant the order if it is satisfied that the Competent Authority has certified the request conforms to the relevant EOI arrangement, the information requested is in the possession or control of a person in the jurisdiction and there are no valid grounds for declining the request. The order may specify the time and format in which the information must be provided as well as how the information is to be verified or authenticated.

347. However, the information holder may only be compelled to give evidence where that person would be compelled to give evidence in similar proceedings in Saint Vincent and the Grenadines. The Saint Vincent and the Grenadines authorities advised that the witness would not be compellable to give evidence in a criminal case that would require a husband or wife to give evidence against each other respecting their communication in the course of their marriage or where the giving of evidence would be prejudicial to the security of Saint Vincent and the Grenadines.[92] The court process may take between one and five days to complete.

348. In practice, the Competent Authority has not invoked this procedure. The Competent Authority used the notice under section 8 to respond to the nine requests it received that involved criminal tax matters.

Accessing legal and beneficial ownership information

349. Saint Vincent and the Grenadines received four requests related to legal ownership information and usually obtained this information from the FSA's Registry database or the registered agent of the relevant entity. Specifically, the FSA holds legal ownership information for all BCs, whether regulated or registered, and trusts. The FSA accesses legal ownership information from LLCs from the Registered Agent. The database stores details of directors and shareholders such as their name, date of birth, address, date of appointment and nationality (see paragraphs 68 and 69). In the case of ordinary companies, external and non-profit companies, the FSA would

92. These grounds are pursuant to the Evidence Act.

request the required information from the CIPO or the entity itself. Legal ownership information of partnerships and trusts would be requested from the IRD or the trustees or partners by serving a notice under the IC Act requesting that the information be provided within 14-21 days.

350. The Competent Authority can access beneficial ownership information from the holder of such information pursuant to section 8 of the IC Act. Beneficial ownership information is usually requested by the FSA and obtained from the registered agents as the AML/CFT domestic legal framework requires them to perform CDD to confirm the identity of the directors, shareholders and beneficial owners of their clients. Otherwise for entities and arrangements without a registered agent, the information would be requested from the entity, the trustees or partners by serving a notice under the IC Act requesting that the information be provided within 14-21 days.

Accessing banking information

351. In practice, the FSA requests banking information directly from the relevant bank or financial institution by serving a notice under the IC Act requesting that the information be provided within 14-21 days.[93] This timeline may be extended if a large volume of information is requested or it may be abridged if the request is flagged as urgent by the requesting jurisdiction.

352. The FSA indicates that the more specific information provided with a request for banking information, the easier it is to retrieve the information from the bank. Such specific information may include the name and address of the bank, the name and address of the account holder and the account number. Though all of these specifics may not be necessary to obtain the information, they are useful. Saint Vincent and the Grenadines indicates that in practice the bank is identified in the requests it received, and this has been sufficient to respond to the requests. Though the instance has never arisen, if the request seeks banking information, but does not name a bank, all banks can be checked.

353. Of the 27 requests received by Saint Vincent and the Grenadines over the review period, 25 involved bank information. The competent authority adequately responded to these requests, notwithstanding delays in receiving information in two cases, one involving a re-domiciled international bank and the other an international bank that was in liquidation.

93. Saint Vincent and the Grenadines' Competent Authority may also access banking information under the powers set out in the banking legislation and the laws granting regulatory powers.

B.1.2. Accounting records

354. Requests for accounting information are usually made to the relevant entity through its registered agent. In this case, a notice addressed to the company is served on the registered agent requesting the accounting records. In the case of ordinary, external and non-profit companies, this information would be requested directly from the entity or the CIPO. In the case of partnerships and non-registered trusts, the information would be requested from a partner or trustee, as the case may be.

355. Saint Vincent and the Grenadines has not had any difficulties in responding to the two requests[94] for accounting information it received during the review period.

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

356. The information gathering powers of the Competent Authority of Saint Vincent and the Grenadines under the IC Act are not constrained by any domestic tax interest.

357. No issue was raised by the peers in relation to this although the requests for information received by Saint Vincent and the Grenadines did not involve any domestic tax interest.

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

358. Penalties are provided for failure to comply with requests for information in the various pieces of legislation granting access powers to the Competent Authority. The main legislation used to access information for EOI purposes is the IC Act. Section 15(3) of the IC Act makes it a criminal offence to fail to provide requested information or to wilfully tamper with or alter such information so that it is not true when the Competent Authority receives it. A person found guilty of such an offence is liable on summary conviction to a fine of XCD 10 000 (EUR 3 483) or to a term of two years' imprisonment or both.

359. Penalties are also provided under the other pieces of legislation that grant the FSA and IRD access powers pursuant to their functions as regulator and tax administration. Section 22(2) of the Financial Services Authority Act provides that where a person fails without reasonable excuse to comply

94. The discrepancy between the four accounting requests sent by peers (see paragraph 282), and those received by Saint Vincent and the Grenadines may be due to differences in what is classified as accounting information by each jurisdiction.

with a request of the FSA, that person commits an offence and is liable on conviction to a fine of XCD 100 000 (EUR 34 831) or to imprisonment for a year or both. Failure to supply the Comptroller of IRD with requested information exposes the non-compliant person to a penalty not exceeding XCD 500 000 (EUR 174 155) under the Tax Administration Act or the act may constitute an offence under section 131 of the Income Tax Act where the punishment is either a fine of XCD 1 500 (EUR 522) or imprisonment for a year. Additional penalties may be added under the Income Tax Act where the non-compliance continues after conviction.

360. The Exchange of Information Act also contains penalties for failure to comply with an order of the High Court made under that Act or for intentionally furnishing false information in purported compliance with any such order. It is also an offence to intentionally mutilate, obliterate or destroy or otherwise prevent the production of a document or impede the provision of information related to the execution of a request. The penalty for these offences, upon summary conviction, is a maximum fine of XCD 100 000 (EUR 34 831) or imprisonment for a term of not more than two years or both.

361. Search and seizure powers are available to the Competent Authority under section 11 of the IC Act. Where the Competent Authority considers it necessary to enter and search any premises pursuant to a request, the Competent Authority may apply to the High Court for a search warrant for specified premises. The search warrant permits the Competent Authority to search for and seize specified information or information of a specified description. The High Court may issue the warrant where it is satisfied on one of the following grounds:

a. non-compliance with a notice for information or a court order for the production of information related to criminal proceedings in the requesting jurisdiction

b. there are reasonable grounds for believing that the information is on the specified premises

c. the request in question would be seriously prejudiced unless immediate access to the information is secured

d. it would not be appropriate to make an order under section 10(7) for the person who appears to be in possession or control of the information to which the application relates to produce it to the police officer because it is not practicable to communicate with any person entitled or authorised to produce the information, it is not practicable to communicate with the person entitled to grant access to the information or entry to the premises, or the request would be seriously prejudiced unless a police officer could secure immediate access to the information.

362. Saint Vincent and the Grenadines did not meet upon any cases of non-compliance with requests for information during the review period. As such, no penalties or other enforcement measures were required to be applied to address non-compliance or gain access to otherwise inaccessible information.

B.1.5. Secrecy provisions

363. The 2014 Report determined that the secrecy provisions applicable to the various financial entities did not prevent effective exchange of information by the Saint Vincent and the Grenadines Competent Authority, as EOIR benefits from exceptions either in the governing law or overriding provision of the IC Act.

364. Domestic banks are required to keep all client information confidential and not disclose except as provided in section 32 of the Banking Act. One of those exceptions is when they are required to do so under the provisions of any law in Saint Vincent and the Grenadines or agreement among Governments.

365. International banks which are usually first incorporated as a business company would be bound by the secrecy provision in section 196 of the Business Company (Amendment and Consolidation) Act in respect of information concerning property and commercial transactions which have taken or may take place, which the recipient is not, otherwise than in the normal course of business or professional practice, authorised by the principal to disclose. An exception is provided in respect of disclosures for criminal investigation and prosecution purposes.

366. The Trusts Act provides for confidentiality of the trusts, including details of beneficiaries and settlors, accounts and the decision making of the trustees. However, the Act lists authorised persons entitled to trust information among whom are the Registrar of Trusts (currently the FSA) and the Comptroller of Inland Revenue. The authorised persons may request any information relating to the trust for regulatory purposes and in order to determine the trust's exempt status. The FSA, as the regulator, could obtain the information for regulatory purposes and the IRD could also access this information as the tax authority.

367. In addition to the exceptions to the confidentiality provisions in the legislation governing the entities, section 10(8) of the IC Act provides for any notice issued by the Competent Authority or order issued by the High Court to override any obligation to confidentiality or other restriction on disclosure found in any Act or the common law. Section 12 of the IC Act grants legal protection to any person who divulges any confidential information in compliance with a notice or court order issued pursuant to a request. Such

a person is deemed not to be in breach of any confidential relationship between the person and any other person and no civil action or claim can be laid against the person making the disclosure.

368. The provision overriding confidentiality and secrecy provisions in Saint Vincent and the Grenadines law does not however override legal professional privilege. The IC Act defines privileged communication as "any information or other matter which is communicated between client and attorney, solicitor or other admitted legal representative where such communication is (a) produced for the purpose of seeking or providing legal advice; or (b) produced for the purposes of use in existing or contemplated legal proceedings". The scope of the exemption for legal professional privilege in the IC Act is consistent with the standard. Saint Vincent and the Grenadines also interprets legal privilege in line with common law principles. Thus, the decisions of the United Kingdom Supreme Court and the Privy Council would be persuasive in this respect.

