

GLOBAL FORUM ON
**TRANSPARENCY AND EXCHANGE OF
INFORMATION FOR TAX PURPOSES**

Peer Review Report on the Exchange of Information
on Request

THAILAND

2023 (Second Round)

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

PEER REVIEW REPORT ON THE EXCHANGE
OF INFORMATION ON REQUEST

This peer review report was approved by the Peer Review Group of the Global Forum on Transparency and Exchange of Information for Tax Purposes (Global Forum) on 5 October 2023 and adopted by the Global Forum members on 3 November 2023. The report was prepared for publication by the Global Forum Secretariat.

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Note by all the European Union Member States of the OECD and the European Union

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Please cite this publication as:

OECD (2023), *Global Forum on Transparency and Exchange of Information for Tax Purposes: Thailand 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/10.1787/80703c33-en>.

ISBN 978-92-64-40627-8 (print)

ISBN 978-92-64-40701-5 (pdf)

Global Forum on Transparency and Exchange of Information for Tax Purposes

ISSN 2219-4681 (print)

ISSN 2219-469X (online)

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Reader's guide

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

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

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

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

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

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

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

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

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

Consideration of the Financial Action Task Force Evaluations and Ratings

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

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

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

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

More information

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

Abbreviations and acronyms

ADB	Asian Development Bank
2016 TOR	Terms of Reference related to EOIR, as approved by the Global Forum on 29-30 October 2015
Act on Offences	Act Prescribing Offences Related to Registered Partnerships, Limited Partnerships, Limited Companies, Associations and Foundations
AML	Anti-Money Laundering
AML/CFT	Anti-Money Laundering/Counter Financing Terrorism
AMLA	Anti-Money Laundering Act
AMLO	Anti-Money Laundering Office
BOT	Bank of Thailand
CA	Competent Authority
CCC	Civil and Commercial Code
CDD	Customer Due Diligence
CIT	Corporate Income Tax
DBD	Department of Business Development
Decree on EOI	Emergency Decree on the Exchange of Information in compliance with International Tax Agreements
DNFBP	Designated Non-Financial Businesses and Professions
DTC	Double Taxation Convention
EOI	Exchange of Information
EOIR	Exchange of Information on Request
EUR	Euro
FATF	Financial Action Task Force

FIBA	Financial Institution Business Act
Global Forum	Global Forum on Transparency and Exchange of Information for Tax Purposes
ITAC	International Tax Affairs Centre
MR	Ministerial Regulations
MR CDD	Ministerial Regulations on Customer Due Diligence
MOC	Ministry of Commerce
MOF	Ministry of Finance
MOI	Ministry of Interior
Multilateral Convention	Convention on Mutual Administrative Assistance in Tax Matters, as amended in 2010
NPO	Non-Profit Organisations
PIT	Personal Income Tax
PLCA	Public Limited Companies Act
RD	Revenue Department
THB	Thai Baht (national currency)
VAT	Value Added Tax

Executive summary

1. This report analyses the implementation of the standard of transparency and exchange of information on request in Thailand on the second round of reviews conducted by the Global Forum against the 2016 Terms of Reference. It assesses both the legal and regulatory framework in force as at 17 July 2023 and the practical implementation of this framework against the 2016 Terms of Reference, including in respect of EOIR requests received and sent during the review period from 1 April 2019 to 31 March 2022. Thailand joined the Global Forum in 2017 and this is its first review. Hence, the current report is the first assessment of the legal and regulatory framework for transparency and exchange of information on request in Thailand and its implementation in practice.

2. This report concludes that Thailand is to be rated overall **Largely Compliant** with the standard.

Determinations and Ratings for Second Round Report

Element	Determination on the legal framework	Ratings on practical implementation
A.1 Availability of ownership and identity information	Needs Improvement	Partially Compliant
A.2 Availability of accounting information	Needs Improvement	Largely Compliant
A.3 Availability of banking information	Needs Improvement	Largely Compliant
B.1 Access to information	In Place	Largely Compliant
B.2 Rights and Safeguards	In Place	Compliant
C.1 EOIR Mechanisms	In Place	Compliant
C.2 Network of EOIR Mechanisms	In Place	Compliant
C.3 Confidentiality	In Place	Compliant
C.4 Rights and safeguards	In Place	Compliant
C.5 Quality and timeliness of responses	Not applicable	Partially Compliant
OVERALL RATING	Largely Compliant	

Note: the three-scale determination are In Place, Needs Improvement and Not In Place and the four-scale ratings are Compliant, Largely Compliant, Partially Compliant, and Non-Compliant.

Transparency framework

3. Since joining the Global Forum in 2017, Thailand has made efforts to put in place the necessary legal and regulatory framework to comply with the Transparency and EOIR standard.

4. Overall, Thailand has a comprehensive legal and regulatory framework in place to ensure the availability of legal ownership and identity information of relevant entities and arrangements in line with the standard, mainly through the commercial registration laws.

5. In relation to the availability of beneficial ownership information of relevant entities and arrangements, the anti-money laundering (AML) legal framework requires the AML-obliged persons to identify the beneficial owners of their customers, which could be companies, partnerships and other legal arrangements, including trusts. The AML legal framework is the only source of beneficial ownership information in Thailand.

6. Regarding accounting information, Thailand's Accounting Act places necessary requirements of maintaining reliable accounting records with underlying documentation for all companies, limited partnerships, and registered general partnerships. This also includes foreign companies and partnerships carrying out business activities in Thailand.

7. The legal and regulatory framework in Thailand requires the availability of banking information in line with the standard, including all records pertaining to bank accounts as well as related financial and transactional information. There are also requirements under the AML legal framework of Thailand to ensure the availability of beneficial ownership information of all bank accounts.

8. Thailand also has access powers that allow it to access information for the purposes of exchange of information and the rights and safeguards in place for taxpayers do not unduly prevent an effective exchange of information.

9. Thailand has also taken various supervisory actions to ensure that relevant information is kept as required by law and can be available for exchange of information. Where non-compliance was identified, sanctions have been issued by the responsible authorities.

Key recommendations

10. The availability of legal ownership information of foreign companies is not always ensured in Thailand. In addition, a shortcoming is identified regarding the availability of identity information of partnerships in Thailand, as not all partnerships are required to register with the registrar and

partnerships are not required to maintain the identity information of their partners. Thus, Thailand is recommended to ensure the identity information of all partnerships, including relevant foreign partnerships, is always available in line with the standard.

11. Regarding the availability of beneficial ownership information, there are shortcomings identified on the definition of beneficial owner(s) for legal persons as there is a lack of guidance to the AML-obliged persons regarding the direct and indirect ownership and control, and joint control when applying the controlling ownership interests to identify the beneficial owner(s), as well as the scope of control by other means. In addition, there is no guidance to the AML-obliged persons that the identification of beneficial owner(s) of partnerships should consider the form and structure of the partnerships, rather than mechanically apply the approach as that for companies. Considering that the AML law is the only source of beneficial ownership information in Thailand, a recommendation is made for Thailand to ensure that the definition of the beneficial owner(s) for legal persons, including companies and partnerships, in the AML legal framework is in line with the standard. Those legal gaps also affect the availability of beneficial ownership information of bank accounts in Thailand.

12. In addition, Thailand should address the gap in relation to the lack of specified frequency set out in the legal and regulatory framework for the AML-obliged persons to update the beneficial ownership information. Moreover, not all entities and arrangements are required to engage with an AML-obliged person under the Thai law, thus for those that do not engage with AML-obliged persons, their beneficial ownership information would not be available. Thailand is therefore recommended to ensure that beneficial ownership information of all relevant entities and arrangements, including companies, partnerships and foreign trusts with Thai trustees or administrators, is available in all cases in line with the standard. Regarding the nominee arrangements, due to the lack of obligation of the nominee to disclose such an arrangement or the information on the nominator, Thailand must ensure that accurate identity information on the nominators and beneficial ownership information is available in respect of nominees.

13. For practical implementation of the standard, Thailand is recommended to strengthen its supervision and enforcement actions towards companies and partnerships to ensure the availability of their legal ownership information and accounting information, especially considering that there were a large number of companies that failed to complete their annual filing of list of shareholders to the registrar. Thailand is also recommended to take actions to supervise the AML-obliged persons that are not financial institutions to ensure the availability of the beneficial ownership information of their customers. Supervisory and enforcement actions should also

be taken by Thailand to confirm that there are no bearer shares issued in Thailand.

14. The retention of reliable accounting records is not ensured for foreign trusts and there is no retention period for accounting records of public companies ceasing to exist. Therefore, Thailand should ensure the availability of reliable accounting records for those entities and legal arrangements.

Exchange of information

15. Thailand has a wide exchange of information (EOI) network in place and its EOI mechanisms are in line with the standard. Thailand received 91 requests for information from exchange partners and sent them 13 such requests during the review period from 1 April 2019 to 31 March 2022.

Key recommendations

16. Thailand failed to provide the requested information in certain EOI cases and there were significant delays in responding to EOI requests from exchange partners during the review period, partially due to the limitation of access powers of the tax authority. The new legislation that gives Thai authority the full access powers to obtain relevant information for EOI purposes came into force in April 2023, and its effectiveness has not been tested, thus Thailand is recommended to monitor the implementation of the new legislation. Thailand should also align the scope of legal professional privilege, currently too broad, with the standard.

17. During the review period, Thailand's response time to requests from exchange partners was significantly delayed mainly due to the limitation of access powers of the tax authority and the impact of the COVID-19 pandemic as Thailand confirmed. After the ease of restrictions of the COVID-19 pandemic from early 2022, Thailand has taken various actions to address the challenges, including the newly enacted Decree on EOI that gives full access powers to the tax authority for obtaining all relevant information for EOI purposes and an online tracking system for managing EOI cases. However, effectiveness of the new law and the new procedures or systems are not available to be tested during the review.

Overall rating

18. Thailand has received a rating of Compliant for five elements (B.2, C.1, C.2, C.3. and C.4), a rating of Largely Compliant for three elements (A.2, A.3 and B.1) and a rating of Partially Compliant for two elements

(A.1 and C.5). Thailand is therefore rated overall Largely Compliant with the EOIR standard.

19. This report was approved at the Peer Review Group of the Global Forum on 5 October 2023 and was adopted by the Global Forum on 3 November 2023. A follow up report on the steps undertaken by Thailand to address the recommendations made in this report should be provided to the Peer Review Group in accordance with the procedure set out under the 2016 Methodology as amended.

Summary of determinations, ratings and recommendations

Determinations and ratings	Factors underlying recommendations	Recommendations
Jurisdictions should ensure that ownership and identity information, including information on legal and beneficial owners, for all relevant entities and arrangements is available to their competent authorities (Element A.1)		
The legal and regulatory framework is Needs Improvement	Foreign companies in Thailand are required to be licensed by the Thai authorities, but they are not required to register their legal ownership information or keep the register of shareholders in Thailand. The standard requires that legal ownership information on foreign companies having a sufficient nexus to the jurisdiction be available there, i.e. at least for companies that have their main place of management there.	Thailand is recommended to ensure that legal ownership and identity information of relevant foreign companies is available in line with the standard.
	Not all general partnerships are required to be registered with the Department of Business Development, and not all changes of identity information of partners are required to be filed with the Department of Business Development in Thailand. Partnerships are also not required to maintain the identity information of the partners.	Thailand is recommended to ensure that identity information of all relevant partnerships, including foreign partnerships, is always available in line with the standard.

Determinations and ratings	Factors underlying recommendations	Recommendations
	<p>Regarding the definition of beneficial owner for legal persons, including companies and partnerships, there is a lack of guidance to the AML-obliged persons that direct and indirect ownership and control, and joint control should be considered when applying the controlling ownership interest to identify the beneficial owners, and the scope of control by other means is unclear. For partnerships, there is a lack of guidance given to the AML-obliged persons that the identification of beneficial owner(s) of partnerships should consider the form and structure of the partnerships.</p>	<p>Thailand is recommended to ensure that the definition and the method of identification of the beneficial owner(s) for legal persons, including companies and partnerships, in the Anti-Money Laundering legal framework is in line with the standard.</p>
	<p>Even though the Anti-Money Laundering Office has made suggestions in its communications to the AML-obliged persons that ongoing Customer Due Diligence should be conducted based on the risk level of the customers and advised on specified frequencies to update the Customer Due Diligence information for low-risk, medium-risk and high-risk customers, these suggestions have not been formalised in any binding rules or guidance.</p>	<p>Thailand is recommended to set out a specified frequency for AML-obliged persons to update the beneficial ownership information of legal persons and legal arrangements after the initial Customer Due Diligence measures.</p>
	<p>Under the Anti-Money Laundering Act, AML-obliged persons must conduct Customer Due Diligence and identify the beneficial owners of their customers, including companies, partnerships, trusts or other relevant entities and arrangements. This constitutes the only source of beneficial ownership of relevant entities and arrangements in Thailand. However, not all entities and arrangements are required to engage an AML-obliged person in Thailand, thus beneficial ownership information on relevant entities and arrangements that are not covered by the AML obligations may not be available. There are also no legal requirements for anyone to keep the beneficial ownership information for at least five years after the AML-obliged persons cease to exist.</p>	<p>Thailand is recommended to ensure that beneficial ownership information of all relevant entities and arrangements including companies, partnerships and foreign trusts and similar arrangements with trustees or administrators resident in Thailand is available in all cases in line with the standard</p>

Determinations and ratings	Factors underlying recommendations	Recommendations
	<p>There are no requirements for nominees to disclose the nominee arrangement and the information of the nominators in Thailand.</p>	<p>Thailand is recommended to ensure that nominees acting as the legal owners on behalf of any other persons disclose their nominee status and make identity information on the nominators available to the company, the registrar and other relevant persons (such as AML-obliged persons)</p>
<p>EOIR Rating is Partially Compliant</p>	<p>A large number of companies failed to complete their annual filings of lists of shareholders, and no effective enforcement actions have been taken by the Department of Business Development in respect of those non-compliant companies even after follow-up letters sent to them remained unanswered. In addition, ongoing monitoring and supervision activities towards companies and partnerships conducted by the Department of Business Development were not sufficient to ensure their legal ownership and identity information is available. Thailand was not able to provide the numbers of inactive companies and partnerships that have been struck off by the DBD according to the provisions in the CCC. For entities that were struck off but then restored, there are no legal requirements for registering their up-to-date legal ownership information.</p>	<p>Thailand is recommended to enhance its supervision and monitoring activities towards companies and partnerships to ensure that in practice their legal ownership and identity information is available and accurate in all cases, and where non-compliance is identified, enforcement measures including sanctions should be taken.</p>

Determinations and ratings	Factors underlying recommendations	Recommendations
	<p>There appears to be no oversight and enforcement actions towards the AML-obliged persons that are in professions of non-financial institutions. This causes concerns about the availability and accuracy of beneficial ownership information of relevant entities and arrangements held by those AML-obliged persons in professions of non-financial institutions.</p>	<p>Thailand is recommended to strengthen the supervision and enforcement actions over AML-obliged persons in professions of non-financial institutions, to ensure the availability of adequate, accurate and up-to-date beneficial ownership information of relevant entities and arrangements in line with the standard.</p>
	<p>The Department of Business Development considers that there were no limited companies that had issued bearer shares in Thailand, as they have no companies which had registered owners of bearer shares with them. However, the absence of registration may also reveal non-compliance of those companies on the registration requirements. No actions have been taken by the Department of Business Development, e.g. conducting surveys to the limited companies and checking the regulations of companies including articles of associations., to verify that in practice, no limited companies have ever issued bearer shares in Thailand.</p>	<p>Thailand is recommended to take supervisory and enforcement actions to confirm that there are no bearer shares issued in Thailand, and that if there are, their owners or beneficiaries are registered with the Department of Business Development as required.</p>

Determinations and ratings	Factors underlying recommendations	Recommendations
Jurisdictions should ensure that reliable accounting records are kept for all relevant entities and arrangements (Element A.2)		
<p>The legal and regulatory framework is in place but needs improvement</p>	<p>There are no legal requirements for foreign trusts with Thai resident trustees or administrators to keep accounting records.</p> <p>There are also no rules in place regarding the retention period of accounting records for foreign trusts that cease to exist.</p>	<p>Thailand is recommended to ensure that accounting records including underlying documentation of foreign trusts with trustees or administrators resident in Thailand are available in line with the standard, and ensure that accounting records including underlying documentation for foreign trusts are kept for no less than five years as required by the standard.</p>
	<p>The retention period of accounting records for public companies that cease to exist is not in line with the standard.</p>	<p>Thailand is recommended to ensure that accounting records including underlying documentation of public companies that cease to exist are kept for no less than five years as required by the standard.</p>

Determinations and ratings	Factors underlying recommendations	Recommendations
<p>EOIR Rating is Largely Compliant</p>	<p>About 21% of companies and 27% of partnerships did not file the financial statements to the Department of Business Development as required, which causes concerns on the availability of accounting records by those entities in Thailand. Thailand also does not monitor the numbers of inactive companies and partnerships, and the numbers of inactive companies or partnerships that have been struck off by the DBD according to the provisions in the CCC. This also causes concerns on the availability of the accounting information maintained by such entities.</p>	<p>Thailand is recommended to strengthen its supervisory and enforcement actions to ensure the accounting records including underlying documentation of all relevant entities and arrangements are always available in practice.</p>
<p>Banking information and beneficial ownership information should be available for all account-holders (Element A.3)</p>		
<p>The legal and regulatory framework is Needs Improvement</p>	<p>With regard to the definition of beneficial owners for legal persons, as discussed under Element A.1, there is a lack of guidance to the AML-obliged persons regarding the identification of beneficial owners of companies and partnership. This includes the lack of guidance that direct and indirect ownership and control, and joint control should be considered when applying the controlling interest to identify the beneficial owner(s), and the lack of clarity on the scope of control by other means. For partnerships, there is a lack of guidance given to the AML-obliged persons that the identification of beneficial owner(s) of partnerships should consider the form and structure of the partnerships.</p>	<p>Thailand is therefore recommended to ensure that, in respect of bank accounts, the definition and the method of identification of the beneficial owner(s) for legal persons including companies and partnerships in the AML legal framework is in line with the standard.</p>
	<p>There are no legal requirements in Thailand for retaining the customer information after a bank ceases to exist, which may cause the unavailability of banking information. In practice, in the past 30 years there have been no cases where banks simply ceased to exist, and relevant information would be transferred to a new bank that takes over the business of the bank that ceases to exist.</p>	<p>Thailand is recommended to ensure that beneficial ownership information of bank accounts is available for at least five years after a bank ceases to exist.</p>

Determinations and ratings	Factors underlying recommendations	Recommendations
	<p>Even though the Anti-Money Laundering Office has made suggestions in its communications to the banks that ongoing Customer Due Diligence should be conducted based on the risk level of the customers and advised on specified frequencies to update the Customer Due Diligence information for low-risk, medium-risk and high-risk customers, these suggestions have not been formalised in any binding rules or guidance.</p>	<p>Thailand is recommended to set out a specified frequency for banks to update the beneficial ownership information of their account holders after the initial Customer Due Diligence measures.</p>
<p>EOIR Rating is Largely Compliant</p>		
<p>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) (Element B.1)</p>		
<p>The legal and regulatory framework is in place</p>	<p>Thailand's legal professional privilege is broader than the scope specified in the standard, as it covers all information obtained from the clients by a lawyer, rather than being restricted to communications produced for the purposes of seeking or providing legal advice or use in existing or contemplated proceedings, and there are no express exceptions in the case of requests made under an EOI agreement. Thailand however confirmed that they have never requested lawyers to provide information for EOI purposes since they are not a routine source of information under the Thai legal framework.</p>	<p>Thailand is recommended to ensure that the scope of legal professional privilege is in line with the standard.</p>

Determinations and ratings	Factors underlying recommendations	Recommendations
EOIR Rating is Largely Compliant	Thailand failed to provide the requested information in certain EOI cases due to the limitation of the access powers provided for by the Revenue Code (i.e. the condition of a domestic tax interest in the information requested). The Decree on EOI now gives the competent authority of Thailand full access power to information relevant to EOI, with relevant penalties provisions to compel the production of the information. As this Decree came into force after the review period, its effectiveness has not been tested yet.	Thailand is recommended to monitor the implementation of the Decree on EOI and ensure its effectiveness in practice so as to be in line with the standard.
The rights and safeguards (e.g. notification, appeal rights) that apply to persons in the requested jurisdiction should be compatible with effective exchange of information (Element B.2)		
The legal and regulatory framework is In Place		
EOIR Rating is Compliant		
Exchange of information mechanisms should provide for effective exchange of information (Element C.1)		
The legal and regulatory framework is In Place		
EOIR Rating is Compliant		
The jurisdictions' network of information exchange mechanisms should cover all relevant partners (Element C.2)		
The legal and regulatory framework is In Place		
EOIR Rating is Compliant		

Determinations and ratings	Factors underlying recommendations	Recommendations
The jurisdictions' mechanisms for exchange of information should have adequate provisions to ensure the confidentiality of information received (Element C.3)		
The legal and regulatory framework is In Place		
EOIR Rating is Compliant		
The exchange of information mechanisms should respect the rights and safeguards of taxpayers and third parties (Element C.4)		
The legal and regulatory framework is In Place	Although legal professional privilege has never been an impediment in obtaining information for EOI purposes, the information held by lawyers subject to legal professional privilege is wider than the scope accepted by the standard.	Thailand is recommended to ensure that the scope of legal professional privilege is in line with the standard.
EOIR Rating is Compliant		
The jurisdiction should request and provide information under its network of agreements in an effective manner (Element C.5)		
Legal and regulatory framework	This element involves issues of practice. Accordingly, no determination on the legal and regulatory framework has been made.	
EOIR Rating is Partially Compliant	Thailand was not able to respond to the requests received during the review period in a timely manner in most cases, which was largely due to the lack of full access powers of the competent authority, the lack of efficient internal process and resources for handling EOI cases, and the consequences of the COVID-19 pandemic. Such challenges have been addressed by the Thai authority after the review period, thus relevant processes to respond to EOI requests in a timely manner are not tested .	Thailand is recommended to monitor the implementation of the measures taken to ensure that the EOIR-related processes, in particular the timelines as provided in the related internal rules are effectively implemented in practice, to enable it to respond to EOI requests in a timely manner.

Determinations and ratings	Factors underlying recommendations	Recommendations
	<p>Thailand did not systematically provide status updates to EOI partners within 90 days where it was not able to provide a partial or complete response within that timeframe. A new tracking system has been in place since March 2023, but its effectiveness could not be tested during this review.</p>	<p>Thailand is recommended to monitor the implementation of the new tracking system to ensure that it operates effectively so as to provide updates to EOI partners within 90 days in cases where it is not possible to provide a partial or complete response within that timeframe.</p>

Overview of Thailand

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

21. Thailand (officially the Kingdom of Thailand) is situated in Southeast Asia, bordered by Cambodia, Malaysia, Myanmar and Lao People's Democratic Republic, and sharing maritime borders with India, Indonesia and Viet Nam. Thailand has a population of about 70 million (2021). Its capital city is Bangkok, which is also the largest city in Thailand. The official language of Thailand is Thai and the official currency is Thai baht (THB).¹

22. Thailand is the second largest economy in Southeast Asia after Indonesia, with a GDP of EUR 517.31 billion (2021). Its leading economic sectors are manufacturing, agriculture and tourism, and its main trading partners include the United States, China, Japan, Hong Kong (China) and Viet Nam. Thailand is a founding member of the Association of Southeast Asian Nations.

Legal system

23. Thailand is a parliamentary (bi-cameral) democracy with a constitutional monarchy. The government of Thailand comprises three branches: the legislative branch with the National Assembly (also called the Parliament of Thailand) that is composed of the Senate (Upper House) and the House of Representatives (Lower House); the executive branch consisting of the Prime Minister, who is elected by the National Assembly, and other cabinet members appointed by the Prime Minister; and the judiciary branch.

24. Thailand has a civil law system, with seven ranks of laws, including the Constitution; the Constitution Act issued as per stipulation of the Constitution; the Act issued by the legislature with the King's advice and consent of the Parliament; the Emergency Decree enacted by the King with the advice of the Cabinet and approval of the Parliament; the Royal Decree

1. The approximate exchange rate is: 1 EUR = 37 THB.

issued by the executive branch and enacted by the King with the advice of the Cabinet; the Ministerial Regulations (MR) issued by the executive branch according to the upper-ranked laws; and local legislations issued by local governments. Thailand adopts the dualism system, with the international laws separated from domestic laws. All international laws, including treaties signed by Thailand, have to be incorporated into domestic law to be applicable in Thailand through a specified ratification procedure, including international agreements that need to be approved by the Parliament, or by the Cabinet (e.g. tax treaties).

