

**UNDER EMBARGO UNTIL 12noon (CEST) 28 JUNE 2017**

**Brief on the State of Play  
on the international tax transparency standards  
June 2017**

Tax evasion is a challenge faced by governments in developing and developed countries, depriving them of resources that would otherwise be available to support sustainable development through investments in infrastructure, health and other common goods. While globalisation has brought many opportunities and advances, its dark side has included the greater ease with which individuals can shift income and assets offshore and out of sight of the tax authorities.

The OECD-hosted [Global Forum on Transparency and Exchange of Information for Tax Purposes](#) has released the results of its Fast-Track review process. The outcome is clear – massive progress has been made by many jurisdictions towards the exchange of information on request standard (the EOIR standard) in the last 15 months, since the [G20 Finance Ministers call](#) to identify non-cooperative jurisdictions with respect to tax transparency. Progress to meet the automatic exchange of information standard (the AEOI standard) as well as efforts by countries to expand their network of exchange of information agreements by joining the multilateral Convention on Mutual Administrative Assistance in Tax Matters has also been significant.

**I. Latest results from the Global Forum: improvements in compliance with the EOIR standard**

The Global Forum's review process considers whether a jurisdiction has a sufficient legal and regulatory framework as well as appropriate processes and procedures in place to meet the EOIR Standard. All members of the Global Forum (today 142 countries and jurisdictions) undergo a peer review, as do "jurisdictions of relevance", which are not Global Forum members but identified as relevant to its work to tackle tax evasion through a level-playing field based on greater transparency.

The first round of Global Forum peer reviews was completed from 2010 to 2016, based on a two-phase process. Phase 1 considered a jurisdiction's legal and regulatory framework, while Phase 2 which included an onsite visit, looked at their practices and procedures. Under the second round of peer reviews launched in mid-2016, the Phase 1 and Phase 2 elements are combined, and the terms of reference of the reviews are updated, in particular to take into account the availability and access to beneficial ownership information of entities and arrangements. At the end of the Global Forum's review process, an overall rating is issued – "Compliant", "Largely Compliant", "Partially Compliant" and "Non-Compliant".

In 2016, a Fast-Track review process was designed by the Global Forum as a short-term measure pending a full peer review that would allow jurisdictions to quickly demonstrate whether *prima facie* they were making sufficient progress towards satisfactory implementation of the tax transparency standards, in light of the G20's call to all countries and jurisdictions to upgrade

their Global Forum rating to a satisfactory level by the time of the July 2017 G20 Leaders' Summit. The Fast-Track process enabled the Global Forum to assess, taking into account the progress made by a jurisdiction in its legal framework or practices, what would have been the outcome, had a full peer review been conducted at this time. The outcome of the Fast-Track review is a provisional rating. The jurisdictions which have received improved provisional ratings will undergo a full peer review under the second round of reviews at an early date and will be assessed against the [revised Terms of Reference](#) which are being applied for the second round of Global Forum peer reviews, and which include the requirements for maintaining and access to beneficial ownership information in line with the FATF standard.

In the last 15 months, the significant changes made by jurisdictions towards meeting the EOIR standard have led to upgrades in the overall ratings of 17 jurisdictions.<sup>1</sup> Specifically, three jurisdictions moved from "Non-Compliant" to "Largely Compliant", ten jurisdictions moved from "Partially Compliant" to "Largely Compliant", one jurisdiction moved from "Non-Compliant" to "Partially Compliant", and three jurisdictions, which had not previously been rated, received a rating of "Largely Compliant". As a result, today only one jurisdiction, Trinidad and Tobago, has a "Non-Compliant" rating against the EOIR standard, and six jurisdictions (Anguilla, Curaçao, Indonesia, Marshall Islands, Sint Maarten, and Turkey) have a "Partially Compliant" rating.<sup>2</sup>

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<sup>1</sup> Three of these upgraded ratings were based on full peer reviews (Barbados, Israel, and Saint Lucia), while the remaining 14 upgraded ratings were based on "Fast-Track" reviews (Andorra, Antigua and Barbuda, Costa Rica, Dominica, Dominican Republic, Guatemala, Federated States of Micronesia, Lebanon, Marshall Islands, Nauru, Panama, Samoa, United Arab Emirates, and Vanuatu). Trinidad and Tobago also underwent a Fast-Track review but was unable to demonstrate sufficient progress to warrant a provisional upgrade in its rating and it remains "Non-Compliant".