369. No peers have any issues in this regard. None of the requests that Saint Vincent and the Grenadines received during the review period required the Competent Authority to contact any person who would be entitled to invoke legal privilege or any secrecy provision.

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.

370. The 2014 Report found that there was no requirement in Saint Vincent and the Grenadines' domestic law that the taxpayer under investigation or examination should be given prior notification of a request. The safeguards provided under the IC Act under which the competent authority could decline a request for information were also found to be compatible with the standard. The Report therefore concluded that Saint Vincent and the Grenadines was compliant.

371. Section 17 of the IC Act allows a person aggrieved by a decision of the Competent Authority or any other decision made under the Act to apply to the High Court for judicial review proceedings; but this has not been applied so far.

372. The conclusions are as follows:

Legal and Regulatory Framework: in place

The rights and safeguards that apply to persons in Saint Vincent and the Grenadines are compatible with effective exchange of information.

Practical Implementation of the Standard: Compliant

The application of the rights and safeguards in Saint Vincent and the Grenadines is compatible with effective exchange of information.

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

373. There are no notification requirements prior to or after exchange in the laws of Saint Vincent and the Grenadines in relation to a taxpayer who is the subject of a request. Information may be obtained via a search and seizure warrant and there is no requirement that the taxpayer be notified of the application or the issue of the warrant. In addition where the information is requested from a third party, that person is forbidden from disclosing the notification or the receipt of the request or supply the information to any other person except in accordance with the EOI agreement.

374. The notice that is sent to the information holder states clearly that the person's assistance is required pursuant to section 8 of the IC Act. It also indicates that information will be treated confidentially as required by the provisions of the Act and informs the information holder of their legal obligation to keep the request and the details provided in response confidential.

375. The 2014 Report indicated the intention of Saint Vincent and the Grenadines to amend section 13 of the IC Act to remove the requirement to observe a 20-day holding with respect to information garnered in response to a request. This state of affairs remains the same but the Vincentian authorities do not interpret the 20-day holding period as mandatory and do not observe it in practice.

376. The observance or otherwise of the 20-day period does not affect a person's right under section 17 of the IC Act to challenge the decision of the Competent Authority or any other person with a decision-making function under the Act by way of judicial review in the High Court. Judicial review proceedings are commenced through filing of an application and accompanying affidavits to the High Court. Upon scheduling, the matter will be heard by the High Court.

377. These proceedings would have the effect of suspending any request to which they relate. The Vincentian authorities indicate that judicial review proceedings may last days, weeks or months depending on the complexity of issues the court is asked to review. They are also of the view that proceedings in relation to section 17 of the IC Act would be unlikely to raise complex issues. This view has not been tested to date as there has never been an application for judicial review against the Competent Authority.

Part C: Exchange of information

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

379. At the time of the 2014 assessment, Saint Vincent and the Grenadines had 31 EOI agreements, accounted for by the regional CARICOM tax treaty which covered 10 jurisdictions, and 21 Tax Information Exchange Agreements (TIEAs). These agreements were found to be in line with the standard although there were in-text recommendations in relation to the CARICOM tax treaty. The 2014 Report concluded that the element was in place and Saint Vincent and the Grenadines was rated compliant with Element C.1 of the standard.

380. Since 2014, Saint Vincent and the Grenadines has greatly increased its treaty network by signing the Multilateral Convention on Mutual Administrative Assistance in Tax Matters (the Multilateral Convention), a TIEA with India and a DTC with the United Arab Emirates. Therefore, the treaty network now covers 148 jurisdictions across bilateral agreements (a DTC and TIEAs), the CARICOM tax treaty and the Multilateral Convention. Only two of the EOI relationships are not also covered by the Multilateral Convention.

381. In practice, the competent authority of Saint Vincent and the Grenadines implemented the provisions of the EOI instruments in line with

the standard. Most of the jurisdiction's peers have sent requests pursuant to the Multilateral Convention.

382. The conclusions are as follows:

Legal and Regulatory Framework: in place

No material deficiencies have been identified in the EOI mechanisms of Saint Vincent and the Grenadines.

Practical Implementation of the Standard: Compliant

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

Other forms of exchange of information

383. In addition to EOIR, Saint Vincent and the Grenadines also engages in automatic exchange of financial account information of non-residents under the Common Reporting Standard and Foreign Account Tax Compliance Act intergovernmental agreement.

C.1.1. Standard of foreseeable relevance

384. The 2014 Report indicated that all of Saint Vincent and the Grenadines signed EOI agreements provide for the exchange of information that is foreseeably relevant or necessary for the administration and enforcement of the domestic laws of the Contracting Parties concerning taxes covered in the TIEAs/DTCs. This remains the case as Saint Vincent and the Grenadines' new EOI agreements the Multilateral Convention, the DTC with the United Arab Emirates and a TIEA with India, all provide for exchange of information in line with the standard of foreseeable relevance.

Clarifications and foreseeable relevance in practice

385. During the review period, Saint Vincent and the Grenadines has applied an interpretation of foreseeable relevance that is intended to allow for exchange of information to the widest extent without permitting "fishing expeditions" or to request information that is unlikely to be relevant to the affairs of a given taxpayer. Guidance on the approach is outlined in the EOI Manual both for individual and group requests. Where there is doubt that the request meets the foreseeable relevance standard, the Competent Authority will seek clarification or additional information from the requesting jurisdiction.

386. In the 2014 Report, Saint Vincent and the Grenadines had not asked for clarification from the requesting jurisdiction with respect to foreseeable

relevance. The experience during the current review period is the same as the competent authority has not declined or sought clarification of any requests due to foreseeable relevance.

Group requests

387. Saint Vincent and the Grenadines has no legal bar to processing group requests. Group requests are contemplated in the EOI Manual which also includes guidance on foreseeable relevance with respect to group requests. The manual defines a group request as "a request for information in respect of a group of persons not individually identified who have followed an identical pattern of behaviour and who are identifiable by means of precise details".

388. The checklist in the EOI Manual for foreseeable relevance in respect of individual requests (based on Article 5(5) of the Model TIEA) is extended for group requests. A group request is considered foreseeably relevant where it includes:

a. a detailed description of the group and the specific facts and circumstances leading to the request

b. explanation of the applicable law in the requesting jurisdiction and the factual basis for believing the members of the group are non-compliant with the law and

c. in case a third party is involved, a third party will usually, although not necessarily, have actively contributed to the noncompliance of the taxpayers in the group, in which case such circumstance should also be described in the request.

389. Saint Vincent and the Grenadines did not receive any group requests over the review period.

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

390. The 2014 Report noted that except for the CARICOM tax treaty, all of Saint Vincent and the Grenadines' EOI agreements provided for EOI in respect of all persons. The personal scope of the CARICOM tax treaty is restricted to residents of member states. Presently most of its signatories are also signatories to the Multilateral Convention which would ensure coverage of all persons. However, the CARICOM tax treaty is the only EOI arrangement in place between Saint Vincent and the Grenadines and Trinidad and Tobago and Guyana. The scope of this treaty has remained untested. Therefore, Saint Vincent and the Grenadines should ensure that its EOI relationships with Trinidad and Tobago and Guyana are brought in line with the standard (see Annex 1).

391. Since 2014, Saint Vincent and the Grenadines has signed and ratified the Multilateral Convention and has signed a TIEA with India as well as double taxation agreement with the United Arab Emirates. The TIEA with India covers all persons but the DTC with the United Arab Emirates does not define the scope of Article 26 separate from the scope of the treaty which applies to residents of the contracting states. However, the United Arab Emirates is a signatory to the Multilateral Convention which ensures coverage of all persons in line with the standard.

C.1.3. Obligation to exchange all types of information

392. The 2014 Report determined that the obligation to exchange all types of information was only clearly available in respect of 7 of the 10 partners who were signatories to the CARICOM tax treaty which lacked provisions similar to Article 26(5) of the OECD Model Tax Convention. While Saint Vincent and the Grenadines laws allows it to access and exchange bank and ownership information even where wording akin to Article 26(5) was absent, the compliance of the CARICOM tax treaty rested on the signatories' domestic laws. There were deficiencies in the Phase 1 reports of Dominica and Trinidad and Tobago and there was a lack of information about Guyana's competent authority's powers to access banking information and to obtain ownership, identity and accounting information for the purpose of EOI.

393. Only Dominica's situation has changed since the 2014 Report. Dominica's 2020 Phase 2 combined review in 2020 determined that the Comptroller had access powers to obtain all types of relevant information although the element was rated partially compliant for other reasons. Dominica, unlike Guyana and Trinidad and Tobago, is also a signatory to the Multilateral Convention and would thereby be obliged to supply all information in line with the standard.

394. Saint Vincent and the Grenadines has not received any requests under the CARICOM tax treaty and as such the provisions in that DTC have not been tested. Nevertheless, Saint Vincent and the Grenadines should ensure that its EOI relationships with Trinidad and Tobago and Guyana are brought in line with the standard (see Annex 1).

C.1.4. Absence of domestic tax interest

395. The Multilateral Convention and all of Saint Vincent and the Grenadines' TIEAS contain provisions similar to Article 5(2) of the OECD Model TIEA but the provision is absent from the CARICOM tax treaty. The 2014 Report concluded that the CARICOM tax treaty would not be considered compliant to the extent that there were restrictions in treaty partners' ability to exchange information in the absence of a domestic tax interest.

