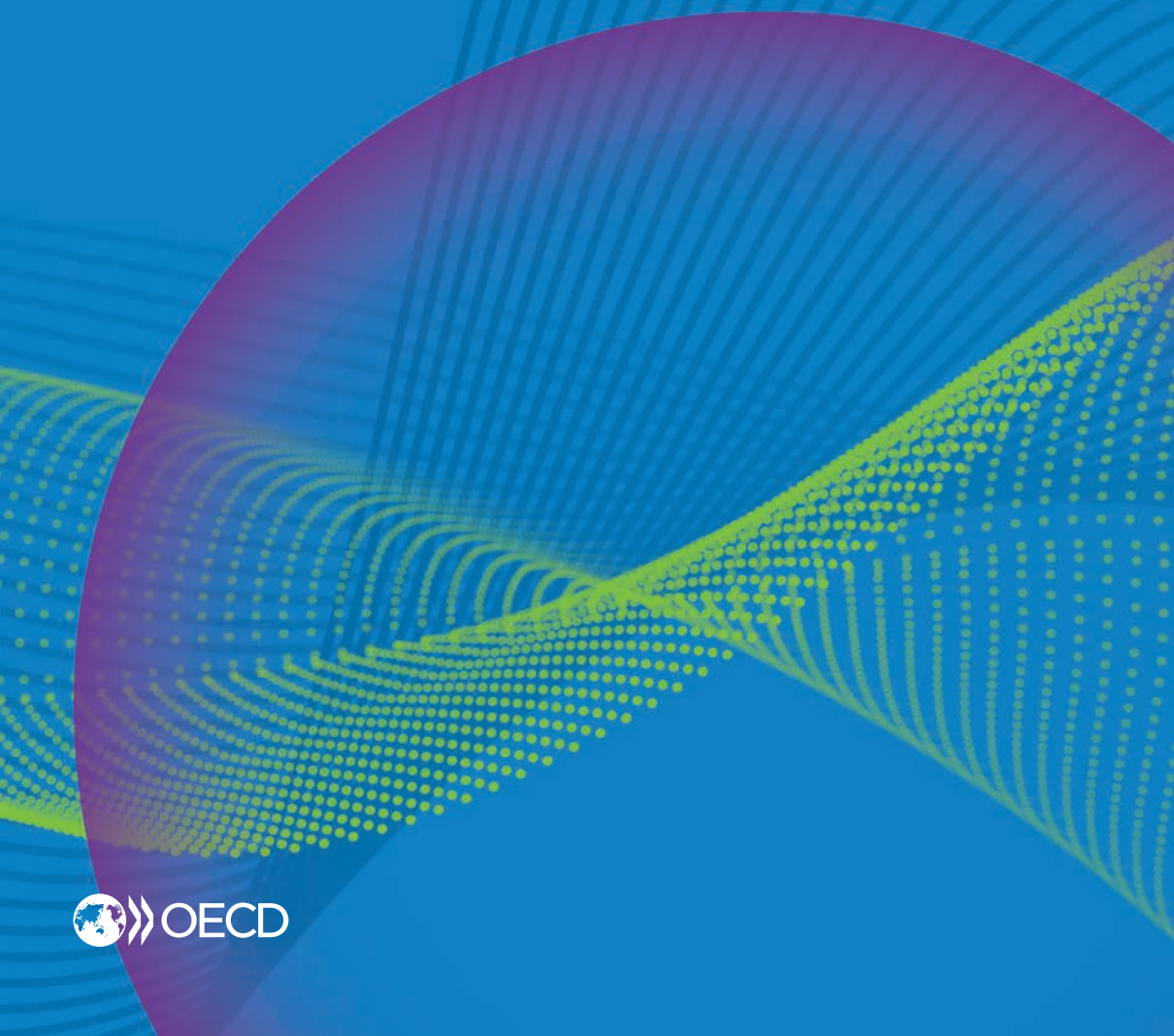
GLOBAL FORUM ON

TRANSPARENCY AND EXCHANGE OF INFORMATION FOR TAX PURPOSES

Peer Review Report on the Exchange of Information on Request

LATVIA

2023 (Second Round)



OECD

Global Forum on Transparency and Exchange of Information for Tax Purposes: Latvia 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 4 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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Reader's guide

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

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

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

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

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

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

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

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

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

Consideration of the Financial Action Task Force Evaluations and Ratings

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

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

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

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

More information

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

Abbreviations and acronyms

2016 Terms of Reference	Terms of Reference related to EOIR, as approved by the Global Forum on 29-30 October 2015
AFL	Associations and Foundations Law of the Republic of Latvia
AL	Accounting Law of the Republic of the Republic of Latvia
AML	Anti-Money Laundering
AML/CFT	Anti-Money Laundering/Countering the Financing of Terrorism
CCN	Common communication network
CDD	Customer Due Diligence
CIL	Credit Institutions Law of the Republic of Latvia
CL	Commercial Law of the Republic of Latvia
CSD	Central Securities Depository
CSL	Co-operative Societies Law of the Republic of Latvia
DTC	Double Taxation Convention
EEIG	European Economic Interest Groupings
EOI	Exchange of Information
EOIR	Exchange of Information on Request
EU	European Union
EUR	Euro
ECB	European Central Bank
FATF	Financial Action Task Force
FIU	Financial Intelligence Unit

FCMC	Financial and Capital Market Commission
Global Forum	Global Forum on Transparency and Exchange of Information for Tax Purposes
IL	Insolvency Law
LLC	Limited liability company
LER	Law on the Enterprise Register of the Republic of Latvia
LSRS	Law on the State Revenue Service
LTF	Law on Taxes and Fees of the Republic of Latvia
LASCAS	Law on Annual Statements and Consolidated Annual Statements of the Republic of Latvia
LSRS	Law on State Revenue Service of the Republic of Latvia
Moneyval	Council of Europe's Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism
Multilateral Convention	Convention on Mutual Administrative Assistance in Tax Matters, as amended in 2010
PMLA	Law on the Prevention of Money Laundering and Terrorism and Proliferation Financing of the Republic of Latvia
SE	Societas Europaea
SRS	State Revenue Service
TIEA	Tax Information Exchange Agreement
VAT	Value Added Tax

Executive summary

1. This report analyses the implementation of the standard of transparency and exchange of information on request in Latvia on the second round of reviews conducted by the Global Forum. It assesses both the legal and regulatory framework in force as at 2 August 2023 and the practical implementation of this framework against the 2016 Terms of Reference, including in respect of EOI requests received and sent during the review period from 1 April 2019 to 31 March 2022. This report concludes that Latvia continues to be rated overall **Largely Compliant** with the standard.

2. In 2015 the Global Forum evaluated Latvia in a combined review against the 2010 Terms of Reference for both the legal implementation of the EOIR standard as well as its operation in practice (see Annex 3). The report of that evaluation (the 2015 Report) concluded that Latvia was Largely Compliant with the standard.

Comparison of ratings for First Round Report and Second Round Report

Element	First Round Report (2015)	Second Round Report (2023)
A.1 Availability of ownership and identity information	Compliant	Largely Compliant
A.2 Availability of accounting information	Compliant	Largely Compliant
A.3 Availability of banking information	Compliant	Largely Compliant
B.1 Access to information	Largely Compliant	Partially Compliant
B.2 Rights and Safeguards	Compliant	Compliant
C.1 EOIR Mechanisms	Largely Compliant	Largely Compliant
C.2 Network of EOIR Mechanisms	Compliant	Compliant
C.3 Confidentiality	Largely Compliant	Largely Compliant
C.4 Rights and safeguards	Largely Compliant	Largely Compliant
C.5 Quality and timeliness of responses	Compliant	Compliant
OVERALL RATING	**Largely compliant**	**Largely compliant**

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

Progress made since previous review

3. The 2015 Report rated Latvia as Compliant with six Elements and Largely Compliant with four Elements of the 2010 Terms of Reference.

4. The standard on transparency was strengthened in 2016 to require the availability of information on the beneficial owners of legal persons and legal arrangements. Since the publication of the 2015 Report, Latvia modified its anti-money laundering (AML) and company laws to ensure that the beneficial ownership information of legal entities identified by AML-obliged persons and business entities themselves is available in line with the standard. The main source of the beneficial ownership information is the enterprise register as companies and partnerships in Latvia must submit their beneficial ownership information to the Enterprise Registrar since 2017 for new companies and 2018 for pre-existing companies.

Key recommendations

5. The 2015 recommendation to ensure the availability of legal ownership information on foreign companies having a sufficient nexus with Latvia has not been addressed and remains in this report. The report also finds that in case of co-operative societies that cease to exist, it is not clear whether the relevant legal ownership information in line with the standard must be maintained. Latvia is recommended to ensure that legal ownership information is available for all co-operative societies that cease to exist (Element A.1).

6. When identifying beneficial owners of general and limited partnerships, the main rule of applying a 25% ownership interest threshold as a starting point and checking for control if a beneficial owner is not identifiable based on ownership is applied. This approach could omit certain partners that exercise control but may not have sufficient ownership or capital contribution. There is no clear guidance from the supervising authorities on the interpretation of the definition of beneficial ownership for the general and limited partnerships. Latvia is recommended to ensure that the beneficial owners of partnerships are required to be determined in accordance with the form and structure of each partnership (Elements A.1 and A.3).

7. In practice, the Enterprise Registrar, which is the primary source of legal ownership information for the Competent Authority, has not undertaken any supervisory or enforcement measures to ensure that Latvian entities update the enterprise register whenever there are changes to the legal ownership information. Thus, Latvia is recommended to take effective supervisory and enforcement measures to ensure that all companies comply with their requirements to report legal ownership information to the enterprise register (Element A.1).

8. Although the beneficial ownership information is available with business entities themselves and AML-obliged persons, the enterprise register is a key source of beneficial ownership information. However, there is insufficient supervision of the information that has been entered into it for ensuring its accuracy and, in practice, beneficial ownership information in the enterprise register may not be up to date in all cases. Therefore, Latvia is recommended to ensure that effective supervisory and enforcement measures are taken to ensure that adequate, accurate and up to date beneficial ownership information is available with respect to all relevant companies and partnerships, in line with the standard (Element A.1).

9. This review concludes that all relevant entities and arrangements are required to keep accounting records and underlying documentation. The requirements under Latvian accounting, tax and AML laws are sufficient to meet the international standard for effective exchange of information. However, certain deficiencies have been identified in relation to the availability of accounting records for legal entities which cease to exist and Latvia is recommended to address them (Element A.2).

10. Latvia is able to access banking information under its EOI instruments; however, domestic law restrictions on access to banking information did not allow it to exchange all banking information in line with the standard. Exchange of banking information under 5 treaties out of Latvia's 152 EOI relations that do not contain post-2005 model wording is restricted by Section 63(11) of the Credit Institutions Law. Whilst the number of affected EOI relationships has dropped since the previous peer review, the gap remains. Further, exchange of banking information under EOI instruments which contain post-2005 model wording is subject to Section 63(11[1]) of the Credit Institutions Law, as amended in 2015. This report concludes that this amendment has not removed all the impediments for effective exchange of information. Accordingly, Latvia is recommended to ensure that its Competent Authority has access powers in respect of all banking information requested by all its EOI partners and that its domestic law allows Latvia to exchange all banking information in line with the standard. Recommendations in this regard have been made under Elements B.1 and C.1.

11. The 2015 Report concluded that the Latvian law protects all information obtained by the legal representative in connection with providing legal services without appropriate restrictions. This report continues to recommend Latvia to ensure that the scope of attorney-client privilege in its domestic law is consistent with the international standard. Further, this report continues to recommend that Latvia monitor the use of its access and compulsory powers so that the requested information is effectively obtained in all cases. Both recommendations are made in respect of access powers of the Competent Authority under Element B.1.

12. The Latvian law requires that the identity of the person under inspection is provided by the requesting jurisdiction. This requirement could pose some challenges for handling group requests where the identity of the subject of request may not always be known. Although in 2023 an amendment has been made to the relevant law to specify that the person concerned in the request for information may be identified by name or otherwise, this amendment applies only to the exchange of information with the competent authorities of other Member States of the European Union (EU). Accordingly, Latvia is recommended to ensure that it can exchange information to the standard in relation to group requests under all of its EOIR mechanisms (Element C.1). Further, in respect of rights and safeguards of taxpayers and third parties, as already featured in the 2015 Report, Latvia is recommended to limit the scope of "professional secret" in its domestic laws so as to be in line with the standard for exchange of information (Element C.4).

Exchange of information in practice

13. Latvia received 572 EOI requests and sent 969 requests during the current review period. The report concludes that Latvia has in place appropriate organisational processes. Nevertheless, there appears to be room for improvement in terms of resources dedicated to exchange of information practice. Latvia has answered 92% of its incoming requests within 90 days. Whilst workload does not currently lead to significant delays in exchange of information, it has negative impact on Latvia's ability to systematically provide status updates for the remaining 8% of requests and Latvia is recommended to address this deficiency (Element C.5). The quality of outgoing requests is generally good and additional clarifications on their foreseeable relevance, in the limited cases where the partner jurisdiction requested it, were provided in an effective manner.

14. The report also makes a recommendation concerning the handling of information received under international treaties. The provisions of Latvia's EOI agreements ratified by the Parliament (Saeima) override domestic confidentiality rules which allow disclosure of information that goes beyond the standard. However, as the received information may not be clearly marked as obtained under an international treaty, concerns remain that in practice it may be used not in line with the standard. This report recommends that Latvia address this issue (Element C.3).

Overall rating

15. Latvia has received a rating of Compliant for three elements (B.2, C.2 and C.5) and a rating of Largely Compliant for six elements (A.1, A.2, A.3, C.1, C.3, and C.4) and Partially Compliant for Element B.1. Latvia's overall rating is Largely Compliant based on a global consideration of its compliance with the individual elements.

16. This report was approved at the Peer Review Group of the Global Forum on 4 October 2023 and was adopted by the Global Forum on 3 November 2023. A follow up report on the steps undertaken by Latvia 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.

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 in place but needs improvement	Legal ownership information on foreign companies having sufficient nexus with Latvia may not be available in all circumstances. There is no requirement for foreign companies to provide legal ownership information upon registration with the Enterprise Registrar. Tax obligations do not ensure that up-to-date legal ownership information is available in all circumstances for such companies. AML law obligations and requirements to submit beneficial ownership information to the enterprise register do not ensure the availability of complete legal ownership information with respect to all foreign companies with a sufficient nexus with Latvia.	Latvia is recommended to ensure that legal ownership information is available in all cases for foreign companies having a sufficient nexus with Latvia, including when they cease to exist.
	Whilst the procedure for the registration of co-operative societies is similar to that of companies, there is no requirement for a co-operative society to update the legal ownership information in the enterprise register when a change of ownership occurs. Instead, the board of directors of a co-operative society is under the obligation to maintain and keep an up-to-date list of all co-operative members. When co-operative societies cease to exist, the up-to-date legal ownership information may not be available with the enterprise register and the existing procedures do not fully ensure the availability of this information through other sources.	Latvia is recommended to ensure that legal ownership information is available for all co-operative societies that cease to exist.