<sup>2</sup> Curaçao has already applied to have its next Global Forum peer review advanced in order to reflect the recent progress it has made in implementing the EOIR standard.

The results of the Global Forum’s Fast Track review process are shown below (Table 1), as well as the overall ratings for all Global Forum members who have undergone a review in the first round of reviews (Table 2).

**Table 1: Global Forum “Fast Track” review results**

<b>Jurisdiction</b>	<b>Original Global Forum rating</b>	<b>New Provisional Rating</b>
<b>Andorra</b>	Partially Compliant	Largely Compliant
<b>Antigua and Barbuda</b>	Partially Compliant	Largely Compliant
<b>Costa Rica</b>	Partially Compliant	Largely Compliant
<b>Dominica</b>	Partially Compliant	Largely Compliant
<b>Dominican Republic</b>	Partially Compliant	Largely Compliant
<b>Guatemala</b>	Non-Compliant	Largely Compliant
<b>Federated States of Micronesia</b>	Non-Compliant	Largely Compliant
<b>Lebanon</b>	Not Rated	Largely Compliant
<b>Marshall Islands</b>	Non-Compliant	Partially Compliant
<b>Nauru</b>	Not Rated	Largely Compliant
<b>Panama</b>	Non-Compliant	Largely Compliant
<b>Samoa</b>	Partially Compliant	Largely Compliant
<b>Trinidad and Tobago</b>	Non-Compliant	Non-Compliant
<b>United Arab Emirates</b>	Partially Compliant	Largely Compliant
<b>Vanuatu</b>	Not Rated	Largely Compliant

**Table 2: Overall Ratings following first round of Global Forum reviews and Fast-Track reviews**

Jurisdictions	Ratings
Australia, Belgium, Canada, China (People’s Republic of), Colombia, Denmark, Finland, France, Iceland, India, Ireland, Isle of Man, Japan, Korea, Lithuania, Mexico, New Zealand, Norway, Slovenia, South Africa, Spain, Sweden	Compliant
Albania, Argentina, Aruba, Austria, Azerbaijan, The Bahamas, Bahrain, Barbados, Belize, Bermuda, Botswana, Brazil, British Virgin Islands, Brunei Darussalam, Bulgaria, Burkina Faso, Cameroon, Cayman Islands, Chile, Cook Islands, Cyprus <sup>3</sup> , Czech Republic, El Salvador, Estonia, Former Yugoslav Republic of Macedonia, Gabon, Georgia, Germany, Ghana, Gibraltar, Greece, Grenada, Guernsey, Hong Kong (China), Hungary, Israel, Italy, Jamaica, Jersey, Kenya, Latvia, Lesotho, Liechtenstein, Luxembourg, Macao (China), Malaysia, Morocco, Malta, Mauritania, Mauritius, Monaco, Montserrat, Netherlands, Nigeria, Niue, Pakistan, Philippines, Poland, Portugal, Qatar, Romania, Russia, San Marino, Senegal, Singapore, Slovak Republic, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Saudi Arabia, Seychelles, Switzerland, Turks and Caicos Islands, Uganda, United Kingdom, United States, Uruguay	Largely Compliant
Andorra, Antigua and Barbuda, Costa Rica, Dominica, Dominican Republic, Guatemala, Federated States of Micronesia, Lebanon, Nauru, Panama, Samoa, United Arab Emirates, Vanuatu	Provisionally* Largely Compliant
Anguilla, Curaçao, Indonesia, Sint Maarten, Turkey	Partially Compliant
Marshall Islands	Provisionally* Partially Compliant
Trinidad and Tobago**	Non-Compliant
<p>* These jurisdictions have been reviewed under the Fast-Track review procedure and assigned a provisional overall rating. These jurisdictions will be scheduled to undergo a full review under the strengthened 2016 Terms of Reference in the near future.</p> <p>** This jurisdiction applied for the Fast-Track review, but the progress it demonstrated was not sufficient to justify an upgrade of its rating beyond Non-Compliant.</p>	

<sup>3</sup> Note by Turkey: 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. Turkey recognises the Turkish Republic of Northern Cyprus (TRNC). Until a lasting and equitable solution is found within the context of the United Nations, Turkey 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 Turkey. The information in this document relates to the area under the effective control of the Government of the Republic of Cyprus.