While the CARICOM tax treaty has not been updated to include a provision similar to Article 5(2), all but two of its parties (see section C.1.3 above) are now also covered under the Multilateral Convention. Saint Vincent and the Grenadines should ensure that its EOI relationships with Trinidad and Tobago and Guyana are brought in line with the standard (see Annex 1).

396. While Saint Vincent and the Grenadines has not received any EOI request from its CARICOM tax treaty partners during the review, it has responded to requests from other treaty partners in which it had no domestic tax interest. Most of the requests received from treaty partners were for account holders of international banks, that were not taxable in Saint Vincent and the Grenadines. In the other cases, there was no domestic tax interest in responding to the request.

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

397. The Multilateral Convention and all of Saint Vincent and the Grenadines TIEAs contain a provision similar to Article 5(1) of the OECD Model TIEA obliging Contracting parties to exchange information without regard to whether the conduct being investigated would constitute a crime under the laws of the requested party. There are no dual criminality provisions in the CARICOM tax treaty. All these EOI agreements provide for exchange of information in both criminal and civil tax matters.

398. During the review period, of the 27 requests Saint Vincent and the Grenadines received, 9 were related to criminal tax matters. No issue linked to dual criminality has arisen.

C.1.7. Provide information in specific form requested

399. Saint Vincent and the Grenadines had no restrictions in its domestic laws that would prevent it from providing information in a specific form as long as it was consistent with its administrative practices. The Multilateral Convention and all its TIEAs including the most recent one with India also included provisions similar to Article 5(3) of the OECD Model TIEA. In practice peers have not indicated any issues with the Competent Authority taking into account any requirement to send information in any particular form.

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

400. The 2014 Report noted that Saint Vincent and the Grenadines had concluded 31 EOI agreements all of which had been brought into force.

401. Since 2014, Saint Vincent and the Grenadines signed the Multilateral Convention on 25 August 2016, ratified it on 30 August 2016 and it took effect in Saint Vincent and the Grenadines on 1 December 2016. Saint Vincent and the Grenadines also signed a TIEA with India on 19 May 2022 as well as a DTC with the United Arab Emirates on 26 November 2018 which entered into force on 3 March 2020. The TIEA with India has not yet been ratified. With the exception of the CARICOM tax treaty, all of Saint Vincent and the Grenadines' previous agreements have been brought into force within a year of signature.

402. Saint Vincent and the Grenadines has continued to use the same process for signing and giving effect to international EOI agreements. The Ministry of Foreign Affairs, Foreign Trade, Commerce and Information Technology is responsible for negotiating international tax agreements with input from the FSA, IRD and Attorney General's office. Once the agreement has been signed by the parties, an instrument of ratification signed by the Prime Minister or Minister of Foreign Affairs is prepared and sent to the Attorney General for depositing. The agreement is then published in the *Gazette* which signifies entry into force. In practice no issue has arisen in respect to the entry into force or effectiveness of EOI agreements signed by Saint Vincent and the Grenadines.

403. Saint Vincent and the Grenadines' EOI network now covers 148 jurisdictions through 1 regional and 23 bilateral EOI agreements along with the Multilateral Convention. The table below summarises outcomes of the analysis under Element C.1 in respect of the Saint Vincent and the Grenadines' EOI mechanisms.

EOI mechanisms

Total EOI relationships, including bilateral and multilateral or regional mechanisms	148
In force	139
In line with the standard	137
Not in line with the standard	2 [a]
Signed but not in force	9 [b]
In line with the standard	9
Not in line with the standard	0
Total bilateral EOI relationships not supplemented with multilateral or regional mechanisms	0

Notes: a. Guyana, Trinidad and Tobago (both jurisdictions are parties to the CARICOM Tax Treaty).

b. MAAC: Benin, Gabon, Honduras, Madagascar, Papua New Guinea, Philippines, Togo, United States, Viet Nam.

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.

404. The 2014 Report determined that Element C.2 was in place and rated Saint Vincent and the Grenadines compliant. It was recommended to continue to develop its exchange of information network with all relevant partners.

405. Since 2014, Saint Vincent and the Grenadines has signed and ratified the Multilateral Convention and has signed a TIEA with India as well as double taxation agreement with the United Arab Emirates. Its EOI network has grown from 31 to 148 jurisdictions and encompasses a wide range of counterparties, including all its major trading partners, all G20 members and all OECD members. The recommendation is therefore addressed.

406. No Global Forum member indicated, in the preparation of this report, that Saint Vincent and the Grenadines 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, Saint Vincent and the Grenadines should continue to conclude EOI agreements with any new relevant partner who would so require (see Annex 1).

407. The conclusions are as follows:

Legal and Regulatory Framework: in place

The network of information exchange mechanisms of Saint Vincent and the Grenadines covers all relevant partners.

Practical Implementation of the Standard: Compliant

The network of information exchange mechanisms of Saint Vincent and the Grenadines covers all relevant partners.

C.3. Confidentiality

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

408. The 2014 Report concluded that element C3 was in place and gave a rating of compliant. However, a recommendation was given for Saint Vincent and the Grenadines to ensure that any future disclosure of information to a data protection agency should be in line with the standard. This was given as

notwithstanding the confidentiality provisions in EOI agreements to ensure information exchanged would only be disclosed in accordance with the agreements, Saint Vincent and the Grenadines' domestic laws were not fully congruent with the treaty disclosure provisions. Section 14 of the IC Act authorised disclosure of information received under an EOI agreement to "persons employed or authorised by the government of the requesting party to oversee data protection" without the consent of the EOI partner which supplied the information.

409. The provision authorising disclosure to a data protection agency has not been removed from the legislation and the provision was recently enacted as section 24(1)(b) of the International Tax Co-operation (Economic Substance) Act, 2020. However, Saint Vincent and the Grenadines has not established a data protection agency and the authorities have informed that there are no plans for the establishment of such an agency. Thus, in practice, no issue has arisen with respect to sharing EOI information in these circumstances. The recommendation nonetheless remains as the legal framework would still cause concern in case such as agency would be established in future.

410. Apart from the provisions permitting disclosure to a data protection agency, Saint Vincent and the Grenadines' domestic legal framework has adequate provisions for the confidentiality of information exchanged with its treaty partners. Both the FSA and the IRD have physical and electronic security measures in place to ensure the protection of confidential information. Staff involved in EOI are subject to background vetting and are given specialised training relating to their functions. Access restrictions applied to prevent comingling with other types of documents held by the FSA and IRD.

411. Notwithstanding that no confidentiality breaches have been recorded during the review period, there is an established breach management process that covers detection and reporting, remediation and application of sanctions.

412. The conclusions are as follows:

Legal and Regulatory Framework: in place

Deficiencies identified/Underlying factor	Recommendations
Saint Vincent and the Grenadines law allows information that is obtained pursuant to its EOI agreements to be disclosed to persons employed or authorised by the government of the requesting party to oversee data protection. This disclosure does not require the express written consent of the EOI partner providing the information. To date, no such data protection agency has been created and the authorities confirmed there is no plan to establish one in the short or medium term.	Saint Vincent and the Grenadines is recommended to ensure that any future disclosure of information to any data protection agency which may come into existence is in line with the standard.

Practical Implementation of the Standard: Compliant

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

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

413. The 2014 Report concluded that all Saint Vincent and the Grenadines' EOI agreements had confidentiality provisions to ensure the information exchanged will be disclosed only to persons authorised by the agreements but there was an incongruent disclosure provision in domestic law. The situation is unchanged notwithstanding the expansions in Saint Vincent and the Grenadines EOI network. The provision in the IC Act allowing for disclosure of exchanged information to a data protection agency without consent of the supplying EOI partner is extant and Saint Vincent enacted a similar provision in the International Tax Co-operation (Economic Substance) Act 2020. Notwithstanding that Saint Vincent and the Grenadines has not pursued the establishment of a data protection agency, they have persisted with their domestic policy to allow disclosure to such an agency that is not in line with its EOI agreements or the standard.[95] **Saint Vincent and the Grenadines is recommended to ensure that any future disclosure of information to any data protection agency which may come into existence is in line with the standard**.

414. Saint Vincent and the Grenadines has confidentiality provisions in its domestic laws that protect the confidentiality of information exchanged under an EOI agreement. Section 13 of the IC Act requires the competent authority to keep confidential any information obtained pursuant to a notice under section 8 of the Act. Section 14(2) provides for the disclosure of information obtained from an EOI partner to any other person, entity or authority with the express written consent of the competent authority of the requested party.

415. In addition to the provisions in the IC Act, both the FSA and the IRD who exercise competent authority functions have confidentiality provisions which bind their employees and contractors including the legal consultant and interns who work with FSA on EOI requests. Section 17 of the Financial Services Act provides that a director, officer, employee, agent or adviser of the FSA shall not disclose information relating to the business or affairs of the FSA which they obtained in the course of their duties or in the exercise of the Authority's functions under the Act or any other law. A similar provision applies to the persons employed in administering income tax under section 6 of the Income Tax Act. Such persons are mandated to regard and

95. The authorities of Saint Vincent and the Grenadines indicated that they are proceeding to amend the legislation to address this issue.

deal with as secret, all documents and information related to any person, and all confidential instructions in respect of the administration of the Act which may come into their possession or knowledge in the course of their duties. This duty is replicated in section 8(1)(d) of the Tax Administration Act regarding information received in an official capacity in relation a specific taxpayer. The obligations to secrecy in the Financial Services Act and the Tax Administration Act continue to apply regardless of whether the person is still employed with FSA or the IRD.