25. The judiciary branch entails four types of Courts: the Constitutional Court, the Court of Justice, the Administrative Court and the Military Court. The Court of Justice considers all cases that are not within the jurisdiction of the Constitutional Court or other specialised courts. There are three levels of Court of Justice. The Civil Courts and Criminal Courts are at the lower levels, with different competences. Their decisions can be appealed to the Court of Appeal, and ultimately to the Supreme Court. There are also specialised courts, including the Tax Courts that deal with tax matters, whose verdicts can be directly appealed to the Supreme Court.

26. Thailand is a unitary country, and local governments in Thailand comprise general forms of local governments including Municipalities, Sub-district Administrative Organisation (TAO) and Provincial Administrative Organisation (PAO); and a special form of local governments where the general form of local governments is not appropriate, e.g. in large urban areas like the capital city or touristic towns. Currently, there are two cities as such in Thailand, i.e. Bangkok and Pattaya. All tax matters are managed at the central government level, with local branch offices.

Tax system

27. The main sources of tax legislation in Thailand are the Revenue Code and relevant administrative rules issued by the Ministry of Finance (MOF) or the Revenue Department (RD). Taxes levied in Thailand include Personal Income Tax (PIT), Corporate Income Tax (CIT), Value Added Tax (VAT), Specific Business Tax, stamp duty, petroleum income tax and inheritance tax.

28. An individual is deemed to be a tax resident in Thailand if the individual stays in Thailand for a period or periods aggregating 180 days or more in any tax year (calendar year ending 31 December). A legal person, e.g. a company or a registered partnership, is resident in Thailand if it is incorporated under Thai laws. Tax residents in Thailand are taxed on their worldwide income. A company or an incorporated body established under foreign laws is subject to CIT for income sourced from Thailand if it is considered to be carrying on business in Thailand.

29. Individuals, non-registered partnerships, or other types of non-legal person entities are subject to the PIT in Thailand. The PIT is levied at progressive rates from 5% to 35%, with a specified personal allowance. Non-residents who have taxable income under the Revenue Code are required to file a tax clearance certificate for purpose of the PIT before departing Thailand. Foreign PIT paid may be credited in Thailand under applicable tax treaties. The CIT is calculated from taxpayer's net profit on the accrual basis, with a rate of 20%, which may be reduced in cases specified by the tax laws. Foreign CIT paid on profits that are subject to the CIT in Thailand may be credited against the amount of the CIT assessed in Thailand. Dividends paid to a non-resident are subject to a withholding tax of 10%, and interests, royalties and fees for technical services paid to non-residents are subject to 15% withholding tax, unless the rates are reduced under an applicable treaty. There are no general anti-avoidance rules, but certain companies, including taxpayers belonging to a group companies (except entities with an annual total revenue of THB 200 million or less (EUR 5.4 million), are subject to Thailand's transfer pricing rules, including the related disclosure requirements. The VAT is levied on the sale of goods and provision of services, with a standard rate of 10% and reduced rate of 0%. Registration for VAT purposes is mandatory for business that has a turnover exceeding THB 1.8 million (EUR 48 109) for any given annual tax period, and non-resident suppliers that carry out business in Thailand on more than a temporary basis must also register. Certain businesses, e.g. banking and finance businesses that are excluded from the VAT, are subject to the Specific Business Tax on their gross income, with a rate ranging from 0.1% to 3%. There is also an inheritance or estate tax in Thailand, with a rate of 10% (or reduced 5%) levied on the beneficiary's portion of an inheritance exceeding THB 100 million (EUR 2.67 million).

30. The tax administration in Thailand is the RD, which is an administrative organisation within the competency of the MOF. The RD is responsible for collecting, administering and developing the taxes according to the provisions prescribed in the Revenue Code. It also includes the delegated and operational Competent Authority (CA) in charge of exchanging information for tax purposes. The Exchange of Information (EOI) Unit is responsible for the exchange of information under international agreements, which is under the International Tax Affairs Centre (ITAC) of the RD. Thailand has signed 61 Double Taxation Conventions (DTC) and the Convention on Mutual Administrative Assistance in Tax Matters (Multilateral Convention) that allow it to exchange information on request for tax purposes.

31. Thailand joined the Global Forum and the Inclusive Framework on BEPS in 2017. During the review period, Thailand received 91 EOI requests and sent 13 requests, mainly from/to jurisdictions in Europe (Norway, Belgium, France, United Kingdom and Finland) and Asia (India and Japan).

Financial services sector

32. Thailand has a relatively established financial sector. Banking sector dominates the financial services sector in Thailand, with total assets of THB 29 830 835 million (EUR 796 615 million) as of December 2021. It plays a leading role among all financial institutions in Thailand in providing lending to the market. The banking sector of Thailand comprises commercial banks, most of which are privately owned, and deposit-taking specialised financial institutions which are state-owned for purpose of providing financial services to particular market segments. As of December 2021, there were 35 banks in total in Thailand, including 29 commercial banks, and 6 deposit-taking specialised financial institutions. They are supervised by the Bank of Thailand (BOT) and the MOF retains the authority to grant or revoke the financial institutions' licences upon recommendations of the BOT.

33. The capital market of Thailand comprises 47 securities companies, 27 asset management companies, 17 securities registrars, 14 digital asset business operators, 7 trustees for Real Estate Investment Trusts, 3 trustees for infrastructure trusts, 3 trustees for private equity trusts and 1 trustee for Sukuk ("sharia compliant" bonds). Operating securities or trustee business needs to be granted by either the MOF or the Securities and Exchange Commission. The total outstanding value of all types of both equity and debt instruments in the capital market by end of 2021 reached THB 23.44 trillion (EUR 0.63 trillion) or 145% of the country's GDP, and the number of the listed companies was 776.

Anti-Money Laundering Framework

34. The AML legal framework in Thailand is comprised primarily of the Anti-Money Laundering Act (1999) (AMLA) and the Counter Terrorism and Proliferation of Weapons of Mass Destruction Financing Act (2016), complemented by the Ministerial Regulations on Customer Due Diligence (2020) (MR CDD), and Guidelines for AML-obliged persons under MR CDD. Financial institutions, including banks and institutions in the capital markets (e.g. securities companies), as well as non-financial institution professions are all subject to the CDD requirements of the AMLA and the MR CDD.

35. The Anti-Money Laundering Office (AMLO) is the central authority for AML/CFT in Thailand, responsible for overseeing application of and compliance with the AML rules in Thailand. The AMLO can also issue AML-related regulations and rules to AML-obliged persons in Thailand.

36. The third round of mutual evaluation of Thailand's compliance with the international AML/CFT standard (the 2012 Financial Action Task Force (FATF) Recommendations) was conducted by the Asia/Pacific Group on

Money Laundering in 2016. According to the mutual evaluation report for Thailand published in December 2017,² the 1st follow-up report in September 2018, and the 2nd follow-up report in July 2021, Thailand was rated as “Compliant” on Recommendation 17 for reliance on third parties; and “Largely Compliant” on Recommendation 10 on customer due diligence and Recommendation 11 on record keeping. Recommendation 24 for transparency and beneficial ownership of legal persons and Recommendation 25 for transparency and beneficial ownership of legal arrangements were rated “Partially Compliant” as there were material deficiencies identified. Under Recommendation 24, basic ownership information for legal persons of private limited companies is not kept up to date, available sanctions were not well applied to non-compliance on registration requirements, and CDD was not required to be done by Designated Non-Financial Businesses and Professions (DNFBPs). For Recommendation 25, there was a lack of measures to ensure that foreign trustees disclose their status to AML-obliged persons when forming a business relationship or carrying out an occasional transaction with them, and there was a lack of powers to obtain information from certain DNFBPs involved in forming and managing foreign trusts in Thailand. Recommendation 22 on CDD of non-financial businesses and professions was rated “Non-Compliant” due to gaps on the coverage of scope of DNFBPs and the detailed CDD requirements for DNFBPs.

37. The mutual evaluation report of 2017 also determined Thailand as having achieved a moderate level of effectiveness for Immediate Outcome 3 on supervision. Main issues identified relevant to EOI include that other than the securities sector, checks to AML-obliged persons did not extend to beneficial ownership, while sectoral regulators did not always have sufficient access to relevant data. Supervisions to certain financial institutions were very weak and there were material risks in the sectors of lawyers and accountants which were not yet covered by the AMLA. There was also a lack of proportionate fines applied and a lack of wider use of sanctions to non-compliances identified by the authorities. Immediate Outcome 5 concerning the implementation of rules ensuring availability of beneficial ownership information for legal persons and legal arrangements was determined to be having a low level of effectiveness. There were weaknesses with the accuracy and reliability of basic information held by the business registry for legal persons due to insufficient compliance checks and verifications by the authorities. There was also a concern on the availability of beneficial ownership information held by DNFBPs as they were not covered on the CDD obligations by the time of the on-site visit to Thailand in October and November 2016.

2. <https://www.fatf-gafi.org/en/publications/Mutualevaluations/Fur-thailand-2021.html>.

38. Thailand has taken actions to address gaps identified, including amendment to the domestic AML legislations. Notably, Thailand issued the MR CDD (2020) which came into force on 12 August 2020, requiring DNFBPs to comply with CDD requirements, and the MR on Operation and Supervision of Savings and Credit C-operatives (2021) which came into force on 10 February 2021, requiring all savings and credit co-operatives to maintain beneficial ownership information of their customers. In addition, Thailand is amending the AMLA to promote proportionate and dissuasive sanctions for non-compliance. An Act on Non-Profit Organisations (NPOs) and an act on beneficial ownership information requiring a centralised registration of beneficial owners are also being drafted, aiming to enhance transparency of NPOs, and improve transparency of all types of legal persons and legal arrangements. Thailand also confirmed that enhanced supervisory and enforcement actions have been taken to the AML-obliged persons, covering the identification of beneficial ownership information. Sanctions were also imposed where non-compliances were identified in the supervisory actions. Details as such are analysed in Element A.1.1 of this report.

Recent developments

39. Thailand committed to implement the Standard for Automatic Exchange of Financial Account Information in Tax Matters, with first exchanges in September 2023. The related legal framework is in place in Thailand. Once automatic exchange becomes effective in Thailand, it could lead to follow-up EOI requests, and the numbers of incoming and outgoing requests could thus increase in the coming years.

40. The AMLO is in the legislation process for the Beneficial Ownership Bill, requiring the central registration of relevant entities and arrangements in Thailand, which would then be available to the CA for EOI purposes. The Bill was proposed to the Cabinet by the MOF for the second review on 5 July 2023.

Part A: Availability of information

41. 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.

42. The Thai legal and regulatory framework generally ensures that legal ownership and identity information of relevant entities and arrangements is available in accordance with the standard, through the commercial registration laws, partially supplemented by the AML rules. However, there are certain gaps identified. It is not mandatory for general partnerships to register with the registrar, and not all changes of partners in a registered partnership are required to be notified to the registrar. This causes concerns on the availability of identity information of all partnerships in Thailand, since the registrar is the only source of such information. Moreover, not all foreign companies and foreign partnerships having sufficient nexus in Thailand are required to register or keep their legal ownership and identity information in Thailand, thus the related information may not be available in Thailand. There is also a lack of legal requirements for Thai residents that act as the trustees or administrators of foreign trusts to identify and maintain the identity information of participants in the trusts.

43. With regard to the practical implementation of keeping legal ownership and identity information, the Department of Business Development (DBD), as the supervising authority, has not taken sufficient actions to ensure that the obligations of companies to maintain an up-to-date list of shareholders and annually file such lists with the registrar are effectively implemented in practice. There is a lack of action to ensure that the information registered with the DBD by companies and partnerships is accurate and up to date. Thailand also does not monitor the numbers of inactive

companies and the numbers of inactive companies that have been struck off.

44. In relation to the beneficial ownership information of relevant legal entities and arrangements, Thailand ensures its availability through the AML legal framework, which requires the AML-obliged persons to identify and maintain the beneficial ownership information of their customers, i.e. companies, partnerships and other legal arrangements, including trusts. However, not all relevant legal entities and arrangements are required to engage with an AML-obliged person in Thailand, thus the beneficial ownership information may not always be available in all cases as required by the standard, including the case of foreign trusts with Thai resident trustees or administrators. There is a lack of guidance to the AML-obliged persons that have direct and indirect ownership and control, and joint control should be considered when applying the controlling ownership interest to identify the beneficial owners, and the scope of control by other means is not clear. There is also a lack of guidance to the AML-obliged persons that the identification of beneficial owner(s) of partnerships should consider the form and structure of the partnerships. In addition, Thailand does not have legal requirements in place to ensure that the beneficial ownership information of customers maintained by the AML-obliged persons after the initial Customer Due Diligence is adequate, accurate and up to date as required by the standard.

45. To ensure that AML-obliged persons are effectively implementing the requirements to identify and maintain the beneficial ownership information of their customers, the AMLO has taken various supervisory activities and imposed sanctions where non-compliance was identified. Supervisory activities taken by the AMLO were however uneven. While sufficient actions had been taken for supervising the financial institutions including banks and payment service providers, including activities taken to follow up and address the issues identified, no supervision actions were taken to non-financial institution professionals that are AML-obliged persons during the review period. This causes concerns on the availability of beneficial ownership information by all AML-obliged persons, especially considering that the AML legal framework is the only source of such information in Thailand, and it is not mandatory for all legal entities and arrangements to maintain a business relationship with an AML-obliged person.

46. Regarding the issue of bearer shares, the Thai laws allow the issuance of bearer shares by private companies, but from 2014, all companies that had issued bearer shares must file the information of the owners or beneficiaries of the bearer shares with specified forms to the DBD and file the lists of shareholders with the registrar annually. The Thai authorities assume that no bearer shares had ever been issued by the private companies in Thailand as no companies have so far filed such information with the

registrar as required. However, it is unclear if in practice bearer shares still exist in Thailand, due to lack of verification and supervision actions of the authority.

47. During the review period, Thailand received 27 requests from exchange partners that were relevant to identity and ownership information of companies. There were significant delays by Thailand to respond to those requests, but Thailand reported that this was mainly due to the consequences of the COVID-19 pandemic (as analysed under Element C.5.1) and the access issue (as analysed under Element B.1.1), rather than the unavailability of the ownership information. No significant issues were raised by the peers on the availability of ownership information in Thailand.

48. The conclusions are as follows:

Legal and Regulatory Framework: Needs Improvement

Deficiencies identified/Underlying factor	Recommendations
<p>Foreign companies in Thailand are required to be licensed by the Thai authorities, but they are not required to register their legal ownership information or keep the register of shareholders in Thailand. The standard requires that legal ownership information on foreign companies having a sufficient nexus to the jurisdiction be available there, i.e. at least for companies that have their main place of management there.</p>	<p>Thailand is recommended to ensure that legal ownership and identity information of relevant foreign companies is available in line with the standard.</p>
<p>Not all general partnerships are required to be registered with the Department of Business Development, and not all changes of identity information of partners are required to be filed with the Department of Business Development in Thailand. Partnerships are also not required to maintain the identity information of the partners.</p>	<p>Thailand is recommended to ensure that identity information of all relevant partnerships, including foreign partnerships, is always available in line with the standard.</p>
<p>Regarding the definition of beneficial owner for legal persons, including companies and partnerships, there is a lack of guidance to the AML-obliged persons that direct and indirect ownership and control, and joint control should be considered when applying the controlling ownership interest to identify the beneficial owners, and the scope of control by other means is unclear.</p> <p>For partnerships, there is a lack of guidance given to the AML-obliged persons that the identification of beneficial owner(s) of partnerships should consider the form and structure of the partnerships.</p>	<p>Thailand is recommended to ensure that the definition and the method of identification of the beneficial owner(s) for legal persons, including companies and partnerships, in the Anti-Money Laundering legal framework is in line with the standard.</p>

Deficiencies identified/Underlying factor	Recommendations
<p>Even though the Anti-Money Laundering Office has made suggestions in its communications to the AML-obliged persons that ongoing Customer Due Diligence should be conducted based on the risk level of the customers and advised on specified frequencies to update the Customer Due Diligence information for low-risk, medium-risk and high-risk customers, these suggestions have not been formalised in any binding rules or guidance.</p>	<p>Thailand is recommended to set out a specified frequency for AML-obliged persons to update the beneficial ownership information of legal persons and legal arrangements after the initial Customer Due Diligence measures.</p>
<p>Under the Anti-Money Laundering Act, AML-obliged persons must conduct Customer Due Diligence and identify the beneficial owners of their customers, including companies, partnerships, trusts or other relevant entities and arrangements. This constitutes the only source of beneficial ownership of relevant entities and arrangements in Thailand. However, not all entities and arrangements are required to engage an AML-obliged person in Thailand, thus beneficial ownership information on relevant entities and arrangements that are not covered by the AML obligations may not be available. There are also no legal requirements for anyone to keep the beneficial ownership information for at least five years after AML-obliged persons cease to exist.</p>	<p>Thailand is recommended to ensure that beneficial ownership information of all relevant entities and arrangements including companies, partnerships and foreign trusts and similar arrangements with trustees or administrators resident in Thailand is available in all cases in line with the standard.</p>
<p>There are no requirements for nominees to disclose the nominee arrangement and the information of the nominators in Thailand.</p>	<p>Thailand is recommended to ensure that nominees acting as the legal owners on behalf of any other persons disclose their nominee status and make identity information on the nominators available to the company, the registrar and other relevant persons (such as AML-obliged persons)</p>

Practical Implementation of the Standard: Partially Compliant

Deficiencies identified/Underlying factor	Recommendations
<p>A large number of companies failed to complete their annual filings of lists of shareholders, and no effective enforcement actions have been taken by the Department of Business Development in respect of those non-compliant companies even after follow-up letters sent to them remained unanswered. Thailand was not able to provide the numbers of inactive companies and partnerships that have been struck off by the DBD according to the provisions in the CCC. For entities that were struck off but then restored, there are no legal requirements for registering their up-to-date legal ownership information.</p> <p>In addition, ongoing monitoring and supervision activities towards companies and partnerships conducted by the Department of Business Development were not sufficient to ensure their legal ownership and identity information is available.</p>	<p>Thailand is recommended to enhance its supervision and monitoring activities towards companies and partnerships to ensure that in practice their legal ownership and identity information is available and accurate in all cases, and where non-compliance is identified, enforcement measures including sanctions should be taken.</p>
<p>There appears to be no oversight and enforcement actions towards the AML-obliged persons that are in professions of non-financial institutions. This causes concerns about the availability and inaccuracy of beneficial ownership information of relevant entities and arrangements held by those AML-obliged persons in professions of non-financial institutions.</p>	<p>Thailand is recommended to strengthen the supervision and enforcement actions over AML-obliged persons in professions of non-financial institutions, to ensure the availability of adequate, accurate and up-to-date beneficial ownership information of relevant entities and arrangements in line with the standard.</p>
<p>The Department of Business Development considers that there were no limited companies that had issued bearer shares in Thailand, as they have no companies which had registered owners of bearer shares with them. However, the absence of registration may also reveal non-compliance of those companies on the registration requirements. No actions have been taken by the Department of Business Development, e.g. conducting surveys to the limited companies and checking the regulations of companies including articles of associations., to verify that in practice, no limited companies have ever issued bearer shares in Thailand.</p>	<p>Thailand is recommended to take supervisory and enforcement actions to confirm that there are no bearer shares issued in Thailand, and that if there are, their owners or beneficiaries are registered with the Department of Business Development as required.</p>

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

49. The laws of Thailand provide for the creation of two types of companies: Limited Companies (or private companies) and public limited companies (or public companies).

- A private company is formed under the Civil and Commercial Code (CCC) with a capital being divided into shares of an equal value and with the liability of the shareholders being limited to the amount unpaid on the shares held by them (CCC, Chapter IV). Any three or more persons may promote and form a private company, but a private company shall not offer subscription of shares to the public.
- A public company is formed under the Public Limited Companies Act (PLCA), with the intention to offer shares for sale to the public and shareholders taking the liability, limited to the amount payable on shares. Any 15 or more natural persons may promote and form a public company (PLCA, Chapter II).

50. As of 31 August 2022, there were 644 971 private companies and 1 365 public companies registered in Thailand, out of which, there were 11 910 private companies and 77 public companies that had more than half of their capital shares held by foreigners.

51. For purpose of controlling the foreign investment in the Thai industries, there are specific restrictions in Thailand for foreigners, including legal persons registered in Thailand but foreign-owned in majority, to conduct business in Thailand. In addition, foreign companies established under the laws of another jurisdiction may conduct business in Thailand, for example through branches, representative offices or other types of permanent establishments, but are subject to different licensing requirements based on the industry they invest in, as set out in the Foreign Business Act. Thailand has not provided the number of such foreign companies,³ but it confirmed that as of August 2022, there were 659 companies registered outside of Thailand that were operating a business in Thailand but were out of the scope of the licensing requirements under the Foreign Business Act, and there were 13 713 foreigners (including both entities and individuals) that had received foreign business licences under the Foreign Business Act.

3. Under the Foreign Business Act, the definition of “foreign companies” also includes domestic companies that registered in Thailand but have foreign investors meeting certain criteria (Section 4).

Legal ownership and identity information requirements

52. The legal ownership and identity requirements for companies are only found in the company law. Legal ownership information is not required to be submitted to the tax authority for registration. AML-obliged persons are not required to maintain the legal ownership information of client companies, but the beneficial ownership information is required to be identified, which to some extent supplement the availability of legal ownership information of companies under the company law. 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 information⁴

Type	Company Law	Tax Law	AML Law
Companies limited (private companies)	All	None	Some
Public limited companies (public companies)	All	None	Some
Foreign companies (tax resident)	None	None	Some

Company law requirements

53. Private companies and public companies are subject to the registration rules in the CCC and the PLCA respectively.

54. The CCC sets out detailed rules for a private company to keep the legal ownership information itself and also submit and register the legal ownership information to the DBD of the Ministry of Commerce (MOC), which is the state registrar of Thailand. Certified copies of the ID cards (in the case of Thai citizens) or passports (in the case of foreigners) of the shareholders should be submitted to the DBD during registration according to Section 18 of the Rules of Office of Central Company and Partnership Registry RE: Regulation of Partnerships and Companies B.E. 2561 (2018). Private companies are not allowed to conduct businesses in Thailand before completing the registration as per the requirements of the CCC. The CCC does not specify the retention period for private companies to keep the legal ownership or identity information, but the information of private companies registered with the DBD is practically kept permanently, as confirmed by Thailand.

4. 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.

55. According to Section 1138 and Section 1139 of the CCC, a private company must always keep a register of shareholders containing the names, addresses, occupations and other related information at its registered office. Such shareholder information should be open to inspection of the shareholders. As part of the initial registration, the private company must submit the list of shareholders to the registrar, and after the registration, the company is also required to send the latest list of shareholders to the registrar every year within 14 days after the annual general meeting of shareholders and those who have ceased to be shareholders since the date of the last general meeting. Shareholders' rights authorised by law in the register of shareholders commence from the date of the registration of the company with the state registrar. Then, in case of transfer of shares of an existing company, the rights attached to the shares will commence from the registration of the new shareholder in the register of shareholders, which is presumed to be correct evidence (CCC, Section 1139 and 1141).

56. For private companies that are liquidated, all documents, including the list of register of shareholders, should be deposited with the registrar within 14 days after the liquidation report is approved by the general meeting. Such information should be kept by the registrar for ten years as from the end of the liquidation, and open for inspection by any interested persons (CCC, Section 1271).

57. Private companies that fail to register the list of shareholders to the registrar will be subject to a fine (to the director of the company) not exceeding THB 10 000 (EUR 269) under Section 1139 of the Act Prescribing Offences Related to Registered Partnerships, Limited Partnerships, Limited Companies, Associations and Foundations (Act on Offences). If they failed to keep a register of shareholders, they will be liable to a fine not exceeding THB 2 000 (EUR 56) under Section 10 of the Act on Offences.

58. With regard to public companies, during the initial registration, the PLCA requires the registration with the registrar of a list of shareholders, with indication of their names, nationalities, addresses, the number of shares held, and reference numbers of share certificates (PLCA, Section 39). The PLCA does not specify the retention period for public companies to keep the legal ownership or identity information, but such information of public companies registered with the DBD is kept by the DBD permanently.