## II. From 2008 to today: the tax transparency landscape

Starting in 2008, the issue of enhancing global tax transparency to curtail tax evasion has been at the top of the international agenda. That year, the G20 shone a spotlight on the lack of tax transparency, and followed swiftly in 2009 with a commitment to put an end to bank secrecy and protect public finances. To ensure a global level playing field where there was no place to hide, it was important that the tax transparency standard at the time, the EOIR standard, was widely adopted, including by financial centres. Coinciding with the G20 meeting in April 2009, the OECD issued a [progress report](#) on jurisdictions' implementation of the EOIR standard, identifying those jurisdictions that had substantially implemented it, committed to implementing it, or had not yet made such a commitment. That progress report has been supplanted by the Global Forum's review and rating process. The EOIR standard requires that all jurisdictions ensure that they maintain information (on ownership of entities and arrangements, accounting information and bank information), that their tax authorities have access to that information and are able to exchange it with foreign tax authorities when it is foreseeably relevant to the administration and enforcement of their tax laws.

By the end of 2009, the OECD had re-structured the Global Forum on Transparency and Exchange of Information for Tax Purposes, creating a body where all members could participate on an equal footing to monitor the implementation of the EOIR standard. Today the Global Forum has 142 members, representing a full diversity of economic profiles, including all major financial centres and more than 50% of its members are developing countries. With an ambitious schedule which has seen more than 250 reviews of the EOIR standard completed in its first 7 years and more than 110 ratings issued, the Global Forum also supports its members in the implementation of its recommendations in order to help more countries realise the benefits of greater transparency.

Today there is an additional standard on tax transparency that provides for automatic exchange of financial account information (AEOI). Reflecting a step change in tax transparency, the new standard, consisting primarily of the Common Reporting Standard (CRS), was established by the OECD in 2014 and endorsed by the G20 Finance Ministers and Leaders. By October 2014, 51 jurisdictions had already signed the associated international agreement to operationalise the standard – the Multilateral Competent Authority Agreement for the Common Reporting Standard (the MCAA CRS) – and along with over 40 others had made the commitment to implement the CRS and begin undertaking exchanges by September 2017 or September 2018. Today, 101 jurisdictions<sup>4</sup> have made that commitment, with the Global Forum expanding its mandate to also review implementation of commitments to the AEOI standard, in addition to EOIR. Under the Common Reporting Standard (CRS), jurisdictions obtain information from their financial institutions and automatically exchange that information confidentially with other jurisdictions on an annual basis. The CRS sets out the financial account information to be

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<sup>4</sup> Developing countries not hosting a financial centre were allowed more time to implement the AEOI standard given the particular challenges they face.

exchanged, the financial institutions that need to report, the different types of accounts and taxpayers covered, as well as common due diligence procedures to be followed by financial institutions.

A critical component in meeting the EOIR and AEOI standards is having a legal basis for exchange of tax information, which provides a framework for ensuring that the information is kept confidential and used for agreed purposes. The OECD/Council of Europe multilateral Convention on Mutual Administrative Assistance in Tax Matters is a powerful instrument which provides for a variety of mechanisms to support international cooperation on tax matters, including EOIR and AEOI. In 2010, it was updated with an Amending Protocol to allow for exchange of information in accordance with the standards, and allow countries that are not members of either the OECD or Council of Europe to become a Party to it. In 2009, only 17 countries had signed the MAC; today there are 111 countries and jurisdictions participating in the Convention. Other legal instruments can also provide for exchange of information between tax authorities: for example, bilateral tax treaties or tax information exchange agreements.

In addition, to support countries in putting in place their exchange relationships for AEOI purposes, the OECD developed the Multilateral Competent Authority Agreement for the Common Reporting Standard (the MCAA CRS). Based on the multilateral Convention, the MCAA CRS now has 92 signatories, and provides a standardised mechanism to facilitate AEOI, avoiding the need for several bilateral agreements to be concluded.

During this period the OECD has also developed guidance to support tax administrations and financial institutions to meet their commitments and obligations under the standards. The CRS Implementation Handbook was published in 2015, for use by governments and financial institutions to support coherent implementation of the AEOI standard. The OECD is also leading the procurement of the Common Transmission System, an IT system to facilitate the bilateral exchange of data between tax authorities in line with the CRS, based on leading industry standards of encryption. In May 2017, a disclosure facility was also launched by the OECD to offer a mechanism for the public to identify schemes designed to circumvent the application of the CRS. Already a number of have submissions been received, leading to swift action to close the gaps identified.