416. Saint Vincent and the Grenadines domestic laws also cover the confidentiality of third parties who may be requested to supply information to respond to an EOI request. Section 14(3) of the IC Act obliges persons who may be contacted in the course of responding to an EOI request not to disclose the notice or request to supply the information to another person except in accordance with the EOI agreements or arrangements. This information is included in the Notice sent to the information-holder under section 8 of the IC Act. The penalty for disclosing a notice or request to supply information in breach of the IC Act is a fine of XCD 10 000 (EUR 3 483) or a term of imprisonment for two years or both.

417. The Income Tax Act admits exceptions to the duty of confidentiality in section 6. In addition to disclosure allowed to any authorised officer of the government of a country with which there is a DTC, disclosure is also allowed to any other person as may be necessary for the purposes of the Income Tax Act as well as to a person authorised by Cabinet or another statute to receive the information. Similarly, section 17(2) of the FSA Act includes several disclosure provisions. The FSA's authority to share information to satisfy any of the country's international obligations also derives from these disclosure provisions. Exceptions are also provided for sharing information under any other law in force, with the courts, the Financial Intelligence Unit or with a person in relation to instituting criminal and disciplinary procedures among others. The more restrictive provisions in the IC Act prevail over these broad disclosure provisions where they are inconsistent due to the interpretive rule that specific provisions override general provisions.

418. The disclosure of any information related to EOI received by Saint Vincent and the Grenadines is governed exclusively by the IC Act and, other than the errant provision discussed in paragraph 408, is in line with the standard. Section 14(1) of the ICA provides that any information received by Saint Vincent and the Grenadines shall be kept confidential and may only be disclosed to a person, authority or court for the purposes of the administration and enforcement of its tax laws or the determination of appeals in relation thereto.

419. Each of the legislation imposing a duty of confidentiality provides a penalty for breach of that duty. Breach of the duty of confidentiality set out in section 14(3) of IC Act is an offence and is punishable by a fine of XCD 10 000 (EUR 3 483) or imprisonment for a term of two years or both. It is an offence to breach the duty of confidentiality set out section 17 of the FSA Act and the offender is liable to a fine of XCD 100 000 (EUR 34 831), imprisonment for two years or both, on summary conviction. Unauthorised disclosure of information or records in the possession of the IRD is an offence punishable with a fine of XCD 20 000 (EUR 6 966), imprisonment for a year or both.

420. The Terms of Reference, as amended in 2016, clarified that although it remains the rule that information exchanged cannot be used for purposes other than tax purposes, an exception applies where the EOI agreement provides that the information may be used for such other purposes under the laws of both contracting parties and the competent authority supplying the information authorises the use of information for purposes other than tax purposes. The Multilateral Convention allows for such use. In the period under review, Saint Vincent and the Grenadines reported that there were no requests wherein the requesting partner sought Saint Vincent and the Grenadines' consent to utilise the information for non-tax purposes and similarly Saint Vincent and the Grenadines did not request its partners to use information received for non-tax purposes.

C.3.2. Confidentiality of other information

421. Saint Vincent and the Grenadines' authorities confirm that their confidentiality rules apply to every kind of information exchanged, including the information contained in the request, communications between the competent authorities with respect to a request, notices requesting information to respond to the request, information transmitted in response to the request as well as any background documents to the request.

Confidentiality in practice

Confidentiality policy

422. In addition to the laws enjoining employees and contractors of the FSA and IRD to confidentiality in the course of their duties, the EOI Manual also governs how staff involved in EOI carry out their duties. The EOI Manual provides guidance on the scope of information captured under the confidentiality rules, disclosure of the minimum amount of information to enable information gathering and storage and stamping of EOI documents. It also covers access to EOI files and the access restrictions to the office area of EOI staff. Where there is any doubt about information to be

disclosed to persons outside of the Competent Authority, staff are advised to consult with the Competent Authority before proceeding. In addition, the FSA has Confidentiality and User Access policies.

Human Resources (background checks, vetting, contracts and training)

423. The hiring practices of the FSA and the IRD vary as the FSA is a statutory authority with autonomy to hire staff while the IRD is a department of the Government of Saint Vincent and the Grenadines whose staff recruitment is handled centrally by the Service Commissions Department.

424. Notwithstanding the differences between the FSA and the IRD in terms of recruitment of staff, the processes employed ensure that staff employed to both organisations are subject to background checks. Prior to the commencement of employment within any government division, a background check inclusive of police investigations is performed. The FSA verifies the background of candidates for employment by checking their criminal records and their employment records with former employers. The FSA also engages the Financial Investigations Unit to undertake background checks of employees. Employees of the both the IRD and FSA are required to sign an Oath or Declaration of Confidentiality.

425. The process for selection of personnel to perform EOI duties varies between each organisation. The FSA selects personnel based on their professional experience, capacity, roles and their experience in EOIR and other tax co-operation matters. While the IRD does not have full autonomy over staff assigned to the department, it is able to control the employees who join its EOI Unit. The IRD has therefore implemented an internal second-tier screening for all members of the EOI Unit by a panel composed of the Comptroller, Deputy Comptrollers and the EOI Unit Manager. One of the main eligibility criteria for working in the EOI Unit is a first or associate degree or equivalent qualification. The person's character is also scrutinised during this secondary screening. The successful candidate has to sign a separate Oath of Secrecy specific to their duties in the EOI Unit.

426. The FSA indicated that contractors are also subject to confidentiality obligations and background checks. The FSA outsources database development services to a database developer through bilateral technical assistance from one of its partners. The vetting of the vendor was performed by the bilateral partner. The vendor has controlled access to the relevant systems by VPN which is monitored by the FSA IT Department.

427. The employees of the FSA involved in EOI are exposed to ongoing on the job training which includes the topics of confidentiality and procedures to safeguard EOI data. Briefings, including in confidentiality, take

place internally with staff members and externally with other FSA stakeholders. At onboarding and biannually, employees of the IRD are briefed on the significance of their roles and the importance of the confidentiality in performance of their duties. Employees are adverted to the legislative provisions requiring confidentiality and the penalties for breach. New employees to the EOI Unit are given training on EOI procedures upon joining the unit. Training is held every six months to update the unit on any new procedures.

428. The FSA and IRD employ common procedures for the provisioning and deprovisioning of access to information systems. Upon commencement of employment, employees are given a username and password to access information systems. Consultants are given a temporary username and password when they commence their work. When employees and consultants are leaving the organisations, they are debriefed, including on their continuing confidentiality obligations and their username and password are deactivated. They are also removed from email lists. The FSA IT Department also reviews the user access control list monthly to ensure that any changes in employee's positions have been updated with the requisite access for the new role or is deprovisioned in case an employee has left the organisation.

Labelling and handling of information within the tax administration

429. Saint Vincent and the Grenadines treats as confidential all information received from and sent to jurisdictions in relation to an EOIR. The EOI documents are stored in a secure filing cabinet in the Executive Director's office in the case of the FSA and in the Legal Counsel's office in the case of the IRD. However, while the EOI Manual requires all documents and correspondence between exchange partners to carry a stamp, header or watermarking stating that the information is confidential, furnished under the provisions of tax treaty and its use and disclosure governed by the provisions of the treaty, it is not ascertained that stamping would have been carried out in all cases in practice, as Saint Vincent and the Grenadines has not sent any outgoing requests during the period under review. For the incoming request, the main information received was the letter of the EOI request and stamping this document would have been unnecessary, considering that its EOI origin is obvious and its access limited to the Competent Authority. Saint Vincent and the Grenadines also report that outgoing documents sent to treaty partners in response to request are sent using encrypted emails and as such no confidential stamp or watermark is affixed to these documents. However, a reminder regarding confidentiality of documents provided to treaty partners is including in the cover letter accompanying the outgoing documents. The stamping or labelling of EOI documents to indicate the treaty-protected status of information received should nonetheless apply but it has not yet been tested in practice and

Saint Vincent and the Grenadines should implement this policy in practice (see Annex 1).

430. The IRD uses an integrated system of operations that allow various classes of employee to have access to electronic taxpayer information. However, a data classification policy is in place which facilitates role-based access by employees in accordance with the classification of documents. The IRD and FSA have a clean desk and clear screen policy in place.

Physical security and access security of premises and hardcopies of documents

431. The FSA is located on the second floor of a secured building. Visitors must pass through a reception area where they have to be duly identified, logged and escorted into the FSA offices by an employee of the FSA. Employees have access to the office beyond the receptionist using their FSA identification card.

432. The FSA maintains a dual system where requests and information related thereto are stored in both paper and electronic format. Requests which are handled by the FSA are first logged in an incoming record book by the Administrative Assistant and then passed on to the Legal Counsel who logs the request in an electronic database. The request, all documents sent in relation to the request and the response are stored in locked cabinet in the Office of the Executive Director, with limited access by the Executive Director, Deputy Executive Director and Manager-Administration and Finance. Letters of requests or notices sent to licensees or other third parties requesting submission of information do not refer to the reason for or the contents of the request sent by the requesting jurisdiction. The notice does not include any information on the requesting jurisdiction but includes a reference to section 8 of the IC Act which would indicate to the information holder that the request is being made pursuant to an international exchange of information request.