Determinations and ratings	Factors underlying recommendations	Recommendations
	The determination of beneficial ownership in respect of general and limited partnerships follows the approach for companies, including taking a 25% ownership threshold as a starting point and checking for control if a beneficial owner is not identifiable based on ownership. This approach could omit certain partners that exercise control but may not have sufficient ownership or capital contribution. This is not in accordance with the form and structure of the partnerships in Latvia.	Latvia is recommended to ensure that the beneficial owners of partnerships are required to be determined in accordance with the form and structure of each partnership.
EOIR Rating: Largely Compliant	The enterprise register is the primary source of legal ownership information for the Competent Authority. Although the Enterprise Registrar takes appropriate measures to tackle deficiencies when they are encountered, more proactive measures to identify non-compliance with filing obligations have not been taken systematically. In practice, the Enterprise Registrar has not undertaken any supervisory or enforcement measures to ensure that Latvian entities update the enterprise register on changes to the legal ownership information even when they are legally required to do so. In case of the transfer of shares, the Enterprise Registrar would not have that information unless the board of directors notifies it of the change to the register of shareholders or the Enterprise Registrar receives a notice from the acquirer of the shares.	Latvia is recommended to take effective supervisory and enforcement measures to ensure that all companies comply with their requirements to report legal ownership information to the enterprise register.
	Latvia's enterprise register is a key source of beneficial ownership information which is relied upon by the Competent Authority to answer requests. However, there is insufficient supervision of the information that has been entered into it especially in 2019 when the register was populated for a significant number of companies and partnerships based on available information with the authorities. Further, there are companies and partnerships reporting exceptions in the enterprise register on the grounds that they were unable to identify any natural person as beneficial owner. Both these aspects need systematic monitoring for ensuring the accuracy of the beneficial ownership information in the	

Determinations and ratings	Factors underlying recommendations	Recommendations
	enterprise register. In addition, whilst companies and partnerships must update beneficial ownership information in the enterprise register within a specified period and the law requires that changes of beneficial ownership information are brought to their attention, this obligation is not sufficiently supervised in practice and there is no specified frequency for updating beneficial ownership information submitted to the enterprise register. As such, in practice, beneficial ownership information in the enterprise register may not be up to date in all cases. This deficiency is not adequately compensated by the obligation of AML-obliged persons to report discrepancies that they may observe while conducting their own customer due diligence as it is not mandatory to engage an AML-obliged person in Latvia. Further, there is a risk that AML-obliged persons may rely on beneficial ownership information in the enterprise register and do not identify discrepancies while conducting their customer due diligence.	Latvia is recommended to ensure that effective supervisory and enforcement measures are taken to ensure that adequate, accurate and up-to-date beneficial ownership information is available with respect to all relevant companies and partnerships, in line with the standard.

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)		
The legal and regulatory framework is in place but needs improvement	Whilst the accounting and tax laws stipulate that the accounting documents must be kept for at least five years, there is currently no express obligation to maintain all accounting records for a minimum 5-year period in the instances where the legal entity ceases to exist. Further, the law does not clearly state who will be legally responsible for maintaining accounting records for five years after the legal entity ceases to exist, where such records are to be kept and what penalties will apply if the information is not maintained. Not all accounting documents as required by the standard may be kept when archived.	Latvia is recommended to ensure that accounting records and underlying documentation are retained for at least five years for legal entities that cease to exist. It should also ensure that the responsibility for maintaining accounting records and underlying documentation in respect of legal entities that cease to exist is clearly allocated and that the availability of this information is supported by effective enforcement provisions.
EOIR Rating: Largely Compliant		

Determinations and ratings	Factors underlying recommendations	Recommendations
Banking information and beneficial ownership information should be available for all account-holders (Element A.3)		
The legal and regulatory framework is in place but needs improvement	The determination of beneficial ownership information on account holders in respect of general and limited partnerships follows the approach for companies, including taking a 25% ownership threshold as a starting point and checking for control if a beneficial owner is not identifiable based on ownership. This approach could omit certain partners that exercise control but may not have sufficient ownership or capital contribution. This is not in accordance with the form and structure of the partnerships in Latvia.	Latvia is recommended to ensure that in respect of bank accounts the beneficial owners of partnerships are determined in accordance with the form and structure of each partnership.
EOIR Rating: Largely Compliant		
Competent authorities should have the power to obtain and provide information that is the subject of a request under an exchange of information arrangement from any person within their territorial jurisdiction who is in possession or control of such information (irrespective of any legal obligation on such person to maintain the secrecy of the information) (Element B.1)		
The legal and regulatory framework is in place but needs improvement	The provision of banking information under treaties which do not specifically provide for exchange of foreseeably relevant information is subject to restrictions which are not in line with the standard. Consequently, banking information cannot be exchanged in line with the standard with 5 out of Latvia's 152 EOI partners. While the amended Section 63(11[1]) of the Credit Institutions Law improved access to banking information under EOI instruments which provide for exchange of foreseeably relevant information, the legal framework of Latvia still does not allow for access to all banking information fully in line with the standard.	Latvia is recommended to ensure that its competent authority has access powers in respect of all banking information requested by all its EOI partners in line with the international standard.

Determinations and ratings	Factors underlying recommendations	Recommendations
	Latvian law protects all information obtained by the legal representative in connection with providing legal services without appropriate restrictions.	Latvia is recommended to ensure that the scope of attorney-client privilege in its domestic law is consistent with the international standard.
EOIR Rating: Partially Compliant	Although the requested information was in the vast majority of cases obtained directly by the Latvian Competent Authority, the tax authority appears hesitant to use all its information gathering powers, including thematic inspections and compulsory measures, in order to obtain information requested for exchange of information purposes.	Latvia is recommended to monitor use of its access and compulsory powers so that the requested information is effectively obtained in all cases.
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: Compliant		
Exchange of information mechanisms should provide for effective exchange of information (Element C.1)		
The legal and regulatory framework is in place but needs improvement	The Latvian law requires that the identity of the person under inspection is provided by the requesting jurisdiction. The 2023 amendment of Regulation No. 1245 specified that the person concerned in the request for information may be identified by name or otherwise; however, this amendment applies only to the exchange of information with the competent authorities of other Member States of the European Union (EU). This raises doubts as to whether Latvia will be a position to answer group requests from non-EU jurisdictions in line with the standard.	Latvia is recommended to ensure that its domestic legislation allows it to exchange information in accordance with the standard in relation to group requests under all of its EOIR mechanisms.

Determinations and ratings	Factors underlying recommendations	Recommendations
	Exchange of banking information under those treaties which do not contain the post-2005 model wording of foreseeable relevance is restricted by Section 63(11) of the Credit Institutions Law. As a result, Latvia does not have EOI relations in force providing for effective exchange of banking information to the standard with 5 out of Latvia's 152 EOI partners. Further, exchange of banking information under those treaties which contain post-2005 model wording is subject to Section 63(11[1]) of the Credit Institutions Law, as amended in 2015. As confirmed by practice during the current review period, the 2015 amendment has not removed all the impediments for effective exchange of information. In view of these restrictions, concerns are also raised in relation to Latvia's ability to process group requests where the information is held by a bank.	Latvia is recommended to ensure that all its EOI relations provide for exchange of information to the standard and that its domestic law allows it to exchange all banking information in line with the standard.
EOIR Rating: Largely 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: Compliant		
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		

Determinations and ratings	Factors underlying recommendations	Recommendations
EOIR Rating: Largely Compliant	The provisions of Latvia's exchange of information agreements override domestic confidentiality rules which allow disclosure of information that goes beyond the standard. However, as the received information from non-EU jurisdictions may not be clearly marked as obtained under an international treaty, concerns remain that in practice it may be used not in line with the standard.	Latvia is recommended to take measures to ensure that all information exchanged, including correspondence with other Competent Authorities, is treated in accordance with the respective treaty under which it was received, and to monitor the application of such measures.
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 but needs improvement	Latvia's EOI agreements do not define the term "professional secret" and the scope of the term under its domestic laws is wider than permitted by the international standard.	Latvia is recommended to limit the scope of "professional secret" in its domestic laws so as to be in line with the standard for exchange of information.
EOIR Rating: Largely 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.	

Determinations and ratings	Factors underlying recommendations	Recommendations
EOIR Rating: Compliant	Latvia has in place appropriate organisational processes. Nevertheless, there appears to be room for improvement in terms of resources dedicated to exchange of information practice. The workload does not currently lead to delays in exchange of information; however, it has negative impact on Latvia's ability to systematically provide status updates and may lead to delays or drop in quality of responses where more requests will need to be handled.	Latvia is recommended to take measures to ensure that appropriate resources are put in place so that it continues to provide information in a timely manner and, in cases where the information is not provided within 90 days, it updates the requesting competent authority on the status of the request in all cases.

Overview of Latvia

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

18. Latvia is a small, export oriented open economy. Latvia's Gross Domestic Product amounted to EUR 37.36 billion in 2021. In terms of exports, the main trading partners of Latvia in 2022 were Lithuania, Estonia, Germany, Sweden and the United Kingdom. Due to its geographical location, the leading economic sectors are agriculture, forestry, as well as industries such as textile, manufacturing of machinery and consumer goods, electronics, construction and paper industries, with a strong participation of services in the economy. Latvia has been a member of the European Union (EU) since 2004 and adopted the euro as its national currency on 1 January 2014.

Legal system

19. Latvia is a parliamentary democratic republic with a multi-party system. The head of state is the President, elected by the Parliament for a four-year term. Most executive power lies with the Prime Minister, who is the head of the Cabinet of Ministers and is appointed by the President on the basis of the general election results. The remainder of the Cabinet is appointed by the Prime Minister. The appointed Cabinet needs to be approved by the Parliament (Saeima).

20. The legal system of Latvia is based on civil law and relies on a single national law. The hierarchy of law consists of the Constitution (Satversme), laws, regulations of the Cabinet of Ministers and binding regulations of local governments. International agreements (including agreements for exchange of information for tax purposes) which settle matters regulated by law require ratification by the Saeima. Where a ratified international treaty conflicts with domestic law the ratified treaty prevails over domestic law (s. 13 of the Law on International Agreements of the Republic of Latvia).

21. Judicial power in Latvia is exercised by the courts. Courts are independent in the exercise of their functions. They must operate in accordance with the Constitution and the rule of law. The court system consists of district courts, regional courts and the Supreme Court. There are 35 district courts, which are courts of first instance for civil, criminal and administrative cases. The regional courts are the courts of appeal in cases already heard in district courts and serve as courts of first instance for cases falling specifically under their jurisdiction, such as tax matters. There are six regional courts in Latvia. The Supreme Court is the highest court. In addition, the Constitutional Court reviews cases concerning the conformity of laws with the Constitution, as well as other cases where breach of the Constitution might have arisen.

Tax system

22. The Constitution grants the Government the right to impose taxes. The tax system in Latvia consists of direct and indirect taxes, fees and duties. The tax system is governed by the Law on Taxes and Fees (LTF), specific taxing Acts and Cabinet Regulations issued pursuant to these Acts. The LTF describes the Latvian tax system, determines the types of taxes and regulates the tax procedure including rights of taxpayers and the appeal procedures for decisions made regarding taxes and fees.

23. In accordance with the LTF, all companies (including partnerships) established under Latvian law and registered in Latvia are considered as resident in Latvia. A permanent establishment of a foreign company is treated as a separate domestic taxpayer in Latvia and is liable to tax from Latvian source income and worldwide income attributable to the permanent establishment (s. 14 LTF). The definition of permanent establishment under Latvian law in general corresponds to the definition of permanent establishment provided in Article 5 of the OECD Model Tax Convention.

24. The corporate income tax rate is 20%. Corporate income tax is paid only from the profit share which is distributed or disbursed as dividends, or used for purposes not directly related to business development. If a company does not pay dividends, but decides to invest the earned profit into business, the corporate income tax is not paid. Reinvested profit is taxed at the rate of 0%.

25. An individual is a Latvian tax resident and is subject to personal income tax in respect of their worldwide income if that person has its permanent address or “a usual residence” (183 days rule[1]) in Latvia. The rate

1. A natural person spending more than 183 days in Latvia is considered tax resident.

of personal income tax depends on the nature of the income and varies from 10% to 31%.

26. Tax on income from capital (dividends, bank interest, life insurance policies, investments in private pension funds, life pension insurance policies, individual management of financial instruments) is paid according to a flat income tax rate of 20%. Royalties received from collective management groups are taxed at 20%. Royalties excluding from the collective management groups received between 1 July and 31 December 2023 are taxed at the rate of 25% and 40% depending on the amount of royalties, as long as the receiver has not registered as self-employed.[2]

27. As for non-resident companies and non-resident individuals, they are subject to income tax only on that part of their income that has its source in Latvia.

28. Latvia has 64 Double Taxation Conventions (DTCs) and 2 Tax Information Exchange Agreements (TIEAs) in place, including with its main trading partners. It is also a Party to the Multilateral Convention on Mutual Administrative Assistance in Tax Matters (the Multilateral Convention) and exchanges information with other EU member states under various EU instruments.

29. The State Revenue Service (SRS) is in charge of administering taxes and it is the designated Competent Authority for EOI purposes.

Financial services sector

30. The main laws regulating the financial sector in Latvia are the Credit Institutions Law, related Capital Requirements Regulation (on prudential requirements for credit institutions and investment firms) and the Law on Prevention of Money Laundering and Terrorism Financing (PMLA).

31. Latvia has a sound financial services sector which is part of the EU single market and is supervised by the Bank of Latvia.

32. The financial sector consists of the following types of entities: banks (12 and 4 EU branches), credit unions (30), insurance companies (6 companies and 11 branches), investment brokerage firms (7), investment management companies (10), private pension funds (7), payment institutions (6) and electronic money institutions (7). Compared to the 2015 Report, there is a decrease in the number of financial sector entities which is due to ceasing of operations of a few banks and group reorganisations at others.

2. State Revenue Service, Personal Income Tax rates, available at Personal Income Tax rates | Valsts ieņēmumu dienests (vid.gov.lv).