59. Similar to the case of private companies, public companies are required to keep a register of shareholders, which must at least contain: 1) the names, nationalities and addresses of shareholders; 2) the types, value, reference number and number of shares; and 3) the date on which each person was entered in the register as a shareholder or ceased to be a shareholder (PLCA, Section 61). Public companies may keep the register

of shareholders and evidence pertinent to all entries in the register at their principal business office or entrust another person to keep the register of such information on behalf of the company at any place, provided that the shareholders and registrar are notified of this (PLCA, Section 63). The law does not specify whether such information must be kept within Thailand, but the DBD confirmed that it should be kept within Thailand and in practice it has not encountered any cases where the information is kept outside of Thailand. Public companies are also required to file the latest list of shareholders to the registrar annually within one month from the date of the completion of the shareholders' general meeting (PLCA, Section 64).

60. For public companies that are liquidated, documents, including the register of shareholders, should be furnished to the registrar, which must keep it for a period of no less than three years as from the date on which the completion of the liquidation is registered (PLCA, Section 176). This retention period is shorter than the requirement of the standard to keep information for at least five years. However, since all public companies are required to submit the shareholders' information to the registrar on an annual basis, their information after the liquidation will be available with the registrar. Thailand confirmed that after the liquidation, practically such information is kept permanently in the database of the DBD.

61. Public companies that fail to register the list of shareholders with the registrar would be subject to a fine not exceeding THB 40 000 (EUR 1 070) and companies that fail to keep a list of shareholders with required information will be subject to a fine not exceeding THB 50 000 (EUR 1 346) (Section 196 and Section 200 of the PLCA).

62. Foreign companies (i.e. established under the laws of another jurisdiction) may conduct business in Thailand, for example through branches, representative offices or other types of permanent establishments, but are subject to different licensing rules under the Foreign Business Act, depending on the industry they intend to operate in. However, there are no legal requirements for all such foreign companies to register their legal ownership information with the DBD or keep a copy of their shareholder register available in Thailand, even where they have their main place of management there.

Company Law implementation in practice and enforcement actions

63. The DBD maintains an online public registry where relevant information of companies is kept and made available to the public, including the financial information and information on amount and proportion of shares by nationality. Shareholder information is however not publicly accessible on the online registration portal.

64. The Business Information Division under the DBD is responsible for receiving and maintaining the companies' filing of shareholders lists which are required to be submitted every year together with the financial statements. The Corporate Governance Division under the DBD is charged of conducting verification checks of the submission (including submitted documents) with the companies on a risk-based approach.

65. According to the statistics provided by the DBD, there were 646 336 companies including private and public companies registered in Thailand as on 31 August 2022. The numbers of companies registered with the DBD and the related annual filings of the list of shareholders between 2019 and 2021 are as follow:

Year	Number of companies	Numbers companies that have filed the list of shareholders	Filing rate
2019	562 345	367 711	65%
2020	582 193	409 316	70%
2021	612 580	442 518	72%

66. The average filing rate for the annual returns of lists of shareholders was 69%. There are still over 170 000 companies on average each year that do not complete the filings in Thailand. This raises concerns on the availability of accurate and up-to-date legal ownership information of companies maintained by the DBD. The DBD confirmed though that for companies that failed to submit the list of shareholders, it would send follow-up letters to them. No further enforcement actions including sanctions have been taken by the DBD towards those non-compliant companies. Under the CCC, companies can be treated as inactive companies and may be struck off from the register as per the prescribed procedures. Where the registrar has a reasonable cause to believe that a registered company is not carrying on business or in operation, e.g. not conducting annual filing of the list of shareholders and financial statements for three consecutive years as required, the registrar would send an inquiry letter to the company. If no answer is received from the company within 30 days or the company informs the registrar that it is no longer carrying on business or in operation, the registrar will publish in a local newspaper with a review to strike the company off the register, and send a notice to the company requiring acknowledgement of receipt. After 90 days from sending out the notice, the name of the company will be struck off the register (CCC, Section 1273/1). When the company is struck off from the register, it ceases to retain its legal personality even though the liability of the directors, managing officers and shareholders will continue and may be enforced as if the company had not ceased to exist (CCC, Section 1273/3). Companies struck off from the register may be restored

to the register and re-gain the personality as per applications from the companies, shareholders or creditors to the court, and such applications must be made within ten years from the date the companies were struck off (CCC, Section 1273/4). There are no legal requirements for companies to register the up-to-date legal ownership information upon restoration, and it is not clear whether the courts require such registration when deciding on restoration.

67. In practice, Thailand was not able to indicate the number of inactive companies, and how many inactive companies were struck off or restored every year. Thailand also has not done any other monitoring or supervising activities to inactive companies.

68. To ensure the information registered with the DBD is correct, the DBD has conducted various audits to the companies to verify the registered addresses (the so-called “location audits”) and also the payment of the contributions from shareholders, but no supervision activities have been taken to ensure the legal ownership information registered with the DBD is correct and accurate. There are also no actions taken by the DBD to the companies to ensure their obligations to maintain the list of shareholders as required by the CCC are abided by in practice. Nevertheless, as mentioned in paragraph 55, the register of shareholders is presumed to be correct evidence of any matters authorised by law and then, the new shareholder will have shareholding rights only once registered in this register of shareholders. Consequently, it is in the interest of the shareholders to ensure the accuracy and update of this register.

Anti-money laundering law requirements

69. Under the AML rules, a wide range of financial institutions and service providers are required to perform Customer Due Diligence (CDD) and identify their customers and the customers’ beneficial owner(s), though not all legal entities including companies are required to engage an AML-obliged person. AML-obliged persons must understand the nature of the customers’ business, including structure of management or ownership and controlling power, of such legal entities, including companies (MR CDD, Art. 19). This might not result in knowing the full legal ownership of the customers but could provide useful information to complement or cross-check the main source of legal ownership information under the company law in Thailand. As the AML obligations are particularly relevant in relation to the availability of beneficial ownership information, they will be analysed in detail in the related sections.

Availability of legal ownership information in EOIR practice

70. During the review period, Thailand received 17 requests from exchange partners that were relevant to legal ownership information, including 11 requests that were related to companies. Thailand confirmed that all those 17 requests were eventually responded with relevant information. However, there were significant delays by Thailand to respond to those requests, but Thailand reported that this was mainly due to the consequences of the COVID-19 pandemic (as analysed under Element C.5.1), rather than the unavailability of the legal ownership information, as in practice the CA would be able to obtain such information from the DBD database. No significant issues were raised by the peers on availability of legal ownership information of companies.

Conclusions

71. Thailand has a legal and regulatory framework in place to ensure that legal ownership information of companies is available. All private companies and public companies are required to register with the DBD and submit the legal ownership information. They are also required to keep the legal ownership information by themselves and file the list of shareholders to the registrar annually, which ensures that the legal ownership information maintained by the DBD at its database is regularly updated. Partial legal ownership information of companies in Thailand may also be available with the AML-obliged persons under the AML law when they are engaged with the AML-obliged persons, which to some extent supplement the availability of legal ownership information under the company law.

72. Foreign companies in Thailand are required to be licensed by the Thai authorities, but there are no legal requirements to register or keep a copy of their shareholder register available in Thailand. The standard requires that legal ownership information on foreign companies having a sufficient nexus to the jurisdiction be available there, i.e. at least for companies that have their main place of management there. **Thailand is recommended to ensure that legal ownership and identity information of relevant foreign companies is available in line with the standard.**

73. Thailand's legal and regulatory framework provides for sanctions for non-compliance with the requirements for companies to keep, register and annually file the shareholder information to the registrar. However, there were large numbers of companies that failed to complete the annual filings of lists of shareholders during the review period, and no effective enforcement actions have been taken by the DBD to those non-compliant companies, even though follow-up letters were sent to those non-compliant companies. Thailand was not able to provide the numbers of inactive

companies that have been struck off by the DBD according to the provisions in the CCC. For companies that were struck off but then restored, there are no legal requirements for registering their up-to-date legal ownership information. In addition, ongoing monitoring and supervision activities to companies conducted by the DBD were not sufficient and no audit or similar activities have been taken towards these companies with respect to their obligations to keep the lists of shareholders and annually file such lists. **Thailand is recommended to enhance its supervision and monitoring activities towards companies to ensure that in practice their legal ownership information is available and accurate in all cases, and where non-compliance is identified, enforcement measures including sanctions should be taken.**

Availability of beneficial ownership information

74. The standard of transparency requires that beneficial ownership information be available on companies. In Thailand, the AML legal framework is the only source of beneficial ownership information. There are no obligations under the company law or tax law to ensure the availability of beneficial ownership information in Thailand.

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

Type	Company Law	Tax Law	AML Law
Company limited (private company)	None	None	Some
Public limited company (public company)	None	None	Some
Foreign companies (tax resident) ⁵	None	None	All

Definition of beneficial owner

75. In Thailand, the Anti-Money Laundering Act (AMLA) does not specify the definition of beneficial owner. The Ministerial Regulations on Customer Due Diligence (MR CDD) however set out the definition of beneficial owner and related rules for the AML-obliged persons to identify the beneficial owners of their customers. Article 3 of the MR CDD provides for the definition of beneficial owner as follows:

5. 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-obliged service provider that is relevant for the purposes of EOIR. (Terms of Reference A.1.1 Footnote 9).

“ultimate beneficial owner” means a natural person who ultimately owns or controls the business relationships of a customer of a financial institution or a person engaging in a profession under section 16 (AML-obliged persons defined in Section 16 of the AMLA) or the natural person on whose behalf a transaction is being conducted by the customer or the person(s) who ultimately have a controlling ownership interest in a legal person or a legal arrangement.

76. Although this definition is not fully aligned with the definition of the beneficial owner given by the standard, the MR CDD further require the AML-obliged persons to identify the beneficial owner(s) of the customer that is a legal person and take reasonable measures to verify the identity of such persons as follows (MR CDD, Art. 20(1)):

(1) for legal persons:

(a) the identity of the natural persons who exercise controlling power over the legal person, taking into account the fact of receiving benefit or ownership;

(b) to the extent that there is doubt whether the person(s) with the controlling power is the beneficial owner or where no natural person exerts controlling power under (a), the identity of the natural persons who exercising controlling power shall be identified by other means;

(c) where no natural person is identified under (b) above, financial institutions and persons engaging in professions under section 16 shall identify and take reasonable measures to verify the identity of the relevant natural person who holds the position of senior managing official.

77. The binding Guideline on CDD issued by the AMLO further specifies that when applying step (a) of Article 20(1) of the MR CDD, the AML-obliged persons are required to apply a threshold of 25% in identifying the beneficial owners through the controlling ownership interest.

78. The method of identification of beneficial owner for legal persons, including companies, in the MR CDD applies a cascading approach (three steps) to identify the beneficial owners. However, Article 20(1)(a) does not expressly cover direct and indirect ownership and control of the legal person. It also does not cover circumstances where natural persons act together to exert control, i.e. joint control (and so, two or more natural persons, each having less than a controlling share of a company, may together control the company and therefore each such natural person would be a beneficial owner). In addition, while Article 20(1)(b) sets out the second cascading approach to identify the beneficial owners that control the legal

person by other means, it is unclear what other means this provision refers to, and there is a lack of guidance to the AML-obliged persons in applying this provision. It is also not clear whether the reference to controlling “ownership” interest in Article 3 of the MR CDD narrows down the scope of “controlling power” in Article 20(1)(b). **Thailand is recommended to ensure that the definition and the method of identification of the beneficial owner(s) for legal persons, including companies, in the AML legal framework is in line with the standard and that the information on beneficial owner(s) of companies is available in all cases in accordance with the standard.**

Customer Due Diligence requirements of AML-obliged persons

79. In Thailand, it is not mandatory for companies to engage an AML-obliged person, even though in practice the companies might hold bank accounts in Thailand. It is also not required to engage an AML-obliged person during the process of setting up a company in Thailand. This means that the beneficial ownership information of all companies may not always be available.

80. Under the AMLA, an AML-obliged person, which can be a financial institution defined in Section 3 of the MR CDD⁶ or a DNFBP defined in Section 16 of the MR CDD⁷ (which does not include lawyers and auditors) is required to identify the beneficial owners of the customer through the CDD procedures when establishing business relationship or carrying out specified occasional transactions (MR CDD, Art. 16). AML-obliged persons are required to identify the ultimate beneficial owners and take appropriate

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6. According to Section 3 of the MR CDD, “financial institution” means 1) a commercial bank, finance company and *credit foncier* company under the law on financial businesses and special financial institution established by law; 2) a securities company under the law on securities and exchange; 3) a life insurance company under the law on life insurance and an insurance company under the law on insurance; 4) co-operatives with operating capital exceeding THB 2 million (EUR 54 292) of total share value and having objectives of its operation relating to acceptance of deposits, lending of loans, mortgage, pawning or acquiring of money or asset by any means; and 5) a legal person carrying on such other businesses related to finance as prescribed in the Ministerial Regulation.
7. According to Section 16 of the MR CDD, DNFBPs in Thailand includes the following professions relevant to this review, when they are not financial institutions: 1) undertaking provision of advice or being an advisor in transactions relating to the investment or movement of funds, under the law governing securities and stock exchange; 4) acting as a broker or an agent in buying or selling immovable property; 6) relating to personal loan under supervision for businesses; 7) relating to electronic money card or credit card; 8) conducting some financial businesses under the law on exchange control.

measures to verify their identity using documents, data or information from reliable sources in addition to those obtained from the customer (MR CDD, Art. 17(2)). The Guidance on CDD sets out detailed rules regarding the identification of beneficial owners of customers, including verifications of documents provided by customers. If all three steps as set out in the definition were taken by the AML-obliged persons and beneficial owners could still not be established, in conjunction with the fact that the customer certainly has high risk factor, the bank must reject the request for establishing business relations or conducting transactions (Guidance on CDD, Section 3.2).

81. The information that should be kept on beneficial owners by the AML-obliged persons includes their full name, national identification number issued by the government and address or nationality (Guidance on CDD, Section 3.2).

82. Article 6 of the MR CDD requires AML-obliged persons to ensure that documents, data or information collected is kept up to date until the business relationship with the customer is terminated. Where there is suspicion in correctness of the information provided by the customer, the AML-obliged persons should identify and verify the customer again (Guidance on CDD, Section 4.1). However, there is a lack of a specified frequency for updating the beneficial ownership information after the initial CDD measures, even though in practice AML-obliged persons are advised by the AMLO in various communications to update the CDD information for high-risk customers at least annually, medium-risk customers at least every two years and low-risk customers at least every three years. However, such communications from the AMLO were not verified by the representatives from the financial sector during the assessment team's onsite visit to Thailand. **Thailand is recommended to set out a specified frequency for AML-obliged persons to update the beneficial ownership information of companies after the initial CDD measures.**

83. AML-obliged persons are required to identify the beneficial owners regardless of the risk level of the customers, i.e. under both Simplified CDD for low-risk customers and Enhanced CDD for high-risk customers. For Enhanced CDD, there are additional requirements to verify the sources of funds, to obtain approval from senior executives in establishing the relationship and conducting risk review; and to conduct enhanced transaction monitoring (MR CDD, Art. 12).

84. With regard to the retention period for AML-obliged persons to keep the beneficial ownership information, Section 22/1 of the AMLA requires AML-obliged persons to keep due diligence records, including the identified beneficial ownership information, for ten years from the date the account is closed or relationship is terminated. With regard to the AML-obliged persons

that ceased to exist, there are no legal requirements in Thailand for anyone to keep the customer information. The authorities consider that in practice relevant information would normally be transferred to the new AML-obliged persons that take over the business of the deceased/liquidated AML-obliged persons. As it may happen that no person takes over the business and clients of an AML-obliged person that ceased to exist, **Thailand is recommended to ensure that beneficial ownership information of all relevant entities and arrangements is available in line with the standard.**

85. Reporting entities may rely on other third-party AML-obliged persons to perform the CDD measures (MR CDD, Art. 46). However, there are certain conditions to be met, requiring 1) the third party shall provide immediately the necessary CDD information to the AML-obliged persons; 2) the third party shall make available copies of relevant CDD documentation or other data and information of the customers immediately upon request; 3) the third party is under proper regulation and supervision of relevant competent authorities; 4) the third party completes the customer due diligence procedures and record-keeping requirements on its customer; and 5) in of the case of instances where the third party is located in and operates in foreign countries, AML-obliged persons shall take risk level of those countries into consideration in the assessment of the reliability of the said third party. AML-obliged persons shall be held responsible when the third party fails to perform the CDD process, record-keeping requirements or fails to fully comply with required CDD procedures (MR CDD, Art. 47). These conditions meet the standard. During the onsite visit, the representatives from the financial sector indicated that it is not a general practice for AML-obliged persons in Thailand to rely on the CDD information of other parties, unless there is a need as such due to specificities of certain types of businesses.

86. AML-obliged persons that fail to conduct the CDD measures and identify the beneficial owners of customers, and keep related information are subject to a fine not exceeding THB 1 million (EUR 26 894) and an additional amount not exceeding THB 10 000 (EUR 269) for each following day until rectification is made (AMLA, Section 62).

Implementation in practice and enforcement measures

87. The AMLO is responsible for overseeing the application and compliance of the AML-obliged persons. It regularly conducts off-site monitoring and on-site inspections to ensure that the AML-obliged persons are fully complying with their AML obligations, including keeping the beneficial ownership information. Thailand stated that among all AML-obliged persons there are 14 575 DNFBPs and 35 banking institutions. Banking institutions in Thailand generally have a good level of understanding of the requirements to identify the beneficial owners of their customers as required by the AML law.

88. The process of the inspection action starts from the analysis of the company profile and the related risk assessment documents, results of which are used to develop the annual supervision plan of the AMLO. In detail, for off-site monitoring, the AMLO first analyses an AML-obliged person's profiles through a dedicated system, i.e. Risk Assessment and Case Management for Reporting Entities System (AMRAC), which includes the information of the AML-obliged person's size, structure and products and service. Then the AMLO reviews the AML-obliged person's AML policies and procedures. After that, each AML-obliged person is given a score (low, medium low, medium high and high), which is forwarded to the on-site team to develop on-site inspection plans.

89. The Examination Division of the AMLO develops the on-site inspection plans every year, taking into account the risk scores of the AML-obliged persons; topics of the on-site visits which include beneficial owners identification and record keeping; and capacity of the officials. Onsite inspections are carried out by interviewing employees, reviewing documents, walking through the procedures and sampling tests.

90. Between 2019 and 2021, especially after the MR CDD came into force in 2020, the AMLO has undertaken various supervisory measures towards AML-obliged persons to ensure they are compliant with the AML obligations, including the identification of beneficial ownership information. Due to the COVID-19 pandemic, physical on-site inspections had been done at the beginning of the pandemic but then adjusted to online or virtual inspections. Statistics of the supervisory actions undertaken by the AMLO during those three years are illustrated in the table below.

Year	Number of off-site monitoring	Number of on-site inspections
2019	518	66
2020	1 456	305
2021	2 391	219

91. Where non-compliance is not identified but the procedures of an AML-obliged person can be enhanced, suggestions would be made by the AMLO to the AML-obliged person. In case minor deficiency was identified, a remedial action plan was issued to the AML-obliged person to rectify the deficiency within a specified timeline. Where serious deficiencies exist, such as lack of beneficial ownership identification process, a remedial action plan will be issued together with relevant fines or other sanction measures as per the AMLA. The AMLO also follows up with the related entities to ensure that the identified deficiencies are all appropriately addressed. The table below summarises the sanctions that the AMLO has imposed to non-compliant AML-obliged persons between 2019 and 2022, including statistics

on numbers and types of AML-obliged persons that were sanctioned, the amount of fines, and the related deficiencies that have been identified.

Year	Type of AML-obliged persons (number)	Amount of fines	Deficiencies identified
2019	Bank (12) E-payment company (1)	THB 8 182 500 (EUR 226 827)	<ul style="list-style-type: none"> • Customer identification, verification including identification of beneficial owners • Record keeping • Suspicious Transaction Reporting
2020	Personal loan institution (1)	THB 7 927 000 (EUR 215 107)	<ul style="list-style-type: none"> • Customer identification, verification including identification of beneficial owners • On-going customer monitoring
2021	Bank (9) Personal loan institution (1)	THB 15 658 167 (EUR 424 900)	<ul style="list-style-type: none"> • Customer identification, verification including identification of beneficial owners • Risk Management • On-going customer monitoring • Record keeping • Suspicious Transaction Reporting
2022	Bank (2)	THB 1 299 500 (EUR 35 263)	<ul style="list-style-type: none"> • Customer identification, verification including identification of beneficial owners

92. During the review period, the supervision and enforcement actions taken by the AMLO towards financial institutions was sufficient. However, no actions were taken by the AMLO to the non-financial professions. Considering that the AML law is the only source of beneficial ownership information in Thailand, the lack of sufficient oversight and enforcement to the AML-obliged persons that are non-financial professions causes concerns on the availability of beneficial ownership information held by them in Thailand.

Nominees

93. In Thailand, there is no legal prohibition for a Thai person to hold shares for another Thai person, i.e. a Thai person can act as the nominee shareholder for another Thai person in a company. There are no requirements under the CCC to indicate the nominators with the DBD when registering a company and there are also no requirements to disclose the identity information of the nominators to the companies where there is a nominee arrangement. The DBD also confirms that in practice it is difficult to detect if such a nominee arrangement exists or not. Under the AML law, there are no requirements for nominee shareholders to disclose their nominators, even in the case where the nominees are lawyers or accountants,

as lawyers and accountants are not AML-obliged persons. Where a company engages with an AML-obliged person in Thailand, e.g. opening a bank account in Thailand, the beneficial owners should be identified by the AML-obliged person, looking through any nominee arrangement. However, through the process of the identification of beneficial owners, the AML-obliged persons may still not be able to identify the nominee arrangement if the nominee shareholders are not beneficial owners of the company. Where there is information indicating that the customer has a nominee shareholder, the AML-obliged person should consider it as a high-risk factor in conducting customer risk assessment, and apply enhanced CDD procedures (Guidance on CDD, Section 2.2.2). However, in practice it may be difficult for the AML-obliged persons to know the existence of a nominee arrangement since there is no obligation to disclose the nominee status and the nominator's information. It is also not mandatory for a company to engage with an AML-obliged person in Thailand. **Thailand is recommended to ensure that nominees acting as the legal owners on behalf of any other persons disclose their nominee status and make identity information on the nominators available to the company, the registrar and other relevant persons (such as AML-obliged persons).**

94. For purpose of regulating foreign investments, the Foreign Business Act specifies that Thai persons that act as nominees for foreign shareholders to enable the company to operate in certain business sectors, so as to circumvent the rules of the Foreign Business Act, commit a criminal offence, and are liable to imprisonment for a term not exceeding three years or to a fine of THB 100 000 to THB 1 million (EUR 2 715 to EUR 26 894), or both (Section 36). However, it is not clear what supervisory or enforcement actions have been taken by the Thai authority to ensure such anti-circumvention rules are effectively implemented in practice. Thailand should take enforcement actions to ensure that the prohibition rules for Thai persons to act as nominee shareholders for foreigners are effectively implemented in practice (See Annex 1).

Availability of beneficial ownership information in EOIR practice

95. During the review period, Thailand received 10 requests from exchange partners that were relevant to beneficial ownership information, including that related to companies. There were significant delays by Thailand to respond to those requests, but Thailand reported that this was mainly due to the consequences of the COVID-19 pandemic (as analysed under Element C.5.1) and the issue on access power (as analysed under Element B.1), rather than the unavailability of the beneficial ownership information. No particular issues were raised by the peers on this.