433. Additionally, requests for information received from a requesting party are kept under confidential cover, from the point of receipt at the Office of the Prime Minister to the point of onward transmission to the FSA and throughout the information gathering stage. Access to the contents of the request is limited to the relevant persons involved in the processing of the request at the Office of the Minister and the FSA. After the requested information has been sent to the requesting party, copies of all relevant documentation are placed on the specific file which is stored in a secure storage area with limited access.

434. The IRD's physical premises are secured by one law enforcement officer positioned at the entrance during opening hours. The building is

closed at the end of the business day and the keys are left for safekeeping at the nearby police station. The IRD's office attendants are responsible for opening and closing the building as well as depositing and retrieving the keys. A log is kept at the police station to keep track of who has custody of the keys at all times. Visitor access to the IRD work areas is controlled by the law enforcement officer and in any case, visitors are not allowed access to the filing and document storage area of the IRD.

435. Confidential documents with taxpayer information are stored in the filing room which is supervised at all times. Employee access is on a needs basis and all access is recorded in a logbook. Information related to EOI is stored in labelled fireproof cabinets in the office shared by the Legal Officer and EOI Manager. The cabinets are kept locked when not in use and the IRD prohibits the removal of physical files from its premises.

436. The IRD has a seven-year retention policy for physical files based on the six-year limitation period for making an assessment under sections 20(6) and 32 of the Tax Administration Act. The IRD therefore destroys obsolete paper documents after seven years. The retention policy also applies to EOI documents but in practice they are retained. Paper documents which are not required to be stored are shredded daily.

IT Security: Security in communication (secure emails, etc.); secure storage of electronic data (documents) and access control; logging and monitoring

437. The FSA maintains an electronic database with details of each EOI request such as the date, the requesting party, the assignee who handled the request, a description of the data gathering method used, delays or difficulties in fulfilling the request and the date a response was dispatched. Access to the FSA's electronic storage database is limited to the staff involved in EOI.

438. The FSA deploys anti-virus and malware protections on their workstations as well as their servers. Review of malware reports and firewall logs are conducted on a daily basis. The FSA has migrated to an electronic platform that allows information from their workstations to the mail server to be fully encrypted in order to further enhance the security of information.

439. Electronic taxpayer data at the IRD is held within their tax database. The IRD utilises an integrated system of operations with different categories of employees being granted access to confidential data based on the employee's role and the document classification. Consultant and employee access to the tax database is through their password and username. As accesses are role-based, except for senior officers, no person has access to all the department's information. All IRD data is hosted on an encrypted

server that has its own security attributes. One first has to obtain database credentials to log on to the database which only gives access to the raw data, further access to an application is required to convert the data into usable information.

440. The IRD ensures that all third-party applications it uses comply with industry standards in relation to security and communication protocols, including standard encryptions and secure connections. Any data packaging process utilised by the IRD to facilitate the automatic exchange of information with other jurisdictions must be sufficiently secure, in keeping with industry standards and reciprocated between the parties.

441. The IRD protects against data loss and unauthorised disclosure by forbidding the use of flash drives and other external devices. Further, all access to the IRD database is logged and can be monitored. All email correspondence received by the IRD must come through the secure Government based platform.

Incident/breach management

442. Any breaches of confidentiality at the FSA must be reported immediately to the FSA's Executive Director or Deputy Director by the staff member or supervisor who is aware of the breach. This initial report must be followed up by a written report outlining the facts, the individual(s) involved if known and any other relevant information. The report is investigated and where necessary, sanctions are imposed by the Executive Director. Where the breach constitutes a criminal offence, a referral is made to the Office of the Director of Public Prosecutions.

443. Breaches of confidentiality may be detected at the IRD through monitoring of electronic and physical logs. The logbook for access to the file room is monitored daily to identify any unauthorised activities. The Department also has a "peer policing" system in place where employees report to their supervisors when a particular employee is in breach of his/her duties.

444. Where a potential breach is detected or reported, the Comptroller convenes a meeting with the management team including the supervisor of the party in breach. This team will lead the investigations to determine whether a breach has in fact occurred.

445. Following the investigation, the Comptroller prepares a report for submission to the Director General of Finance and Planning with details of the breach such as date and time breach detected, date and time of start of response to the breach, type of data involved, information systems involved, employees involved and the nature of their access. The Comptroller may also recommend the transfer of the employee from the IRD. The Director

General determines the sanctions to be imposed whether administrative or criminal. Where a decision is made to apply criminal sanctions, the breach is referred to the Office of the Director of Public Prosecutions to decide on whether to proffer charges.

446. The EOI Manual does not contain procedures for data breaches that may involve information exchanged under a treaty including for notification of the concerned treaty partner. Saint Vincent and the Grenadines indicated there are several factors, both legal and practical, which would serve to mitigate and stopgap the occurrence of a confidentiality breach:

- There is only a small, limited number of persons involved in the exchange information gathering process, and they are obliged to abide by confidentiality obligations which they sign off on, and are reminded of periodically.
- The requests are not numerous, such that the number of persons needing to have access to requests and data remains limited. Hence, the opportunities for breach of confidentiality are highly curtailed, so has not ever occurred.

447. Saint Vincent and the Grenadines indicated that should there be a breach of confidentiality of data, the procedure would be that the breach is thoroughly investigated to ascertain the extent of the breach and who and what was involved, how the breach occurred, if the breach was aided and abetted by more than one person. Measures would be taken to identify any risks, potential or otherwise, caused by the breach and reduce such risks. Such measures would include informing strategic partners and relevant authorities as well as the requesting party. Saint Vincent and the Grenadines indicated that the EOI manual will be amended to include the formal steps to follow in case of breach.

448. Both the FSA and IRD report that there were no breaches of confidentiality relating to treaty-exchanged data, therefore no sanctions applied during the review period. No issues regarding confidentiality of information have been raised by peers.

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.

449. The 2014 Report concluded that Saint Vincent and the Grenadines was compliant on this element as all the provisions in its EOI agreements under which it can decline a request for information are in line with the international standard. The definition of legal professional privilege within its domestic law was also found to be in accordance with the standard.

450. The IC Act allows the Competent Authority of Saint Vincent and the Grenadines to decline a request for assistance where the information is protected from disclosure under the laws of Saint Vincent and the Grenadines on the grounds that the information would reveal a privileged communication; supplying the information would disclose a trade, business, industrial, commercial or professional or trade process; or the disclosure would be contrary to public policy or national security. Where a request raises issues in relation to public policy or national security, the Competent Authority must obtain written directions and guidance from the Attorney General before proceeding with the request.

451. During the review period, Saint Vincent and the Grenadines has not declined a request for information. No issues in relation to the rights and safeguards of taxpayers and third parties have been encountered in practice, nor have they been raised by any EOIR peers.

452. The conclusions remain as follows:

Legal and Regulatory Framework: in place

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

Practical Implementation of the Standard: Compliant

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

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

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

453. This element was assessed as Largely Compliant in the 2014 Report. The report concluded that the processes of the FSA, documented in an EOI Manual, and the processes of the IRD appeared to be sufficient for the timely handling of incoming requests. No aspect of the domestic laws appeared to impose restrictive conditions on exchange of information. However, as Saint Vincent and the Grenadines only received and processed two requests in the reporting period,[96] a recommendation was given to keep monitoring the practical implementation of the organisational processes

96. 1 July 2010 to 30 June 2013.

of the competent authority and the level of resources committed to EOI purposes, to ensure that both the processes and level of resources are adequate for effective EOI in practice.

454. During the current review period the organisational processes and resources allocated were sufficient to respond in a timely manner to the 27 requests Saint Vincent and the Grenadines reported receiving although the jurisdiction did not receive 25 requests sent by one peer. Notwithstanding that the jurisdiction faced some hardship during the review period in addition to the COVID-19 pandemic, the competent authority managed to answer most of the requests received withing 90 days.

455. However, Saint Vincent and the Grenadines did not receive 25 requests sent by a peer, i.e. 52 requests were sent to the jurisdiction but it received only 27 of them. This was due to a lack of updating of some of the contact information for its competent authorities on both the Global Forum Competent Authorities secure website and its national website. These requests were sent electronically by the peer to email addresses that were no longer valid. Issues with contact information also played a role in another partner's efforts to follow-up on a partial response sent to them by Saint Vincent and the Grenadines.

456. Despite the communication issues due to the lack of updating of the contact details of the competent authorities, and the natural disasters during the peer review period, Saint Vincent and the Grenadines responded to the requests it received in a timely manner and peers were generally satisfied with the responses they received. In addition, the Vincentian competent authority reached out to the peer that did not receive a response to 25 of its requests. Following this bilateral communication, in February 2023, the peer resent 13 of these requests that were still opened. Saint Vincent and the Grenadines managed to respond to nine of these requests by 5 May 2023. The other 12 requests were closed because of statute of limitations in the peer jurisdiction.

457. 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: Largely Compliant

Deficiencies identified/Underlying factor	Recommendations
Saint Vincent and the Grenadines has allocated sufficient human and material resources to its EOI activities, thereby ensuring quality and timeliness of responses in compliance with the standard. However, during the peer review period, Saint Vincent and the Grenadines received 27 out of the 52 EOI requests sent by partners. Failure to receive 25 requests from a peer has been caused by a lack of timely update of the Saint Vincent and the Grenadines Competent Authority's contact information. During the review, Saint Vincent and the Grenadines has worked together with the peer to answer any outstanding requests still open and to use an agreed communication platform.	Saint Vincent and the Grenadines is recommended to ensure that the contact details of the competent authority are up to date and available to its EOIR partners at all times.