Meanwhile, the Global Forum is coordinating support for jurisdictions in the implementation process to meet their commitments to the EOIR and AEOI standards. This has included examining draft domestic laws, as well as assisting in putting in place the operational and technological frameworks, with a particular focus on safeguarding the confidentiality of the data. Training seminars on the standards are also provided regularly, and an AEOI helpdesk has also been made available to respond to queries from tax authorities.

The impact of rapidly narrowing opportunities to shift and hold undetected income offshore for tax evasion has been significant. With related initiatives, this new environment has seen more than 500 000 taxpayers disclose offshore assets over the past 8 years, and close to 85 billion euros in additional revenue has been identified as a result of voluntary compliance mechanisms

and offshore investigations. Since 2009, more than 7 000 new agreements providing for exchange of tax information have been established. International tax cooperation between countries and jurisdictions has become the rule.

### **III. Effect of the International Consortium of Investigative Journalists (ICIJ) investigation known as the “Panama Papers”**

Spurred by the “Panama Papers”, in the last 15 months new impetus has been given to tackling tax evasion through greater transparency. In April 2016, G20 Finance Ministers emphasised the importance of a level playing field on the agreed tax transparency standards:

*The G20 strongly reaffirms the importance of effective and widespread implementation of the internationally agreed standards on transparency. Therefore we call on all relevant countries including all financial centers and jurisdictions, which have not committed to implement the standard on automatic exchange of information by 2017 or 2018 to do so without delay and to sign the Multilateral Convention. We expect that by the 2017 G20 Summit all countries and jurisdictions will upgrade their Global Forum rating to a satisfactory level. We mandate the OECD working with G20 countries to establish objective criteria by our July meeting to identify non-cooperative jurisdictions with respect to tax transparency.*

In July 2016 the G20 Finance Ministers endorsed the OECD/G20 proposals for the objective criteria. Based on those criteria, they further asked:

*...for the OECD to prepare a list by the July 2017 G20 Leaders' Summit of those jurisdictions that have not yet sufficiently progressed toward a satisfactory level of implementation of the agreed international standards on tax transparency.*

This mandate was confirmed by the G20 Leaders at their Hangzhou Summit in September 2016.

### **IV. The Objective Criteria to identify jurisdictions not making sufficient progress on tax transparency**

The [objective criteria](#) were set out in the report of the OECD Secretary General to the G20 Finance Ministers in his report of July 2016. Established by the OECD and G20, the criteria relate to three components of tax transparency: implementation of the EOIR standard, the implementation of the AEOI standard, and ensuring an appropriate legal basis for these exchanges.

The OECD and G20 members agreed on benchmarks for each of the criteria, with jurisdictions needing to meet at least two of the three benchmarks. These benchmarks are:

- i. at least a “Largely Compliant” rating with respect to the EOIR standard;
- ii. a commitment to implement the AEOI standard, with first exchanges in 2018 (with respect to the year 2017) at the latest; and

- iii. Participation in the multilateral Convention or a sufficiently broad exchange network permitting both EOIR and AEOI.

In addition, there was agreement on an overriding criterion which would see a jurisdiction listed even if it met at least two of the other criteria. Namely, where a jurisdiction is determined by the Global Forum peer review process to be “Non-Compliant”, or is blocked from moving past Phase 1, or where it was previously blocked from moving past Phase 1 and has not yet received an overall rating under the Phase 2 process.

#### **V. Since April 2016, massive progress has been made by jurisdictions to meet the tax transparency standards**

Massive progress has been made by jurisdictions towards tax transparency since the Panama Papers were published.

*All requested countries and jurisdictions have now committed to the AEOI standard*

In order to achieve a level-playing field where no jurisdiction can seek to benefit by maintaining an opaque approach to ownership, accounting and financial account information, a global commitment to tax transparency is critical.