Conclusions

96. Under the AMLA, AML-obliged persons must conduct CDD and identify the beneficial owners of their customers, including companies. This constitutes the only source of beneficial ownership information on companies in Thailand. However, not all Thai companies are required to engage an AML-obliged person in Thailand, thus beneficial ownership information of companies that are not covered by the AML obligations may not be available. **Thailand is recommended to ensure that beneficial ownership information of all companies is available in all cases in line with the standard.** As for the identification of beneficial owners, there is a lack of guidance to the AML-obliged persons that direct and indirect ownership and control, and joint control should be considered when applying the controlling ownership interest to identify the beneficial owners, and the scope of control by other means is unclear and potentially narrow. It also appears that there is a lack of sufficient understanding of this issue at the supervision authority and the AML-obliged persons. **Thailand is recommended to ensure that the definition and method of identification of the beneficial owner(s) for companies in the AML legal framework is in line with the standard and that the information on beneficial owner(s) of companies is available in all cases in accordance with the standard.**

97. With regard to the updating of the beneficial ownership information, even though the AMLO has made suggestions in its communications to the AML-obliged persons that ongoing CDD should be conducted based on the risk level of the customers, and advised the specified frequencies to update the CDD information for low-risk, medium-risk and high-risk customers, these suggestions have not been formalised in any binding rules or guidance. **Thailand is recommended to set out a specified frequency for AML-obliged persons to update the beneficial ownership information of companies after the initial CDD measures.**

98. In relation to effective implementation in practice, there appears to be no oversight and enforcement actions from the supervisory authority towards the AML-obliged persons that are in professions of non-financial institutions, which causes concerns on the availability of beneficial ownership information of companies held by those persons in non-financial institution professions. **Thailand is recommended to strengthen the supervision and enforcement actions over AML-obliged persons in professions of non-financial institutions, to ensure the availability of adequate, accurate and up-to-date beneficial ownership information of companies in line with the standard.**

A.1.2. Bearer shares

99. In Thailand, limited companies (private companies) can issue bearer shares as per authorisation of the internal regulations of the companies. Bearer shares can only be issued for shares that are fully paid up (CCC, Section 1134) and the transfer of the bearer shares must be consented by the general meeting of company unless otherwise provided by the regulations of the company (CCC, Section 1129).

100. In September 2014, the DBD issued a Notification Prescribing Additional Particulars in the Register of Shareholders and the Copy of List of Shareholders of Limited Company (2014 DBD Notification), which requires companies that have issued bearer shares to add to the bearer share certificates the information of the owners or beneficiaries of such bearer shares. Bearer share holders that fail to co-operate with the companies to identify such information would be prevented from exercising certain rights, such as receiving dividends, attending and voting in the general meetings (CCC, Section 1175 and Section 1204). The information of the owners or beneficiaries of the bearer shares must also be added to the list of the shareholders of the companies, including name, sex, age, national identification number or passport number, and numbers of shares held (2014 DBD Notification, Art. 2 and the appendix) and such lists of shareholders have to be submitted to the DBD annually. Contravening those requirements would be subject to a fine not exceeding THB 20 000 (EUR 543) (Act on Offences, Section 10).

101. The DBD considers that there were no limited companies that had issued bearer shares in Thailand, as they have no companies which have filed the information of the owners of bearer shares with them. However, the absence of filing may also reveal non-compliance with the 2014 DBD Notification. No actions have been taken by the DBD, e.g. conducting surveys to the limited companies and checking the regulations of companies including articles of associations, to verify that in practice, no limited companies have ever issued bearer shares in Thailand. **Thailand is recommended to take supervisory and enforcement actions to confirm that there are no bearer shares issued in Thailand, and if there are, that their owners or beneficiaries are registered with the DBD as required.**

A.1.3. Partnerships

102. Jurisdictions should ensure that information is available to their competent authorities that identifies the partners in, and the beneficial owners of, any partnership that (i) has income, deductions or credits for tax purposes in the jurisdiction, (ii) carries on business in the jurisdiction or (iii) is a limited partnership formed under the laws of that jurisdiction.

Types of partnerships

103. The law in Thailand provides for the creation of two types of partnerships, which are ordinary partnerships (or general partnerships) and limited partnerships. Both natural persons and entities can be partners in a partnership set up under the CCC in Thailand. For ordinary partnerships, they may choose not to register under the CCC, thus they will not obtain legal personality, and are treated in the same way as natural persons. Such unregistered ordinary partnerships would not be able to sign contracts and are not able to open bank accounts on the names of the partnerships, which is done by the individual partners on their own names directly.

104. An ordinary partnership is a partnership in which all the partners are jointly and unlimitedly liable for all the obligations of the partnership (CCC, Section 1025). The CCC sets out three approaches for the management of an ordinary partnership as follows (CCC, Sections 1033, 1034 and 1035):

- Where there is no agreement among the partners as to the management of the partnership, such partnership may be managed by each of the partners provided that no partner may enter into a contract to which another partner objects, and in such case, each partner is deemed the managing partner of the ordinary partnership.
- Where it is agreed that matters relating to the business of the partnership shall be decided by a majority of partners, each partner shall have one vote, irrespective of the amount of its contribution.
- Where it is agreed that the partnership shall be managed by several managing partners, the partnership may be managed by each of the managing partners, provided that no managing partner may do anything to which another managing partner objects.

105. A limited partnership is a partnership in which there are one or more partners whose liability is limited to such amount as they may undertake to contribute to the partnership; and one or more partners who are jointly and unlimitedly liable for all the obligations of the partnership (CCC, Section 1077). A limited partnership must be managed only by the partners with unlimited liability, but if a partner with limited liability interferes with the management of the partnership, such person becomes jointly and unlimitedly liable for all the obligations of the partnership (CCC, Sections 1087 and 1088).

106. As of 31 August 2022, there were 866 general partnerships and 202 208 limited partnerships registered in Thailand, including 3 foreign general partnerships and 111 foreign limited partnerships.

Identity information

107. A general partnership may register with the DBD to obtain legal personality, but it is not mandatory. When registering, the general partnership must provide the names, trade names (if applicable), addresses and occupations of every partner (CCC, Section 1063). Where there are any changes in managing partners, the registered partnership should register such changes with the DBD within 14 days from the date of such change (CCC, Section 1064/2), but it is unclear under the Thai law if changes of the other general partners should also be registered and the DBD was not able to confirm in practice whether partnerships register such information.

108. Unlike a general partnership, a limited partnership must register with the DBD, and submit the names, trade names, addresses and occupations of both partners with limited liability and partners with unlimited liability (CCC, Section 1078). Any changes of the managing partners of a limited partnership should be registered with the DBD within 14 days as from the date of such change (CCC, Section 1078/2), but it is unclear if changes of the limited partners should also be registered.

109. After registration with the DBD, limited partnerships and registered general partnerships will gain legal personality, and from the date when the partnership gains legal personality, it will be able to conduct business in Thailand. Limited partnerships or registered general partnerships that fail to register the changes of the managing partners as required by the CCC shall be liable to a fine not exceeding THB 20 000 (EUR 537) (Act on Offences, Section 4/1).

110. With regard to partnerships having ceased to exist, similar to the case of private companies, where limited partnerships and registered general partnerships are liquidated, all documents, including the identity information of partners, should be deposited with the registrar within 14 days after the liquidation report is approved by the general meeting. Such information should be kept by the registrar for ten years as from the end of the liquidation and be open for inspection by any interested persons (CCC, Section 1271). Relevant legal provisions regarding inactive companies in the CCC equally apply to inactive partnerships (CCC, Chapter VI). In practice, Thailand was not able to confirm the number of inactive partnerships, and how many inactive partnerships were struck off or restored every year. No monitoring or supervision activities have been taken to inactive partnerships as such.

111. Similar to the case of foreign companies, foreign partnerships may conduct business in Thailand through branches, representative offices or other types of permanent establishments, but subject to the licensing rules under the Foreign Business Act, depending on the industry they intend to operate in. However, it is unclear if the identity information of such foreign partnerships should be registered with the DBD.

112. Similar to the case of companies, identity information of partnerships in Thailand is not required to be submitted to the tax authority. Where partnerships engage with AML-obliged persons in Thailand, e.g. banks, some identity information of the partners may also be available with the AML-obliged persons through the CDD procedures as required under the AML law. This is the same as that has been discussed in Element A.1.1 for companies.

113. To conclude, the identity information of limited partnerships and registered general partnerships is available by registering with the DBD. But only changes of the managing partners of the partnerships are required to be submitted to the DBD. It is unclear if changes to the non-managing partners also need to be registered with the DBD. In addition, it is not mandatory for general partnerships to register with the DBD, thus for those general partnerships that are not registered with the DBD, their identity information may not be available as there is no legal obligations for the partnerships to maintain the identity information of all the partners. **Thailand is recommended to ensure that identity information of all partnerships including foreign partnerships is always available in line with the standard.**

Beneficial ownership

114. Similar to companies, beneficial ownership information of partnerships is available under the AML legal framework, which is the only source of beneficial ownership information of partnerships in Thailand. Under the AML rules, where partnerships engage with AML-obliged persons, e.g. banks, the AML-obliged persons are required to conduct CDD procedures and identify the beneficial owners of the partnerships.

115. In terms of the definition of beneficial owners for partnerships, limited partnerships and general partnerships operate differently to companies, especially as concerns control, as the decision-making in companies is linked to capital contribution, while in partnerships, it follows the partnership agreements, e.g. for ordinary partnerships, the CCC has provided three types of management (see paragraph 104). In a limited partnership, a limited partner's capital contribution may be more than 25% as required in the Guidance on CDD, but it may not participate in the decision-making process for the operation of the partnership (CCC, Section 1087), thus would not be a beneficial owner. Therefore, beneficial owners of partnerships would not always be identified by mechanically applying the definition of the beneficial owners for legal persons under the AML rules. The same applies to foreign partnerships, depending on their governing laws. In Thailand, there is a lack of guidance given to the AML-obliged persons that the identification of beneficial owner(s) of partnerships should consider the form and structure of the partnerships.

116. In addition, the issues identified regarding the definition of beneficial owners for companies and the CDD procedures in Element A.1.1 are equally applied to partnerships. There is a lack of guidance to the AML-obliged persons that direct and indirect ownership and control, and joint control should be considered when applying the controlling ownership interest to identify the beneficial owners, and the scope of control by other means is unclear. And similar to companies, beneficial ownership information of partnerships in Thailand is only available by the AML-obliged persons under the AML rules. However, not all partnerships are required to engage an AML-obliged person in Thailand. **Thailand is recommended to ensure that the definition and the method of identification of the beneficial owner(s) for partnerships in the AML legal framework is in line with the standard and the information on beneficial owner(s) of partnerships is available in all cases in accordance with the standard.**

117. As the case of companies, there are also no specified frequencies for AML-obliged persons to update the beneficial ownership information of partnerships after the initial CDD measures. **Thailand is recommended to set out specified frequency for AML-obliged persons to update the beneficial ownership information of partnerships after the initial CDD measures.**

118. With regard to the retention period for AML-obliged persons to keep the beneficial ownership information of partnerships, the same rules as those for companies would apply, i.e. such information should be kept for ten years from the date the account is closed or relationship is terminated (AMLA, Section 22/1). The same penalty rules as those in the case of companies also apply to AML-obliged persons that fail to conduct the CDD measures and identify the beneficial ownership information of partnerships (AMLA, Section 63), as discussed in Element A.1.1.

Oversight and enforcement

119. In relation to the oversight and enforcement actions to ensure identity information of partnerships is available in practice, similar to the case of companies, no supervisory actions have been taken by the DBD to ensure the identity information registered with them is correct and partnerships have submitted the information regarding changes of partners as required, even though audits have been taken to verify the registered addresses or the payment of contributions by the partners as required. Thailand also does not monitor the numbers of the numbers of inactive partnerships that have been struck off by the DBD according to the provisions in the CCC. **Thailand is recommended to enhance its supervision and monitoring activities to ensure that the requirements to partnerships are implemented effectively in practice and where non-compliance is identified, enforcement measures including sanctions should be taken.**

120. For the oversight and enforcement actions to ensure beneficial ownership information of partnerships is available in practice, the AMLO has taken various measures to the AML-obliged persons, including off-site monitoring and on-site inspections, as discussed in Element A.1.1. Similarly, there appears to be no oversight and enforcement to the AML-obliged persons that are not financial institutions, which causes concerns on the availability of beneficial ownership information of partnerships held by those persons in non-financial-institution professions in Thailand. **Thailand is recommended to strengthen the supervision and enforcement actions over AML-obliged persons in professions that are non-financial institutions to ensure the availability of adequate, accurate and up-to-date beneficial ownership information of partnerships in line with the standard.**

Availability of partnership information in EOIR practice

121. During the review period, Thailand did not receive any requests from exchange partners that were relevant to identity or beneficial ownership information of partnerships.

A.1.4. Trusts and similar arrangements

122. Jurisdictions should take all reasonable measures to ensure that beneficial ownership information is available to their competent authorities in respect of express trusts (i) governed by the laws of that jurisdiction, (ii) administered in that jurisdiction, or (iii) in respect of which a trustee is resident in that jurisdiction.

123. Thailand's legislation does not provide for the creation, operation and management of express trusts or other similar legal arrangements, and Thailand is not a signatory to the Hague Convention on the Law Applicable to Trusts and Their Recognition. The only existing trusts in Thailand are Real Estate Investment Trusts created under the Trust for Transactions in Capital Market Act and are publicly traded for being listed on the Stock Exchange of Thailand.

Foreign trusts

124. In Thailand, there are no restrictions that prevent a resident of Thailand, e.g. a lawyer or an accountant from acting as a trustee or administrator of a trust formed under foreign laws. The trustees as such are responsible for the tax filings of the trust beneficiaries where they have income from Thailand (Revenue Code, Section 62). In Thailand, lawyers and accountants are not AML-obliged persons under the AML legal framework, thus they do not have CDD obligations to identify and maintain the identity

and beneficial ownership information of those foreign trusts. Where such foreign trusts are engaged with an AML-obliged person in Thailand, such AML-obliged person would be required to identify the beneficial ownership information as the case of companies and partnerships under the AML rules. However, it is not mandatory for a foreign trust with trustee(s) resident in Thailand to engage an AML-obliged person in Thailand. Thus the related beneficial ownership information may not be available in all cases. **Thailand is recommended to ensure that beneficial ownership information of all foreign trusts and similar arrangements with trustee(s) or administrator(s) resident in Thailand is always available in line with the standard.**

125. With regard to the definition of beneficial owners for trusts or similar legal arrangements, the MR CDD sets out the follows (MR CDD, Art. 20(2)):

(2) for legal arrangements:

(a) in case of a trust – the identity of the settlor, the trustee(s), the protector, the beneficiaries or class of beneficiaries, and any other natural person exercising ultimate effective control over the trust including any person in a chain of control/ownership;

(b) in case of a trust under the law on trusts for transactions in the capital market – the identity of the settlor, the trustee(s), the beneficiaries, the purposes of the trust and the asset to be placed under the trust;

(c) for other types of legal arrangements – the identity of persons in equivalent or similar positions under (a) or (b) as the case may be.

Where customers are legal arrangement, financial institutions and persons engaging in professions under section 16 shall arrange for disclosure of status for trustee(s) or persons in equivalent or similar positions from the establishment of business relationship or the conduct of occasional transaction with customers.

126. This definition of beneficial owners for trusts and similar legal arrangements has captured all the persons participating in a trust that must be identified according to the standard. The clause on “any other natural person exercising ultimate effective control over the trust including any person in a chain of control/ownership” is not explained. However, the AMLO interprets that where the parties in a trust are not natural persons, such “look through” approach should always be applied.

127. As for the requirements to update the beneficial ownership information, retention period and the related sanctions rules for non-compliance of

the AML-obliged persons, the same rules as that discussed for companies and partnerships under Element A.1.1 and Element A.1.3 are equally applicable for foreign trusts. **Thailand is recommended to set out a specified frequency for AML-obliged persons to update the beneficial ownership information of foreign trusts and similar legal arrangements after the initial CDD measures.**

Oversight and enforcement

128. For the oversight and enforcement actions to ensure beneficial ownership information of foreign trusts is available in practice, the AMLO has taken various measures to the AML-obliged persons, including off-site monitoring and on-site inspections, as discussed in Element A.1.1. Similarly, there appears to be no oversight and enforcement to the AML-obliged persons that are non-financial institutions, which causes concerns on the availability of beneficial ownership information of foreign trusts held by those persons in professions that are non-financial institutions in Thailand. **Thailand is recommended to strengthen the supervision and enforcement actions over AML-obliged persons in professions that are non-financial institutions to ensure the availability of adequate, accurate and up-to-date beneficial ownership information of foreign trusts and similar arrangements in line with the standard.**

Availability of trust information in EOIR practice

129. During the review period, Thailand did not receive any requests from exchange partners that were relevant to identity or beneficial ownership information of trusts or similar legal arrangements.

A.1.5. Foundations

130. In Thailand, foundations are NPOs. A foundation consists of property specially appropriated to public charity, religious, art, scientific, education or other purpose for the public benefit and not for sharing profit (CCC, Section 110). Constitutions or regulations of the foundations are required to be submitted to the registrar for review and subject to the decision of the registrar, a registration certificate will be issued to the foundation (CCC, Section 115). As of October 2022, there were 14 476 foundations registered in Thailand.

131. Upon liquidation of a foundation, the remaining assets shall be transferred to any other foundation or legal person whose object is in line with Section 110 of the CCC, i.e. non-profit purposes, or closely similar to that of such foundation, or to vest in the State (CCC, Section 134). Foundations which carry on business that produces revenue is subject to Corporate

Income Tax in Thailand, however registration fees or maintenance fees from members, or cash or assets received as donations or gifts, whichever the case may be, shall not be included for tax computation (Revenue Code, Section 65 Bis (13)).

132. Considering the above features of the foundations in Thailand, they are not relevant to the exchange of information for tax purposes and only a brief overview of their legal structure and ownership and identity information requirements is given here in this section.

133. All foundations in Thailand must register with the Permanent Secretary of the Ministry of Interior (MOI), which is the registrar for foundations, and submit the required information including the list of names, address, and occupation of all members of the board of directors of the foundation according to Sections 112 and 114 of the CCC. Any changes of the directors should be registered with the registrar within 30 days after such new appointment or alteration of directors (CCC, Section 125). Any person who uses “foundation” as part of its name in business activities without forming a registered foundation under the CCC will be liable to a fine or not exceeding THB 20 000 (EUR 543) and to an additional fine at a daily rate not exceeding THB 500 (EUR 14) until discontinuance of such use (Act on Offences, Section 60). Foundations that failed to register the changes of appointment of directors to the registrar as required will be liable to a fine not exceeding THB 10 000 (EUR 271) (Act on Offences, Section 63).

134. Similar to the case of companies and partnerships in Thailand, as legal persons, AML-obliged persons are required to identify the beneficial owner(s) of foundations where they are engaged, as required by the AML rules. The same definition of beneficial owners for companies applies to the foundations in Thailand, and relevant rules regarding the due diligence procedures for identifying the beneficial owner(s) for foundations by AML-obliged persons are the same as that discussed under Section A.1.1 for companies.

A.2. Accounting records

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

135. Thailand’s Accounting Act places necessary requirements of maintaining reliable accounting records with underlying documentation for all companies, limited partnerships and registered general partnerships, including foreign companies and partnerships carrying out business activities in Thailand. However, requirements for foreign trusts to keep accounting records, including underlying documentation, are not clear in the Thai legal framework.

136. Accounting records including underlying documentation are required to be kept for at least five years under the CCC and Accounting Act, which is in line with the standard. However, there is a legal gap regarding the retention period of keeping accounting records for public companies that cease to exist.

137. With regard to the practical implementation, both the DBD and the RD have taken supervisory actions to ensure the availability of accounting records in practice. However, the large number of entities that failed to file the financial statements as required during the review period causes concern on the availability of the accounting records of those entities, and there is a lack of sufficient enforcement measures from the DBD on this.

138. During the review period, Thailand received 91 requests, 26 of which related to accounting information. There were delays reported by peers for Thailand to respond to those requests, including requests that are still pending. Three peers raised negative inputs to Thailand in providing accounting information. Thailand explained that this was mainly due to the consequences of the COVID-19 pandemic (as analysed under Element C.5.1) and the issue of access power (as analysed under Element B.1), rather than the availability of accounting information in Thailand, as they were able to collect and exchange the accounting information before the pandemic in 2019.

139. The conclusions are as follows:

Legal and Regulatory Framework: Needs Improvement

Deficiencies identified/Underlying factor	Recommendations
<p>There are no legal requirements for foreign trusts with Thai resident trustees or administrators to keep accounting records. There are also no rules in place regarding the retention period of accounting records for foreign trusts that cease to exist.</p>	<p>Thailand is recommended to ensure that accounting records including underlying documentation of foreign trusts with trustees or administrators resident in Thailand are available in line with the standard, and ensure that accounting records including underlying documentation for foreign trusts are kept for no less than five years as required by the standard.</p>
<p>The retention period of accounting records for public companies that cease to exist is not in line with the standard.</p>	<p>Thailand is recommended to ensure that accounting records including underlying documentation of public companies that cease to exist are kept for no less than five years as required by the standard.</p>

Practical Implementation of the Standard: Largely Compliant

Deficiencies identified/Underlying factor	Recommendations
<p>About 21% of companies and 27% of partnerships did not file the financial statements to the Department of Business Development as required, which causes concerns on the availability of accounting records by those entities in Thailand.</p> <p>Thailand also does not monitor the numbers of inactive companies and partnerships, and the numbers of inactive companies or partnerships that have been struck off by the DBD according to the provisions in the CCC. This also causes concerns on the availability of the accounting information maintained by such entities.</p>	<p>Thailand is recommended to strengthen its supervisory and enforcement actions to ensure the accounting records including underlying documentation of all relevant entities and arrangements are always available in practice.</p>

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

140. The Terms of Reference set out the standards for the maintenance of reliable accounting records and the necessary accounting record retention period. They provide that reliable accounting records should be kept for all relevant entities and arrangements. To be reliable, accounting records should: (i) correctly explain all transactions; (ii) enable the financial position of the entity or arrangement to be determined with reasonable accuracy at any time; and (iii) allow financial statements to be prepared. Accounting records should further include underlying documentation, such as invoices, contracts, etc. Accounting records need to be kept for a minimum of five years.

141. Obligations of keeping accounting information of relevant entities and arrangements are mainly contained in the law on accounting, supplemented by the company law and the tax law. The various legal regimes and their implementation in practice are analysed below.

Law on accounting

142. The Accounting Act sets out detailed requirements for legal persons in Thailand to keep the accounting records, deeming them as the persons charged with the accounting duty, which includes private companies, public companies, limited partnerships, registered general partnerships and foreign companies and partnerships that carry on business⁸ in Thailand and

8. A company or partnership formed under foreign laws which has an employee, an agent or a go-between for carrying on business in Thailand and as a result receives

are subject to the tax obligations under the Revenue Code (Accounting Act, Section 8).

143. Thailand's accounting standards refer to the International Financial Reporting Standards (IFRS), which requires that accounting records kept by the entities must correctly explain its transactions, enable its financial position to be determined with reasonable accuracy at any time, allow financial statements to be prepared and include underlying documentation including invoices, receipts, contracts etc. (Accounting Act, Section 12). Accounting information must be kept within Thailand, at the place of business, place used as regular production or storage of goods or place used as regular office, unless there is a special permission from the Accounting Inspector-General of the DBD (Accounting Act, Section 13). The DBD stated that in practice all records are kept in Thailand and no such special permission has ever been issued.

144. Limited partnerships registered general partnerships, and foreign companies and partnerships must prepare a financial statement and submit it to the DBD, which is the Central Accounting Office, within five months as from the date of closure of accounts. Private companies and public companies must submit financial statements within one month from the date on which they are approved at the general meetings. For all companies and partnerships in Thailand, a financial statement must be audited and accompanied by an opinion of a certified auditor, except for domestic partnerships that have small amount of capital, assets or revenues as prescribed by the regulations of the MOC (Accounting Act, Section 11). According to Section 4 of the Accounting Act, a financial statement must contain the information on result of operation, financial position or a change in financial position of an entity, whether presented in the form of a balance sheet, a profit and loss statement, a retained earnings statement, a statement of cash flows, a statement of changes in shareholders' equity, a supplementary statement, notes to the financial statement or other explanatory notes indicated as forming an integral part of the financial statement.

145. Under the Accounting Act, there are penalty rules in place for non-compliance by companies and registered partnerships including foreign companies and partnerships regarding their obligations to keep accounting records. Any entity that fails to comply with the obligations to keep accounting records as required by the Accounting Act will be liable to a fine not

income or profits in Thailand, is deemed to be carrying on business in Thailand and the person who acts as an employee, an agent or a go-between for the business, whether an individual or a legal person, is deemed to be the representative of the company or legal partnership formed under foreign laws and has the duty and liability to file a tax return and tax payment, with respect to only the above-mentioned income or profits (Revenue Code, Section 76 Bis).

exceeding THB 10 000 (EUR 271). Such penalties can equally apply to the managing director, managing partner, or representative of such legal person or any person responsible for the operation of the legal person, unless such person can prove otherwise (Accounting Act, Section 29 and Section 40).

146. The Accounting Act does not specify the legal requirements for non-registered general partnerships, and foreign trusts with Thai resident trustees or administrators to keep the accounting records.