C.5.1. Timeliness of responses to requests for information

458. During the review period (1 January 2019 to 31 December 2021) Saint Vincent and Grenadines received 27 of 52 requests sent by partners during the review period. The information requested related to bank information (25 cases), accounting information (2 cases), legal and beneficial ownership (4 cases) and at least one for other information regarding the corporate structures and communication agreements. Among the requests received were two bulk requests, one for 7 and another for 58 taxpayers. No group requests were received during the review period. Saint Vincent and the Grenadines counts one letter as a request. France, the Netherlands, Sweden, Switzerland, Germany and United Kingdom are the main EOI partners of Saint Vincent and the Grenadines.

459. The following table relates to the requests received during the period under review and gives an overview of response times of Saint Vincent and the Grenadines in providing a final response to these requests, together with a summary of other relevant factors affecting the effectiveness of Saint Vincent and the Grenadines' practice during the period reviewed. It does not cover the EOI requests that Saint Vincent and the Grenadines did not receive due to the lack of updating of its competent authorities' contact information on its website and on the Global Forum website for competent authorities (see below section *Status updates and communication with partners*).

Statistics on response time and other relevant factors

		2019		2020		2021		Total	
		Num.	%	Num.	%	Num.	%	Num.	%
Total number of requests received	[A+B+C+D+E]	7	100	9	100	11	100	27	100
Full response: ≤ 90 days		7	100	8	89	11	100	26	96
≤ 180 days (cumulative)		7	100	8	89	11	100	26	96
≤ 1 year (cumulative)	[A]	7	100	9	100	11	0	27	100
> 1 year	[B]	0	0	0	0	0	0	0	0
Declined for valid reasons		0	0	0	0	0	0	0	0
Requests withdrawn by requesting jurisdiction	[C]	0	0	0	0	0	0	0	0
Failure to obtain and provide information requested	[D]	0	0	0	0	0	0	0	0
Requests still pending at date of review	[E]	0	0	0	0	0	0	0	0
Outstanding cases after 90 days		0		1		0		0	4
Status update provided within 90 days (for outstanding cases with full information not provided within 90 days, responses provided > 90 days)		0	0	0	0	0	0	0	0

Notes: Saint Vincent and the Grenadines counts each request with multiple taxpayers as one request, i.e. if a partner jurisdiction is requesting information about 4 persons in one request, Saint Vincent and the Grenadines count that as 1 request. If Saint Vincent and the Grenadines received a further request for information that relates to a previous request, with the original request still active, Saint Vincent and the Grenadines will append the additional request to the original and continue to count it as the same request.

The time periods in this table are counted from the date of receipt of the request to the date on which the final and complete response was issued. However, two peers indicated longer timelines than indicated in the table above by Saint Vincent and Grenadines.

460. Peer input on timeliness of responses was generally positive with requests generally answered within 90 days. One partner reported that their request was fulfilled within a year.

461. Saint Vincent and the Grenadines' authorities explained that where a request was not fulfilled within 90 days, the delay was likely the result of the domestic entity from whom the information was sought. The authorities cited one example where requests for banking and accounting information for clients of two international banks were delayed as one of the banks had redomiciled to another jurisdiction since 2017 and the other was in liquidation (see A.3 Availability of Banking Information).

462. The period under review also saw disruptions to the standard processes of Saint Vincent and the Grenadines due to the effects of disasters. In addition to the onset of the Covid-19 pandemic in 2020, by April 2021 the country was simultaneously dealing with the impact of multiple disastrous volcanic eruptions, in July 2021 the ravaging effects of Hurricane

Elsa and the worst dengue fever outbreak in the history of the country. Notwithstanding the inevitable adverse effect on the work processes of the Competent Authority, attempts were still made to address the EOI requests in an efficient and timely manner.

463. Saint Vincent and the Grenadines indicate that their policy with respect to requests that require clarification is to contact the EOI partner by the most expeditious means and proceed with gathering information to respond to the aspects of the request that are clear. Neither Saint Vincent and the Grenadines nor their peers reported any cases requiring clarification, as discussed in section C.1.1.

Standard of foreseeable relevance

464. Overall, the timeliness and quality of response was in full compliance with the standard, considering the natural disasters that the jurisdiction faced during the peer review period.

465. As noted above and developed below, Saint Vincent and the Grenadines did not receive 25 requests properly sent from a partner. Should the statistics in the table take them into account, the proportion of requests answered within 90 (and 180) days would be 50% and within a year 52%, with 23% pending and 25% withdrawn by the partner due to the statute of limitations. However, basing the assessment on these statistics would not reflect the capacity of the competent authority to answer requests in a timely manner as it started processing the pending ones after the review period.

Status updates and communication with partners

466. Communications between Saint Vincent and the Grenadines have been hampered by a failure to keep information on the Competent Authority's e-mail address updated. Two peers noted an issue with being able to obtain accurate electronic contact information for the Competent Authority of Saint Vincent and the Grenadines. One peer noted that the electronic addresses mentioned on the competent authority site were not working at all, while another peer identified a similar issue with respect to the generic e-mail of the competent authorities in the Global Forum Competent Authorities website.

467. The Vincentian authorities noted that they were not aware of this issue prior to the launch of the review. They have moved speedily to update the contact information of their Competent Authority on the various platforms.

468. Another peer reported receiving an incomplete response to their single request within 90 days of sending. However, they received a fulsome response within a year after sending two requests for status updates. They

received the response to the request three days after sending the second request for a status update. The Vincentian authorities indicate that this was due to an error in attaching the supporting documents to the initial response. When the peer reached out to them a second time, they were not able to decrypt this communication as they did not receive a response to their request for the password to decrypt the document. The email with the password was sent to a different competent authority address by the peer for security reasons but the email was not received by the Vincentian Competent Authority. When the peer reached out to them a third time and they were able to see the status request, they were able to quickly respond by sending the attachments which were inadvertently omitted.

469. The Competent Authority of Saint Vincent and the Grenadines has strived to respond to requests within 90 days and has been able to do so in all cases except the anomalous one explained above. They have adequate systems in place to track their responses and this would include sending a status update where the need arises. In the anomalous case that was answered within a year, no status update was provided as the initial response sent within 90 days was thought to be a final response by the competent authority. However, their failure to keep their contact information updated has resulted in partners having difficulty contacting them and resulted in requests being sent that they did not receive and follow-up on requests being delayed. In this respect, 25 requests sent in batches and separately, during the peer review period by one peer were not received, so that the requested information could not be provided. In 12 requests, the cases were closed as the statute of limitations in the requesting jurisdictions has elapsed. For the remaining 13 requests, the Competent Authority of Saint Vincent and the Grenadines contacted the peer who was able to establish a secure communication channel through which the requests were resent and received on 14 February 2023. At of 5 May 2023, Saint Vincent and the Grenadines had responded to nine of these requests and was actively engaged in responding to the four pending requests.

470. **Saint Vincent and the Grenadines is recommended to ensure that the contact details of the competent authority are up to date and available to its EOIR partners at all times**.

C.5.2. Organisational processes and resources

Organisation of the competent authority

471. The Minister responsible for finance is the Competent Authority of Saint Vincent and the Grenadines for the purposes of EOI under TIEAs, the DTC with the United Arab Emirates and the Multilateral Convention, while the IRD is the Competent Authority under the CARICOM tax treaty. During

the review period, The FSA was designated to perform most of the competent authority functions of the Minister. The FSA has a staff of 23, of which 7 are directly involved in EOI. The IRD is a government department and EOI is carried out by three senior members of staff.

472. Saint Vincent and the Grenadines' EOI Manual sets out the procedures for handling incoming and outgoing requests, which is updated from time to time.

Resources and training

473. The employees of the FSA and the IRD involved in EOI are mainly senior staff who are professionally qualified in Law, Accounting, Business and Finance, and/or Economics and Management. The FSA staff involved in EOI are the Executive Director, Deputy Executive Director, Manager – International Financial Services, Manager – Administration and Finance, the Legal Counsel, an administrative assistant and three interns. The staff involved in the IRD are the Comptroller, the legal counsel and the assistant legal counsel. The FSA and IRD also benefit from consultancy support on international tax matters, including international tax policy and EOI, from a consultant retained by the Ministry of Finance.

474. Training of staff involved in EOI is mainly undertaken internally by the FSA and the IRD. FSA personnel involved in EOI are given training on EOI mechanisms. The FSA staff benefitted from workshops hosted by the Global Forum which were aimed at preparing countries for their Peer Review Assessments. The IRD conducts in-house induction training on EOI procedures whenever a new employee joins the EOI Unit. There are internal biannual trainings to update EOI staff on any new procedures.

475. The 2014 Report noted that the costs of servicing of tax information requests have thus far been low. This continues to be the case. Personnel involved in responding to requests are employed with the Competent Authority (the FSA and IRD) and are assisted by employees in other state agencies. The costs incurred so far have been largely incurred for transmitting responses via courier or diplomatic pouches. The financial resources available for EOIR purposes are the annual budgetary allocation to the Ministry of Finance as well as to the FSA from the government. Budgets are reviewed annually thus ensuring an ongoing assessment of the financial resources required to respond to EOI requests and allowing proposals to be made for increase as necessary.