33. The total value of assets in the Latvian banking sector is EUR 25.3 billion as of 31 December 2021. The banking sector represents about 73% of total assets in the financial sector.

34. The investment sector plays a relatively small role. With the financial sector transformation, only approximately 9% out of the total deposit base in Latvia falls within the non-residents deposit sector. Around 82% of the Latvian banking share capital was owned by foreign investors as of 30 September 2021. Two subsidiaries and four branches of EU banks accounted for *circa* 66% of total banking sector assets and *circa* 84% of the total domestic loan portfolio as of 30 June 2021.

35. The Bank of Latvia is the central bank and a member of the European System of Central Banks and the Eurosystem. As of 1 January 2023, the Bank of Latvia supervises the following financial sector entities: credit institutions, electronic money institutions, insurance companies (including insurance intermediaries), private pension funds, investment firms, managers of alternative investment funds, investment management companies, savings and loans associations, providers of re-insurance services, payment institutions, and capital companies which are dealing with the purchase and sale of foreign currency in cash.

36. With the introduction of the Single Supervisory Mechanism for the euro area banking sector in November 2014, the European Central Bank (ECB), in close co-operation with the Bank of Latvia, exercises supervision of certain credit institutions in Latvia. Three largest Latvian banks as well as two branches of the EU banks are currently under the direct supervision of the ECB. The supervised banks and branches represent 84.7% of the total banking sector assets.

Anti-money laundering framework

37. The PMLA regulates the anti-money laundering (AML) measures in Latvia. Persons subject to AML requirements with respect to their economic or professional activities include (s. 3(1) PMLA):

- credit and financial institutions
- outsourced accountants, sworn auditors, commercial companies of sworn auditors, and tax advisors, as well as any other person undertaking to provide assistance in tax issues (for example, consultations or financial assistance) or acting as an intermediary in the provision of such assistance regardless of the frequency of its provision and existence of remuneration

- notaries, lawyers, other independent providers of legal services when they, acting on behalf of their customer, assist their customer in transactions concerning the following:
  - buying and selling of immovable property or shares of the commercial company
  - managing of the customer's money or financial instruments and other funds
  - opening or managing of all kinds of accounts in credit institutions or financial institutions
  - creation, management or operation of legal persons or legal arrangements, as well as in relation to the organisation of contributions necessary for the creation, operation or management of a legal person or a legal arrangement
- providers of services related to the establishment and operation of a legal arrangement or a legal person
- real estate agents
- organisers of lotteries and gambling
- persons providing cash collection services
- other legal or natural persons trading in means of transport, cultural monuments, precious metals, precious stones, articles thereof or trading in other goods, and also acting as intermediaries in the abovementioned transactions or engaged in provision of services of other type, if payment is made in cash or cash for this transaction is paid in an account of the seller in a credit institution in the amount of EUR 10 000 or more
- debt recovery service providers
- virtual currency service providers
- persons operating in handling of art and antique articles
- administrators of insolvency proceedings.

38. The Financial Intelligence Unit (FIU) of Latvia performs duties relating to the prevention of money laundering, with the goal of eliminating the possibility of using the Latvian financial system to launder money or financing terrorism. The FIU does not perform any supervisory functions. The main task of the FIU of Latvia is to collect and analyse financial data, reports of suspicious transactions, in order to hand this information over to Latvian law enforcement authorities to investigate cases of money laundering and terrorism and proliferation financing. The activities of the FIU of Latvia are regulated by the PMLA, as well as other national laws and regulations, EU regulations and international standards.

39. Moneyval's 5th Round Evaluation of Latvia was adopted in July 2018. Latvia received 10 "partially compliant" ratings for technical compliance, 1 "Substantial" and 8 "Moderate" ratings for effectiveness. Latvia was rated as Partially Compliant with respect to recommendations 10 (Customer due diligence), 22 (Designated Non-Financial Business and Professionals: Customer due diligence) and as Largely Compliant with respect to recommendations 24 (Transparency and beneficial ownership of legal persons) and 25 (Transparency and beneficial ownership of legal arrangements). On effectiveness, Latvia was rated with a moderate level of effectiveness with respect to Immediate Outcome 3 (Supervision) and low level of effectiveness with respect to Immediate Outcome 5 (Transparency of legal persons and arrangements).

40. Therefore, Latvia was put into the Enhanced Follow-Up procedure and had to report back to the Moneyval plenary in December 2019 and April 2021. Following the first follow-up report in 2019, Moneyval has re-rated Latvia as Largely Compliant on recommendations 10 and 22. The ratings with respect to recommendations 24 and 25 remain the same.[3] During the Moneyval plenary in April 2021, it was mentioned that Latvia has reached compliance with all 40 recommendations. The third and the last follow-up report was submitted in September 2022 for the Moneyval plenary in December 2022.

Recent developments

41. Since January 2020, the beneficial ownership information of legal entities, as well as the shareholders information of limited liability companies, is publicly available on a government portal. Recently, from 1 July 2023, stockholder information of stock companies has been made publicly available.

42. In 2021, a new Law on the Bank of Latvia was adopted. It provides a framework for the central bank and the financial supervisor (Financial and Capital Market Commission, FCMC) to function as a single entity (the Bank of Latvia) from 1 January 2023.

43. The amendments to the Commercial Law entered into force on 1 July 2023, which require stock companies to submit information on their stockholders, as well as information on dematerialised shares to the enterprise register by 30 June 2024.

3. Follow-up report (1st Enhanced) available at https://www.coe.int/en/web/moneyval/jurisdictions/latvia.

Part A: Availability of information

44. 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.

45. The 2015 Report found that Latvia's legal and regulatory framework for the availability of legal ownership information was in place. The main sources of legal ownership information are the enterprise register, consisting of 13 public registries, including the commercial register and the register of associations and foundations, and the Latvian central securities depository (CSD). Any information provided to the enterprise register is available to the tax authority. Latvia's implementation in practice was rated Compliant with the standard in 2015, but Latvia was nonetheless recommended to ensure the availability of ownership information on foreign companies with sufficient nexus with Latvia (in particular, having their head office or headquarters in Latvia) and to monitor the availability of information on settlors and beneficiaries of foreign trusts operated by Latvian resident trustees to ensure that such information is practically available.

46. The current review concludes that the 2015 recommendation on the availability of legal ownership information on foreign companies has not been addressed and is therefore maintained. The monitoring recommendation as regards the availability of information on settlors and beneficiaries of foreign trusts operated by Latvian resident trustees is turned into an in-text recommendation.

47. This report also finds that in case of co-operative societies which cease to exist, it is not clear whether the relevant legal ownership information in line with the standard must be maintained. Latvia is recommended to ensure that legal ownership information remains available.

48. In practice, the Enterprise Registrar, which is the primary source of legal ownership information for the Competent Authority, has not undertaken any supervisory or enforcement measures to ensure that Latvian entities update the enterprise register whenever there are changes to the legal ownership information. In particular, in case of the transfer of shares, the Enterprise Registrar does not have that information, unless the board of directors notifies the change to the register of shareholders, or the Enterprise Registrar receives a notice from the acquirer of the shares. Latvia is, thus, recommended to take effective supervisory and enforcement measures to ensure that all companies comply with their requirements to report legal ownership information to the enterprise register.

49. Further, the standard of transparency and exchange of information on request (the standard) was strengthened in 2016 to introduce the obligation of availability of beneficial ownership information on all relevant entities and arrangements. When identifying the beneficial owners of general and limited partnerships, Latvia follows the approach for companies, including applying a 25% ownership interest threshold as a starting point and checking for control if a beneficial owner is not identifiable based on ownership. This approach could omit certain partners that exercise control but may not have sufficient ownership or capital contribution. Latvia is recommended to ensure that the beneficial owners of partnerships are required to be determined in accordance with the form and structure of each partnership.

50. Although the beneficial ownership information is available with business entities themselves and AML-obliged persons, the enterprise register is a key source of beneficial ownership information. However, there is insufficient supervision of the information that has been entered into it for ensuring its accuracy. In addition, whilst companies and partnerships must update beneficial ownership information in the enterprise register within a specified period and the law requires that changes of beneficial ownership information are brought to their attention, this obligation is not sufficiently supervised in practice and there is no specified frequency for updating beneficial ownership information submitted to the enterprise register. As such, in practice, beneficial ownership information in the enterprise register may not be up to date in all cases. This deficiency is not adequately compensated by the obligation of AML-obliged persons to report discrepancies that they may observe while conducting their own customer due diligence as it is not mandatory to engage an AML-obliged person in Latvia. Further, there is a risk that AML-obliged persons may rely on beneficial ownership information in the enterprise register and do not identify discrepancies while conducting their customer due diligence. For these reasons, Latvia is recommended to ensure that effective supervisory and enforcement measures are taken to ensure that adequate, accurate and up to date beneficial ownership

information is available with respect to all relevant companies and partnerships, in line with the standard.

51. In conclusion, because of the issues identified in the legal framework and the availability of up-to-date beneficial ownership information in practice, Latvia is now rated Largely Compliant with Element A.1 of the standard.

52. The conclusions are as follows:

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

Deficiencies identified/Underlying factor	Recommendations
Legal ownership information on foreign companies having sufficient nexus with Latvia may not be available in all circumstances. There is no requirement for foreign companies to provide legal ownership information upon registration with the Enterprise Registrar. Tax obligations do not ensure that up-to-date legal ownership information is available in all circumstances for such companies. AML law obligations and requirements to submit beneficial ownership information to the enterprise register do not ensure the availability of complete legal ownership information with respect to all foreign companies with a sufficient nexus with Latvia.	Latvia is recommended to ensure that legal ownership information is available in all cases for foreign companies having a sufficient nexus with Latvia, including when they cease to exist.
Whilst the procedure for the registration of co-operative societies is similar to that of companies, there is no requirement for a co-operative society to update the legal ownership information in the enterprise register when a change of ownership occurs. Instead, the board of directors of a co-operative society is under the obligation to maintain and keep an up-to-date list of all co-operative members. When co-operative societies cease to exist, the up-to-date legal ownership information may not be available with the enterprise register and the existing procedures do not fully ensure the availability of this information through other sources.	Latvia is recommended to ensure that legal ownership information is available for all co-operative societies that cease to exist.
The determination of beneficial ownership in respect of general and limited partnerships follows the approach for companies, including taking a 25% ownership threshold as a starting point and checking for control if a beneficial owner is not identifiable based on ownership. This approach could omit certain partners that exercise control but may not have sufficient ownership or capital contribution. This is not in accordance with the form and structure of the partnerships in Latvia.	Latvia is recommended to ensure that the beneficial owners of partnerships are required to be determined in accordance with the form and structure of each partnership.

Practical Implementation of the Standard: Largely Compliant

Deficiencies identified/Underlying factor	Recommendations
The enterprise register is the primary source of legal ownership information for the Competent Authority. Although the Enterprise Registrar takes appropriate measures to tackle deficiencies when they are encountered, more proactive measures to identify non-compliance with filing obligations have not been taken systematically. In practice, the Enterprise Registrar has not undertaken any supervisory or enforcement measures to ensure that Latvian entities update the enterprise register on changes to the legal ownership information even when they are legally required to do so. In case of the transfer of shares, the Enterprise Registrar would not have that information unless the board of directors notifies it of the change to the register of shareholders or the Enterprise Registrar receives a notice from the acquirer of the shares.	Latvia is recommended to take effective supervisory and enforcement measures to ensure that all companies comply with their requirements to report legal ownership information to the enterprise register.
Latvia's enterprise register is a key source of beneficial ownership information which is relied upon by the Competent Authority to answer requests. However, there is insufficient supervision of the information that has been entered into it, especially in 2019 when the register was populated for a significant number of companies and partnerships based on available information by the authorities. Further, there are companies and partnerships reporting exceptions in the enterprise register on the grounds that they were unable to identify any natural person as beneficial owner. Both these aspects need systematic monitoring for ensuring the accuracy of the beneficial ownership information in the enterprise register. In addition, whilst companies and partnerships must update beneficial ownership information in the enterprise register within a specified period and the law requires that changes of beneficial ownership information are brought to their attention, this obligation is not sufficiently supervised in practice and there is no specified frequency for updating beneficial ownership information submitted to the enterprise register. As such, in practice, beneficial ownership information in the enterprise register may not be up to date in all cases. This deficiency is not adequately compensated by the obligation of AML-obliged persons to report discrepancies that they may observe while conducting their own customer due diligence as it is not mandatory to engage an AML-obliged person in Latvia. Further, there is a risk that AML-obliged persons may rely on beneficial ownership information in the enterprise register and do not identify discrepancies while conducting their customer due diligence.	Latvia is recommended to ensure that effective supervisory and enforcement measures are taken to ensure that adequate, accurate and up-to-date beneficial ownership information is available with respect to all relevant companies and partnerships, in line with the standard.

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

53. The availability of legal and beneficial ownership information in Latvia is provided by a combination of corporate law, tax law and anti-money laundering law. Legal ownership information on domestic companies is available in the public registers of the Enterprise Registrar under the Commercial Law (CL). In addition, legal ownership information of foreign companies to some extent is available in the tax registry of the State Revenue Service (SRS) under the Law on Taxes and Fees (LTF).

54. The Enterprise Registrar, the SRS, the Bank of Latvia and self-governing autonomous bodies (Latvian Council of Sworn Advocates, Council of Sworn Notaries, Latvian Association of Sworn Auditors) are the main authorities charged with overseeing compliance with such obligations.

Types of companies

55. The following types of companies can be established under Latvian law:

- **Limited liability company (LLC):** This is a private company whose shares are not publicly tradable (s. 134(3) CL). LLCs may be founded by one or several founders who can be natural or legal persons (s. 140 CL). Founders or shareholders are liable for the obligations of the company only up to the amount of their unpaid contribution to the company's capital. There were 130 903 LLCs registered in the enterprise register as of November 2022. Compared to the 2015 Report, there was a decrease in the number of LLCs due to the decision taken by the Enterprise Registrar to strike off non-compliant ones from the commercial register as they qualified being inactive companies (see paragraphs 89-91).
- **Stock company:** A stock company is a public company whose shares (stock) may be publicly tradable (s. 134(4) CL). If the shares/stocks are publicly traded, then it is called a joint stock company. The equity capital of a stock company is divided into shares/stock which may be registered stocks or bearer stocks (s. 228 CL). However, bearer shares can be issued only in a dematerialised form and must be registered in the CSD, as described in section A.1.2 of this report. Shareholders are not liable for the obligations of the company. There are no restrictions regarding the number of shareholders. There were 950 stock companies in Latvia as of November 2022. Latvia did not specify the number of joint stock companies.