Company law

147. The CCC sets out the general accounting record keeping requirements for private companies. According to Section 1206 of the CCC, the directors of the company must keep the accounting information including the sums received and expended by the company and the matters in respect of which each receipt or expenditure takes place, and the assets and liabilities of the company. Directors failing to do so will be liable to a fine of THB 50 000 (EUR 1357) (Act on Offences, Section 28(2)).

148. With regard to public companies, directors of the companies must prepare or keep books and related documents, or they would be liable for any loss caused to the company, unless they can prove to have taken reasonable steps to prevent such contravention (PLCA, Section 91(7)). Similar to the requirements under Section 11 of the Accounting Act, the PLCA also requires public companies to submit their audited annual reports together with a copy of the balance sheet and profit and loss account to the registrar and publish the balance sheet in a newspaper within one month as from the date the annual reports are approved at the shareholders' meeting (PLCA, Section 127). Public companies that fail to comply with these requirements will be subject to a fine not exceeding THB 20 000 (EUR 542).

149. The CCC however does not specify what accounting records the companies should keep, and there is a lack of legal requirements under the CCC for partnerships and legal arrangements, including trusts, to keep accounting records in Thailand.

Tax law

150. The Revenue Code has a general requirement for companies and partnerships registered with DBD to keep a balance sheet, an operating account and a profit and loss account in the accounting period, for the purpose of tax calculation (Revenue Code, Section 68 Bis). There are no further detailed rules on this matter. Annual reports, financial statements or other accounts are not required to be annexed to the tax filing forms, unless they are specifically requested by the RD for tax assessment purposes (Revenue Code, Section 17).

Companies that ceased to exist and retention period

151. Under the Accounting Act, accounting records, including underlying documentation, must be kept for a period of no less than five years as from the date of the account closure.

152. Where the entity ceases to operate the business without undertaking liquidation (excluding inactive companies struck off by the DBD under the CCC), accounting records including underlying documentation must be furnished to the Accounting Inspector-General of the DBD within 90 days as from the date of cessation of business and such records should be retained by the DBD for not less than five years (Accounting Act, Sections 14 and 17).

153. For companies and registered partnerships that cease to exist, similar to the case of legal ownership information of companies and partnerships as discussed under Element A.1.1 and Element A.1.3, upon completion of the liquidation, all books, accounts and documents of the liquidated companies and partnerships should be deposited with the DBD within 14 days and the DBD should keep such records for ten years from the end of the liquidation (CCC, Section 1271). However, there is a legal gap regarding the retention period of keeping the records of public companies after the liquidation for at least three years from the completion of the liquidation (PLCA, Section 176; see paragraph 60). This is not in line with the standard.

Conclusion

154. The legal framework has in place rules for all companies and registered partnerships, including foreign companies and partnerships, to keep their accounting records in Thailand as required by the standard. However, there are no legal requirements for foreign trusts with Thai resident trustees or administrators to keep accounting records. **Thailand is recommended to ensure that accounting records, including underlying documentation, of foreign trusts with trustees or administrators resident in Thailand are available in line with the standard.**

155. While accounting records of private companies and registered partnerships that have ceased to exist are required to be kept by the DBD for ten years, the retention period for public companies that cease to exist is no less than three years, which is not in line with the standard. There are also no rules in place regarding the retention period of accounting records for foreign trusts that cease to exist. **Thailand is recommended to ensure that accounting records including underlying documentation for public companies that cease to exist, and foreign trusts are kept for no less than five years as required by the standard.**

Oversight and enforcement of requirements to maintain accounting records

Department of Business Development

156. The authority that is monitoring compliance with the obligations under the company law and accounting law is the DBD, including the submission of financial statements of relevant entities as required. As discussed above, all companies and partnerships (except specified small domestic partnerships) in Thailand must also submit financial statements audited by certified auditors to the DBD on an annual basis. The statistics of the filing of financial statements from 2019 to 2021 are illustrated as follows:

Fiscal Year 1 October to 30 September	Number of entities registered		Number of entities filed financial statements		Filing rate	
	Companies	Partnerships	Companies	Partnerships	Companies	Partnerships
2019	562 345	183 953	456 969	136 916	81%	74%
2020	582 193	187 015	466 832	137 678	80%	74%
2021	612 580	196 530	470 770	140 420	77%	71%

157. There were on average over 120 000 (21%) companies, and over 50 000 (27%) partnerships in each year between 2019 and 2021 that did not file financial statements, although the DBD clarified that some companies registered in the system may be inactive and some registered partnerships are not required to submit financial statements. This causes concerns on whether relevant entities have effectively discharged their obligation in keeping accounting records and preparing their financial statements. Even though the DBD reported that follow-up letters have been sent to those entities, it is unclear what enforcement actions have been taken by the DBD towards those non-compliant entities (see also the discussion under Element A.1.1 on inactive/non-compliant companies).

158. The DBD has a policy for supervising the entities on their obligations in keeping and submitting accounting information. The DBD focuses on reviewing the financial statements submitted by the entities, and where issues are identified, it may ask the entity to provide any supporting accounting records, including underlying documentation for further inspection.

159. In addition, other departments, including the RD or the entities' stakeholders may submit complaints to the DBD regarding the financial statement submitted by an entity, in which case the DBD will inspect the related entity and check its accounting records. Relevant measures taken by the DBD are summarised in the table below.

Supervisory measures			
(using data analytic tool to observe the reliability and reasonable relationship among financial statements, notes to financial statements and auditor's report)	2019	2020	2021
Inspection to financial statements	372 680	357 872	387 385
Failure to submit accounting documents and associated documents as required by the DBD within the specified time period after the inspection of financial statements	3 798	2 572	1 888
Monitoring as requested by other authorities or stakeholders	924	656	457

160. The DBD stated that various actions had been taken during the review period to check the financial statements submitted by the entities and where there were questions or suspicious issues, the DBD would ask the concerned entities to submit supporting documents. On average, each year between 2019 and 2021, there was about 1% of the inspected entities that failed to respond to the DBD's requests for supporting documents with the specified timelines. However, like the issue of lack of enforcement actions towards entities that have failed to submit financial statements, it is unclear what enforcement actions the DBD has taken after the related supervisory measures, including which sanctions were imposed to non-compliant entities.

Revenue Department

161. The RD supervises the implementation of the legal requirements for taxpayers to keep accounting records. The RD conducts various types of tax audits. It also conducts operational audits which includes checking the accounting procedures and record keeping of the taxpayers as required by the Revenue Code and relevant laws. In addition, the RD also issues summons to taxpayers requiring them to provide any supporting documents and information regarding their tax returns, including accounting records kept by the taxpayers. Where incorrect records or other non-compliances are identified, there will be adjustment to the income taxes of the related entities and/or penalties. The total number of taxpayers (companies and partnerships) registered with the RD in 2020 was 613 121 and that in 2021 was 605 342, and the table below summarises the total amount of operational audit cases and summons to companies and partnerships in the fiscal years 2020 and 2021.

Audit tool	Fiscal year 2020					Fiscal year 2021				
	Case		Tax adjustment (million, THB)	Fines (million, THB)	Total (million, THB)	Case		Tax adjustment (million, THB)	Fines (million, THB)	Total (million, THB)
	Audits with adjustment	Audits with adjustment				Audits with adjustment				
Operational Audit	11 867 (2%)	6 127	26 105	3	26 108	13 011 (2%)	7 799	21 321	3	21 324
Summons	1 147	914	4 972	0.05	4 972	685 ⁹	561	4 371	0.03	4 371

162. The table shows that the RD took supervisory actions to companies and partnerships during 2020 and 2021, but there was on average 2% of the taxpayers (companies and partnerships) covered by the operational audits each year and it is also difficult to assess their effectiveness in ensuring the availability of accounting information due to the lack of other relevant information, e.g. the numbers of taxpayers that are companies and those that are partnerships in 2020 and 2021 respectively, and information on the selection process and criteria of audit cases.

163. To sum up, for the practical implementation of requirements to keep accounting records in Thailand, both the DBD and the RD have taken supervisory measures towards the entities, in particular the actions from the RD were significant in ensuring the availability of accounting information in practice. However, there were a large number of entities – more than 21% of companies and 27% of partnerships – that did not file the financial statements to the DBD as required, which causes concern on the availability of accounting records by those entities in Thailand. Thailand also does not monitor the numbers of inactive companies and partnerships, and the numbers of inactive companies or partnerships that have been struck off by the DBD according to the provisions in the CCC. It is unclear how accounting information of those inactive companies and partnerships is ensured to be available. **Thailand is recommended to strengthen its supervisory and enforcement actions to ensure the accounting records including underlying documentation of all relevant entities and arrangements are always available in practice.**

Availability of accounting information in EOIR practice

164. During the review period, Thailand received from exchange partners 26 requests for accounting information. There were delays reported by peers for Thailand to respond to those cases, including cases that are still pending.

9. As reported by Thailand, due to the impact of the COVID-19 pandemic, there were limitations for the RD to conduct on-site visits, resulting in decreased number of audit cases.

Three peers raised negative inputs to Thailand in providing accounting information. Thailand explained that this was mainly due to the consequences of the COVID-19 pandemic (as analysed under Element C.5.1) and the issue of access power (as analysed under Element B.1), rather than the availability of accounting information in Thailand, as they were able to collect and exchange the accounting information before the pandemic in 2019.

A.3. Banking information

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

165. The legal and regulatory framework in Thailand requires the availability of banking information in line with the standard. All records pertaining to bank accounts as well as related financial and transactional information are required to be kept by the banks for at least five years from the date the transaction or the recording of the facts occurred. Information obtained through the CDD procedures of the banks as required by the AML rules, including the beneficial ownership information of the bank accounts, is required to be kept for ten years from the date the account is closed or relationship is terminated. This is in line with the standard. However, in Thailand there are no legal requirements for anyone to keep the customers' information of banks where the banks cease to exist.

166. For the identification of beneficial owners of account holders that are legal persons, there is a lack of guidance to the banks regarding the identification of their beneficial owners. This includes the lack of guidance that direct and indirect ownership and control, and joint control should be considered when applying the controlling interest to identify the beneficial owner(s), and the lack of clarity on the scope of control by other means. For partnerships, there is a lack of guidance given to the AML-obliged persons that the identification of beneficial owner(s) should consider the form and structure of the partnerships. Thailand is also recommended to set out a specified frequency for banks to update the beneficial ownership information of their accounts after the initial Customer Due Diligence measures.

167. During the review period, the AML authority appears to have taken sufficient oversight and enforcement actions to banks in Thailand, in ensuring banking information of all account holders is available as required.

168. During the review period, Thailand received 10 requests from partners which were related to banking information. There were significant delays by Thailand to respond to those requests. Three peers provided negative inputs to Thailand's response to their requests on banking information. Thailand explained that it was mainly due to the consequences of the

COVID-19 pandemic (as analysed under Element C.5.1) and the issue of access power (as analysed under Element B.1), rather than the unavailability of the banking information.

169. The conclusions are as follows:

Legal and Regulatory Framework: Needs Improvement

Deficiencies identified/Underlying factor	Recommendations
<p>With regard to the definition of beneficial owners for legal persons, as discussed under Element A.1, there is a lack of guidance to the AML-obliged persons regarding the identification of beneficial owners of companies and partnership. This includes the lack of guidance that direct and indirect ownership and control, and joint control should be considered when applying the controlling interest to identify the beneficial owner(s), and the lack of clarity on the scope of control by other means. For partnerships, there is a lack of guidance given to the AML-obliged persons that the identification of beneficial owner(s) of partnerships should consider the form and structure of the partnerships.</p>	<p>Thailand is therefore recommended to ensure that, in respect of bank accounts, the definition and the method of identification of the beneficial owner(s) for legal persons including companies and partnerships in the AML legal framework is in line with the standard.</p>
<p>There are no legal requirements in Thailand for retaining the customer information after a bank ceases to exist, which may cause the unavailability of banking information. In practice, in the past 30 years there have been no cases where banks simply ceased to exist, and relevant information would be transferred to a new bank that takes over the business of the bank that ceases to exist.</p>	<p>Thailand is recommended to ensure that beneficial ownership information of bank accounts is available for at least five years after a bank ceases to exist.</p>
<p>Even though the Anti-Money Laundering Office has made suggestions in its communications to the banks that ongoing Customer Due Diligence should be conducted based on the risk level of the customers and advised on specified frequencies to update the Customer Due Diligence information for low-risk, medium-risk and high-risk customers, these suggestions have not been formalised in any binding rules or guidance.</p>	<p>Thailand is recommended to set out a specified frequency for banks to update the beneficial ownership information of their account holders after the initial Customer Due Diligence Measures.</p>

Practical Implementation of the Standard: Largely Compliant

No issues have been identified in the implementation of the existing legal framework on the availability of banking information. However, once the recommendations on the legal framework are addressed, Thailand should ensure that they are applied and enforced in practice.

A.3.1. Record-keeping requirements

170. All banks in Thailand must be licensed by the MOF and are under the supervision of the BOT and the AMLO. As of December 2021, there were 35 banks in Thailand.

Availability of banking information

171. Under the AMLA, banks, as AML-obliged persons, are required to keep the financial and transactional information, including records of facts, for at least five years from the date the transaction or the recording of the facts occurred (AMLA, Section 21 and Section 22). Transactional information refers to information about an activity related to an entry into a legal act, a contract or the execution of any act with other parties in financial or commercial matters, or the operation in connection with the assets.

172. The MR CDD further requires banks to ensure that documents, data or information collected for identification, risk assessment, management and mitigation is kept up to date until the business relations with customers are terminated. This includes all electronic information relating to customer due diligence obtained under the law on electronic transactions or other relevant laws, which should also be regarded as information or evidence relating to customer due diligence (MR CDD, Art. 6 and Art. 7). CDD information of bank accounts as such must be kept for ten years from the date the account is closed or relationship is terminated (AMLA, Section 22/1).¹⁰

173. Banks that fail to comply with these obligations will be liable to a fine not exceeding THB 1 million (EUR 26 894) and an additional amount not exceeding THB 10 000 (EUR 269) for each following day until rectification is made (AMLA, Section 62).

174. In addition, for purposes of inspection by the Bank of Thailand (BOT), under the Financial Institution Business Act (FIBA), a bank must keep its information, accounts, documents, seals or other evidence pertaining to its business, assets and liabilities in accordance with the rules of the BOT (FIBA, Section 82). Any bank which violates or fails to comply with such rules, or notifications and prescribed by the BOT under Section 82, shall be subject to a fine of not more than THB 300 000 (EUR 8 140) and a further fine of not more than THB 3 000 (EUR 81) per day throughout the continuation of such violation or until rectification has been made (FIBA, Section 124).

10. In case where there is a compelling necessity, before the lapse of such ten years, the Secretary General of the AML Board may instruct the AML-obliged person to continue keeping such information for a period not exceeding five years after the lapse of ten years.

Beneficial ownership information on account holders

175. The standard requires that beneficial ownership information be available in respect of all bank accounts. Under the AMLA, banks are reporting entities, thus being required to conduct the CDD when establishing business relationships and carrying on occasional transactions. Banks must identify the ultimate beneficial owner and take appropriate measures to verify the identity of the ultimate beneficial owner(s) using documents, data or information from reliable sources in addition to those obtained from the customer (MR CDD, Art. 16 and Art. 17). In addition, banks are also required to comply with the CDD Guidance issued by the AMLO for identification of the beneficial owners of all bank accounts.

176. In Thailand, banks are required to develop procedures to identify the beneficial owners regardless of their risk levels, and take appropriate measures to verify the beneficial owners of their customers based on reliable information, fact, original copy of evidence,¹¹ or any source of reference and additional steps set out in the CDD Guidance issued by the AMLO (CDD Guidance, Section 3.2). For individual customers, the individual is presumed to be the beneficial owner, however if the bank is aware that there is a nominee arrangement to hold the bank account or conduct the transaction, the bank should take relevant verification measures to identify the beneficial owner of such bank account. Where the customer is a legal entity, including legal persons and legal arrangements, the same CDD procedures as discussed under Element A.1 regarding companies, partnerships, trusts and other legal arrangements should be taken to identify the beneficial ownership information. When a beneficial owner is identified, the full name, national identification number, address or country of nationality and date of birth should be recorded by the bank. Such beneficial ownership information as part of the CDD information must be kept for at least ten years. For banks that cease to exist, similar to the case under Element A.1, there are no legal requirements in Thailand for retaining the customer information. However, as confirmed by Thailand, in practice relevant information would be transferred to the new banks that take over the business of the banks that cease to exist, and in the past 30 years there have been no cases where banks ceased to exist. **Thailand is recommended to ensure that beneficial ownership information of bank account holders is available for at least five years after a bank ceases to exist.**

11. In practice, evidence such as passports, or ID cards would be required and verified by the AML-obliged persons for individual customers, and evidence such as registration certificates, management structures or ownership structures for entity customers (Guidance on CDD, Section 3.1).

177. With regard to the definition of beneficial owners for legal persons and legal arrangements, as discussed under Element A.1, there is a lack of guidance to the AML-obliged persons regarding the identification of beneficial owners of companies and partnership. This includes the lack of guidance that direct and indirect ownership and control, and joint control should be considered when applying the controlling interest to identify the beneficial owner(s), and the lack of clarity on the scope of control by other means. For partnerships, there is a lack of guidance given to the AML-obliged persons that the identification of beneficial owner(s) of partnerships should consider the form and structure of the partnerships. **Thailand is therefore recommended to ensure that, in respect of bank accounts, the definition and methods of identification of the beneficial owner(s) for legal persons, including companies and partnerships, in the AML legal framework is in line with the standard.**

178. Thailand does not have a specified frequency for banks to update beneficial ownership information of account holders after the initial CDD measures, even though in practice, the AMLO has communicated such time criteria for different risk-rated categories of customers to the banks. **Thailand is recommended to set out a specified frequency for banks to update the beneficial ownership information of their account holders after the initial CDD measures.**

179. As discussed under Element A.1, banks may rely on other third-party reporting entities to perform the CDD measures (MR CDD, Art. 46). However, there are certain conditions to be met by the AML-obliged persons in line with the standard. Thailand confirmed that in practice, banking institutions would conduct CDD measures themselves when on-boarding a client and it is not common for them to rely on a third-party's CDD information.

180. Banks that fail to conduct the CDD measures and identify the beneficial owners of customers, and to keep such information would be subject to a fine not exceeding THB 1 million (EUR 26 894) and an additional amount not exceeding THB 10 000 (EUR 269) for each following day until rectification is made (AMLA, Section 62).

Oversight and enforcement

181. The AMLO is the central authority in Thailand for supervising and monitoring the application and compliance of the AML Law by AML-obliged persons, including by banks. As the BOT is the operational supervising authority to banks under the FIBA, the AMLO co-ordinates with the BOT on its supervision and enforcement actions to the banks on the application of the AML rules.

182. As discussed under Element A.1.1 regarding information on the beneficial ownership of companies, the AMLO has taken various actions to check the compliance of the banks with the AML rules, including off-site monitoring and on-site reviews (see paragraphs 87 to 92). Between 2019 and 2022, the AMLO has conducted off-site monitoring of all banks, and 105 on-site examinations of selected banks in Thailand. As a result, during those 4 years, in total 23 banks were sanctioned with penalties due to deficiencies identified, including deficiencies with regard to CDD measures, e.g. beneficial ownership identification, on-going CDD, and record keeping. Remedial action plans were subsequently issued by the AMLO to those concerned banks with specific timelines to rectify all issues identified under the supervision of the AMLO. The AMLO have also followed up with the related entities and confirmed that all identified issues have been appropriately addressed by the concerned banks.

183. In addition to the actions of the AMLO, the BOT issued 16 advice letters and 12 warning letters between 2018 and 2021 to banks with regard to issues, including compliance of the CDD requirements.

184. Overall, the Thai authorities have taken sufficient oversight and enforcement measures to verify the availability of banking information in practice. However, considering that 66% of the banks have been sanctioned during the period 2019-22, Thailand should continue this oversight and enforcement activity to ensure the availability of banking information in practice (Annex 1).

Availability of banking information in EOIR practice

185. During the review period, exchange partners sent 10 requests for banking information to Thailand. There were significant delays by Thailand to respond to those requests, and three peers provided negative inputs to Thailand's response to their requests on banking information. Thailand and peers explained that it was mainly due to long response times, as a consequence of the COVID-19 pandemic (as analysed under Element C.5.1) and the issue of access power (as analysed under Element B.1), rather than the unavailability of the banking information.

Part B: Access to information

186. 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).

187. The delegated and operational competent authority in Thailand for EOI purposes is within the Revenue Department. The Revenue Department (RD) has wide powers to obtain information requested under the EOI instruments, including banking information. These powers are also supported by possible application of enforcement measures as specified in the Revenue Code and the Decree on EOI. However, since the Decree on EOI which gives full access power to the RD to obtain information from all persons and information holders for EOI purposes was issued after the review period, its effectiveness has not been tested. Thailand is thus recommended to ensure that the Decree on EOI is effectively implemented in practice in line with the standard.

188. A recommendation has also been made due to the scope of legal professional privilege in Thailand being broader than the standard, though this gap never affected exchange of information.

189. The conclusions are as follows:

Legal and Regulatory Framework: In Place

Deficiencies identified/Underlying factor	Recommendations
Thailand's legal professional privilege is broader than the scope specified in the standard, as it covers all information obtained from the clients by a lawyer, rather than being restricted to communications produced for the purposes of seeking or providing legal advice or use in existing or contemplated proceedings, and there are no express exceptions in the case of requests made under an EOI agreement. Thailand however confirmed that they have never requested lawyers to provide information for EOI purposes since they are not a routine source of information under the Thai legal framework.	Thailand is recommended to ensure that the scope of legal professional privilege is in line with the standard.

Practical Implementation of the Standard: Largely Compliant

Deficiencies identified/Underlying factor	Recommendations
Thailand failed to provide the requested information in certain EOI cases due to the limitation of the access powers provided for by the Revenue Code (i.e. the condition of a domestic tax interest in the information requested). The Decree on EOI now gives the competent authority of Thailand full access power to information relevant to EOI, with relevant penalties provisions to compel the production of the information. As this Decree came into force after the review period, its effectiveness has not been tested yet.	Thailand is recommended to monitor the implementation of the Decree on EOI and ensure its effectiveness in practice so as to be in line with the standard.

B.1.1. Ownership, identity and banking information

190. The CA in Thailand for EOI purposes is the Minister of Finance, who delegated the CA power to the RD which is the authority responsible for tax administration. In the RD, the EOI Unit within the International Tax Affairs Centre (ITAC) carries out the related EOI functions.

Accessing information generally during the review period

191. During the review period, there were no specialised laws providing the powers to the CA to obtain all relevant information for the purpose of responding to a specific request for EOI in tax matters. In practice, the CA relied upon the rules in the Revenue Code to obtain such information.

However, the CA's power is limited to any information obtained under the scope of the Revenue Code, which includes three scenarios as follows:

- Issuing summons in cases where taxpayers have filed a false or incomplete tax return: where an assessment official has a reasonable cause to believe that a person has filed a false or incomplete tax return, he/she has the power to issue a summons calling upon that tax return filer for interrogation and issue a summons calling upon a witness and order that tax return filer or witness to show accounts, documents or any other evidence (Revenue Code, Section 19).
- Issuing summons in cases where the taxpayers have failed to file tax returns: where a person fails to file tax return(s), the assessment official has the power to issue summons calling upon such person to give evidence and to issue summons to call upon a witness and order a non-filer or witness to show accounts or evidence related to the matter (Revenue Code, Section 23).

192. Issuing summons regarding the collection of VAT: the assessment officials have the power to issue summons to persons liable to VAT, persons acting in a representative capacity or witnesses, and order such persons to provide accounts, documents or evidence related to the matter, and order the witnesses to respond to the questions in writing (Revenue Code, Section 88/4). Therefore, only when the requested information relates to false or incomplete tax returns, failure to file tax returns, or collection of VAT, the CA may ask the tax assessment officials to issue summons and directly call upon the taxpayers or the information holders, including any persons acting in an agency or fiduciary capacity (as witnesses according to the rules in the above), to provide information.

193. Over the review period, there were 5 cases; out of 91 EOI requests received, where the CA was not able to provide information requested by EOI partners due to the limitation of the access powers of the CA under the Revenue Code, especially where the information requested is related to taxpayers that are not in the taxpayer database of the RD.

Access powers since March 2023

194. Recognising the limitation of the access powers of the CA to obtain EOI related information, Thailand passed a new legislation on 14 March 2023, i.e. the Emergency Decree on the Exchange of Information in compliance with International Tax Agreements (Decree on EOI), giving access power to the CA regarding information outside the scope of the Revenue Code, including information on persons who are not in the taxpayer database, e.g. banking information, and the beneficial ownership information.