476. The IRD will move during the first semester of 2023 to new premises with modern equipment, and processes will be in place to ensure the confidentiality of EOI information at a higher level. The Competent Authority, FSA and IRD have the appropriate infrastructure and technical resources in

place to facilitate efficient transmission of information to a requesting jurisdiction. The Ministry of Telecommunications and the National Regulatory Commission are responsible for ensuring all government departments have the appropriate infrastructure to facilitate the daily use of technology and are equipped to facilitate internet connectivity. The FSA also has a dedicated full time IT specialist and has access to a part time IT consultant.

Incoming requests – The FSA Process

477. The process for handling EOI requests is set out in the EOI Manual developed by the FSA, which was last updated on 25 August 2022, after the start of the present review. The manual provides a checklist for processing incoming and outgoing requests, which is generic and applies to requests received by post, courier or electronically.

478. Once the FSA receives an EOI request, it conducts a preliminary review to verify there is an EOI agreement in place with the requesting jurisdiction and that the request is foreseeably relevant, and then logs the request electronically, recording the time and date it was received as well as details of the request and the persons and processes involved in providing a response.

479. The Legal Counsel of the FSA acknowledges receipt of the request within a week of receiving the request. The Legal Counsel peruses the request to ensure that it meets the conditions of the treaty under which it was made and to determine the most appropriate sources of the information requested. It is at this stage that request for clarification would be sent to the requesting jurisdiction if the request is unclear. This does not impede the process for the aspects of the request that are clear, and the Legal Counsel will proceed to gather information on those aspects.

480. Depending on the information requested, a search is conducted on the records of the FSA to determine if they already have the requested information. If not, a notice of request is sent under confidential cover to the relevant licensee or regulated financial institutions or government department to obtain the information usually within 14-21 days depending on the nature and volume of information sought. Where the information sought must be requested from a taxpayer, the FSA would seek the intervention of the IRD which would request the information from the taxpayer pursuant to the powers granted under section 29 of the Tax Administration Act. The Legal Counsel makes a follow-up call within a week of the deadline to remind the representative of the requested entity of the deadline for the request.

481. Upon receipt of the information from the requested entity, the Legal Counsel peruses the information to verify it satisfies the request. Once

confirmed, the Legal Counsel prepares the information along with a report detailing the information gathering and an accompanying draft cover letter addressed to the requesting jurisdiction conveying the requested information. These documents are reviewed and signed by the Executive Director before they are dispatched to the requesting jurisdiction. The original request and a copy of the response are then filed in a confidential file and stored in a fireproof cabinet in the office of the Executive Director. The entire process usually spans on average 5-40 days depending on the volume of information requested.

Incoming requests – The IRD Process

482. The IRD did not receive any requests under the CARICOM tax treaty but still maintains a procedure to deal with incoming requests as well as requests from the FSA. The request is classified as confidential correspondence upon receipt and passed directly to the Comptroller. The Comptroller convenes a meeting of the "Technical Issues Committee" to review the request. The Committee comprises the Comptroller, Senior Assistant Comptroller in charge of Audit, Research/Appeals Officer also an Assistant Comptroller and the Senior Assistant Comptroller in charge of planning and the legal officer. The records of their discussions are classified as confidential.

483. The Research/Appeals Officer would then be assigned to gather the information with assistance from relevant staff within a week depending on the volume of information requested. The information is then presented to the Committee for verification. The Comptroller would then have the response letter with the requested information attached prepared and sent under confidential cover to the FSA or the competent authority of the requesting jurisdiction, as the case may be. Copies of the request, the information gathered and all documents pertaining to the response are stored in the Legal Counsel's office in a secured cabinet accessible only by the Legal Counsel. The entire process would be completed within 14 days.

484. During the review period, Saint Vincent and the Grenadines did not experience any practical difficulties in obtaining responses to requests except for a few cases where there have been delays in receiving the information from third parties. In such cases, the requested entity was usually given an extension of time to provide the information and the information was subsequently received within the extended deadline.

Outgoing requests

485. Although the FSA has a procedure in place for outgoing requests, Saint Vincent and the Grenadines did not send any request for information during the review period. The IRD would prepare and send a request in

accordance with the template provided in the EOI Manual and send to the FSA. The FSA would log the request in its electronic database and retain a copy in a physical file. Before sending to the EOI partner, the FSA would review the request to ensure it includes all the relevant details.

486. The FSA would log any response received from the requested jurisdiction, review the response to determine it is sufficient and email an acknowledgment of receipt to the requested jurisdiction. The FSA would then forward the original response to the IRD and keep a copy in its files. The FSA database would also be updated with details of the response.

487. In the case of outgoing requests under the CARICOM tax treaty, all the steps indicated above as performed by the FSA, with necessary modification, would be performed by the IRD. The IRD has its own database for EOI requests.

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

488. There are no domestic legal or regulatory requirements in Saint Vincent and the Grenadines that impose unreasonable, disproportionate or unduly restrictive conditions for EOI.

Annex 1: List of in-text recommendations

The Global Forum may identify issues that have not had and are unlikely in the current circumstances to have more than a negligible impact on EOIR in practice. Nevertheless, the circumstances may change, and the relevance of the issue may increase. In these cases, a recommendation may be made; however, it should not be placed in the same box as more substantive recommendations. Rather, these recommendations can be stated in the text of the report. A list of such recommendations is reproduced below for convenience.

- **Element A.1.2**: Saint Vincent and the Grenadines is encouraged to continue to monitor the conversion of bearer shares into registered shares and the amendments of the articles of incorporation of the relevant business companies to ensure the full abolition of bearer shares (paragraph 178).
- **Element A.2**: Saint Vincent and the Grenadines should monitor the situation of foreign trusts and non-taxable partnerships to ensure the availability of accounting information and underlying documentation in a timely fashion, including for five years after they cease to exist (paragraphs 241 and 249).
- **Element C.1**: Saint Vincent and the Grenadines should ensure that its EOI relationships with Trinidad and Tobago and Guyana are brought in line with the standard (paragraphs 390, 394 and 395).
- **Element C.2**: Saint Vincent and the Grenadines should continue to conclude EOI agreements with any new relevant partner who would so require (paragraph 406).
- **Element C.3**: Access to EOI requests is limited to the Competent Authority, but the stamping or labelling of EOI documents to indicate the treaty-protected status of information received should nonetheless apply but it has not yet been tested in practice and, therefore, Saint Vincent and the Grenadines should implement this policy in practice (paragraph 429).

Annex 2: List of Saint Vincent and the Grenadines' EOI mechanisms

Bilateral international agreements for the exchange of information

	EOI partner	Type of agreement	Signature	Entry into force
1	Aruba	TIEA	01-09-2009	25-05-2010
2	Australia	TIEA	18-03-2010	15-06-2010
3	Austria	TIEA	14-09-2009	11-05-2010
4	Belgium	TIEA	07-12-2009	11.05.2010
5	Canada	TIEA	22-06-2010	21-09-2010
6	Curaçao[97]	TIEA	25-09-2009	25-05-2010
7	Denmark	TIEA	01-09-2009	29-06-2010
8	Faroe Islands	TIEA	24-03-2010	07-07-2010
9	Finland	TIEA	24-03-2010	01-06-2010
10	France	TIEA	13-04-2010	07-07-2010
11	Germany	TIEA	29-03-2010	22-06-2010
12	Greenland	TIEA	24-03-2010	29-06-2010
13	Iceland	TIEA	24-03-2010	15-06-2010
14	India	TIEA	19-05-2022	*not in force*
15	Ireland	TIEA	15-12-2009	08-06-2010

97. Following the dissolution of the Netherland Antilles on 10 October 2010, two separate jurisdictions were formed (Curaçao and Sint Maarten) with the remaining three islands (Bonaire, St. Eustatius and Saba) joining the Netherlands as special municipalities. The TIEA concluded with the Kingdom of the Netherlands, on behalf of the Netherland Antilles, continues to apply to Curaçao, Sint Maarten and the Caribbean part of the Netherlands (Bonaire, St. Eustatius and Saba) and is administered by Curaçao and Saint Maarten for their respective territories and by the Netherlands for Bonaire, St. Eustatius and Saba.

	EOI partner	Type of agreement	Signature	Entry into force
16	Liechtenstein	TIEA	02-10-2009	15-06-2010
17	Netherlands	TIEA	01-09-2009	25-05-2010
18	New Zealand	TIEA	16-03-2010	07-07-2010
19	Norway	TIEA	12-02.2010	29-06-2010
20	Sint Maarten	TIEA	25.09.2009	25-05-2010
21	Sweden	TIEA	12-03-2010	29-06-2011
22	United Arab Emirates	DTC	26-11-2018	03-03-2020
23	United Kingdom	TIEA	18-01-2010	25-05-2010

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

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

The Multilateral Convention was signed by Saint Vincent and the Grenadines on 25 August 2016 and entered into force on 1 December 2016 in Saint Vincent and the Grenadines. Saint Vincent and the Grenadines 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

98. 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.