- **Societas Europaea (SE):** As Latvia is a member of the European Union, it is possible to incorporate SEs in Latvia. The rules that apply to stock companies also apply to SEs, unless indicated otherwise. There were 10 European Companies in Latvia as of November 2022.
- **Co-operative society:** These are voluntary associations of persons with the purpose of promoting the joint economic interests of its members (s. 6 of the Co-operative Societies Law, thereafter "CSL"). Co-operatives are formed by at least three legal or natural persons (s. 9(1) CSL). Members are not liable for the debts/obligations of the co-operative (s. 4 CSL). There were 1 622 co-operatives in Latvia as of November 2022.

56. LLCs, stock companies as well as co-operatives are founded and acquire legal personality once they are registered with the Enterprise Registrar (s. 135(2) CL; s. 3(2) CSL). In order to set up a company or co-operative, the founders must, among other requirements, prepare and sign the memorandum of association and articles of association, set up administrative institutions of the company, pay up the equity capital and submit an application to the respective office of the Enterprise Registrar (ss. 141 and 142 CL; s. 9 CSL).

Legal ownership and identity information requirements

57. The legal ownership and identity requirements for companies are found mainly in the company laws. The anti-money laundering legislation and tax law are subsidiary but incomplete sources of legal and identity information. The following table shows a summary of the legal requirements to maintain legal ownership information in respect of companies:

Companies covered by legislation regulating legal ownership information[4]

Type	Company Law	Tax Law	AML Law/CDD
Limited liability company	All	Some	Some
Stock company	All	Some	Some
Societas Europaea	All	Some	Some
Co-operative society	All	Some	Some
Foreign companies (tax resident)	Some	Some	Some

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.

Companies Law requirements

58. The enterprise register carries out functions of a business register for all types of entities required to be registered by law, i.e. for LLCs, stock companies, co-operatives and others (s. 1 Law on the Enterprise Register of the Republic of Latvia (LER)). The registration procedures are regulated by the CL in conjunction with the LER.

59. LLCs obtain their legal personality and are deemed to be founded from the date when they are recorded in the commercial register, which is one of the public enterprise registers maintained by the Enterprise Registrar (s. 135(2) CL).

60. Founders of an LLC must include in the application for entering into the commercial register the set of documents specified in Section 149(3) CL. This includes the memorandum of association and articles of association (ss. 142 and 149(3)(1) CL), which, among other information, must include the identity of founders, the number of shares due to each founder and the identity of the members of the board of directors of the company (s. 143 CL). Further, LLCs are required to submit their register of shareholders to the Enterprise Registrar (s. 149(3)(9) CL). The Registrar then registers the shareholders in the commercial register.

61. The register of shareholders must be certified by a chairperson of the management board or an authorised member of the management board with his or her signature (s. 187(9) CL). If a shareholder transfers shares, the entry in the register of shareholders shall also be certified by the seller and the acquirer of shares with his or her signature (s. 187(10) CL). All signatures must be notarised. Document may be prepared in paper or electronic format signed with a qualified electronic signature, which also contains a qualified electronic time stamp.[5]

62. The state notary of the Enterprise Registrar reviews and verifies the documents within three working days. The notary manually checks whether all required information was provided in required form (i.e. authenticated and valid). The Registrar checks correctness of the submitted information through information system allowing it direct access to databases of several government authorities such as the Office of Citizenship and Migration Affairs (maintaining the population register), the SRS, the State Land Service or Information Centre of the Ministry of the Interior.

63. The registration of shares and disbursement, the transfer of shares, and the provision of the rights of shareholders become valid upon entry in the register of shareholders (s. 187(1) CL). By default, any change in the

5. Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC.

registered information must be reported for entry in the commercial register within 15 days of its occurrence (s. 8 LER). The CL also provides for specific timeframe for changes in the register of shareholders. The board of directors of LLCs shall, within three working days after signing of the new division of shareholders,[6] submit an application to the Enterprise Registrar regarding the changes in the register of shareholders (s. 187^1(7) CL). In some cases (i.e. when shares have been acquired as an inheritance, acquired through a court judgement, acquired by using a commercial pledge and transferred by the bailiff or the administrator of the insolvency proceedings) the Enterprise Registrar may record changes in the shareholder register upon receipt of a notice from the acquirer of the share (s. 187^1(3) CL).

64. Stock companies are required to keep and maintain an up-to-date register of stockholders in Latvia. Shares of joint stock companies[7] must be recorded in the CSD and kept in the financial instrument accounts operated by financial institutions or investment brokerage companies subject to AML obligations. Since 1 July 2023, stock companies are also required to submit information on their shareholders to the Enterprise Registrar. The information must be updated within three working days from the relevant changes in the register of stockholders (s. 235^1(8) CL).

65. The procedure for registering of co-operative societies is similar to that of companies. The application for registration with the Enterprise Registrar must be submitted within 15 days following the conclusion of all other formalities for setting up a co-operative society. The application consists of the memorandum of association, the articles of association and other documents in accordance with the CSL (s. 10 CSL). The memorandum of association of the co-operative society must include, among others, identity information of founders, members of the board of directors, council members of the society (s. 11 CSL).

66. There is no requirement on a co-operative society to update the legal ownership information in the enterprise register when a change of ownership occurs. However, the board of directors of a co-operative society is under the obligation to maintain and keep an up-to-date list of all co-operative members (s. 16 CSL). The Latvian authorities confirmed that the list is required to be kept in Latvia.[8]

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6. The register of shareholders shall be a file formed by separate divisions. A division is a document that is formed by the aggregate of entries made in one occasion, which reflects a complete current composition of shareholders (s. 187(2) CL).
7. A joint stock company is the company the shares of which are in public circulation and for the shares of which a buy-back offer has been made (s. 1(1) Financial Instrument Market Law).
8. The legal address of a co-operative society must be in Latvia in order for the co-operative society to be registered with the Enterprise Registrar. Since the CSL

67. Entries in the enterprise register are stored in electronic form (s. 16 LER) and kept permanently. Underlying documentation is kept for so long as the company exists, and for 10 years after the company ceases to exist. After 10 years, these documents are transferred to the National Archives of Latvia.

68. As such, with respect to domestic companies, there is a sound legal framework for maintaining legal ownership information. For LLCs and stock companies there are two main sources of information (i.e. the enterprise register and entities themselves for LLCs, and the enterprise register and the CSD for stock companies). There is one source of legal ownership information for co-operative (entities themselves).

Tax law requirements

69. LLCs, stock companies and co-operative societies must be registered as taxpayers by the Enterprise Registrar (s. 15^1(1) LTF). The Enterprise Registrar issues upon registration to the entity a uniform eleven-digit registration number and a registration certificate which is also the registration code of the taxpayer (s. 15^1(1) LTF). The Enterprise Registrar shall, within one working day from registration of the entity, electronically send that information to the SRS (s. 15^1(8) LTF). In addition, the Enterprise Registrar shall, upon request of the SRS, provide information at its disposal regarding the registered entities (s. 15^1(9) LTF). Those persons which do not need to be registered with the Enterprise Registrar are required to be registered as taxpayers by the SRS[9] (s. 15^1(5) LTF) where they have taxable income.

70. There are several reports which all companies[10] must submit to the SRS annually – financial statements, tax and informative returns, and VAT returns for all registered VAT payers. However, none of the reports submitted to the SRS annually requires the disclosure of legal ownership information by companies to the tax authority.

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stipulates that members have the right to access documents or information at the society`s legal address (s. 22 CSL), the list of all co-operative members must also be kept in Latvia.

9. They include natural persons, foreign diplomatic and consular establishments, permanent establishments of non-residents (foreign merchants) in Latvia, which according to the LTF are considered as separate domestic taxpayers for the application of all tax laws, communities of apartment owners who are employers or perform economic activity (Cabinet Regulation No. 537 of 22 September 2015 "Regulations on the registration of taxpayers and structural units of taxpayers with the State Revenue Service", paragraph 4).

10. Exceptions are political parties and their associations, which submit annual reports to Corruption Prevention and Combating Bureau.

71. Although certain tax positions might require that the company discloses its ownership structure to the SRS (e.g. transfer pricing, utilisation of tax losses, and exemption of dividend payments), the tax reporting obligations do not ensure that updated information on shareholders is provided in all cases, since they are linked to specific conditions (e.g. turnover threshold, transfer pricing obligations, utilisation of tax losses).

72. Therefore, with respect to domestic companies, the legal ownership information that is available in the public registers of the Enterprise Registrar is also available to the SRS. As previously mentioned, the legal ownership information on such registers is kept permanently and is publicly available (see paragraph 67). Underlying documentation is kept for so long as the company exists and for 10 years after the company ceases to exist. After 10 years, these documents are transferred to the National Archives of Latvia.

Anti-money laundering requirements

73. AML law obligations provide for availability of legal ownership information on companies to some extent but is not the primary source of such information in Latvia. The Law on the Prevention of Money Laundering and Terrorism and Proliferation Financing (PMLA) provides for obligations on the availability of beneficial ownership information that could also lead to the identification of legal owners, as a complementary source of information. The AML-obliged persons must apply CDD requirements in respect of their customers. Thus, to the extent a company engages with an AML-obliged person (there is no obligation to engage with an AML-obliged person), beneficial ownership information is required to be maintained by such person. However, the AML Law does not explicitly require that the AML-obliged persons keep all information on legal ownership of the companies and the identification of the beneficial owners does not always ensure the identification of all the legal owners.

Foreign companies

74. Foreign companies or other legal entities established under laws of another jurisdiction can conduct commercial activities in Latvia. Branches of foreign companies must be registered with the Enterprise Registrar (s. 15^{1}(1)(5) LTF), as well as representative offices which do not carry out economic activities. Representative offices which carry economic activities (permanent establishments) are registered with the SRS.[11] There

11. Pursuant to Clause 4.2.5 of the Regulations No. 537 of the Cabinet of Ministers adopted on 22 September 2015 (Regulations on registration of taxpayers and taxpayers' structural units in the State Revenue Service), representations of foreign subjects (representative offices) in Latvia are registered in the register of taxpayers of the State Revenue Service, and, according to the Law on Taxes and Fees, are considered separate domestic taxpayers for the application of all tax laws.

were 422 foreign branches registered with the Enterprise Registrar and 242 representative offices registered with the SRS as of 31 December 2021.

75. The application for registration of a branch of a foreign company in the enterprise register must specify the legal address of the branch of the foreign company in Latvia and the company must confirm that it is reachable at this address (ss. 25(2) and 25(3[1]) CL). Notarised copy of the articles of association or a memorandum of association should also be submitted with the application among other documents (s. 25(3) CL). However, the articles of association or memorandum of association may not always include the legal ownership information of foreign companies (ss. 143, 144 CL). As such, there is no requirement for branches of foreign companies to disclose the legal ownership information upon registration with the Enterprise Registrar.

76. Entries of foreign companies in the enterprise register are kept indefinitely and are publicly available. Underlying documentation is kept for so long as the foreign company exists in Latvia, and for 10 years after the company ceases to trade in Latvia. After 10 years, these documents are transferred to the National Archives of Latvia. In case of termination of activities of the branch, the person who is authorised to represent the foreign company in activities related to the branch must notify the Enterprise Registrar about the appointment of an insolvency administrator or liquidator indicating the given name, surname, residential address and scope of powers of the administrator or liquidator (s. 25(4) CL). The administrator or liquidator ensures the preservation of and access to the documents of the branch and transfers them to the National Archives of Latvia for preservation, where they are stored for 15 years upon completion of the liquidation process; however, legal ownership information may not be available (see paragraphs 97, 98).

77. Upon registration with the SRS as a permanent establishment of a foreign company, the representative office is required to submit a completed registration sheet of the taxpayer, information about the representative, founders and beneficial owners, registration at certain address and a document certifying the registration of a foreign company in the foreign jurisdiction (ss. 11, 17.3 of the Cabinet Regulation No. 537 of 22 September 2015, Regulations Regarding the Registration of Taxpayers' and Taxpayers' Units with the SRS).

78. Tax obligations do not ensure that legal ownership information is available in all circumstances (see paragraphs 70, 71). Thus, legal ownership information of foreign companies is also not available upon the registration with the SRS. Upon dissolution of the representative office of a foreign company, the SRS shall exclude the taxpayer from the register of taxpayers if the taxpayer has settled its tax liabilities (ss. 28, 28[1] of the Cabinet Regulation No. 537 of 22 September 2015). The Latvian authorities

have informed that the documents of the liquidated taxpayers are transferred to the National Archives of Latvia (see paragraph 76). Once excluded from the register of taxpayers, the SRS shall notify the Enterprise Registrar which makes an entry in the enterprise register regarding the termination of the activities of a company in Latvia (see paragraph 91).

79. Foreign companies registered with the Enterprise Registrar were required to submit up-to-date information on their beneficial owners by 1 January 2021 following the PMLA law adjustment in 2017 (see paragraph 150). Further, foreign companies would engage with AML-obliged persons, e.g. when certifying the articles of association or memorandum of association by sworn notaries or opening a bank account in Latvia. The AML-obliged persons must ascertain the shareholding structure of the foreign company within the scope of CDD procedures (see paragraph 118). However, these obligations do not ensure the availability of complete legal ownership information with respect to all relevant foreign companies (see paragraph 73).

80. To sum up, legal ownership information on foreign companies having sufficient nexus with Latvia may not be available in all circumstances. There is no requirement for foreign companies to provide legal ownership information upon registration with the Enterprise Registrar. Tax obligations do not ensure that up-to-date legal ownership information is available in all circumstances for such companies. AML law obligations and requirements to submit beneficial ownership information to the enterprise register do not ensure the availability of complete legal ownership information with respect to all foreign companies with a sufficient nexus with Latvia. Therefore, as already noted in the 2015 Report, the legal requirements on foreign companies that are tax resident in Latvia (in particular having their head office or headquarters in Latvia) do not ensure the availability of legal ownership information of those companies. The recommendation continues to apply. **Latvia is recommended to ensure that legal ownership information is available in all cases for foreign companies having a sufficient nexus with Latvia, including when they cease to exist**.

Legal ownership information – implementation, oversight and enforcement measures

81. As mentioned in paragraph 45, the enterprise register serves as the primary register for companies and branches of foreign companies operating in Latvia. The enterprise register is managed by the Enterprise Registrar, an administrative authority under the supervision of the Minister for Justice. The entry in the register is completed immediately after verification activities are completed by the state notaries of the Enterprise Registrar. There are 65 state notaries working at the Enterprise Registrar as of April 2023. They are individuals responsible for verifying information before registering a company in the

enterprise register. There are internal guidelines available to the state notaries on performing checks and registering companies. Seminars and training were provided to the state notaries, some organised in co-operation with law firms and the CSD. The representative of the state notaries interviewed during the onsite visit was familiar with the process and requirements for registration and updating information in the enterprise register.