In April 2016, five jurisdictions which had been invited to commit to the AEOI standard and begin exchanges no later than September 2018 had not committed: Bahrain, Lebanon, Nauru, Panama and Vanuatu. Since then, all of them have made the commitment. In addition, Pakistan has joined the commitment, bringing to 101<sup>5</sup> the total number of committed jurisdictions.<sup>6</sup>

*A growing Global Forum membership, seeking to benefit from the new transparent environment*

Already drawing from across the globe and representing a wide range of economic profiles, the Global Forum’s membership grew by a further six new countries and jurisdictions in the past 15 months (Benin, Djibouti, Ecuador, Faroe Islands, Paraguay and Thailand), to a total of 142. Each

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<sup>5</sup> Status of commitments to AEOI is available here: <https://www.oecd.org/tax/transparency/AEOI-commitments.pdf>

<sup>6</sup> The United States has indicated that it is undertaking automatic information exchanges pursuant to FATCA from 2015 and has entered into intergovernmental agreements (IGAs) with other jurisdictions to do so. The Model 1A IGAs entered into by the United States acknowledge the need for the United States to achieve equivalent levels of reciprocal automatic information exchange with partner jurisdictions. They also include a political commitment to pursue the adoption of regulations and to advocate and support relevant legislation to achieve such equivalent levels of reciprocal automatic exchange.

of these members are committed to the EOIR and will undergo a peer review in the current round of reviews, 2016-2020, as well as receiving assistance as needed from the Global Forum to ensure that they can fully benefit from the new transparent environment.

*All OECD and G20 members, and financial centres have now signed, or asked to sign, the MAC*

International agreements, including the MAC, bilateral tax treaties and tax information exchange agreements, provide the legal framework for tax authorities to provide cross-border cooperation to tackle tax evasion in a globalised world. Since April 2016, 17 additional jurisdictions, including 12 financial centres, have joined the MAC,<sup>7</sup> creating more than 900 bilateral exchange relationships. A further 14 countries have already asked to join the MAC.<sup>8</sup> Today, no financial centre remains outside of the Convention.<sup>9</sup> Overall, 111 jurisdictions are now participating in the MAC; this includes 90% of the jurisdictions committed to the AEOI standard. The number of bilateral exchange relationships under this instrument amounts to more than 7 000.

A further 12 countries and jurisdictions have signed the MCAA CRS,<sup>10</sup> bringing a total of 92 signatories to this agreement which sets out standardised arrangements between tax authorities to facilitate AEOI.<sup>11</sup>

*A large number of jurisdictions have updated their laws and practices to a more satisfactory level*

Beyond commitments, effective implementation of the standards is needed, and having an appropriate legal framework at the domestic level – that provides for relevant information to be maintained, accessed by tax authorities and exchanged with Parties – is an important component of that objective.

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<sup>7</sup> Countries having joined the MAC since April 2016: Burkina Faso, Cook Islands, Dominican Republic, Jamaica, Kuwait, Lebanon, Malaysia, Marshall Islands, Nauru, Pakistan, Panama, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, United Arab Emirates, and Uruguay.

<sup>8</sup> Countries having asked to join the MAC: Antigua and Barbuda, Bahamas, Bahrain, Belarus, Brunei Darussalam, Chad, Dominica, Grenada, Lesotho, Mauritania, Papua New Guinea, Qatar, Trinidad and Tobago, and Vanuatu.

<sup>9</sup> Hong Kong (China) and Macau (China) will be covered by the multilateral Convention on Mutual Administrative Assistance in Tax Matters, once China completes the steps for the territorial extension which are underway.

<sup>10</sup> Brazil, Israel, Kuwait, Lebanon, Nauru, Pakistan, Russia, Saudi Arabia, Singapore, Turkey, United Arab Emirates, Uruguay.

<sup>11</sup> Up to date list of signatories to the MCAA CRS: <https://www.oecd.org/ctp/exchange-of-tax-information/MCAA-Signatories.pdf>

With the deadlines for the first AEOI exchanges quickly approaching, the 101 committed jurisdictions are moving ahead, with around 80% of those jurisdictions having already put in place both the domestic and international legal frameworks required to deliver on the commitments made and financial institutions are already collecting the information to be exchanged.

With respect to meeting the EOIR standard, significant changes in domestic legal frameworks and practices have been made since April 2016. Those changes have included two jurisdictions having abolished bearer shares, so that they may no longer mask the ownership of the entities, nine jurisdictions have introduced provisions to ensure the availability of accounting records, and 11 Jurisdictions have improved their oversight and enforcement of obligations to maintain ownership and identity information on relevant entities and arrangements and accounting information. Nine jurisdictions have improved their access powers to meet the EOIR Standard, particularly with regard to access to bank information, and a further 5 Jurisdictions have amended their bank secrecy rules to enable access to and exchange of bank information. This brings the overall number of jurisdictions which have eliminated bank secrecy since 2008 to 69 and marks a nearly universal extinction of strict bank secrecy for EOIR purposes in the jurisdictions which have been reviewed by the Global Forum in the first round of peer reviews.