195. Since it came into force on 1 April 2023, the Decree on EOI has become the only legal basis for the CA to obtain information for EOI purposes (related to civil or criminal cases, section 8), even though the CA still has limited powers under the Revenue Code to gather the information.

196. According to Section 12 of the Decree on EOI, for EOI purposes the Director General of the RD, as the designated CA, has “the power to order persons who possess or control the requested information, to give statements or submit statements in writing or collect and deliver such information”. This means that the EOI Unit can directly exercise the access power to obtain the information from the information holders, rather than going through audit cases of regional tax officials as for the cases conducted under the Revenue Code during the review period. As also confirmed by Thailand, the scope of the information holders would be broad, which includes any persons acting in an agency or fiduciary capacity, where applicable. Since the New Decree on EOI was in place, the CA confirmed that it has not encountered any difficulties in practice to exercise its access powers under the Decree. This covers all information, regardless of whether it is related to false or incomplete tax returns, failure to file tax returns, or collection of VAT in Thailand.

197. Since the Decree on EOI came into force after the review period and its effectiveness has not been tested yet, **Thailand is recommended to monitor the implementation of the Decree on EOI and ensure its effectiveness in practice.**

Accessing legal and beneficial ownership information

198. For the access to legal ownership information, the CA during the review period referred to the registration database of the registrar maintained by the DBD.

199. As for the access to beneficial ownership information, since the AML-obliged persons under the AML rules are the only source of such information in Thailand, the CA could only get access to the information when it related to false or incomplete tax returns, failure to file tax returns, or collection of VAT in Thailand, in which cases the AML-obliged persons are required to provide such information as requested. Exercise of this power would not be hindered by the requirements for financial institutions to keep their customers' information confidential, if the disclosure of such information is for purpose of the compliance of laws in Thailand (FIBA, Section 154(10)). In other cases, the CA did not have the power to issue summons to compel the taxpayers or information holders to provide such information, but would still contact the taxpayers concerned directly for such information, even though it is not compulsory under the Revenue Code for the taxpayers to provide the information requested. Where the taxpayers are in the database of the RD

with a current address, the CA may be able to reach out to the taxpayers for such information, but in certain cases as reported by Thailand, there were no current address of the concerned taxpayers, thus the related information was not able to be obtained.

200. Under the Decree on EOI, the CA has now the power to directly obtain the ownership information from the information holder, including the AML-obliged persons under Section 12 of the Decree on EOI.

201. Over the review period, there were 4 cases where the CA was not able to provide the ownership information requested by EOI partners due to the limitation of the access powers of the CA under the Revenue Code, especially where the information requested is related to persons that are not in the taxpayer database of the RD.

202. Since the Decree on EOI is in force from 1 April 2023, the CA has had full power to ask the AML-obliged persons to provide the beneficial ownership information of relevant entities and arrangements under Section 12 of the Decree on EOI, regardless of whether it relates to false or incomplete tax returns, failure to file tax returns, or collection of VAT in Thailand. Thailand stated that the CA was able to obtain such information after the Decree on EOI came into force. However, since the Decree on EOI came into force after the review period and its effectiveness has not been tested yet, **Thailand is recommended to monitor the implementation of the Decree on EOI and ensure its effectiveness in practice.**

Accessing banking information

203. During the review period, the CA generally asked the taxpayers to provide the banking information directly either on a voluntary basis or on the basis of the Revenue Code provisions when the situation met the conditions explained above. The CA faced difficulties to obtain such information from the taxpayers, either because the taxpayers did not hold the full banking information, or they were not contactable due to lack of current address information. On the other hand, Thailand confirmed that in practice during the review period, there were no cases where the concerned taxpayers contacted by the CA refused to provide such information.

204. In cases where the information could not be provided by the taxpayers or the requesting jurisdiction asked the CA to refrain from notifying the taxpayers concerned, banking information would be obtained from the banks as witnesses who know or have information in relation to the cases related to false or incomplete tax returns, failure to file tax returns, or collection of VAT in Thailand. In terms of procedures, as the case of exercising powers for accessing other types of information under the Revenue Code, the RD would send a request to the tax assessment officials, who would

then start an audit, and banking information would be requested from taxpayers or banks as applicable. To be able to access banking information, the CA would however need to receive one of the three following elements from the requesting jurisdiction: the name of the bank, the account number or the account holder.

205. During the review period, there were two cases where the CA was not able to provide banking information requested by EOI partners due to the limitation of the access powers of the CA under the Revenue Code, especially where the information requested was related to taxpayers that were not in the taxpayer database of the RD.

206. After the Decree on EOI came into force, Thailand reported that the CA has had the full power to access the banking information for EOI purposes (Decree on EOI, Section 12). For requests relating to banking information that the CA received after the Decree on EOI was in place, the CA indicates that it has not encountered difficulties in obtaining banking information directly from the banks. However, since the Decree on EOI came into force after the review period and its effectiveness has not been fully tested yet, **Thailand is recommended to monitor the implementation of the Decree on EOI and ensure its effectiveness in practice.**

B.1.2. Accounting records

207. As discussed under Element A.2, the accounting records are required to be kept by the entities and arrangements, or by the registrar where the entities and arrangements cease to exist. Similar to the case of ownership information and banking information, during the review period the accounting records could be obtained through a tax audit or investigation case if such records related to false or incomplete tax returns, failure to file tax returns, or collection of VAT in Thailand. During the review period, there was 1 case where the CA was not able to provide the accounting information requested by EOI partners due to the limitation of the access powers of the CA under the Revenue Code.

208. Since the Decree on EOI came into force, Thailand reported that the CA has the full power to access accounting records maintained by the entities and arrangements and the registrar for EOI purposes (Decree on EOI, Section 12). However, since the Decree on EOI came into force after the review period and its effectiveness has not been tested yet, **Thailand is recommended to monitor the implementation of the Decree on EOI and ensure its effectiveness in practice.**

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

209. The concept of “domestic tax interest” describes a situation where a contracting party can only provide information to another contracting party if it has an interest in the requested information for its own tax purposes.

210. During the review period, the CA of Thailand could only use the information gathering measures to obtain the information requested by exchange partners when such information was related to the false or incomplete tax returns, failure to file tax returns, or collection of VAT in Thailand as required by the Revenue Code. This means all information requested from Thailand had to be information the RD also needed for purposes of its own tax audits or investigations.

211. Since the Decree on EOI came into force from 1 April 2023, the CA of Thailand can use all relevant information-gathering measures to obtain the information requested by an exchange partner, including where there is absence of domestic tax interest. Since the Decree on EOI came into force after the review period and its effectiveness has not been tested yet, **Thailand is recommended to monitor the implementation of the Decree on EOI and ensure its effectiveness in practice.**

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

212. Jurisdictions should have in place effective enforcement provisions to compel the production of information.

213. Under the Revenue Code, Thailand has compulsory powers in place in order to compel the production of information, including fines and imprisonment. A person, who consciously or intentionally fails to comply with the summons for producing the information in cases related to false or incomplete tax returns and failure to file tax returns would be subject to an imprisonment not exceeding one month or a fine not exceeding THB 2 000 (EUR 54) or both (Revenue Code, Section 36). Anyone not complying with a summon of assessment officials to produce the information in cases related to the collection of VAT shall be sentenced for not more than one month or fined not more than THB 5 000 (EUR 136) or both (Revenue Code, Section 90/2). In the case where there is suspicion of tax evasion, the RD also has the power to enter any places or vehicles in order to inspect, search or seize any documents or evidence that is related or believed to be related to the tax evasion (Revenue Code, Section 3 Quique).

214. The Decree on EOI sets out penalty rules to compel the production of information. Any person that fails to comply with the order of the Director General of the RD to provide the information as required without reasonable

cause would be subject to a fine not exceeding THB 200 000 (EUR 5 427). Any person that commits an intentional act of falsifying a statement or concealing the truth on the procedure or the information submission as required by the Director General of the RD would be subject to a fine from THB 50 000 (EUR 1 357) to THB 500 000 (EUR 13 566) (Decree on EOI, Sections 26 and 28).

215. During the review period, there were no cases where taxpayers or information holders failed to comply with the requirements from the RD for EOI purposes, thus no sanctions has been imposed. Since the Decree on EOI came into force after the review period and the effectiveness of relevant penalty provisions has not been tested yet, **Thailand is recommended to monitor the implementation of the Decree on EOI and ensure its effectiveness in practice.**

B.1.5. Secrecy provisions

216. Jurisdictions should not decline on the basis of secrecy provisions (e.g. bank secrecy, corporate secrecy) to respond to a request for information made pursuant to an exchange of information mechanism.

Bank secrecy

217. There are bank secrecy provisions in Thailand, which are mainly specified in the FIBA. According to Section 155 of the FIBA, for persons with management powers or officers of a financial institution, when in the performance of their duties, they have acquired or obtained the confidential information of such financial institution and disclose such confidential information in a manner likely to cause damage to the other persons or the public, they shall be liable to imprisonment of a term not exceeding one year or a fine not exceeding THB 100 000 (EUR 2 713) or both. However, such provisions shall not apply to the disclosure in some cases, such as the disclosure in the performance of duty or for the purposes of investigation or court proceedings; the disclosure to an auditor or such financial institution or agencies in the country and foreign country which have the authority and duty to supervise such financial institution; the disclosure of confidential information of a customer of the financial institution upon consent of such customer; the disclosure for the purposes of compliance with the provisions of law (FIBA, Section 154). For purpose of tax collection, the Director General of the RD has the power to obtain relevant information (including bank information as confirmed by the RD) under Section 19, 23 and 88/2 of the Revenue Code and such information can be exchanged with contracting jurisdictions under a DTC or the Multilateral Convention (Revenue Code, Section 10 Ter).

218. Under Section 12 of the Decree on EOI, the RD has the power to order a person who possesses or controls the requested information, including banks, to provide the information for EOI purposes.

219. Thailand has informed that there were no cases in which bank secrecy was an impediment in obtaining the information. These provisions on secrecy and the related exceptions are in line with the standard.

Professional secrecy

220. The laws of Thailand on lawyers contain secrecy provisions which are not overridden by access powers stipulated under the Revenue Code and the Decree on EOI.

221. Under Section 10(3) of the Decree on EOI, the information requested by exchange partners cannot be obtained and provided when it is covered by the professional secrecy rules.

222. According to Articles 51 and 52 of the Lawyers Act and Clause 11 of the Regulation on Lawyers' Council regarding Ethics of Lawyers, a lawyer is required to keep "information obtained from the client" confidential, unless he/she has obtained prior consent from the client or an authorisation from the court to disclose such information. Violation of this regulation could be subject to punishment of 1) suspension or penalty; 2) prohibition from practising as a lawyer for a period of up to three years; or 3) removal of name from the lawyers register. In Thailand, lawyers are not AML-obliged persons, thus not required to conduct CDD and maintain relevant information of their clients as required by the AML law. However, the Thai authorities and the representatives from the lawyers' association both stated that in practice, the lawyers would provide the information requested by the tax administration for law enforcement purposes despite the legal professional secrecy rules, upon a court order. This type of request has never happened in practice.

223. The Lawyers' Act also defines a lawyer as a person who has been registered as a lawyer and a licence has been issued by the Lawyers' Council (Lawyers Act, Section 4). Therefore, such professional secrecy provisions only apply to registered lawyers, excluding any other forms of legal profession.

224. With regard to the scope of information covered under the attorney-client privilege, provisions under Clause 11 of the Regulation on Lawyers' Council regarding Ethics of Lawyers, "all information obtained from the client" is subject to the professional secrecy rules. This is broader than the requirements of the standard (as described in Article 26(5) of the OECD Model Tax Convention, and its commentaries) which is restricted to communications produced for the purpose of seeking or providing legal advice or use in existing or contemplated legal proceedings.

225. Legal professional privilege may have limited materiality for the exchange of information since lawyers are generally not a routine source of information for EOI purposes. Lawyers in Thailand are not AML-obliged persons, and they are not required to maintain any information relevant to EOI of their clients.

226. Thailand confirmed that other than the legal professional secrecy provisions, there are no other professional secrecy rules in Thailand. As confirmed by both the CA and the representatives of the Lawyer's Council of Thailand during the onsite visit, in practice, there were no cases in which legal professional privilege was an impediment for the CA in obtaining the information, as the CA has never requested information from a lawyer in Thailand to respond to a request from exchange partners.

227. However, Thailand's legal professional privilege is broader than the scope specified in the standard, as it covers all information obtained from the clients by a lawyer, rather than being restricted to communications produced for the purposes of seeking or providing legal advice or use in existing or contemplated proceedings, and there are no express exceptions in the case of requests made under an EOI agreement. Therefore, **Thailand is recommended to ensure that the scope of legal professional privilege is in line with the standard.**

B.2. Notification requirements, rights and safeguards

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

228. Laws in Thailand do not require the notification of the person who is the object of a request for information or of the person who holds the information, either before or after the information is exchanged. There are also no rules regarding rights and safeguards that may unduly prevent or delay effective exchange of information.

229. The conclusions are as follows:

Legal and Regulatory Framework: In Place

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

Practical Implementation of the Standard: Compliant

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

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

Notification

230. Rights and safeguards should not unduly prevent or delay effective exchange of information. For instance, notification rules should permit exceptions from notification of the taxpayer concerned prior to the exchange of information requested (e.g. in cases in which the information request is of a very urgent nature or the notification is likely to undermine the chance of success of the investigation conducted by the requesting jurisdiction).

231. The domestic law in Thailand does not require the notification of the person who is the object of request for information, either before the information is exchanged or within a certain period of time after the information is exchanged. The CA also does not need the consent from the taxpayer or information holder to exchange the information with partners under the international agreements (Revenue Code, Section 10 Ter and Decree on EOI, Section 12).

232. The request of information to the taxpayer includes minimum amount of information necessary to respond to the request, for example the RD did not inform a taxpayer concerned or any third-party information holder that the related information was requested by a foreign jurisdiction, which limited the risk that the taxpayer be informally informed of the existence of the EOI request.

233. Since 2023, in case information requested must be obtained from third-party information holder, the RD requests the information from such information holder pursuant to Sections 19, 23 and 88/2 of the Revenue Code and Section 12 of the Decree on EOI, which enables the RD to request and receive information from any person necessary for purpose of exchange of information. With reference made to the new Decree on EOI, the recipient would be able to infer that the information is requested for EOIR purposes. Where needed, the RD would also request the third-party information holder not to notify the concerned taxpayers regarding the information exchanged, and as confirmed by Thailand and the representatives of financial institutions during the onsite visit, in practice the information holder would not notify the concerned taxpayers since it has no obligation to do so.

234. The full request from the requesting jurisdiction is not shared with the taxpayer or third party concerned under any circumstances.

Appeal rights

235. In Thailand, the taxpayers have the right to appeal against the tax assessment of the RD as specified in Part 2 of Chapter 2 of the Revenue Code. However, the domestic law in Thailand does not provide for any appeal rights or other similar rights and safeguards to the person who is the object of a request for information or to the person who holds the information. The Thai law also does not specify any legal rights for the persons concerned or the information holders to challenge the orders or summons issued by the RD to provide the requested information for EOI purposes under the Revenue Code and the Decree on EOI.

Part C: Exchange of information

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

237. Jurisdictions generally cannot exchange information for tax purposes unless they have a legal basis or mechanism for doing so. In Thailand, the legal authority to exchange information is currently derived from DTCs and the Multilateral Convention.

238. Thailand has an extensive EOI network covering 156 jurisdictions through 61 DTCs and the Multilateral Convention (see Annex 2).

239. Among those 61 DTCs, 48 were signed by Thailand with jurisdictions that are signatories to the Multilateral Convention and have entered into force. With regard to the other 13 DTCs, only the DTCs signed with Cambodia, Sri Lanka and United States explicitly provide that the EOI provision is not restricted by Article 1 (Persons Covered) of the DTCs; only the DTCs signed with Cambodia and United States contain the post-2005 model wording including language akin to Article 26(4) of the OECD or UN Model Tax Convention enabling exchange of information regardless of a domestic tax interest; and only the DTC with Cambodia contains Article 26(5) of the OECD or UN Model Tax Convention explicitly providing for the obligations of the contracting parties to exchange information held by financial institutions, nominees, agents and ownership and identity information. The DTC signed with the Philippines does not contain provisions akin to Article 26(4) and

Article 26(5), and the DTC signed with United States does not contain provisions akin to Article 26(5), but both jurisdictions have been peer reviewed by the Global Forum and they are able to exchange all types of information regardless there is a domestic interest or not in line with the standard. To sum up, within those 13 DTCs, except the DTC with Cambodia, the Philippines and United States that are in line with the standard, the remaining DTCs with 10 jurisdictions¹² are not in line or not fully in line with the standard.

240. On 3 June 2020, Thailand signed the Multilateral Convention, which entered into force in Thailand on 1 April 2022, significantly expanding its EOI network after the review period (from 1 April 2019 to 31 March 2022).

241. With regard to the practical exchanges with those 10 jurisdictions where Thailand only has bilateral agreements and those agreements are not in line with the standard, Thailand confirmed that it does not have regular exchanges with them except Viet Nam, and no peers has raised any concerns on this. Thailand also informed that protocols related to these 10 DTCs are under negotiation with its partners.

242. The conclusions are as follows:

Legal and Regulatory Framework: In Place

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

Practical Implementation of the Standard: Compliant

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

Other forms of exchange of information

243. Apart from EOIR, Thailand carries out the following forms of exchange of information:

- Thailand committed to implement the Standard for the automatic exchange of financial account information, with first exchanges expected in September 2023.
- Thailand conducts Spontaneous Exchange of Information with partners.
- Thailand signed the Multilateral Competent Authority Agreement on the Exchange of Country-by-country Reports (CbC MCAA) on 9 December 2022.

12. Bangladesh, Belarus, Chinese Taipei, Lao People's Democratic Republic, Myanmar, Nepal, Sri Lanka, Tajikistan, Uzbekistan and Viet Nam.

C.1.1. Standard of foreseeable relevance

244. The standard for exchange of information envisages information exchange to the widest possible extent, but does not allow speculative requests for information that have no apparent nexus to an open inquiry or investigation (i.e. “fishing expeditions”). Exchange of information mechanisms should allow for exchange of information on request where it is foreseeably relevant to the administration and enforcement of the domestic tax laws of the requesting jurisdiction.

245. The Multilateral Convention and all of Thailand’s DTCs contain articles for EOI purposes that provide for exchange of information that is “foreseeably relevant”, or “necessary” to the administration and enforcement of the domestic laws of the contracting parties concerning taxes covered in the international agreements. The OECD Model Tax Convention recognises in its commentary to Article 26 that the term “necessary” allows the same scope of exchange of information as does the term “foreseeably relevant”. Most of the 61 DTCs that are in force in Thailand but signed with its exchange partners before 2012 use the word “necessary” instead of “foreseeably relevant”. The RD interprets the terms of “necessary” and “foreseeably relevant” in line with the standard. Therefore, the scope of these DTCs is consistent with the standard.

246. Section 1 of the Regulation of the Ministry of Finance on Exchange of Information corresponding to Section 10 Ter of the Revenue Code (2021) (MOF Regulation on EOI), and Sections 9 and 10 of the Decree on EOI provide for more detailed procedures and criteria in corresponding to the standard on “foreseeably relevant”.

Clarifications and foreseeable relevance in practice

247. The RD has an EOIR outgoing request template, based on the standard EOIR template designed by the Global Forum Secretariat, which is used as a guidance to check the requests they receive. Such template captures identity information details, tax purposes of the request, a brief description of the case, and the time period for which the information is requested.

248. In practice during the review period, to process the request from an exchange partner, the RD would need as a minimum the identity information of the taxpayer(s) concerned and information holder(s), e.g. the name and the address, so the RD could contact the taxpayer or other information holder for the information if it cannot be obtained through other sources. If certain information is missing, in particular the one relating to identity information, or the request is not clear, the RD would ask the requesting jurisdiction for further information or to clarify.

249. The Decree on EOI that came into force on 1 April 2023 lists the elements required from EOI partners when sending a request for information to Thailand, which should at least include: 1) details of the person under tax investigation or prosecution; 2) details on information requested including nature and form; 3) tax purpose(s); 4) grounds for believing that the information is in Thailand; 5) name and address of the person believed to have information; 6) statement on reciprocity; and 7) statement that domestic means have been exhausted in the requesting jurisdiction (Decree on EOI, Section 9).

250. During the review period, the RD received two requests from two exchange partners that were suspected of being fishing expeditions and not meeting the requirements of foreseeably relevant, as the exchange partners were not able to demonstrate that the requested information was related to an ongoing tax audit or investigation. Thailand confirmed that it did not decline those two cases and clarification requests were sent to those two partners, but no responses have ever been received and the two cases remain pending. Those two exchange partners did not raise any input on this.

Group requests

251. Thailand's EOI agreements and domestic law do not contain language prohibiting group requests. The Manual for Exchange of Information for Tax Purposes (EOI Manual) for the EOI Unit of the RD has specified procedures for group requests (EOI Manual, Section 1.3.2.3), with guidance in respect of how officials should handle group requests and how foreseeable relevance in respect of such requests is to be examined according to the provisions of the Model EOIR Manual published by the Global Forum Secretariat. Thailand confirmed that in practice, compared with non-group requests, more information might need to be provided by the requesting jurisdictions so as to check if the group requests received are foreseeably relevant.

252. During the review period, Thailand received two group requests. Both requests were foreseeably relevant and there was no difficulty for the CA to respond to these requests.

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

253. For exchange of information to be effective, it is necessary that a jurisdiction's obligation to provide information is not restricted by the residence or nationality of the person to whom the information relates or by the residence or nationality of the person in possession or control of

the information requested. For this reason, the standard envisages that exchange of information mechanisms will provide for exchange of information in respect of all persons.

254. Out of Thailand's 61 DTCs, 48 of them were signed by Thailand with partner jurisdictions and for which the Multilateral Convention is in force and provides for EOI in respect of all persons. For the other 13 DTCs, 3 of them (with Cambodia, Sri Lanka and the United States) indicate that exchange of information is not restricted by Article 1, which defines the personal scope of application of the Convention and indicates that it applies only to persons who are residents of one or both of the Contracting States. The other 10 DTCs, with Bangladesh, Belarus, Chinese Taipei, Lao People's Democratic Republic, Myanmar, Nepal, the Philippines, Tajikistan, Uzbekistan, and Viet Nam, do not contain a similar wording, but they all apply to carrying out the provisions of the Convention or of the "domestic laws of the Contracting States" or "statutory provisions against tax avoidance" concerning taxes covered by the Convention. As a result of this language, these DTCs would not be limited to residents because all taxpayers, resident or not, are liable to the domestic taxes listed in Article 2. Thailand confirmed that to the extent that domestic laws are applicable to residents and non-residents, information can be exchanged under these other 10 EOI agreements in respect of all persons, including non-residents. The same confirmation was provided by the Philippines during its review, but the position of the other 9 jurisdictions is unknown as they have not been reviewed (yet).

255. In practice, Thailand has not received any EOI requests from those 10 jurisdictions but is ready to exchange information on all persons with them, including non-residents. Thailand should continue to work with its exchange partners to ensure that its EOI relations with these partners are in line with the standard and apply whether or not the person concerned is a taxpayer of one of the parties (see Annex 1).

C.1.3. Obligation to exchange all types of information

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

257. Out of Thailand's 61 DTCs, 48 of them were signed with jurisdictions that are covered by the Multilateral Convention and for which the Convention is in force, meets the standard. Regarding the other 13 DTCs, only the ones signed with Cambodia and the United States contain the language akin to Article 26(5) of the OECD Model Tax Convention, explicitly providing for the obligations of the contracting parties to exchange information held by

financial institutions, nominees, agents and ownership and identity information. Nevertheless, the commentary to Article 26(5) indicates that while paragraph 5, added to the OECD or UN Model Tax Convention in 2005, represents a change in the structure of the Article, it should however not be interpreted as suggesting that the previous version of the Article did not authorise the exchange of such information.