82. A company can apply for registration with the Enterprise Registrar either by post or via the electronic portal. When registering by post, the documents are submitted in printed form to the Enterprise Registrar Office (s. 9(1) CL). The signature of a person on the application and documents to be appended to the application must be certified by a sworn notary (s. 9(1) CL). A registration through the Latvian governmental portal requires a digital certificate to certify the identity of the applicant(s) and the content of the submitted information must be signed with a qualified electronic signature. Latvian authorities confirmed that the percentage of the registration applications via the electronic portal has been increasing each year: from 64% in 2019 to 78% in 2020, 85% in 2021 and 89% in 2022.

83. The enterprise register also contains the register of shareholders maintained by the board of directors of an LLC. Any change to the register of shareholders, e.g. transfer of shares, becomes available to the Enterprise Registrar either (i) upon submission of the new register of shareholders by the board or (ii) via direct entry of the change by the Enterprise Registrar upon receipt of a notice from the acquirer of the share (see paragraph 63). The register of shareholders is stored in the commercial register of the Enterprise Registrar which is publicly accessible since January 2020.

84. The Ministry of Justice is the authority designated by law to oversee compliance with the obligations to register with the Enterprise Registrar and any changes of the data previously entered in the public registers.

85. As mentioned in paragraph 63, the Board of LLCs is required to file changes in the shareholder register with the Enterprise Registrar and it is liable for any damages caused if the register is not properly kept (s. 169^1 CL). Delay in submitting the updated register of shareholders will typically trigger issuance of administrative violation protocol and application of sanction in an amount from EUR 70 up to EUR 420.

86. Further, under section 3(2) of the Law on Administrative Penalties for Offences in the Field of Administration, Public Order, and Use of the Official Language, the failure to provide information, inadequate provision of information, or provision of false information to the Enterprise Registrar is punishable with a warning or a fine of up to 140 units of fine (i.e. EUR 700, one unit of fine is EUR 5). The fine is imposed on a natural person or a management board member with or without deprivation of the management

board member's right to hold specific offices in commercial companies for a period up to three years.

87. The Enterprise Registrar does not have specific statistics on the penalties applied for failure to submit the register of shareholders or any changes to it. Over the review period, the Enterprise Registrar applied 46 overall administrative penalties in 2019 and 27 administrative penalties in 2020. No decisions on the application of the penalties were taken in 2021 and 2022. The representatives of the Enterprise Registrar interviewed during the onsite visit explained their position that they do not perceive penalties to be an effective measure to enforce compliance.

88. In 2015, Latvia received an in-text recommendation that although the Enterprise Registrar takes appropriate measures to tackle deficiencies when they are encountered, more proactive measures to identify noncompliance with filing obligations (e.g. regular desk audits) should be taken. The enterprise register is the primary source of legal ownership information for the Competent Authority. The SRS consults the internal sources or the enterprise register at first instance before requesting the additional information from a taxpayer (see section B.1). The Latvian authorities indicate that, in practice, the Enterprise Registrar has not undertaken any supervisory or enforcement measures to ensure that Latvian entities update the enterprise register whenever there are changes to the legal ownership information. In case of the transfer of shares, the Enterprise Registrar does not have that information, unless the board of directors notifies the change to the register of shareholders or the Enterprise Registrar receives a notice from the acquirer of the shares. The gap has been acknowledged by the Enterprise Registrar during the onsite visit. Therefore, **Latvia is recommended to take effective supervisory and enforcement measures to ensure that all companies comply with their requirements to report legal ownership information to the enterprise register**.

Inactive companies

89. Latvian law does not foresee the concept of inactive company. However, under the Commercial Law (s. 314^1(1) CL), the company may be terminated if:

- the board of the company has not had the right of representation for more than three months and the company has not rectified the indicated deficiency within three months after receipt of a written warning
- the company cannot be reached at its legal address and has not rectified the indicated deficiency within two months after receipt of a written warning.

90. In addition, the SRS can terminate the company if (s. 314[1](2) CL):

- the company has not submitted an annual report (financial statements) within one month after administrative punishment was imposed and at least six months have passed since the violation was committed
- the company has not submitted the declarations (tax and informative returns, VAT returns) for the time period of six months, provided for in tax laws, within one month after administrative punishment was imposed
- activities of the company have been suspended on the basis of a decision of the tax authority, and the company has not rectified the indicated deficiency within three months after activities thereof were suspended.

91. In such cases, the Enterprise Registrar or the SRS must notify the company about the decision to terminate it. Prior to the termination, the SRS may adopt a decision on the suspension of the economic activity of the company. The company has the right to remedy the violation that was the basis for the suspension within three months. If it does so, the economic activity status of the company is restored after evaluation. If it does not, the SRS takes a decision on the termination of the company. If within one month after the notification to the company, the decision has not been contested or appealed, it enters into effect (s. 314[1](3) CL). If the decision enters into force, an entry in the public register is made and a statement inviting parties interested in the liquidation of the company within one month to submit an application for the appointment of the liquidator. If no such application is submitted within the specified time limit and no insolvency proceedings are declared to the company, it shall be excluded from the public register (s. 317(2) CL).

92. If activity of the company has been terminated based on the decision taken by the SRS, the tax administration notifies the Enterprise Registrar after its decision has entered into force. The company has the right to challenge it in writing to the Director General of the SRS within one month from the date of entry into force of the decision on termination of its activity. When the Enterprise Registrar makes an entry in the enterprise register regarding its termination, it loses its legal personality. All the property of an entity after being excluded from the register goes to the State.

Total number of inactive companies excluded from the enterprise register

Calendar year	Total number of excluded inactive companies	Number of inactive companies excluded based on the SRS decision
2019	18 876	3 538
2020	7 236	3 888
2021	8 564	3 775
2022	5 969	2 909

93. In practice, a few cases were identified when the Chief State notary of the Enterprise Registrar has annulled the decision to terminate an inactive company. In such instances, the company was re-established only after all the necessary documents were submitted to ensure that all the requirements established by law are met.

Number of cases when decisions to exclude inactive companies were annulled by the state notary of the Enterprise Registrar

Original reason for termination, which, after rectification, led to restoration	2019	2020	2021	2022
The board of the company had not had the right of representation for more than three months	22	10	11	4
Company could not be reached at its legal address	90	95	102	54

94. The Enterprise Registrar maintains a separate list of all inactive companies and their status is checked regularly. The state notaries use the list on a daily basis and manually check whether a company has replied within the notification period after receipt of a written warning.

Companies that cease to exist

95. LLCs, as well as stock companies and co-operative societies, can be dissolved and thereby struck off from the commercial register if: i) shareholders so decide, ii) a court so decides, iii) it is insolvent, iv) the period for which it was established for has expired, v) it has achieved the purposes specified in the articles of association or vi) the law or the articles of association provide for its dissolution for other reasons (s. 312(1) CL).

96. In case of solvent liquidations, a liquidator is appointed by the shareholders if it is the company's decision to dissolve (s. 318(1)(2) CL). In case of liquidation on the basis of a court ruling, a liquidator can be recommended to the court by a person interested in liquidation of the company or appointed by the shareholders (s. 318(3) CL). The board of the company

is responsible for registering identity information on the liquidator in the commercial register and thus the liquidator assumes all the rights and obligations of the board (ss. 320(1), 322(1) CL).

97. From the beginning of the liquidation process, a liquidator shall ensure the preservation of and access to the documents of the company, including information on legal and beneficial owners. The liquidator shall give the documents of the company for preservation to one of the shareholders of the company or to a third party in Latvia, co-ordinating the place of storage thereof with the National Archives of Latvia (s. 329 CL). However, it is not clear whether legal ownership information must be maintained in line with the standard. The documents of archival value of the company shall be given for preservation to the National Archives of Latvia in conformity with the provisions of the Law on Archives (s. 329 CL). The Latvian authorities have confirmed that the documents of archival value include, among others, the records used protractedly for the implementation and protection of the obligations and rights of the institution or private persons, and they mostly relate to company's employees (s. 8 Law on Archives); thus they may not contain the legal ownership information (see paragraph 97).

98. Insolvency procedures are prescribed in the Insolvency Law (IL). If an insolvency procedure has been initiated, the court will appoint an insolvency administrator (s. 19 IL). The identity of the insolvency administrator must be registered with the SRS and the Insolvency Control Service, and the administrator assumes the role and responsibilities as the legal representative of the company (s. 26 IL). All documents pertaining to the beginning and ending of the bankruptcy process must be kept at the insolvency administrator's place of practice in Latvia, including information on legal and beneficial owners (s. 26.[1](1) IL). The insolvency administrator must keep the documents for 10 years from the date of the termination of the insolvency procedure.[12] The insolvency administrator has the right to hand over the debtor's documents to the State archives for storage free of charge upon the termination of the insolvency procedure (s. 27 IL). However, the documents of archival value of the company may not contain the legal ownership information (see paragraph 97).

99. Where inactive companies are struck-off from the enterprise register and subsequently liquidation or insolvency proceedings are not initiated (see paragraphs 89 to 93), the law does not define a responsible person for the retention maintenance of documentation.

12. Cabinet of Ministers Regulation No. 246, June 2019, Procedures by which Administrators of Insolvency Proceedings and Persons Supervising Legal Protection Proceedings Keep Records, paragraph 30, available at https://likumi.lv/ta/id/307494#p30.

100. The same general rules and procedures apply to stock companies and co-operative societies that go through solvent or insolvent liquidations. Upon liquidation of a stock company and a co-operative society, a liquidator shall, in conformity with the provisions of the Law on Archives, ensure the storage of and access to the documents of the entity. For a stock company, the liquidator shall give the documents of the company for preservation to one of the shareholders of the company or to a third party in Latvia and for a co-operative society, the liquidator shall give the documents of the society for storage to one of the members of the society or to a third party in Latvia by co-ordinating the place of their storage with the National Archives of Latvia. The documents of archival value of the society shall be given for storage to the National Archives of Latvia in conformity with the provisions of the Law on Archives (s. 84 CSL); however, they may not contain the legal ownership information (see paragraph 97).

101. Whilst the document retention procedures as described in paragraphs 96 to 100 may not fully ensure the availability of legal ownership information in accordance with the standard, the legal ownership information of LLCs and stock companies is retained in the enterprise register. The register of shareholders of LLCs shall be stored by the Enterprise Registrar for 10 years after the company is struck-off from the commercial register (s. 187(4) CL). The Latvian authorities confirmed that the Enterprise Registrar keeps electronically stored ownership information for LLCs for 10 years after the liquidation of the company. Further, the Latvian authorities informed that amendments to the CL entered into force on 1 July 2023, which require stock companies to submit information on their stockholders, including information on bearer shares and their registration with the CSD to the Enterprise Registrar by 1 July 2024. The information must be updated within three working days from the relevant changes in the register of stockholders (s. 235^{1}(8) CL). This should ensure the availability of legal ownership information of the stock companies that were struck-off from the enterprise register with the Enterprise Registrar for 10 years after their exclusion from the public register. Latvia should monitor the effective implementation of the amendments to the CL, which entered into force on 1 July 2023 and require stock companies to submit information on their stockholders to the Enterprise Registrar by 1 July 2024 and thereafter (see Annex 1).

102. Whilst the procedure for the registration of co-operative societies is similar to that of companies, there is no requirement for a co-operative society to update the legal ownership information in the enterprise register when a change of ownership occurs. Instead, the board of directors of a co-operative society is under the obligation to maintain and keep an up-to-date list of all co-operative members (see paragraphs 65 and 66). When co-operative societies cease to exist, the up-to-date legal ownership information may not be available with the enterprise register and the existing procedures do not fully

ensure the availability of this information through other sources. **Latvia is recommended to ensure that legal ownership information is available for all co-operative societies that cease to exist**.

103. Finally, as a general rule, Latvian law does not allow for migration of companies with some exceptions introduced under the framework of EU law. An SE can be migrated to another EU-member state without losing its legal personality; in such a case, the entity must submit an application for the entry of the intended transfer of the SE's registered office with the Enterprise Registrar. Even if a SE is migrated, its legal and beneficial ownership information would still be available in Latvia, via public records (mainly the commercial register).

Nominees

104. Nominee shareholding is allowed in Latvia; however, it is restricted to AML-obliged persons. Only an investment brokerage company, credit institution or the CSD may open and operate a nominee account (s. 125(3) of the Financial Instrument Market Law).

105. In the case of opening of a nominee account, the identification of the account shall reflect information stating that it is a nominee account and that the financial instruments therein do not belong to the person opening the account (s. 130(3) FIML).

106. The operator of a nominee account is required to maintain records on the securities held in the account and perform CDD measures as prescribed under the AML law. Therefore, the AML-obliged persons are required to identify their customers, i.e. the person on whose behalf they hold the shares, and perform CDD at the moment of establishing the business relationship in all cases (s. 11(1) PMLA). This includes, using an AML-risk based approach, identifying the beneficial owner of the customer where the customer is a legal entity (s. 17(1) PMLA).

107. The AML-obliged person is further required to conduct ongoing monitoring, to ensure that the information held on the customer is up to date (s. 20 PMLA) and to keep information for five years following the termination of the business relationship (s. 37(2) PMLA).

108. Nominees' compliance with their AML obligations is supervised by the AML Department of the Bank of Latvia. Further, the combination of obligation to hold such shares on accounts operated by the CSD and general level of compliance with AML obligations of these professionals should ensure that the information on the person on whose behalf a nominee holds the shares is available. A company will be aware of nominee shareholding via checking the information on the CSD.

Beneficial ownership information requirements

109. The standard was strengthened in 2016 to require that beneficial ownership information be available on companies. In Latvia, this aspect of the standard is addressed through the AML framework. The main source of the beneficial ownership information is the enterprise register as legal persons in Latvia must submit their beneficial ownership information to the Enterprise Registrar since 2017 for new companies and 2018 for pre-existing companies. AML-obliged persons must also carry out CDD and identify and maintain beneficial ownership information on their customers (s. 11^1(1) PMLA). To carry out CDD that includes the identification of the beneficial owners, the AML-obliged persons rely on the information in the enterprise register, and they have the right to request such information from the customers. If the AML-obliged person, on the basis of risk assessment, determines the beneficial owner of the customer by verifying their identity from reliable sources, other than the enterprise register, and identifies discrepancies in the beneficial ownership information with the enterprise register, the AML-obliged person has to notify the Enterprise Registrar of the discrepancy. This system facilitates the synergy between the requirement of filing information to the register and AML-obligations (see paragraph 126 and 143). The requirements under the AML framework are analysed below.