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,[99] 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, Samoa, San Marino, Saudi Arabia, Senegal, Serbia, Seychelles, Singapore, Sint Maarten (extension by the Netherlands), Slovak Republic, Slovenia, South Africa, Spain, Sweden, Switzerland, Thailand, Tunisia, Türkiye, Turks and Caicos Islands (extension by the United Kingdom), Uganda, Ukraine, United Arab Emirates, United Kingdom, Uruguay and Vanuatu.

In addition, the Multilateral Convention was signed by the following jurisdictions, where it is not yet in force: Benin (in 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.

99. 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.

CARICOM Tax Treaty

The Agreement among the Governments of the Member States of the Caribbean Community for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, Profits or Gains and for the Encouragement of Regional Trade and Investment (CARICOM tax treaty) is based on the OECD model double tax convention. Its Article 24 provides for exchange of information in tax matters.

The CARICOM tax treaty is signed and in force in respect of 11 jurisdictions. These jurisdictions are: Antigua and Barbuda (signed: 6 July 1994, in effect: 1 January 1999); Barbados (signed: 30 June 1995, in effect: 1 January 1996); Belize (signed: 6 July 1994, in effect: 1 January 1995); Dominica (signed: 1 March 1995, in effect: 1 January 1997); Grenada (signed: 6 July 1994, in effect: 1 January 1997); Guyana (signed: 16 August 1994, in effect: 1 January 1998); Jamaica (signed: 6 July 1994, in effect: 1 January 1996); Saint Lucia (signed: 6 July 1994, in effect: 1 January 1996); Saint Kitts and Nevis (signed: 6 July 1994, in effect: 1 January 1998); Saint Vincent and the Grenadines (signed: 6 July 1994, in effect: 1 January 1999) and Trinidad and Tobago (signed: 6 July 1994, in effect: 1 January 1995).

Annex 3: Methodology for the review

The reviews are based on the 2016 Terms of Reference and conducted in accordance with the 2016 Methodology for peer reviews and non-member reviews, as approved by the Global Forum in October 2015 and amended in December 2020, and the Schedule of Reviews.

The evaluation is based on information available to the assessment team including the exchange of information arrangements signed, laws and regulations in force or effective as on 24 April 2023, Saint Vincent and the Grenadines' EOIR practice in respect of EOI requests made and received during the three year period from 1 January 2019 to 31 December 2021, Saint Vincent and the Grenadines' responses to the EOIR questionnaire, inputs from partner jurisdictions, as well as information provided by Saint Vincent and the Grenadines' authorities during the on-site visit that took place 22-24 November 2022 in Kingstown, Saint Vincent and the Grenadines.

List of laws, regulations and other materials received

Companies Act

International Business Companies (Amendment and Consolidation) Act

International Business Companies (Amendment and Consolidation) (Amendment) Act

Limited Liability Companies Act

Building Societies Act

Co-operative Societies 2012 Act

Friendly Societies Act

International Tax Co-operation (Economic Substance) Act

International Trusts Act

Trusts Act

Registered Agent and Trustee Licensing Act

Banking Act

International Banks Act

Insurance Act

International Insurance Act

Money Services Business Act

Mutual Funds Act and Mutual Funds (Amendment) Act

Financial Services Authority Act 2011

Proceeds of Crime Act 2013

Anti-Money Laundering and Terrorist Financing Regulations, 2014

Anti-Money Laundering and Terrorist Financing Code and Guidance Notes, 2017

Non-Regulated Service Providers (NRSP) Regulations 2020

Anti-Money Laundering and Terrorist Financing (Non-Regulated Service Providers) Regulations 2022

Virtual Assets Act

Income Tax Act

Tax Administration Act

Value Added Tax Act

Exchange of Information Act

International Co-operation (Tax Information Exchange Agreements) Act

Saint Vincent and the Grenadines Exchange of Information Manual (updated on 25 August 2022)

Authorities interviewed during on-site visit

Officials from the Financial Services Authority

Officials from the Inland Revenue Department

Officials from the Commerce and Intellectual Property Office

Various service providers, registered agents, lawyers and representatives of an international bank

Banking Supervision Department of the Eastern Caribbean Central Bank

Current and previous reviews

This report provides the outcomes of the third peer review of Saint Vincent and the Grenadine's implementation of the EOIR standard conducted by the Global Forum.

Saint Vincent and the Grenadines previously underwent EOIR peer reviews in 2012 and 2014 conducted according to the Terms of Reference (ToR) approved by the Global Forum in February 2010 (2010 ToR) and the Methodology used in the first round of reviews. The initial report in 2012 evaluated Saint Vincent and the Grenadine's legal and regulatory framework. Most elements were determined to be in place but deficiencies were noted in the availability of up-to-date ownership and accounting records of limited liability companies and international BCs.

The 2014 Report evaluated the implementation in practice. Saint Vincent and the Grenadines amended its AML and commercial laws to address the recommendations in the 2012 Report. In the 2014 Report Saint Vincent and the Grenadines received a recommendation in relation to the availability of information on the direct owners of bearer shares but most recommendations related to the implementation and enforcement of the new legislation put in place, that were too recent to be fully tested during the review. In Round 1, the overall rating was Largely Compliant with the following individual ratings: Largely Compliant for A1, A2, A3 and C5, Compliant for B1, B2, C1, C2, C3 and C4.

The current Report represents the first review of Saint Vincent and the Grenadines against the 2016 Terms of Reference and concludes that Saint Vincent and the Grenadines is overall Largely Compliant with the international standard. Information on each of Saint Vincent and the Grenadine's reviews is provided in the table below.

Summary of reviews

Review	Assessment team	Period under review	Legal framework as of	Date of adoption by Global Forum
Round 1 Phase 1	Mr Mustupha Mosafeer of Mauritius; Ms Graciela V. Liquin of the Argentine Republic; Mr Guozhi Foo of the Global Forum Secretariat	not applicable	February 2012	March 2012
Round 1 Phase 2	Mr Mustupha Mosafeer of Mauritius; Ms Graciela V. Liquin of the Argentine Republic; Ms Séverine Baranger and Mr Mikkel Thunnissen from the Global Forum Secretariat	1 July 2010 to 30 June 2013	11 August 2014	October 2014
Round 2 combining Phase 1 and Phase 2	Ms Elisabeth Meurling of Sweden; Ms Nancy Tanguay of Canada; Ms Shara Reid Donaldson and Ms Séverine Baranger of the Global Forum Secretariat	1 January 2019 to 31 December 2021	24 April 2023	14 July 2023

Annex 4: Saint Vincent and the Grenadines' response to the review report[100]

Saint Vincent and the Grenadines extends its thanks and appreciation to the Global Forum Secretariat and its Assessors for the excellent cooperation given during our country's Second Round Peer Review process. Saint Vincent and the Grenadines wishes to especially commend the high levels of professionalism and expertise consistently displayed by each member of the Assessment Team throughout the evaluation process.

Our country would also like to thank the Peer Review Group for their comments and questions, to which we were pleased to have the opportunity to respond.

The period under review was an unusual time for our country, as the country experienced a 'national crisis' situation (officially so declared), brought about by devastating volcanic eruptions and the ravaging effects of Hurricane Elsa, while it was simultaneously dealing with the effects of the Coronavirus Pandemic. Standard processes were severely disrupted, as the country was undergoing a recovery and rehabilitation period. Notwithstanding, attempts were made to address the EOI requests which were received in an efficient and timely manner.

As described in the Report, Saint Vincent and the Grenadines received a limited number of requests during the Peer Review period, however, this was considerably more than during the First Round of Reviews. Timeliness was affected when some requests were received by post only, which takes weeks or months to arrive. A problem which caused a lack of receipt of several requests from a Peer country has been satisfactorily rectified and is not anticipated to arise again.

Saint Vincent and the Grenadines considers it appropriate to underscore that it has achieved several strategic and important milestones since the last Review, as noted in the Report, including: the abolition of its IBC and

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

international trusts regimes with a corresponding strengthening of filing and reporting requirements for business companies, making a historic move to a system of territorial taxation with accompanying economic substance laws, significantly upgrading its AML/CFT legislative and supervisory framework, and working on institutional capacity enhancements of the key departments involved in EOI.

Over the past several years, the legislative, regulatory and supervisory landscape in Saint Vincent and the Grenadines has been shaped by the country's commitments to the OECD to be a responsible and transparent tax jurisdiction, the FATF Recommendations, and in recent years, the EU Good Governance Tax Criteria. The authorities of Saint Vincent and the Grenadines consider that the country's laws, its institutional and administrative framework, and practical systems currently in place, taken together, have served to facilitate the availability and access to information for EOI purposes, though we acknowledge that there are certain improvements that are needed to enhance our EOI systems.

Saint Vincent and the Grenadines wishes to express its commitment to making these improvements and thereby, strengthening its EOI regime. Our country is already being guided by the Recommendations made in this instant Report and will continue to work towards fully meeting the Recommendations of the Assessment Team made herein.

Saint Vincent and the Grenadines reiterates its commitment to ensuring effective cooperation and transparency in the global efforts to eradicate tax offences.

GLOBAL FORUM ON TRANSPARENCY AND EXCHANGE OF INFORMATION FOR TAX PURPOSES

Peer Review Report on the Exchange of Information on Request SAINT VINCENT AND THE GRENADINES 2023 (Second Round)

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

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

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

This publication contains the 2023 Second Round Peer Review on the Exchange of Information on Request for Saint Vincent and the Grenadines.

PRINT ISBN 978-92-64-52333-3
PDF ISBN 978-92-64-42133-2