258. The exchange of bank information in the absence of language akin to the Article 26(5) of the OECD or UN Model Tax Convention in respect of the other 11 DTCs will be subject to reciprocity and will depend on the domestic limitations (if any) in the laws of some of these treaty partners. Among those, the Philippines have been peer reviewed by the Global Forum and are able to exchange all types of information despite the absence of provisions akin to Article 26(5) on a reciprocal basis. The other 10 DTCs signed with Bangladesh, Belarus, Chinese Taipei, Lao People's Democratic Republic, Myanmar, Nepal, Sri Lanka, Tajikistan, Uzbekistan and Viet Nam, which are non-Global Forum members and/or have not yet undergone peer reviews, the pre-2005 wording of DTCs may be a concern. It may have legal restrictions to access bank information for EOI purposes under their domestic laws. Thailand has informed that protocols to these ten DTCs are under negotiation.

259. During the review period, no issues were reported from peers regarding the issue on the basis of treaties that do not have language akin to the Article 26(5) of the OECD or UN Model Tax Convention. Thailand should continue its negotiations of protocols with relevant jurisdictions and ensure that all types of requested information can be provided under its EOI agreements (see Annex 1).

C.1.4. Absence of domestic tax interest

260. The concept of “domestic tax interest” describes a situation where a contracting party can only provide information to another contracting party if it has an interest in the requested information for its own tax purposes. An inability to provide information based on a domestic tax interest requirement is not consistent with the standard. Contracting parties must use their information gathering measures even though invoked solely to obtain and provide information to the other contracting party.

261. There are no domestic tax interest restrictions on Thailand's powers to provide information to another contracting party in EOI case. Out of Thailand's 61 DTCs, 48 are complemented by the Multilateral Convention being in force that meets the standard. Regarding the other 13 DTCs, only the DTCs with Cambodia and the United States contain provisions similar to Article 26(4) of the OECD or UN Model Tax Convention, which obliges the contracting parties to use their access powers to obtain and provide

information to the requesting jurisdiction even in cases where the requested party does not have a domestic tax interest in the requested information. The RD confirmed that as long as a request is foreseeably relevant, the information is obtained through domestic measures under the Revenue Code and the Decree on EOI, regardless of whether the DTC includes paragraph 4 of Article 26 of the OECD or UN Model Tax Convention.

262. With regard to the remaining 11 DTCs, the DTC signed with the Philippines does not contain the provision akin to Article 26(4), but the Philippines has been reviewed by the Global Forum and it is confirmed that it can exchange information with partners without regard to a domestic tax interest. Wording of the other 10 DTCs, with Bangladesh, Belarus, Chinese Taipei, Lao People's Democratic Republic, Myanmar, Nepal, Sri Lanka, Tajikistan, Uzbekistan and Viet Nam, may be a concern because EOI in Thailand is subject to reciprocity and will depend on the domestic limitations (if any) in the laws of its treaty partners. Thailand has informed that protocols to these DTCs are under negotiation. Thailand should continue to work with these 10 EOI partners to ensure that their EOI relations are in line with the standard (see Annex 1).

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

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

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

265. In practice, Thailand has provided information in response to all EOI requests for civil and criminal tax matters. During the review period, Thailand received three EOI requests that were related to criminal investigations and the process of exchanging information is the same, regardless of a criminal tax matter or civil tax matter. No issues have been raised from the peers during the review period.

C.1.7. Provide information in specific form requested

266. In some cases, a contracting party may need to receive information in a particular form to satisfy its evidentiary or other legal requirements. Such formats may include depositions of witnesses and authenticated copies of original records. Contracting parties should endeavour as far as possible to accommodate such requests. The requested party may decline to provide the information in the specific form requested if, for instance, the requested form is not known or permitted under its law or administrative practice. A refusal to provide the information in the form requested does not affect the obligation to provide the information. There are no restrictions in Thailand's EOI agreements or domestic laws that would prevent it from providing information in a specific form. During the review period, Thailand did not receive any requests that require specific formats. No peers raised any concerns in this regard.

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

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

268. Thailand has ratified all its EOI instruments. All DTCs are in force and the only relationships not in force relate to partners that have not deposited their instruments of ratification of the Multilateral Convention.

269. With regard to the process for ratification of an EOI agreement in Thailand, after the completion of the treaty negotiation, the heads of both delegations will initial the draft treaty, which will then be sent to the Cabinet of Thailand for approval. After its approval, the Prime Minister, the Minister of Foreign Affairs and the Minister of Finance who is in charge of the treaty negotiation, will formally sign the treaty. EOI agreements signed by Thailand do not need to be approved by the Parliament or sent for royal consent. The process will conclude with the ratification and exchange of letters of notification of ratification of the treaty. The treaty should enter into force on the date of the receipt or the latest letter of notification. In general, these steps take about four to six months, but in some cases they may take longer due to delays in the internal procedure of getting the approval from the Cabinet or in the process of exchange of note or letter with partners, but this never took more than 18 months over the last 10 years.

270. The table below summarises the outcome of the analysis under Element C.1 in respect of Thailand's EOI mechanisms.

EOI mechanisms

Total EOI relationships, including bilateral and multilateral mechanism	156
In force	151
In line with the standard	141
Not in line with the standard	10 ^c
Signed but not in force	5 ^a
In line with the standard	5
Not in line with the standard	0
Total bilateral EOI relationships not supplemented with multilateral mechanism	13
In force	13
In line with the standard	3 ^b
Not in line with the standard	10 ^c
Signed but not in force	0

Notes: a. The Multilateral Convention is not in force in Gabon, Honduras, Madagascar, Papua New Guinea and Togo.

b. DTC with Cambodia, the Philippines and the United States.

c. Bangladesh, Belarus, Lao People's Democratic Republic, Myanmar, Nepal, Sri Lanka, Chinese Taipei, Tajikistan, Uzbekistan and Viet Nam (the latter one until the Multilateral Convention enters into force there).

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.

271. Thailand has an extensive EOI network covering 156 jurisdictions through 61 DTCs and the Multilateral Convention which expands Thailand's EOI network based on DTCs by 95 jurisdictions. Thailand's EOI network covers a wide range of counterparties, including its main trading partners, all OECD members and all G20 countries.

272. Thailand has in place an ongoing programme for negotiation of EOI agreements and is currently negotiating amending protocols to existing DTCs and new DTCs. Thailand has informed that they try to ensure that the protocols and new DTCs in ongoing negotiations are in line with the standard.

273. No Global Forum members indicated, in the preparation of this report, that Thailand 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, Thailand should continue to conclude EOI agreements with any new relevant partner who would so require (see Annex 1).

274. The conclusions are as follows:

Legal and Regulatory Framework: In Place

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

Practical Implementation of the Standard: Compliant

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

C.3. Confidentiality

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

275. Thailand's EOI instruments contain the confidentiality provisions for safeguarding all exchanged information under international agreements at the RD. Thailand's laws and administrative procedures ensure that information received under an EOI mechanism is treated as confidential and is disclosed only to the extent permitted by the agreement.

276. In practice, the RD has encountered no cases of breach of confidentiality and peers have not raised any concerns in this regard.

277. The conclusions are as follows:

Legal and Regulatory Framework: In Place

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

Practical Implementation of the Standard: Compliant

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

**C.3.1. Information received: disclosure, use and safeguards and
C.3.2. Confidentiality of other information**

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

279. All of Thailand's EOI instruments have confidentiality provisions modelled on Article 26(2) of the OECD or UN Model Tax Convention to ensure that the information exchanged will be treated as secret in the same manner as domestic information and disclosed only to persons authorised by the agreements.

280. 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. In the period under review, Thailand reported that there were no requests where the requesting partner sought Thailand's consent to utilise the information for non-tax purposes and similarly Thailand did not request its partners to use information received for non-tax purposes.

281. Under the domestic legislation of Thailand, there are legal rules that protect the confidentiality of information on taxpayers, including information exchanged under international agreements. According to Section 10 of the Revenue Code, any official, who upon performing his/her duty learns about the operations of a taxpayer or any related persons, is prohibited from informing any other person or relay to others such information in any way, unless he/she has the power to do so under the law, e.g. for tax collection purposes, the Director-General of the RD shall have the power to disclose certain taxpayer information including the name of the VAT registrant (Revenue Code, Section 10bis). Officials' obligation on confidentiality continues to apply after the termination of the employment or engagement. Officials contravening Section 10 are subject to a fine not exceeding THB 20 000 (EUR 539) or an imprisonment not exceeding one year or both (Revenue Code, Section 13).

282. In addition, the Official Information Act also sets out that a state agency (including the RD) cannot disclose personal information (including tax information) in its control to other state agencies or other persons

without prior or immediate consent given in writing by the person who is the subject of such information (Section 24). Any person who violates or fails to comply with the restrictions or conditions imposed are subject to a fine not exceeding THB 20 000 (EUR 539) or an imprisonment not exceeding one year or both (Official Information Act, Section 41). However, the same section also lists a wide range of exceptions where such information can be disclosed, including if the disclosure is for the purpose of the implementation of the law by government agencies, and the disclosure to studies and research without mentioning the name or other identity information. Section 15 of the Official Information Act also allows state agencies including the RD to issue an order prohibition of the disclosure of official information where it could jeopardise international relations. As such, the RD issued the Regulation on the Consideration of Disclosure of the RD Official Information L.K. 1/2548 (2023), which prevents the disclosure of any exchanged information under an international agreement. Section 24 of the Official Information Act also specifies that a person has the right to get access to its own personal information upon request in writing to the state agency.

283. However, as mentioned above, all those exceptions do not apply to the information exchanged under the international agreements, as the use of such information for other purpose is subject to the provisions of the international agreements. In addition, the Decree on EOI also specifically provides for the limited disclosure of information exchanged under international agreements by the CA only to the assessment officials appointed under the Revenue Code, or the laws of Petroleum Income Tax or other tax laws (Decree on EOI, Section 25).

Confidentiality in practice

284. There are administrative procedures and rules applying in Thailand to ensure that information exchanged pursuant to an EOI agreement is treated as confidential and that only authorised officials have access to it.

285. During the hiring process, the RD performs background investigations for employees and contractors, including staff of the International Tax Affairs Centre (ITAC), to which the EOI Unit belongs, and tax auditors who may have access to, use or are responsible for protecting data received through EOI, as required by the Civil Service Act, the Regulations of the MOF on Permanent Employees of Government Sectors B.E.2537 (1994), and the Announcement of the Prime Minister's Office Subject: Criteria and Procedures for Examination of Person's Background and Behaviour B.E.2552 (2009). Background investigations include the criminal records check at the Royal Thai Police. Staff at the EOI Unit are all permanent employees of the RD, and their profiles are required to be re-investigated

by the Director of the ITAC to ensure they are appropriate and valid. The RD also has relevant training and awareness programmes regarding the protection of confidential information, including data received from partners under international agreements. There are relevant departure policies and procedures for terminating access to confidential information for departing employees and contractors of the RD.

286. The RD confirmed that for EOI purposes, the exchanges under international agreements are mainly conducted either by encrypted emails or in hard copies by mail. There are safeguard procedures in place to ensure that there is appropriate access and use of information exchanged under the international agreements, that is maintained in paper or other physical form. The RD's physical security system is designed in accordance with the RD Information Security Policy. All employees of the RD have access cards, which are checked by security guards when entering the RD office premise. Visitors need to exchange their identification cards or passports with access cards to enter a specific floor in the main building. At the RD office building, there are automatic barrier gates with security guards monitoring the people entering the building, whilst in office areas without automatic barrier gates, the security guards at the entrance will check the employees' access cards or a visitor's identification card or passport together with an access card that mentions which floor that person can access. In addition, external areas of the office buildings are monitored by CCTV cameras and 24/7 security guards. The EOI office has tighter access controls with keypad and fingerprints at the entry points. EOI information is stored in secured rooms of the EOI office, with intrusion detection system and in steel filing cabinets equipped with a security padlock.

287. The EOI manuals for the EOI Unit officials and for tax auditors set out the procedures for handling and use of the information received from other jurisdictions in line with the confidentiality requirements of the international agreements, including the naming convention, storage arrangements, logging requirements and archiving and destruction of the hard copies of the confidential data. Documents containing exchanged information are clearly stamped or labelled on each page of the document with the warning that "this information is furnished under the provisions of an income tax treaty with a foreign government and its use and disclosure must be governed by the provisions of such treaty".

288. Information covered by confidentiality rules is maintained in electronic form. The EOI data at the RD is kept separately from other taxpayer information, with restricted access on a "need to know" principle. The RD deploys a wide range of security controls, including baseline controls and risk-based controls, to ensure that the appropriate access and use of the exchanged information is maintained with respect to the electronic files as well as the servers or other IT platforms in which they are stored. Baseline controls

include the penetration tests and vulnerability assessment, patch and update management, system hardening, application whitelisting, Microsoft Office Macros restriction, browser controls and network segmentation and antivirus software.

289. In addition, there are risk-based controls to identify the breaches and manage breach process, including administrator access and rights management, privileged account's limited access rights, jump box and server controls, logging and monitoring and hardware security module. Watermark labels with the same wordings are applied to every document containing exchanged information that the EOI Unit handles. In case of a suspected or actual breach, the employees are required to report such breach to their immediate supervisors in writing, which will be escalated to the Head of the Division or Office, then to the Director of the HR Management Division. The EOI Unit will also be informed if it is related to treaty protected information. A security incident report will then be prepared and submitted to the information security management committee of the RD for detailed analysis and any remedial actions.

290. During the review period, there were no cases in the RD where confidential information including exchanged information had been improperly accessed, used or disclosed, and the peers have not raised any concerns in this regard.

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.

291. The standard allows requested parties not to supply information in response to a request in certain identified situations where an issue of trade, business or other secret may arise. Among other reasons, an information request can be declined where the requested information would disclose confidential communications protected by the attorney-client privilege.

292. In addition to the Multilateral Convention, all Thailand's DTCs contain a provision equivalent to the exception provided by the OECD or UN Model Tax Convention, which permits a jurisdiction to decline to exchange information where the information is covered by attorney-client privilege, a trade, business industrial, commercial or professional secret, and information the disclosure of which would be contrary to public policy (*ordre public*).

293. In addition, the Decree on EOI sets out the grounds where the Thai CA would deny an EOI request, which is based on Article 26(3) of the OECD or UN Model Tax Convention (Decree on EOI, Section 10).

294. The term “professional secret” is not defined in the EOI agreements of Thailand, and therefore it derives its meaning from Thailand’s domestic laws. Thailand’s domestic laws define the scope of legal professional privilege and allow for exception from obligation to provide information requested for tax purposes in respect of information subject to the legal professional privilege. This is not in line with the standard because the scope of the professional secret regarding lawyers in domestic laws is broader than the standard (see Element B.1.5).

295. Legal professional privilege in Thailand may have limited materiality for the exchange of information in practice, since lawyers are generally not a source of information for EOI purposes. Thailand reported that there had been no cases in which information needed to be obtained from them. Even though the RD reported that to date they have never encountered practical difficulties in responding to EOI requests due to the application of rights and safeguards, it is not possible to confirm this would cause not issues in practice. Therefore, **Thailand is recommended to ensure that the scope of legal professional privilege is in line with the standard.**

296. The conclusions are as follows:

Legal and Regulatory Framework: In Place

Deficiencies identified/Underlying factor	Recommendations
Although legal professional privilege has never been an impediment in obtaining information for EOI purposes, the information held by lawyers subject to legal professional privilege is wider than the scope accepted by the standard.	Thailand is recommended to ensure that the scope of legal professional privilege is in line with the standard.

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.

297. Thailand is a new member to the Global Forum. It received 91 requests from exchange partners during the review period from 1 April 2019 to 31 March 2022. Most of the requests were from European countries, including Norway and Belgium, and Asian countries, including India and Japan.

298. During the review period, Thailand had experienced significant delays in responding to requests from exchange partners, and peers were dissatisfied with the time taken by Thailand to respond to requests. Thailand clarified that the delays were mainly due to the severe consequences of the COVID-19 pandemic between 2020 and 2021, the lack of full access power of the CA to obtain the information from information holders (see Element B.1) and the resource constraint at the EOI Unit.

299. Since the restrictions of the COVID-19 pandemic started to be eased from early 2022, Thailand has made various actions to address the identified issues, including putting in place the Decree on EOI to give full access power to the CA for EOI and relevant resources and systems for responding to requests from exchange partners. However, as the Decree on EOI only came into force on 1 April 2023, relevant internal procedures and rules could not be tested during this review. Thailand is recommended to take measures to ensure that the related processes, in particular the timelines as provided in the related internal rules are effectively implemented in practice, to enable it to respond to EOI requests in a timely manner.

300. Thailand did not systematically provide status updates to exchange partners within 90 days when it was not able to provide partial or complete response. It is noted though that a new tracking system has been in place since March 2023. Thailand is recommended to ensure the new tracking system operates effectively so as to provide status updates as required by the standard.

301. The conclusions are as follows:

Legal and Regulatory Framework

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

Practical Implementation of the Standard: Partially Compliant

Deficiencies identified/Underlying factor	Recommendations
Thailand was not able to respond to the requests received during the review period in a timely manner in most cases, which was largely due to the lack of full access powers of the competent authority, the lack of efficient internal process and resources for handling EOI cases, and the consequences of the COVID-19 pandemic. Such challenges have been addressed by the Thai authority after the review period, thus relevant processes to respond to EOI requests in a timely manner are not tested .	Thailand is recommended to monitor the implementation of the measures taken to ensure that the EOIR-related processes, in particular the timelines as provided in the related internal rules are effectively implemented in practice, to enable it to respond to EOI requests in a timely manner.

Deficiencies identified/Underlying factor	Recommendations
Thailand did not systematically provide status updates to EOI partners within 90 days where it was not able to provide a partial or complete response within that timeframe. A new tracking system has been in place since March 2023, but its effectiveness could not be tested during this review.	Thailand is recommended to monitor the implementation of the new tracking system to ensure that it operates effectively so as to provide updates to EOI partners within 90 days in cases where it is not possible to provide a partial or complete response within that timeframe

C.5.1. Timeliness of responses to requests for information

302. In order for exchange of information to be effective, it must be provided in a timeframe that allows tax authorities to apply the information to the relevant cases. If a response is provided but only after a significant lapse of time, the information may no longer be of use to the requesting jurisdiction. This is particularly important in the context of international co-operation as cases in this area must be of sufficient importance to warrant making a request. Article 20(1) of the Multilateral Convention requires the requested jurisdiction to inform the requesting jurisdiction of the action taken and the outcome of the assistance as soon as possible.

303. During the review period, Thailand received 91 EOI requests from exchange partners. They covered ownership information including legal ownership information (17 requests) and beneficial ownership information (10 requests), accounting information (26 requests), banking information (10 requests), and other types of information such as transfer pricing matters. Most of the requests received by Thailand were about taxpayers that are individuals or companies. The majority of the EOI requests were from European Union members during the review period. Jurisdictions with which Thailand had the most significant EOI relationships were Norway, Belgium, France, India, Japan, the United Kingdom and Finland due to the number of requests received.

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

Statistics on response time and other relevant factors

	Q2-Q4 2019		2020		2021		Q1 2022		Total	
	Num.	%	Num.	%	Num.	%	Num.	%	Num.	%
Total number of requests received [A+B+C+D+E]	28	100	24	100	24	100	15	100	91	100
Full response: ≤ 90 days	2	7	0	0	0	0	0	0	2	2
≤ 180 days (cumulative)	5	18	0	0	1	4	0	0	6	7
≤ 1 year (cumulative) [A]	10	36	4	17	3	13	1	20	18	20
> 1 year [B]	11	39	13	58	8	42	3	20	35	38
Declined for valid reasons	0		0		0		0		0	
Requests withdrawn by requesting jurisdiction [C]	7	25	4	17	2	8	0	0	13	14
Failure to obtain and provide information requested [D]	0	0	1	0	2	0	2	0	5	7
Requests still pending at date of review [E]	0	0	2	8	9	37	9	60	20	22
Outstanding cases after 90 days	26		24		24		15		89	
Status update provided within 90 days (for outstanding cases with full information not provided within 90 days, responses provided > 90 days)	19	73	18	75	13	54	6	40	56	63

Notes: Thailand counts each request with multiple taxpayers as one request, i.e. if a partner jurisdiction is requesting information about 4 persons in one request, Thailand count that as 1 request. If Thailand received a further request for information that relates to a previous request, with the original request still active, Thailand 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.

305. On a total of 91 requests received by Thailand during the review period, only 2% were answered within 90 days and 7% within 180 days. Thailand clarified that those requests were not related to a particular type of information.

306. In addition, there are many requests that are still pending, accounting for 22% of the total number of requests received, sometimes almost three years after the request was received. Thailand confirmed that those pending cases are mainly about identity information of individuals, asset ownership information, and banking information.

307. There were 5 cases where Thailand failed to obtain and provide the information as requested during the review period due to limitation of access powers of the RD.

308. During the review period, 13 requests were withdrawn by the requesting jurisdictions. As per the input provided by peers, reasons for such

withdrawal were mainly because there were significant delays for Thailand to respond to those requests and they were not able to receive the information before the conclusion of the related domestic tax investigation cases.

309. During the review period, Thailand received 2 requests that were suspected of being fishing expeditions. Thailand asked for clarifications from those two partners, but no responses have ever been received. Those two cases are treated as pending cases, reflected in the statistics of response time. The concerned two exchange partners did not raise any input on this.

310. The normal operations of the RD had been severely affected by the COVID-19 pandemic since January 2020. There were several rounds of nation-wide lockdowns in Thailand in 2020 and 2021. Information regarding incoming requests was kept in the EOI office, and according to the confidentiality rules for handling EOI requests, the EOI officials could only work on those cases when they were physically in the office, which was not possible during the lockdowns. The pandemic effects have affected the timeliness of responses, but they do not explain all the delays in responding to requests, in particular in 2019 cases.

311. The following other causes of delays have been identified:

- Until 1 April 2023, the Decree on EOI which gives the CA full power to access all relevant information for EOI in Thailand was not in place. The CA could only rely on the power under the Revenue Code to obtain the requested information for EOI, with limitation that such information relates to cases about false or incomplete tax returns, failure to file tax returns, or collection of VAT in Thailand. Limitation on access powers of the CA (see Element B.1) caused significant delays in obtaining the requested information, especially information held by third parties, e.g. banks.
- To process some requests, the EOI Unit would need to require the field tax officials to contact the taxpayers several times in order to conduct fact-finding and in-depth investigations, especially when the address information provided by the requesting jurisdiction was not up to date. As Thailand joined the Global Forum in 2017, only two years before the start of the current review period, it also took some time for the EOI Unit at the head office of the RD to raise awareness of the field tax officials on the EOI knowledge including the processes.
- By end of 2021, there was only one full-time official working on EOI at the EOI Unit. This presented a challenge to handle many incoming requests at the same time, including translating all requests into Thai and communicating with tax auditors for collecting the related information.

- The internal approval procedure for responding to the requests from exchange partners at the RD was long during the review period. For preparing a response letter to a requesting jurisdiction, firstly the EOI Unit must prepare a draft response letter, which would then be sent to the Director of the ITAC for review and approval. Then the Director of the ITAC would present the letter to a Principal Advisor of the RD, who would sign the letter as the CA of Thailand before it was sent to the exchange partner. This in practice took a long time, especially for complicated cases, subject to the availability of the Principal Advisor who is one of the senior management of the RD responsible for various tasks at the RD.

312. Since the restrictions related to the COVID-19 pandemic started to be eased from early 2022, the RD has taken various actions to address the above challenges it faced during the review period, including:

- Since the beginning of 2022, the number of staff working on EOI has been increased to four full-time officials and one part-time officer.
- Since August 2022, more officials at the RD have been appointed as the delegated CAs for EOI purposes. At present, there are 11 delegated CAs, including the Director of the ITAC. Thus the responding letters to exchange partners only need to be approved by the head of the EOI Unit and signed by the Director of the ITAC. This greatly shortened the internal approval time for responding to an EOI request.
- With regard to the interaction with the field tax officials, there has been an official communication to all field tax officials to put responding to EOI requests as one of the highest priority tasks, and this has been set as one of the key performance indicators for field tax officials since October 2022.
- The Decree on EOI has been in force since 1 April 2023, which gives the CAs of Thailand full access powers to all information of entities and arrangements relevant to EOI. The CAs since then have been able to obtain the requested information directly from the information holders, e.g. banks, regardless of whether the request is related to a domestic tax investigation case or not.

313. However, as the Decree on EOI only came into force from 1 April 2023, the effect of relevant internal procedures and rules were not able to be tested during this review, **Thailand is recommended to monitor the implementation of the measures taken to ensure that the EOIR-related processes, in particular the timelines as provided in the related internal rules are effectively implemented in practice, to enable it to respond to EOI requests in a timely manner.**

Status updates and communication with partners

314. Among the 91 requests received, Thailand provided status updates within 90 days for 56 requests, i.e. 63%, while it provided a full answer within 90 days for only 2% requests. Due to resource constraints during the review period, it was not a general practice for the Thai CA to provide its partners with status updates where they were not able to provide a response to the request within 90 days. This was also confirmed by the inputs provided by some peers.