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/ CDD	AML Law/ Business Entities and Enterprise Registrar
Limited liability company	None	None	Some	All
Stock company	None	None	Some	All
Societas Europaea	None	None	Some	All
Co-operative society	None	None	Some	All
Foreign companies (tax resident)	None	None	All[13]	All

Definition and method of identification of the beneficial owner

110. The PMLA provides for the obligation to identify the beneficial owners for both AML-obliged persons (s. 11^1(1) PMLA) and business entities

13. 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 person that is relevant for the purposes of EOIR (Terms of Reference A.1.1 Footnote 9).

(s. 18[1](3) PMLA). The same definition and methodology for identifying beneficial owners applies to both AML-obliged persons and entities.

111. The term "beneficial owner" is defined in Section 1(5) PMLA to mean:

> A natural person who is the owner of the customer which is a legal person or legal arrangement or who controls the customer, or on whose behalf, for whose benefit or in whose interests business relationship is being established or an individual transaction is being executed, and it is at least:
>
> a) as regards legal persons – a natural person who owns, in the form of direct or indirect shareholding, more than 25% of the capital shares or voting stock of the legal person or who directly or indirectly controls it.

112. There are specific regulations and guidance available that support the definition of beneficial ownership. The notion "or on whose behalf, for whose benefit or in whose interests business relationship is being established or an individual transaction is being executed" entails control being implemented not only by the ownership right, but also via other means of control, which are not considered to be direct control.[14] In addition, the PMLA specifies the beneficial owner of a legal person or a legal arrangement is a person holding the position in the executive body of such legal person or legal arrangement, if all the means of determination have been exhausted and it is not possible to determine any natural person who is a beneficial owner within the meaning of Section 1, paragraph 5 of the PMLA, as well as the doubts that the legal person or legal arrangement has another beneficial owner have been excluded (s. 18(7) PMLA). The definition of a beneficial owner is aligned with the standard.

113. The AML Department of the Bank of Latvia has provided guidelines on BO,[15] and also on its website referred to as the "Money Laundering and Terrorist Financing Risk Factors Guidelines" by the European Banking

14. FCMC Recommendation No. 169 of 21 December 2021 "Recommendations for the establishment of the internal control system for anti-money laundering and countering terrorism and proliferation financing and sanctions risk management, and for customer due diligence", s. 3.5, paragraph 220.

15. FCMC Recommendation No. 169 of 21 December 2021 "Recommendations for the establishment of the internal control system for anti-money laundering and countering terrorism and proliferation financing and sanctions risk management, and for customer due diligence", available at AML_Rokasgramata_2021_EN.pdf (bank.lv).

FCMC Regulations No. 5 of 12 January 2021 "Regulations on the Establishment of Customer Due Diligence, Enhanced Customer Due Diligence and Risk Scoring System and Information Technology Requirements".

Authority.[16] The guidelines outline who should be identified as a beneficial owner based on the different forms of ownership and control through means other than direct and indirect ownership of capital, shares or voting rights. The beneficial owner should always be a natural person. In case the person holding more than 25% shareholding is a legal entity or a legal arrangement, it should be looked through to identify the beneficial owner of such legal person or the arrangement. The AML-obliged persons identify any natural persons exerting control through ownership interest or through other means. The guidelines are comprehensive and cover all aspects of control through other means as required by the standard. Senior managers must be identified as beneficial owners where it is not clear who are the beneficial owners through direct or indirect ownership of capital, shares or voting rights or control through other means. The guidelines also stipulate that the basis for being identified as beneficial owner must be provided by the AML-obliged persons, including where one is identified as beneficial owner by reason of being a senior manager of the entity. The Latvian authorities informed that they apply a cascading approach to identifying a beneficial owner. To the extent that there is doubt as to whether the person with the controlling ownership interest is the beneficial owner or where no natural person exerts control through ownership interests, then individuals exercising control through other means should be identified. Finally, if there is still no individual identified, then the individual who holds the position of senior managing official should be recorded as the beneficial owner.

114. The publicly available guidance on beneficial ownership by the Enterprise Registrar[17] provides for the identification of beneficial owners through direct or indirect control, through control by other means and by a reference to a senior manager option. During the onsite visit, the Registrar's authorities confirmed to apply the three-layer cascading approach in the identification of beneficial owners. Nevertheless, there are exceptions registered by the Enterprise Registrar when beneficial ownership information could not be determined by legal persons after exhausting all the possible means of determination of beneficial owners (see paragraph 135).

16. European Banking Authority, Guidelines on customer due diligence and the factors credit and financial institutions should consider when assessing the money laundering and terrorist financing risk associated with individual business relationships and occasional transactions ("The ML/TF Risk Factors Guidelines") under Articles 17 and 18(4) of Directive (EU) 2015/849, EBA/GL/2021/02, 1 March 2021, available at Final Report on Guidelines on revised ML TF Risk Factors.pdf (europa.eu).
17. Enterprise Registrar, Registration of a LLC in the Commercial Register, available at Registration of a LLC (SIA) in the Commercial Register (ur.gov.lv) and Explanation of beneficial owners, available at Patieso labuma guvēju skaidrojums (ur.gov.lv).

115. The guidelines published by the Latvian Council of Sworn Advocates,[18] the Latvian Council of Sworn Notaries[19] and the Latvian Association of Sworn Auditors[20] provide for the definition of beneficial ownership consistent with the PMLA and the guidelines published by the AML Department of Bank of Latvia. They all provide for the cascading approach in the beneficial ownership identification through direct and indirect control, control via other means and include a reference to the senior management position. The guidelines published by the SRS do not provide instructions on the definition of beneficial ownership.

Anti-Money laundering Law requirements for obliged persons/ Customer Due Diligence

116. AML-obliged persons are persons subject to AML requirements with respect to their economic or professional activities. These include credit and financial institutions, tax advisors, external accountants, auditors, notaries, lawyers, independent providers of legal services and other persons (s. 3(1) PMLA) (see paragraph 37).

117. Companies have no legal obligation to enter into a continuous relationship with an AML-obliged person. However, the SRS has confirmed that 72% of the companies incorporated in Latvia have a business relationship with a bank; and 7% of companies are audited annually based on the statistics provided by the Latvian Association of Sworn Auditors. Overall, the scope of AML-obliged persons is quite broad and, in most cases, beneficial ownership information would be available with AML-obliged persons under the PMLA.

118. The AML-obliged persons are required to ascertain the beneficial owner of the customer and, on the basis of risk assessment, verify that the relevant natural person is the beneficial owner, within the scope of CDD procedures (s. 11^1(1) PMLA). For a legal arrangement and a legal person, the AML-obliged person also ascertains the shareholding or other structure and how the control is exercised (s. 11^1(1) PMLA).

18. Latvian Sworn Bar Associations, Internal control system instruction for sworn lawyers "Money Laundering and Terrorism and Proliferation prevention of financing and compliance with international and national sanctions" (Abbreviated titles – Internal control system instruction/IKS Instruction/instruction).
19. Latvian Council of Sworn Notaries, Guidelines for sworn notaries on development of internal control systems for anti-money laundering, counter terrorism financing and non-proliferation, as well as international and national sanction purposes, Article 22.
20. Latvian Association of Sworn Auditors, Procedures for Measures to be taken on the Commercial Companies of sworn auditors and Sworn Auditors for the Enforcement of Money Laundering and Terrorism and Proliferation Financing Law and the International and National Sanctions Act.

119. In accordance with section 11(1) of the PMLA, due diligence procedures are required to be carried out, among others, before establishing the business relationship, certain occasional transactions or in case of suspicions regarding money laundering or terrorism financing.

120. Enhanced CDD is performed in case a customer has not participated in the onsite identification procedure in person, is a politically exposed person or whose beneficial owner is a politically exposed person, and in case of an increased AML/CFT risk (s. 22(2) PMLA). The simplified CDD is allowed to be conducted in certain cases, among others, when a customer is the Republic of Latvia, a derived public entity, institution of direct or indirect administration, a company controlled by the Latvian state or a local government, or a merchant whose stocks are admitted to trading on a regulated market in one or several European Union (EU) member states (s. 26(2) PMLA).

121. The information to be obtained with respect to the beneficial owners includes (s. 18(2) PMLA):

- on a resident – name, personal identity number, date of birth, nationality, country of residence, as well as the proportion of the total number of shares or stocks, including direct or indirect holdings, in the capital of the customer that the person directly or indirectly controls, and the type of control exercised directly or indirectly over the customer[21]
- on a non-resident – name, date of birth, number and date of issue of the personal identification document, the country and issuing authority, nationality, country of residence, as well as the proportion of the total number of shares or stocks, including direct or indirect holdings, in the capital of the customer directly or indirectly controlled by the person, and the type of control, direct or indirect, exercised over the customer.[22]

122. If the persons are exercising control indirectly, on the person with whose intermediation the control is being exercised, the following information shall be obtained: name, personal identity number (if the person does not have a personal identity number – the date, month and year of

21. In the case of a direct control, the beneficial owner controls the legal person directly, while in the case of an indirect control, the control is implemented through the intermediation of another natural or legal person (FCMC Recommendation No. 169 of 21 December 2021 "Recommendations for the establishment of the internal control system for anti-money laundering and countering terrorism and proliferation financing and sanctions risk management, and for customer due diligence", paragraph 220, p. 72, available at AML_Rokasgramata_2021_EN.pdf (bank.lv).
22. Ibid.

birth), and on a legal person or legal arrangement – the name, registration number, and registered address. If intermediation is implemented with the intermediation of a legal arrangement, name, personal identity number (if the person does not have a personal identity number – the date of birth) of the authorised person or person holding an equivalent position shall be determined (s. 18(2) PMLA).

123. It is the obligation of the customers to provide to the AML-obliged persons true information and documents necessary for the CDD, including information on the beneficial owners (s. 28(1) PMLA). If the AML-obliged person does not obtain the true information and documents necessary for the compliance with the requirements of CDD in the amount enabling it to perform an examination on the merits, the AML-obliged person shall terminate the business relationship with the customer (s. 28(2) PMLA). Further, in such cases the AML-obliged persons shall decide on the termination of business relationships also with other customers having the same beneficial owners, or may request that such customers fulfil their obligations early (e.g. repay their loans). If there are suspicions of money laundering or terrorism and proliferation financing, the credit institution or financial institution shall notify the Financial Intelligence Unit of Latvia thereof in accordance with the provisions of Article 314 of PMLA.

124. An AML-obliged person shall, using information or documents from the enterprise register, determine the beneficial owner of the customer. In addition, in relation to high-risk customers, the beneficial owner of the customer shall be determined in one or several of the following ways (s. 18(3) PMLA):

- by receiving a statement on the beneficial owner approved by the customer
- by using information or documents from the information systems of the Republic of Latvia or foreign countries
- by determining the beneficial owner on its own if information on him or her cannot be obtained in any other way.

125. The AML law requires that if the AML-obliged person establishes that the information on the beneficial owner obtained during the course of the CDD does not conform to the information registered in the registers kept by the Enterprise Registrar, the AML-obliged person shall, without delay but not later than within three working days, notify the Enterprise Registrar of the discrepancy, explaining the nature of the non-conformity and also indicating if the information may be false as to the substance or that a typing error is established in the information (s. $18(3^1)$ PMLA).

126. Upon receiving such notification, the Enterprise Registrar shall, without delay but not later than within one working day, without taking a separate decision, register the warning that the registered information on the beneficial owner may be false (s. 18(3[2]) PMLA). The information on the warnings registered by the Enterprise Registrar is also available to the law enforcement authorities, supervisory and control authorities (s. 18(3[3]) PMLA). Bet ween 1 July 2020 and 10 January 2023, the Enterprise Registrar received 1 246 discrepancy reports from the AML-obliged persons and registered in total 1 224 warnings[23] (see paragraph 143).

Discrepancy reports on the beneficial ownership information submitted to the Enterprise Registrar between 1 July 2020 and 10 January 2023

AML-obliged person	Number of discrepancy reports
Banks	1 125
Other financial institutions	67
Accounting service providers	3
Sworn notaries	1
Sworn inspectors	1
Others	49

127. When establishing the business relationship with a customer, a credit institution and a financial institution have the right to recognise and accept the outcomes of CDD procedures which have been carried out by the credit institutions and financial institutions in the EU member states or the third countries if certain conditions have been met (s. 29(1) PMLA).

128. The AML-obliged person must ensure the storage, regular assessment and updating of the documents, personal data and information obtained during the course of the CDD according to the inherent risks, but at least once every five years (s. 11[1](1)(5) PMLA). When determining the regularity of assessment of the documents, personal data and information obtained during the course of the CDD, the AML-obliged person shall take into consideration the money laundering and terrorism and proliferation financing risks posed by the customer, its state of residence (registration), type of economic or personal activity of the customer, services and products to be used and their delivery channels, as well as the transactions executed (s. 11[1](2) PMLA). The CDD measures shall be applied not only when establishing a business relationship, but also during the course of the business relationship on the basis of the risk assessment approach, including without delay (i) when significant changes in circumstances of the customer are

23. Other 22 cases related to errors in the names or surnames of the same beneficial owner. In such cases, no warnings were registered but errors in data were corrected.

detected, (ii) when there is a legal obligation to contact the customer in order to review any significant information related to the beneficial owner, (iii) when such obligation has been imposed on the AML-obliged person under the LTF (s. 11^1(7) PMLA).

129. With respect to the risk assessment related to the customer, the AML-obliged person shall, on a regular basis, but at least once every three years, review and update the money laundering and terrorism and proliferation financing risk assessment in accordance with the inherent risks (s. 8(1) PMLA).

130. Further, the AML-obliged person is required, on a regular basis, but at least once every 18 months to assess the efficiency of the operation of the internal control system of the customer, including by reviewing and updating the money laundering and terrorism and proliferation financing risk assessment related to the customer (s. 8(2) PMLA).

131. The information obtained by AML-obliged persons in the process of the CDD and this documentation must be stored for at least five years following the end of the business relationship or execution of an occasional transaction (s. 37(2) PMLA). Sworn notaries shall store the CDD documents pursuant to the requirements provided for in the Notariate Law and for no less than five years.[24] Sworn auditors shall store the CDD documents pursuant to the requirements provided for in the Law on Audit Services (s. 37(5) PMLA) and for not less than five years.[25] With respect to sworn advocates, they are bound by all regulatory acts, including general acts on the transfer of documents to the National Archives. Following the termination of business relationship with a customer, all AML-obliged persons are required to store the CDD documentation for five years (s. 37 PMLA).