## **VI. Applying the objective criteria**

As a result of the significant progress made since April 2016, only one jurisdiction (Trinidad and Tobago) still meets the current criteria to be considered not to have made sufficient progress towards satisfactory implementation of the agreed tax transparency standards. It is to be noted that there is an ongoing dialogue with Trinidad and Tobago, and improvement on the tax transparency standards is expected.

## **VII. The next steps to support tax transparency**

To implement the AEOI standard, participating in the multilateral Convention is not sufficient, and should be followed with the deposit of the instruments of ratification, and complemented with the signature and activation of the MCAA CRS. The first exchanges under the CRS will start in September 2017 for 50 jurisdictions, with the Common Transmission System now in its final stages of testing to be available for countries in time for those exchanges. The OECD's disclosure facility to identify schemes seeking to circumvent the application of the CRS will continue as one of the tools being used by the OECD and the jurisdictions implementing the standard, to support a global level playing field where there is no place to hide.

In addition to closely monitoring the timeliness of implementation, the Global Forum is also peer reviewing the quality of the implementation of the AEOI standard. This process has already commenced even during the implementation phase, in order to maximise the effectiveness of the Standard from the start. The confidentiality frameworks, both legal and operational, have been assessed in almost all the jurisdictions implementing the Standard and where gaps are identified, assistance is provided to close them. Peer reviews are also being carried out on each

jurisdiction's domestic legal framework implementing the domestic reporting requirements on financial institutions. Where areas of the Standard are identified that have not been fully included in the jurisdiction's legal framework, recommendations are made to do so. Finally, the breadth of the networks of international agreements being put in place is being closely monitored. Where a jurisdiction wishes to receive information from another and is concerned about possible delays to putting an agreement in place, then the Global Forum has a process to help ensure agreements are put in place and activated in a timely manner. Meanwhile, the terms of reference and methodology for the comprehensive peer review process to ensure the effective implementation of the AEOI standard are already under development, to commence from 2019/2020, once data is being exchanged.

The G20's strong call in April and July 2016 led to rapid progress by jurisdictions which would have otherwise not made such progress towards the tax transparency standards. The drive towards greater tax transparency must continue however in order to level the playing field. Effective implementation of the standards is critical, ensuring not just a commitment, but an appropriate legal framework and robust procedures that ensure the timely exchange of high quality information between tax authorities.

As noted in the report of the OECD Secretary-General to the G20 Finance Ministers in July 2016, those benchmarks of the criteria will be adjusted over time according to an agreed plan as implementation of the standards progresses. For example, the first automatic exchanges of financial account information under the CRS will begin in September 2017 and September 2018.

## FREQUENTLY ASKED QUESTIONS

### 1. What are the international standards on tax transparency?

The OECD has established two key standards on tax transparency to ensure a global level playing field based on enhanced international cooperation for tackling tax evasion. The Global Forum on Transparency and Exchange of Information for Tax Purposes which has 142 members who participate in the work on an equal footing, is responsible for undertaking peer reviews of countries and jurisdictions on compliance with these standards. The Global Forum also provides assistance to countries in implementing the standards and benefiting from greater global transparency.

The standards are:

1) On Exchange of Information “on request” (EOIR). The EOIR standard provides for exchange on request between tax authorities of information which is foreseeably relevant for carrying out the provisions of a tax convention or for the administration or enforcement of the domestic tax laws of a requesting party. Further information on the standard and how it is assessed by the Global Forum can be found on the [Global Forum website](#).

2) On automatic exchange of information (AEOI). Under the standard for AEOI, consisting mainly of the Common Reporting Standard (CRS), jurisdictions obtain information from their financial institutions and automatically exchange that information confidentially with other jurisdictions on an annual basis. The CRS sets out the financial account information to be exchanged (e.g. investment income including interest and dividends, as well as account balances and proceeds of sales of financial assets), the financial institutions that need to report (including banks and custodians, and other institutions such as brokers and certain insurance companies and collective investment vehicles), the different types of accounts and taxpayers covered (including trusts and foundations), as well as common due diligence procedures to be followed by financial institutions. Further information about the AEOI standard and how it will be assessed by the Global Forum can be found on the

Having a legal basis for exchange of tax information is also critical, including because it provides a framework for ensuring that the information is kept confidential and used for agreed purposes. The OECD/Council of Europe multilateral Convention on Mutual Administrative Assistance in Tax Matters is a powerful instrument which provides for a variety of mechanisms to support international cooperation on tax matters, including EOIR and AEOI.