315. In March 2023, Thailand put in place an online tracking system which includes the function of providing status updates to exchange partners, but its effectiveness could not be tested. **Thailand is recommended to monitor the implementation of the new tracking system to ensure that it operates effectively so as to provide updates to EOI partners within 90 days in cases where it is not possible to provide a partial or complete response within that timeframe.**

C.5.2. Organisational processes and resources

Organisation of the competent authority

316. It is important that a jurisdiction has appropriate organisational processes and resources in place to ensure a timely response. The CA in Thailand for EOI purposes is the Minister of Finance, who delegated the CA power to the RD being the authority responsible for tax administration, as set out in the MOF's Regulation on the Exchange of Information Under Section 10 Ter of the Revenue Code (2021). The unit responsible for the exchange of information is the EOI Unit under the ITAC of the RD.

317. At present, Thailand has 11 delegated CAs for EOI, including the Director General, Principal Advisors, Deputy Director Generals and Director of the ITAC. Contact details for all those CAs for EOI purposes are listed on the Global Forum secure website and the RD's website.¹³ There is also a regular established contact channel with EOI partners through an official email managed by the EOI Unit.

Resources and training

318. The EOI Unit is under the ITAC, comprised of ten EOI officials, including the head of the EOI Unit. The EOI officials are responsible for policies and operations of all types of EOI, including EOIR, Spontaneous Exchange of Information and automatic exchange of information. Among

13. https://www.rd.go.th/fileadmin/user_upload/porsor/authorities.pdf.

these ten officials, four officials are dedicated to the EOIR related matters, and one official is called upon demand, depending on the workload of EOIR. All officials have a good level of knowledge on EOIR and English, being able to process the requests as required under the EOI Manual. The majority of the unit staff have legal, economics or accounting educational background, and some staff have obtained PhD degrees. The whole EOI Unit is supervised by the Head of the EOI Unit, and every request or response sent from the EOI Unit must be approved by the Head of the EOI Unit before being presented to the CA. The EOI Unit may also request for services of the Legal Division of the RD for legal advice for purposes of EOI.

319. The financing for the EOI Unit is received from the Ministry for Finance, including the salaries and other logistical resources such as computers. Thailand confirmed that the current financial resources meet the set-up and the workload of the EOI cases.

320. During the review period, the EOI Unit used an “EOI Excel Database” to track and record the incoming and outgoing EOI requests. Since March 2023, the RD put in place an online EOI Tracking System, dedicated for the management of the EOI cases, including monitoring status of the requests, the numbers of requests handled per official and the response time. The online Tracking System is also utilised for statistical purposes.

321. The EOI Unit has access to and uses several databases to gather information requested by exchange partners, including the taxpayer database maintained by the RD and the registration database maintained by the DBD for information regarding companies, partnerships, and foreign companies and partnerships. It is understood that the AMLO is also setting up a centralised register of beneficial ownership information in Thailand, which will also give full access to the RD for exchange of information.

322. Under the present set-up and taking into consideration the number of requests for information presently being received and submitted, the resources available to the EOI Unit are sufficient.

323. With the support of the Global Forum Secretariat and Asian Development Bank (ADB), the RD has organised dedicated training events to the staff of the Unit. For new staff, they would receive carefully planned on-job training and are closely monitored by senior staff during their initiation period. Staff of the EOI Unit have attended various trainings or workshops provided by the OECD, the Global Forum or the ADB.

Incoming requests

Competent authority's handling of the request

324. Thailand has processes and procedures to manage the incoming requests for information, which have been set out in the EOI Manual, based on the model EOI Manual designed by the Global Forum Secretariat.

325. Where an incoming request is received by the RD, it is directly sent to ITAC and then to the EOI Unit. The Head of the EOI Unit will then review the request and assign it to an EOI official based on their availability and skills.

326. The assigned EOI official firstly records relevant information about the request in the internal database, such as the date of request, reference number, name of concerned persons and type of information requested. Then, the EOI official reviews the details of the request and its completeness for considering the foreseeable relevance. In determining the validity of the request including establishing foreseeable relevance, verifying identity of sending CA, time periods applicable under relevant EOI mechanism, etc., the EOI official will follow a checklist set out in the EOI Manual. If the information contained in the request is not clear or is incomplete, the EOI official then asks for more information from the requesting jurisdiction, through encrypted e-mails or formal letters. Where the request is considered to be foreseeably relevant, and there are no grounds to decline the request as per the international agreement, the EOI official then translates the request into Thai, and sends it to the Head of the EOI Unit and the Director of the ITAC for approval, with a formal letter or notice prepared for the tax audit departments or other government agencies (based on the template provided in the EOI Manual).

327. After the approval of the Director of the ITAC, the EOI official sends the formal letter or notice with relevant attachments (not including the original request received from the exchange partner) to relevant tax audit departments (including the Area Revenue Office, the Large Business Tax Administration Division, the Central Audit Operations Division) or other government agencies to investigate and collect the information requested. The letter or notice from the EOI official will also indicate the expected timeline (60 days) for receiving the response from the tax audit departments. However, for requests where the EOI official could directly obtain the information from the database available, including the taxpayer database, the official would gather such information and send the response back to the requesting jurisdiction, without processing the request to the tax audit departments. After the Decree on EOI is in place since 1 April 2023, the RD has communicated the new rules under the Decree to all relevant information holders, including other government agencies and banks. The

RD has also developed template letters for purposes of requesting information directly from information holders. Thailand confirmed that after the new Decree is in place, the RD has sent letters directly to some financial institutions for information and they are still waiting for the responses.

328. During the review period, all requests were tracked and monitored through the “EOI Excel Database”. From March 2023, the “EOI Excel Database” has been replaced by the more automated online EOI Tracking System.

329. With regard to replying to a request after receiving the requested information from the audit departments or other government agencies, there are four scenarios, including

1. Where partial information is already gathered while the collection of other information is still ongoing, the EOI official prepares a partial reply and sends it to the requesting CA, using the corresponding template in the EOI Manual.
2. Where all the requested information is gathered, the EOI official prepares a final reply and sends it to the requesting jurisdiction using the corresponding template in the EOI Manual.
3. Where no information is available within 90 days since the receipt of the request, the EOI official drafts a status update and sends it to the requesting CA using the corresponding template in the EOI Manual.
4. Where no information is available despite the use of all access powers, the EOI official drafts a reply using the template in the EOI Manual and informs the requesting CA as soon as possible that the information cannot be provided and provides the reasons.

330. All those letters should be approved by the Head of the EOI Unit and signed by the Director of the ITAC before being sent to the requesting CAs.

Verification of the information gathered

331. After receiving the requested information from the tax audit departments or other government agencies, the responsible EOI official will check the information for completeness and check whether the information received is relevant to the request. The accuracy of the information is also checked if the concerned taxpayer is also recorded in the RD’s database. Where the information received is incomplete, the concerned tax audit departments or other government agencies will be contacted for providing further information.

Practical difficulties experienced in obtaining the requested information

332. Thailand reported that during the review period the practical difficulty the EOI Unit experienced in obtaining the requested information was that the concerned individual taxpayer was not in the RD's taxpayer database, and the requesting jurisdiction could only provide the last known address of this individual in Thailand. For such cases, it was difficult for the CA to find such individual as he or she usually moved to other premises or had already left the country at the time of investigation. Eventually this in practice caused delays in responding to the request or conclusion that no information could be provided to the requesting jurisdiction.

Outgoing requests

333. The EOI Manual has set out procedures for handling outgoing requests in Thailand. Tax auditors firstly process outgoing requests to the EOI Unit using the template in the EOI Manual via postal mails. The EOI official at the EOI Unit will check the validity of the requests, against a checklist set out in the EOI Manual. Where a request is not valid, the EOI Unit will contact the tax auditor who sent the request to ask for more information. In case the request cannot be proceeded as it is against the EOI agreements, the EOI Unit will reject such request. If the request is valid, it is then sent to the Director for sign-off, before being sent to the requested jurisdiction by encrypted e-mail and/or registered postal mail with relevant stamps or labels on confidentiality. After the EOI Tracking System was in place from March 2023, all outgoing requests have also been shared with the EOI Unit electronically with restricted access to specific officials responsible for the case, in addition to the postal mails.

334. After the EOI Unit receives the requested information from the requested jurisdiction, it will verify the information received against the request sent. If the response is perceived to be incomplete or inadequate, the EOI Unit will make further enquiries to the requested partners. If the response is complete and adequate, the information will be shared with the related tax investigators, and all documents will be stamped or labelled with the required confidentiality and treaty protection wordings.

335. For outgoing requests, if a request for clarification is received by Thailand, the Head of the EOI Unit will assign it to the official who is responsible for the original request sent. Where the clarifications are complex, the issue will be further sent to the concerned tax audit department for clarification.

336. During the current review period, Thailand sent 13 requests, and received 2 requests for clarifications on separate cases regarding accounting information and legal ownership information. Thailand provided the clarifications within less than two weeks.

Conclusion

337. In conclusion, during the review period Thailand has not had appropriate organisational processes and resources to handle EOIR. Now, Thailand has both appropriate organisational processes and adequate resources in place. As the new system is recent, **Thailand is recommended to take measures to ensure that the related processes, in particular the timelines as provided in the related internal rules are effectively implemented in practice, to enable it to respond to EOI requests in a timely manner.**

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

338. Exchange of information assistance should not be subject to unreasonable, disproportionate, or unduly restrictive conditions. There are no legal or regulatory requirements in Thailand that impose unreasonable, disproportionate or unduly restrictive conditions. There were also no factors or issues identified in practice that have unreasonably, disproportionately or unduly restricted the effective exchange of information.

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:** Thailand should take enforcement actions to ensure that the prohibition rules for Thai persons to act as nominee shareholders for foreigners are effectively implemented in practice (see paragraph 94).
- **Element A.3:** Thailand should continue the oversight and enforcement activity on banks to ensure the availability of banking information in practice (see paragraph 184).
- **Element C.1.2:** Thailand should continue to work with its exchange partners to ensure that its EOI relations with these partners are in line with the standard, providing that the EOI provision is not restricted by Article 1 (Persons Covered) of the DTCs (see paragraph 255).
- **Element C.1.3:** Thailand should continue its negotiations of protocols with relevant jurisdictions and ensure that all types of requested information can be provided under its EOI agreements (see paragraph 259).
- **Element C.1.4:** Thailand should continue to work with these 10 EOI partners to ensure that their EOI relations are in line with the standard (see paragraph 262).
- **Element C.2:** Thailand should continue to conclude EOI agreements with any new relevant partner who would so require (see paragraph 273).

Annex 2. List of Thailand’s EOI mechanisms

Bilateral international agreements for the exchange of information

	EOI partner	Type of agreement	Signature	Entry into force
1	Armenia	DTC	07-11-01	12-11-02
2	Australia	DTC	31-08-89	27-12-89
3	Austria	DTC	08-05-85	01-07-86
4	Bahrain	DTC	03-11-01	01-01-04
		Protocol	25-04-17	28-03-18
5	Bangladesh	DTC	20-04-97	09-07-98
6	Belarus	DTC	15-12-05	02-09-06
7	Belgium	DTC	16-10-78	29-12-80
8	Bulgaria	DTC	16-06-00	13-02-01
9	Cambodia	DTC	07-09-17	26-12-17
10	Canada	DTC	17-06-85	16-07-85
11	Chile	DTC	08-09-06	05-05-10
12	China (People’s Republic of)	DTC	27-10-86	29-12-86
13	Cyprus ¹⁴	DTC	27-10-98	04-04-00
14	Czech Republic	DTC	12-02-94	14-08-95

14. 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.

	EOI partner	Type of agreement	Signature	Entry into force
15	Denmark	DTC	23-02-98	12-02-99
16	Estonia	DTC	25-09-12	23-12-13
17	Finland	DTC	25-04-85	26-02-86
18	France	DTC	27-12-74	29-08-75
19	Germany	DTC	10-07-67	04-12-68
20	Hong Kong (China)	DTC	07-09-05	07-12-05
21	Hungary	DTC	18-05-89	16-10-89
22	India	DTC	29-06-15	05-01-16
23	Indonesia	DTC	15-06-01	21-10-03
24	Ireland	DTC	04-11-13	11-03-15
25	Israel	DTC	22-01-96	24-12-96
26	Italy	DTC	22-12-77	31-05-80
27	Japan	DTC	07-04-90	30-08-90
28	Korea	DTC	16-11-06	29-06-07
29	Kuwait	DTC	29-07-03	25-04-06
30	Lao People's Democratic Republic	DTC	20-06-97	23-12-97
31	Luxembourg	DTC	07-05-96	22-06-98
32	Malaysia	DTC	29-03-82	02-02-83
33	Mauritius	DTC	01-10-97	10-06-98
34	Myanmar	DTC	07-02-02	15-08-11
35	Nepal	DTC	02-02-98	14-07-98
36	Netherlands	DTC	11-09-75	09-06-76
37	New Zealand	DTC	22-10-98	14-12-98
38	Norway	DTC	31-07-03	29-12-03
39	Oman	DTC	13-10-03	27-02-04
40	Pakistan	DTC	14-08-80	07-01-81
41	Philippines	DTC	14-07-82	11-04-83
42	Poland	DTC	08-12-78	13-05-83
43	Romania	DTC	26-06-96	13-04-97
44	Russia	DTC	23-09-99	15-01-09
45	Seychelles	DTC	26-04-01	13-03-06
46	Singapore	DTC	11-06-15	15-02-16
47	Slovenia	DTC	11-07-03	04-05-04
48	South Africa	DTC	12-02-96	27-08-96

	EOI partner	Type of agreement	Signature	Entry into force
49	Spain	DTC	14-10-97	16-09-98
50	Sri Lanka	DTC	14-12-88	12-03-90
51	Sweden	DTC	19-10-88	26-09-89
52	Switzerland	DTC	12-02-96	19-12-96
53	Chinese Taipei	DTC	09-07-99	19-12-12
54	Tajikistan	DTC	17-05-13	23-12-13
55	Türkiye	DTC	11-04-02	13-01-05
56	Ukraine	DTC	10-03-04	27-11-04
57	United Arab Emirates	DTC	01-03-00	28-12-00
58	United Kingdom	DTC	18-02-81	20-11-81
59	United States	DTC	26-11-96	15-12-97
60	Uzbekistan	DTC	23-04-99	21-07-99
61	Viet Nam	DTC	23-12-92	31-12-92

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).¹⁵ 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 Thailand on 3 June 2020 and entered into force on 1 April 2022 in Thailand. Thailand can exchange information with all other Parties to the Multilateral Convention.

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

The Multilateral Convention is in force in respect of the following jurisdictions: Albania, Andorra, Anguilla (extension by the United Kingdom), Antigua and Barbuda, Argentina, Armenia, Aruba (extension by the Netherlands), Australia, Austria, Azerbaijan, Bahamas, Bahrain, Barbados, Belgium, Belize, Benin, Bermuda (extension by the United Kingdom), Bosnia and Herzegovina, Botswana, Brazil, British Virgin Islands (extension by the United Kingdom), Brunei Darussalam, Bulgaria, Burkina Faso, Cabo Verde, Cameroon, Canada, Cayman Islands (extension by the United Kingdom), Chile, China (People's Republic of), Colombia, Cook Islands, Costa Rica, Croatia, Curaçao (extension by the Netherlands), Cyprus, Czech Republic, Denmark, Dominica, Dominican Republic, Ecuador, El Salvador, Estonia, Eswatini, Faroe Islands (extension by Denmark), Finland, France, Georgia, Germany, Ghana, Gibraltar (extension by the United Kingdom), Greece, Greenland (extension by Denmark), Grenada, Guatemala, Guernsey (extension by the United Kingdom), Hong Kong (China) (extension by China), Hungary, Iceland, India, Indonesia, Ireland, Isle of Man (extension by the United Kingdom), Israel, Italy, Jamaica, Japan, Jersey (extension by the United Kingdom), Jordan, Kazakhstan, Kenya, Korea, Kuwait, Latvia, Lebanon, Liberia, Liechtenstein, Lithuania, Luxembourg, Macau (China) (extension by China), North Macedonia, Malaysia, Maldives, Malta, Marshall Islands, Mauritania, Mauritius, Mexico, Moldova, Monaco, Mongolia, Montenegro, Montserrat (extension by the United Kingdom), Morocco, Namibia, Nauru, Netherlands, New Zealand, Nigeria, Niue, Norway, Oman, Pakistan, Panama, Paraguay, Peru, Poland, Portugal, Qatar, Romania, Russia, Rwanda, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, San Marino, Saudi Arabia, Senegal, Serbia, Seychelles, Singapore, Sint Maarten (extension by the Netherlands), Slovak Republic, Slovenia, South Africa, Spain, Sweden, Switzerland, Thailand, Tunisia, Türkiye, Turks and Caicos Islands (extension by the United Kingdom), Uganda, Ukraine, United Arab Emirates, United Kingdom, Uruguay and Vanuatu.

339. In addition, the Multilateral Convention was signed by the following jurisdictions, where it is not yet in force: Gabon, Honduras, Madagascar, Papua New Guinea (entry into force on 1 December 2023), 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 (entry into force on 1 December 2023).

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 and the Schedule of Reviews. Thailand joined the Global Forum in 2017, and the current review is the first assessment under the EOIR Standard conducted by the Global Forum to Thailand, in line with the 2016 Terms of Reference.

The evaluation is based on information available to the assessment team including the exchange of information arrangements signed, laws and regulations in force or effective as at 17 July 2023, Thailand's EOIR practice in respect of EOI requests made and received during the three year period from 1 April 2019 to 31 March 2022, Thailand's responses to the EOIR questionnaire, inputs from partner jurisdictions, as well as information provided by Thailand's authorities during the on-site visit that took place between 29 November 2022 and 1 December 2022 in Bangkok.

Review	Assessment team	Period under review	Legal framework as of	Date of adoption by Global Forum
Round 2	Mr Suyash Divekar, New Zealand; Mr Yoshinori Tahara, Japan; Ms Miki Masaki, Japan; and Mr Colin Yan, Global Forum Secretariat	1 April 2019- 31 March 2022	17 July 2023	3 November 2023

List of laws, regulations and other materials received

Commercial laws/civil laws

Act Prescribing Offences Related to Registered Partnerships, Limited Partnerships, Limited Companies, Associations and Foundations, B.E. 2499 (1956)

Civil and Commercial Code

Foreign Business Act (1999), B.E.2542

Ministerial Regulations of Regulations, Operation and Registration of the Foundation B.E. 2545 (2002)

Notification of the Department of Business Development: Prescribing Additional Particulars in the Register of Shareholders and the Copy of List of Shareholders of Limited Company, B.E. 2557 (2014)

Public Limited Companies Act, B.E. 2535 (1992)

Department of Business Development Notification Prescribing Additional Particulars in the Register of Shareholders and the Copy of List of Shareholders of Limited Company, September 2014

Rules of Office of Central Company and Partnership Registry RE: Regulation of Partnerships and Companies B.E. 2561 (2018)

Tax laws

Accounting Act B.E.2543

Act Promulgating the Revenue Code, B.E. 2481. (1938)

Emergency Decree on the Exchange of Information in Compliance with International Tax Agreements B.E.2566 (2023)

Ministry of Finance's Regulation on the Exchange of Information under Section 10 Ter of the Revenue Code B.E. 2564 (2021)

Revenue Code Amendment Act (No. 54) B.E. 2564 (2021)

Anti-money laundering, banking and financial laws

Anti-Money Laundering Act B.E. 2542 (1999)

Counter-Terrorism and Proliferation of Weapon of Mass Destruction Financing Act B.E.2559 (2016)

Guidelines for Reporting Entities [AML-obliged persons] under MR CDD (2020)

Ministerial Regulation on Customer Due Diligence B.E. 2563 (2020)

Ministerial Regulation on Operation and Supervision of Savings and Credit Cooperatives, B.E. 2564 (2021)

Other legal rules

Accounting Professions Acts, B.E. 2547 (2003)

Announcement of the Prime Minister's Office Subject: Criteria and Procedures for Examination of Person's Background and Behaviour B.E.2552 (2009)

Civil Service Act, B.E. 2551 (2008)

EOI Manual for EOI Unit

EOI Manual for Field Tax Officers

Financial Institutions Business Act B.E. 2551 (2008)

Lawyer Act B.E. 2528 (1985)

Official Information Act, B.E. 2540 (1997)

Regulations of the MOF on Permanent Employees of Government Sectors B.E.2537 (1994)

Regulation on the Consideration of Disclosure of the Revenue Department Official Information, L.K. 1/2548 B.E.2549 (2005)

Regulation on Lawyers' Council regarding Ethics of Lawyers B.E. 2529 (1986)

Revenue Department Information Security Policy

Securities and Exchange Act B.E. 2535 (1992)

Trade Secret Act, B.E. 2545 (2002)

Trust for Transactions in Capital Market Act B.E. 2550 (2007)

Authorities interviewed during on-site visit

Anti-Money Laundering Office

Bank of Thailand

Department of Business Development, Ministry of Commerce

Federation of Accounting Professions under the Royal Patronage of His Majesty the King

Lawyers Council under the Royal Patronage

Revenue Department

Securities and Exchange Commission

Thai Bankers Association

Annex 4. Thailand's response to the review report¹⁶

Thailand is honoured to express its profound appreciation for its participation in the Peer Review meeting, such undertaking that has been the central focus since our accession to the Global Forum in 2017. Thailand recognises the substantial challenges that have emerged due to our relative newness to the Peer Review process. However, it is essential to emphasise our firm dedication to comprehending and adhering to the international standards governing information exchange and transparency.

Thailand's commitment to the global standards on the exchange of information and transparency is resolute. Thailand is fully dedicated to both Exchange of Information on Request (EOIR) and Automatic Exchange of Information (AEOI) standards. Thailand prides itself on the robust collaboration between government and private sector entities. This synergy has been instrumental in our progress toward compliance with international standards. Notably, Thailand has achieved significant legislative milestones. In the face of inevitable hardships, such as the global COVID-19 pandemic impact and restrictions from national lockdown, our commitment to advancing information exchange and transparency has remained firm.

Key among these milestones is the enactment of the Exchange of Information law, a critical piece of legislation that strengthens the foundation for enhanced transparency in tax perspective. Further reinforcing our commitment to international collaboration is Thailand's participation in the OECD Multilateral Convention on Mutual Administrative Assistance in Tax Matters (MAC) to increase our EOI network from 61 jurisdictions under the bilateral tax treaties to over 150 jurisdictions. This participation has expanded our network of partners, thus broadening the scope of international cooperation.

Thailand wishes to extend its heartfelt appreciation for the relentless efforts and rigorous discussions that have been the hallmark of the Peer Review Process. The invaluable recommendations generously provided by the assessors and all members of the Peer Review Group (PRG) have played

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

a pivotal role in aligning Thailand's legislation and practices with internationally recognized standards. Their guidance and insights have been substantial to our journey towards compliance. It is imperative to recognise that this marks Thailand's inaugural participation in the Peer Review Group Meeting. This fact makes the contributions of the assessors and PRG members even more admirable, as their expertise and guidance have been helpful in our navigation of this intricate process.

In reiterating our dedication to international standards, Thailand sincerely pledges to collaborate closely with the Global Forum to implement the valuable recommendations received. Our commitment to upholding international standards in information exchange and transparency remains steadfast. Thailand eagerly anticipates continued collaboration toward further improvements in these essential areas.

As committed to the principles of information exchange and transparency, Thailand reaffirms its dedication to global standards and our resolve to continue making significant pace in this critical aspect. The challenges are certainly formidable, but our commitment to achieving international excellence in information exchange and transparency is consistent. Thailand stands ready to work closely with our global partners and promote a future with greater transparency and international tax collaboration.

GLOBAL FORUM ON TRANSPARENCY AND EXCHANGE
OF INFORMATION FOR TAX PURPOSES

**Peer Review Report on the Exchange of Information
on Request THAILAND 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 peer review report analyses the practical implementation of the standard of transparency and exchange of information on request in Thailand, as part of the second round of reviews conducted by the Global Forum on Transparency and Exchange of Information for Tax Purposes since 2016.



PRINT ISBN 978-92-64-40627-8

PDF ISBN 978-92-64-40701-5



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