132. In the event of the liquidation of an AML-obliged person or carrying out a status change of an AML-obliged person (e.g. merger or de-merger), the AML-obliged person retains the status of the AML-obliged person also during the course of insolvency or liquidation proceedings (s. 3(1^1) PMLA). The supervising and control authorities of the AML-obliged persons supervise

24. The Latvian Council of Sworn Notaries, Guidelines for sworn notaries on development of internal control systems for anti-money laundering, counter terrorism financing and non-proliferation, as well as international and national sanction purposes, as of 29 April 2022.

25. The Latvian Association of Sworn Auditors, Guidelines on the arrangements for the appointment of certified auditors and measures to be taken by commercial companies of certified auditors to ensure compliance with the requirements of the Law on Prevention of Money Laundering and Terrorism and Proliferation Financing and the Law on International and National Sanctions of the Republic of Latvia, Section XI, Information flow and document management.

and control the compliance of the AML-obliged persons with their obligations also during the course of their insolvency or liquidation proceedings (s. 45(5) PMLA). After the termination of the liquidation or insolvency proceeding, a liquidator or an insolvency administrator is required to submit all documents obtained during the course of CDD procedure to the National Archives of Latvia for archiving (s. 13(2)(4) of the Law on Archives). The documents are kept for 75 years in the National Archives of Latvia (s. 4(2)(4) of the Law on Archives). The Latvian authorities have further indicated that the retention requirements also apply in the event of the death of an AML-obliged individual. In practice, the successor of such an individual will be subject to the retention requirements stipulated by AML laws, which mandate the preservation of all documents obtained during the CDD procedure for a minimum of five years.

Anti-Money laundering Law requirements: Enterprise register and Business Entities

133. A natural person who has become "the beneficial owner of a legal person, partnership or a foreign legal person or legal arrangement which registers a branch or representative office in the Republic of Latvia" has an obligation to immediately report such fact to that entity or arrangement (s. 18^1(1) PMLA). The legal person, partnership and the foreign company shall, upon its own initiative, determine and identify its beneficial owners (s. 18^1(3) PMLA). The information to be identified with respect to the beneficial owners includes the same details as the ones gathered by AML-obliged persons (s. 18^1(4) PMLA).

134. A legal person or a partnership which is registered in the public registers shall submit to the Enterprise Registrar the application for the registration of information on the beneficial owners or for the registration of changes in such information without delay, but not later than within 14 days once they are aware of the relevant information (s. 18^2(1) PMLA). Documentary justification of the exercised control and also a document certifying the compliance of the information identifying the beneficial owners (a notarised copy of the personal identification document, a statement from a foreign population register, or other equivalent documents) or documents justifying the certification that it is not possible to determine the beneficial owners must be submitted upon request of the Enterprise Registrar so that it could ascertain the credibility of the information submitted (s. 18^2(1) PMLA).

135. Upon submitting an application to the Enterprise Registrar for the registration of a legal person or partnership or changes in shareholders (stockholders) or members of the board of a capital company or changes in the composition of the management bodies and persons with the representation right of other legal persons or partnerships, information on the

beneficial owner of the legal person or partnership and foreign companies shall be indicated in the application. If the legal person or partnership has exhausted all the possible means of determination and has concluded that it is not possible to determine any natural person who is a beneficial owner, the applicant shall certify it in the application by indicating the justification (s. 18^2(2) PMLA). There are 7 856 such exceptions from companies, when beneficial ownership information cannot be determined, registered by the Enterprise Registrar as of April 2023.

Cases when beneficial ownership information could not be identified by companies and registered as exceptions by the Enterprise Registrar

Type of legal entity	2020	2021	2022
LLC	1 419	1 408	1 430 (1.1%)
Stock company	103	96	97 (10.2%)
Societas Europaea	2	1	2 (20%)
Co-operative society	81	160	267 (16.5%)
Total companies (including all other legal entities)	3 818	4 757	6 279

136. The percentage of co-operative societies for which beneficial ownership information cannot be identified is higher than that for LLCs or stock companies due to the nature of these entities. Under the CSL, a co-operative society is defined as an association of voluntary persons with a view to promoting effective implementation of the common economic interests of members. Co-operative societies are thus characterised by a large number of members who decide the key issues together at a meeting of members. Consequently, in most cases, none of the members (or a non-member natural person) has direct or indirect ownership or control over the co-operative society and, thus, in most cases, none meets the definition of beneficial ownership for the co-operative society. A joint stock company may omit the submission of information on the beneficial owners to the Enterprise Registrar, if the beneficial owner is a stockholder in a listed joint stock company, and the manner of exercising control over the legal person stems only from the status of the stockholder (s. 18^2(6) PMLA).

137. A foreign company must submit information on the beneficial owners either to the Enterprise Registrar or to the SRS (see paragraph 74) (s. 18^2(7) PMLA).

138. The PMLA does not specify the period for which business entities must keep the data on their beneficial owners after the termination of the beneficial owner's status. However, they are required to submit any change to the information on beneficial owners to the Enterprise Registrar (see paragraph 134). All information entered in the registers maintained by the Enterprise Registrar electronically are kept for so long as the company

exists. Information on the beneficial owners of legal persons and foreign subjects shall be available in the registers of the Enterprise Registrar and the SRS for not more than 10 years after the legal person or the branch or representative office of the foreign company has been excluded from the relevant register (s. 18^3(4) PMLA). The Latvian authorities confirmed that information on the beneficial owners is kept in the enterprise register for 10 years once it is struck-off from the register.

139. An application for registration of the beneficial ownership information with the Enterprise Registrar is similar to the registration of a legal entity procedure and can be submitted by post or via the electronic portal (see paragraph 82). When registering by post, the documents must be submitted in printed form and, if required by the law, the signature of a person on the application must be certified by a sworn notary. Electronic documents must be signed with a qualified electronic signature, which also contains a qualified electronic time stamp.[26]

140. When checking the documents, the state notary of the Enterprise Registrar may request a documentary justification for the control of the beneficial owners and a document certifying the identification information of the beneficial owners (see paragraph 134). Additional documents may be requested only if the state notary cannot verify the veracity of the information submitted to them against the internal database. If there is no need to request additional documents, the registration of the beneficial ownership information takes place within three working days.

141. As such, Latvian law requires that beneficial ownership information be available with the business entities (the companies themselves), as well as AML-obliged persons. The information in the public registers is stored permanently and is required to be kept for a period of not more than 10 years after liquidation of business entities. AML-obliged persons are required to keep the beneficial ownership information for a period of 5 years, including in case of liquidation.

Beneficial ownership information – Enforcement measures and oversight

142. Over the review period, oversight of beneficial ownership requirements was carried out primarily by the Enterprise Registrar and the AML Department of the Bank of Latvia along with the SRS and relevant professional bodies. The Enterprise Registrar is responsible for carrying out

26. Regulation (EU) No. 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC.

registration of the legal entities in Latvia and also for ensuring the availability of the information laid down in laws and regulations.[27] The AML Department of the Bank of Latvia is charged with monitoring compliance with record keeping obligations by the majority of AML-obliged persons such as financial institutions, including banks and participants on the securities market (s. 45(1) PMLA). The oversight by the SRS and relevant professional bodies is described below.

Oversight by the Enterprise Registrar

143. The Enterprise Registrar is responsible for registering the beneficial ownership information. Initial verification is carried out by the state notary of the Registrar concerning the veracity of the information submitted. The accuracy of the information is verified *ex post* through discrepancy reports received from AML-obliged persons. The Enterprise Registrar can send warnings following the received discrepancy reports to the police for further criminal investigation. From 1 July 2020 to 10 January 2023, the Enterprise Registrar sent 1 211 out of 1 224 cases of discrepancy in the beneficial ownership information to the police.[28] In 447 cases, the Enterprise Registrar received information from the police regarding the initiation of criminal proceedings. In 210 cases, the police refused to initiate criminal proceedings and in 58 cases, previously initiated criminal proceedings were terminated. The police is not obliged to inform the Enterprise Registrar of the progress of the criminal proceedings unless the criminal process is terminated.

144. On 1 December 2017, the AML-law was updated to require all legal entities registered before 1 December 2017 to submit their beneficial ownership information to the Enterprise Registrar by 1 March 2018. After 1 December 2017, registration of new legal entities without beneficial ownership information was not possible.

145. During the transitional period, the Enterprise Registrar had an option to register beneficial owners by default. If a legal person has not submitted a separate application for the registration of the beneficial owners by 1 July 2019, and if information on its beneficial owners has been submitted within the scope of other obligations (e.g. in case of foreign companies which submit the beneficial ownership information to the SRS), and the way in which control over the legal person was exercised arose only from the status of the shareholder of a LLC, the member of a partnership, the owner of an individual enterprise, or the member of the board of a foundation

27. Chapter 1, Law on the Enterprise Register.

28. In the other 13 cases, a spelling error was found in the recorded beneficial ownership information, and it was corrected. In such cases, no warnings were registered but errors in data were corrected.

accordingly, it was considered that the legal person had notified its beneficial owners and the Enterprise Registrar could register the mentioned persons as the beneficial owners in the relevant registers without taking a separate decision (s. 41 Transitional Provisions of the PMLA).

146. The key purpose of the registration of beneficial ownership information by default was to facilitate the administrative burden for small LLCs, so that they would not be required to notify their beneficial owners if the information about legal owners was already registered and the legal owner of the legal entity is also the beneficial owner. The most popular type of a legal entity in Latvia is an LLC with one individual shareholder, in which case that individual was registered as beneficial owner. If the LLC did not submit a separate application regarding its BO, any shareholder (natural person) with more than 25% of the shares was registered by default as its beneficial owner. If a shareholder (natural person) owned less than 25% of the shares at the time of the automatic registration of beneficial ownership information, that person was not registered as a beneficial owner by default. The representatives of the Enterprise Registrar confirmed that if the presumption of the transitional law was not applicable to a legal entity's case or if registered by default beneficial ownership information did not correspond to the actual situation of the legal entity, the legal entity was obligated to submit its beneficial ownership information. The registration by default of beneficial ownership information was carried out by the Enterprise Registrar only once in 2019 and only in cases specified by the transitional law in respect of certain types of legal entities – limited liability companies, partnerships, individual enterprises and foundations. There were 84 113 LLCs (around 61%) the beneficial ownership information of which was filled in by default by the Enterprise Registrar in 2019. In addition, beneficial ownership information was filled in by default for 1 181 foundations, 50 partnerships and 18 657 individual enterprises.

147. During the transitional period, if information on beneficial owners was not submitted or the registration of the beneficial owners was not made by default, the Enterprise Registrar sent legal entities a written warning asking for the information. The Enterprise Registrar confirmed that they wrote to all companies of which beneficial ownership information could not be identified in 2019 and 2020. In case of no reply within a month upon receipt of the written notice, the activities of the legal entity were terminated. Between 1 June 2019 and 1 September 2022, the Enterprise Registrar terminated activities of 1 456 companies which did not disclose beneficial ownership information.

148. In some cases, the companies were renewed if after the decision to exclude it from the public register, an interested party appealed the decision to the Chief State notary of the Enterprise Registrar. The request for renewal

was examined if it was submitted within one year of the exclusion. The company could be renewed only after all the necessary documents to ensure the beneficial ownership information were submitted. After the submission of the beneficial ownership information, 25 companies in 2019, 205 in 2020, 159 in 2021 and 9 in 2022 were renewed by the decision of the Chief State notary of the Enterprise Registrar.

149. On 1 June 2021, the Supreme Court of Latvia held that, if the exclusion of an LLC is contested, the Enterprise Registrar may only examine whether the following legal circumstances had occurred before the exclusion of the company: i) the activities of a capital company have been terminated in accordance with the procedures laid down in law; ii) a notice in the official publication has been published; iii) no person has submitted an application regarding the appointment of a liquidator within the time period laid down in law. The Enterprise Registrar may annul its decision to exclude a company only if it concludes that one of these circumstances has not occurred. Consequently, the number of cases in which the decision to exclude an LLC from the commercial register could be annulled was limited and the number of cases has dropped after 1 June 2021. At the same time, the judgment of the Supreme Court only applies to LLCs and does not apply to other types of legal entities which may also be so excluded from the register if information regarding its beneficial owners is not submitted.

150. The foreign legal persons or legal arrangements which had registered a branch or representative office in Latvia had an obligation to submit their beneficial ownership information by 1 January 2021. If the foreign entity had not submitted the requested information by the date, the Enterprise Registrar or the SRS had rights to exclude the branch or representative office of a foreign company from the registers. A total of 196 branches and 983 representative offices of foreign companies were excluded from the public registers in 2021.

151. The foreign companies can be renewed following the same procedure and requirements as for domestic companies (see paragraph 148). If no supporting documents were submitted, the branch or representative office was not renewed. In total, 27 branches and 17 representative offices of foreign companies were renewed since 2021. In two cases a renewal of the representative office was refused because no supporting documents were submitted.

152. These activities have ensured that most companies have disclosed information on beneficial owners as of 1 January 2022. However, Latvia did not provide the corresponding percentages of disclosure for co-operative societies.

Disclosure of beneficial ownership information by legal entities as per 1 January 2022

Type of legal entity	Percentage of disclosure
Limited liability companies	99.6
Stock companies	97.3
Societas Europaea	100
Branches of a foreign companies	88.1

Note: The disclosure rates include the beneficial ownership information which was registered by the Enterprise Registrar by default during the transitional period and exceptions when no beneficial owner could be identified by a legal person after having exhausted all the possible means of determination.

153. Section 195[1] of the Criminal Law of Latvia stipulates the criminal liability for non-provision of the information regarding the true beneficiary and provision of knowingly false information to a State institution or legal person, as well as the provision of knowingly false information to a natural person or legal person which is authorised by law to request information regarding a transaction and the true owner and true beneficiary of the financial resources or other property, which is subject to the deprivation of liberty for a period of up to one year or temporary deprivation of liberty, or probationary supervision, or community service, or fine (in amount from 3 to 1 000 minimum wages[29] in Latvia).

154. Whilst companies must update beneficial ownership information in the enterprise register within a specified period and the law requires that changes of beneficial ownership information are brought to their attention, this obligation is not sufficiently supervised in practice.

Oversight by the AML Department of the Bank of Latvia

155. The AML Department of the Bank of Latvia is a new department of the Bank of Latvia formed following the integration of the Financial and Capital Market Commission (FCMC) and the Bank of Latvia on 1 January 2023. In practice, all employees from the core function of the FCMC, more than 90%, were transferred to the Central Bank of Latvia as AML Department, and the FCMC was liquidated. The representative of the AML Department confirmed that the merger did not have any impact on the work procedures of the supervisory authority and policies maintained by the FCMC continue to apply. There are 26 people working at the AML Department of the Bank of Latvia as of April 2023.