### 2. What about Panama – what progress has it made?

Panama has taken substantial steps to address the many previous shortcomings in its compliance with the tax transparency standard. The Phase 2 report adopted in November 2016,

which assessed Panama's legal framework and EOI practice through June 2015, determined that Panama fell short with regard to a number of elements, including: (i) only having a limited network of exchange agreements in place; (ii) a lack of laws requiring all entities and arrangements to keep ownership information and accounting records; and (iii) no adequate supervision programme for resident agents.

Since April 2016, Panama has taken significant actions to give effect to its commitment toward fully implementing the standard. Panama has ratified the multilateral Convention, which comes into force in July 2017 and extends Panama's treaty network to more than 100 partners.

In response to the Phase 2 report, Panama passed legislation requiring all entities and arrangements to keep accounting records for at least five years. Panama also clarified through legislation that all bearer shares not immobilised with a custodian at the end of December 2015 are cancelled with no legal effect. It also established strong supervisory programmes through the main AML authority and tax competent authority, with substantial penalties attached, to ensure resident agents fulfil their obligations to maintain information and provide it upon request. Further, Panama took action starting in 2016 that has continued to strike off inactive companies from its public registry; to date, more than 250 000 entities have been deemed inactive and the process for dissolution is in process.

Together with these changes, Panama made a commitment in 2016 to implement AEOI in line with the Common Reporting Standard and has now put in place the necessary domestic reporting requirements on financial institutions.

These steps have strengthened Panama's implementation of the EOIR standard, as reflected in the results announced from the Global Forum Fast Track process [link].

### **3. What about the United States – has it met the tax transparency standards?**

The US has been at the forefront of the tax transparency agenda for many years and has a long history of tax information exchange.

With respect to the EOIR standard, the US was reviewed in 2011. While recommendations were made to address gaps in availability of ownership and accounting information in respect of certain categories of legal entities, its overall rating was determined to be "Largely Compliant". It will shortly undergo a review in the new round of Global Forum's reviews against the new terms of reference which will also include the availability of beneficial ownership information. One of the important changes which the US has introduced recently is to establish new regulations to strengthen transparency in respect of foreign-owned, single-member LLCs. These changes will be assessed as part of its next Global Forum review to be launched shortly.

With respect to AEOI, the US has not committed to the international Common Reporting Standard (CRS).

The OECD and G20 modelled the CRS on US FATCA legislation (Foreign Account Tax Compliance Act), which was the key catalyst in the global move to AEOI. The US was asked to commit to the CRS, along with all other developed countries and financial centres, as part of the Global Forum's commitment process. While it has not made that commitment, it was highlighted that the US is automatically exchanging certain information under its many bilateral agreements implementing FATCA and that each of those agreements also includes a commitment to full reciprocity (which would deliver information similar to that exchanged under the CRS). The Global Forum continues to engage closely with the US and looks forward to any future developments in this situation.

#### **4. Which jurisdictions were included in the scope of the exercise to apply the OECD/G20 Objective Criteria?**

Jurisdictions that are within the scope of this exercise include all G20 and OECD countries, other developed jurisdictions and financial centres. This was the scope of jurisdictions asked to commit to implement the AEOI standard in time to commence exchanges in 2018 at the latest ("the requested jurisdictions"). Developing countries not hosting a financial centre were allowed more time to implement the AEOI standard given the particular challenges they face.

#### **5. Will there be measures applied against jurisdictions which do not meet the objective criteria?**

At the Hangzhou G20 Summit, the G20 Leaders Communique noted that "*Defensive measures will be considered against listed jurisdictions*". This statement was repeated by the G20 Finance Ministers in the Communique following their meeting in March 2017.

Individual countries and jurisdiction may use this information into account as they see fit when adjusting existing defensive measures or applying new ones.

#### **6. What is the relationship between the OECD/G20 objective criteria, and the EU listing process?**

The two processes are completely separate. The OECD/G20 objective criteria are focused on jurisdictions' progress against the international tax transparency standards. The criteria are described in part IV of this brief.

The EU process was launched by the EU Commission to draw up a first common EU list of non-cooperative tax jurisdictions. It is applied to third country jurisdictions (non-EU members) based on the EU's approach to tax good governance criteria. More information on the EU's work on this issue can be found in their [September 2016 press release](#).

***Global Forum peer reviews and 'Fast-Track' process***

#### **7. What does the Global Forum EOIR peer review process assess?**

All members of the Global Forum, as well as jurisdictions identified by the Global Forum as relevant to its work, are peer reviewed for their compliance with the standard of exchange of information on request. This process assesses the quality of a jurisdiction's legal and regulatory framework for the exchange of information, as well as examining the practical implementation of that framework. The review covers three general areas: the availability of information (including ownership and identity information, accounting information and bank information); access to information for tax purposes as well rights and safeguards relevant to those access powers; and exchange of information mechanisms and how they operate in practice. The review relies on a detailed questionnaire, assessment teams made up of expert assessors, input from exchange of information partners and an on-site visit to the jurisdiction. The result is a report that provides a rating for each aspect of the review as well as an overall rating. All review reports are published once approved by the Global Forum and they thus represent agreed Global Forum reports.

The Global Forum has also put in place a process for supplementary reports to follow-up on recommendations, as well as for the ongoing monitoring of jurisdictions following the conclusion of a review. The ultimate goal is to help jurisdictions to effectively implement the international standards of transparency and exchange of information for tax purposes.

#### **8. What is the "Fast-Track" process?**

The Fast-Track is a process developed by the Global Forum to allow jurisdictions to demonstrate the progress made in implementing the international standard on exchange of information on request (the EOIR standard). It allows a jurisdiction demonstrating sufficient progress to have a "provisional" overall rating assigned that is taken into account for the G20's process for identifying non-cooperative jurisdictions.

#### **9. Is a "provisional" rating under the Fast-Track the same as the Global Forum's usual ratings?**

No. The provisional ratings are decided based on a rigorous but abbreviated review process. It is a determination of the overall rating the jurisdiction would likely receive if reviewed today against the Global Forum's 2010 Terms of Reference (which was used for its first round of reviews). This was done to meet the G20's timelines, as it was not possible to conduct a full peer review, including, for example, an on-site visit of the jurisdiction. However, the ratings are based on detailed reports provided by the jurisdictions and full peer input by all Global Forum members. Each provisional rating was fully debated by the Global Forum's Peer Review Group at a special meeting in Panama on 12-14 June 2017 and then was adopted by the Global Forum.

#### **10. When will Fast-Track jurisdictions get full peer reviews?**

All of the jurisdictions in the Fast-Track process will be reviewed by the Global Forum according to its regular methodology at an early date. That review will be the same as for all other jurisdictions reviewed in the Global Forum's second round of reviews and will be conducted against the Global Forum's 2016 Terms of Reference, which has been enhanced to include, among other things, a requirement to maintain beneficial ownership information.

## **11. How come some of the Fast-Track jurisdictions did not have an initial rating assigned?**

The Global Forum assigns ratings following an assessment of a jurisdiction's implementation of the EOIR standard in practice. In the first round of reviews, this was generally done as a two-step process: first was a review of its legal framework, and then later a review of practice. In some cases, a jurisdiction may have been blocked from proceeding to the review of practice if its legal framework was not sufficiently in place. By the time these jurisdictions showed that they had made the necessary changes through a supplementary review of the legal framework, there was no longer any time to complete the second phase of review during the first round. This was the case for Lebanon, Nauru and Vanuatu. Each of these jurisdictions has shown that, if a review of its legal framework and practice was conducted now against the 2010 Terms of Reference, it is likely that an overall rating of "Largely Compliant" would be achieved.

In other cases, where such jurisdictions were never able to show that they had made the necessary changes during the first round of reviews through a supplementary report, then an overall rating of "Non-Compliant" was issued without conducting a review of practice. This was the case for Guatemala, Federated States of Micronesia, and Trinidad and Tobago. Guatemala and the Federated States of Micronesia demonstrated through the Fast Track process that they would now likely be rated "Largely Compliant". Trinidad and Tobago was not able to show sufficient progress and remains rated "Non-Compliant".

It should be noted that some jurisdictions joined the Global Forum too late during the first round of reviews to complete the second phase of review. This was the case, for example, with Croatia and Peru. The absence of a rating in such cases does not indicate a failure to implement the EOIR standard. Those jurisdictions will have a complete review – covering both legal framework and practice – during the second round of reviews.