29. Minimum wage in Latvia in 2022 is EUR 500.

156. Following this restructuring, the Bank of Latvia supervises the following financial sector entities: credit institutions, electronic money institutions, insurance companies (including insurance intermediaries), private pension funds, investment firms, managers of alternative investment funds, investment management companies, savings and loans associations, providers of re-insurance services, payment institutions, and capital companies which are dealing with the purchase and sale of foreign currency in cash.

157. The AML Department's supervision strategy consists of offsite, on-site supervision and offsite supervision follow-up (oversight of implementation of remediation plan by the AML-obliged entity).

158. CDD procedures are included in the scope of the review of internal control systems. During the review period, the FCMC (currently the AML Department of the Bank of Latvia) conducted 30 offsite inspections and 61 onsite inspections of banks.[30]

Supervision activities of banks conducted by the AML Department of Bank of Latvia

Calendar year	Number of offsite inspections	Number of onsite inspections
2019	6	20
2020	3	10
2021	11	12
2022	10	19

159. In 2019 the FCMC caried out horizontal off-site inspection of all banks with the aim of gathering the best practices in determination of BO, identifying gaps in internal regulatory policies and procedures of banks for ensuring their compliance with the beneficial ownership requirements. Based on the information and documents submitted by the banks during the inspection, the FCMC prepared a summary of best practices and shortcomings identified during the inspection, clarifying identification of beneficial owners and verification activities.[31]

160. The frequency of onsite inspections depends on the risk level of an AML-obliged entity. Thus, the AML Department conducts on-site

30. It was noted by the Latvian authorities, that a financial institution may be subject to different supervision strategies; that is why the number of inspections may exceed the actual number of financial institutions on an annual basis.

31. The document has been shared with all banks and is publicly available at https://www.bank.lv/aktualitates-banklv/zinas-un-raksti/jaunumi/raksti/728-aktualitates/fktk-zinu-arhivs/16079-fktk-apkopojusi-un-nosutijusi-bankam-informaciju-par-labako-praksi-patiesa-labuma-guveju-noskaidrosana.

supervision of high-risk entities – once in two years, medium-risk entities – once in three years and low-risk entities – once in four years. When defining the risk category, the overall AML/CFT risk assessment, the inherent risk of bank activities is calculated and the effectiveness of the AML risk management is assessed. The annual AML inspection plan is publicly available on the Bank of Latvia's webpage.

161. The AML Department may impose coercive measures in accordance with the procedure provided for in the PMLA where deficiencies or violations of AML are identified. In accordance with section 78 of the PMLA, failing to comply with the requirements of the AML law, including in relation to the CDD and provision of information to the supervisory authorities, may be punished by imposing a fine up to EUR 1 000 000 (on credit institutions and financial institutions a fine up to EUR 5 000 000) and other measures.

162. During the period between 2016 and 2022, the FCMC imposed 24 penalties on banks in total amount of EUR 27.1 million. The amount of penalties was defined based on the assessment of internal control system in total, which also included a focus on CDD procedures and beneficial ownership identification.

Oversight by the SRS and professional bodies

163. The SRS supervises external accountants, sworn auditors (in part regarding application of sanctions), tax advisors (as well as any person providing assistance in tax issues), independent providers of legal services, providers of services of establishment of a legal entity and ensuring its operation, other persons and institutions (e.g. cash collection service, virtual currency services) not supervised by financial supervisors (s. 45(2) PMLA).

164. The SRS conducts on-site inspections to verify CDD measures taken and accuracy of beneficial ownership information. The accuracy of beneficial ownership information is evaluated in each on-site inspection. Reliance only on client self-declaration for beneficial owners is not accepted as main means of the beneficial ownership identification. At a minimum, it must be verified with information in the enterprise register and if necessary, with additional data (e.g. registration documentation from enterprise registers in other jurisdictions). If the inspection establishes that the AML-obliged person has not fully carried out the CDD measures, including the identification of beneficial owners, then the person is required to remedy the findings within a specified period.[32] Follow-up inspections are scheduled on a case-by-case basis, to check on improvements that were supposed to be

32. The regulatory framework does not specify the terms that would provide a period for the elimination of the detected violation. In the inspections, the SRS is guided by the

implemented or to make sure that the person follows previously provided guidance and successfully manages its risk exposure.

165. If the inspection finds that the AML-obliged person has not conducted CDD and risk assessment at all, sanctions are applied in accordance with section 78 of the PMLA (see paragraph 161).

Number of inspections on beneficial ownership information obligations and total amount of penalties applied during the review period by the SRS

Year	Number of general inspections	Number of inspections on beneficial ownership (BO) information	Total amount of applied fines (in EUR)
2019	867	193	435 365
2020	838	45	247 140
2021	802	Beneficial ownership targeted inspections are included in general inspections	190 700
2022	867	Beneficial ownership targeted inspections are included in general inspections	60 450

166. Professional bodies responsible for supervision and control of compliance of AML-obliged persons are the Council of Sworn Advocates, the Council of Sworn Notaries and the Latvian Association of Sworn Auditors (s. 45(1) PMLA). All bodies issued recommendations or guidelines regarding the implementation of individual provisions of the PMLA by sworn advocates, sworn notaries and sworn auditors. They also assist their members in complying with their obligations under the PMLA, including by raising awareness and delivering trainings and seminars in co-ordination with the relevant authorities.

167. In November 2017, the Latvian Council of Sworn Advocates established a Supervision and Control Commission which performs a direct supervision and control of the sworn advocates. There were 1 213 sworn advocates and 118 assistant sworn advocates in Latvia as of December 2022.

168. The Supervision and Control Commission annually plans on-site and off-site inspections of sworn advocates. During inspections it is verified how the sworn advocate has identified and verified his/her clients according to the inherent risk of the client. In addition, it is verified whether the sworn advocate has notified the Enterprise Registrar of any discrepancies in beneficial ownership information identified during the CDD procedures.

good practice principle “Consult first” and sets a deadline of two weeks to eliminate the violations found during the inspection.

169. As a result of the annual offsite inspection, all sworn advocates were divided into three general risk categories: low, medium and high-risk categories. Onsite inspections are performed on the medium and high-risk categories of sworn advocates. The Latvian Council of Sworn Advocates can impose various penalties on sworn advocates, including exclusion from the Latvian Bar Association, as well as other penalties provided for in the PMLA.

170. The Latvian Council of Sworn Advocates regularly organises training for advocates on the AML/CFT law and sanctions issues. A sworn advocate is obliged to spend at least two academic hours during the calendar year to improve his/her knowledge in the field of the AML/CFT law and sanctions.

171. The Latvian Council of Sworn Advocates has a good co-operation with other supervisory authorities in Latvia. The Latvian Council of Sworn Advocates participates two or three times a year in the meetings of the Financial Intelligence Unit (see paragraph 38), once per month in the working groups of the Ministry of Finance, and once a month in the co-ordination council of the Ministry of Foreign Affairs.

172. The Council of Sworn Notaries is a representational and supervisory institution of sworn notaries, as well as administrative and executive institution of the Chamber of Sworn Notaries of Latvia. There were 106 sworn notaries in Latvia as of January 2023. In total, the sworn notaries represent only 1% of the AML-obliged persons population in Latvia.

173. There are nine elected notaries at the Council of Sworn Notaries who perform inspections, apply sanctions and provide consultation to all notaries. Out of nine, three notaries are dedicated to supervising the sworn notaries subject to the PMLA. The Council of Sworn notaries performed 106 inspections in 2020, 104 inspections in 2021 and 106 inspections in 2022. All inspections included reviewing the documents obtained by the sworn notaries during the CDD procedures of their customers. As a result of the inspections conducted in 2022, in three cases corrective measures have been applied with an obligation to submit to supervisor CDD documentation of all cases within three months after the inspection.

174. The Council of Sworn Notaries provide regular training and learning to sworn notaries and co-operates with other supervisory bodies in Latvia.

175. The Latvian Association of Sworn Auditors is an independent professional corporation of Latvian sworn auditors. It ensures the supervision of compliance with professional standards and ethical norms, as well as other regulatory enactments applicable to the sworn auditors. The Latvian Association of Sworn Auditors certifies sworn auditors and provides licences. It maintains the Sworn Auditor Register and information of the

register is arranged and kept electronically and available on the home page of the Latvian Association of Sworn Auditors.

176. The Ministry of Finance supervises the certification of sworn auditors, the licensing of commercial companies of sworn auditors and compliance activities of the sworn auditors subject to the PMLA. There were 1 314 auditors registered at the SRS with licences of sworn auditors as of April 2023. The SRS is responsible for the application of some sanctions on the sworn auditors for non-compliance with the AML/CFT law obligations (s. 45(1) PMLA) in co-operation with the Association of Sworn Auditors. The SRS applied the sanctions envisaged by the PMLA on sworn auditors in 26 cases out of 57 inspections conducted in 2021 and in19 cases out of 71 inspections conducted in 2022.

177. Overall, the AML-obliged persons are familiar with their AML obligations and obligation to report discrepancies to the Enterprise Registrar. The Council of Sworn Advocates, the Council of Sworn Notaries and the Association of Sworn Auditors are well aware of the obligations of their members, constantly promote awareness and monitor their compliance with the PMLA.

Conclusion

178. As such, Latvia has an enterprise register in place which is a key source of beneficial ownership information which is relied upon by the Competent Authority to answer requests. However, there is insufficient supervision of the information that has been entered into it, especially in 2019 when the register was populated for a significant number of companies based on available information with the authorities. This information has not been verified. As mentioned in paragraph 146, the beneficial ownership information of 61% of LLCs were registered by default. Further, there are companies reporting exceptions in the enterprise register on the grounds that they were unable to identify any natural person as beneficial owner. Both these aspects need systematic monitoring for ensuring the accuracy of the beneficial ownership information in the enterprise register. In addition, whilst companies must update beneficial ownership information in the enterprise register within a specified period and the law requires that changes of beneficial ownership information are brought to their attention, this obligation is not sufficiently supervised in practice and there is no specified frequency for updating beneficial ownership information submitted to the enterprise register. As such, in practice, beneficial ownership information in the enterprise register may not be up to date in all cases. This deficiency is not adequately compensated by the obligation of AML-obliged persons to report discrepancies that they may observe while conducting their own CDD as it is not mandatory to engage an AML-obliged person in Latvia. Further,

there is a risk that AML-obliged persons may rely on beneficial ownership information in the enterprise register (see paragraphs 109 and 124) and do not identify discrepancies while conducting their CDD.

179. Therefore, **Latvia is recommended to ensure that effective supervisory and enforcement measures are taken to ensure that adequate, accurate and up-to-date beneficial ownership information is available with respect to all relevant companies, in line with the standard**.

Availability of legal and beneficial ownership information in EOIR practice

180. During the peer review period, Latvia received 102 requests regarding legal and beneficial ownership information[33] and sent the responses for all requests.

181. One peer has noted that Latvia has not provided legal ownership information in one request. According to Latvia's records, the request was related to a foreign company and no legal ownership information could be provided because the taxpayer was not registered in Latvia and could not be identified in the tax database (see paragraph 468).

A.1.2. Bearer shares

182. Stock companies can issue bearer shares under the Latvian law (s. 228(1) CL). However, bearer shares can be issued only in a dematerialised form and hence, need to be electronically recorded, and must be registered in the CSD (s. 229(2) CL).

183. In 2017-20, the central depositories of Latvia, Lithuania, Estonia and Iceland have been merged under Nasdaq CSD. As such, the name of the Latvian Central Depository changed to the Latvian central securities depository (CSD). The Latvian authorities confirmed that despite the change in the name, nothing has changed in practice with respect to bearer shares in Latvia. Nevertheless, following the change in the name of the Latvian Central Depository, some amendments were needed in the Commercial Law. As such, as from 1 July 2023, the term "central securities depository" instead of "the Latvian Central Depository" is used under the Commercial Law.

184. The CL provides that information on bearer shares, including if registered stock can be converted into bearer stock or *vice versa*, must be included in the articles of association of stock companies (s. 144(2) CL).

33. Existing statistics do not distinguish requests for legal and beneficial ownership information.

The rights arising from bearer shares belong to the person whose share has been registered in the financial instrument account kept by the Latvian CSD in accordance with the provisions of the Financial Instrument Market Law (s. 228(3) CL).

185. The board must ensure record of bearer shares in the Latvian CSD in accordance with the provisions of the Financial Instrument Market Law (s. 236^1(1) CL). A stockholder with intermediation of credit institution or investment brokerage company has the right to transfer bearer stock entered in the Latvian CSD to his or her financial instruments account (s. 236^1(2) CL). Thus, the information on the stockholders could be obtained by requesting it from the CSD, where stocks are registered. The Latvian CSD compiles the list of stockholders based on information received from participants and the information at its own disposal. All information about owners of bearer stocks is available in the financial instrument account or with the register of the Latvian CSD.

186. Latvia confirmed that the obligation to identify the beneficial owner of legal persons under the AML law is equally applicable to business entities even if they are companies having issued bearer shares and/or if in the chain of ownership of the business entity (legal person or legal arrangement) there is one or more legal persons having issued bearer shares.

187. As such, the domestic requirements ensure that the identity of the bearer shareholders is available to the government via the Latvian CSD or the AML-obliged person. The company and competent institutions are entitled to request the information from the Latvian CSD on the holders of bearer shares in accordance with the procedures specified in the Financial Instrument Market Law (s. 236^2 CL).

188. As of December 2022, out of 950 stock companies in Latvia, only 65 had issued bearer shares. Many of these stock companies are listed companies and they can have bearer shares which must be registered with the Latvian CSD.

189. As noted in section A.1.1, the amendments to the Commercial Law entered into force on 1 July 2023, which require stock companies registered with the Enterprise Registrar to provide the current stockholder register and information on dematerialised shares, including the name, registration number and legal address of the central securities depository in which the shares have been registered, accompanied by a declaration of the booking of the shares issued by the depository (see paragraph 101). In order to adapt to the new regulation, a transition period of one year was set for the stock companies. Thus, if a company does not fulfil its legal requirement by 1 July 2024, the Enterprise Registrar will make a decision on whether to cease the company's activities and commence its liquidation.

190. Although the availability of legal and beneficial ownership information on bearer shares is secured with the Latvian CSD according to the Commercial Law, in practice, in light of the recent amendments to the CL, the in-text recommendation included in paragraph 101 is also applicable to the requirement on stock companies to submit the information on stockholders to the enterprise register. Thus, Latvia should monitor the effective implementation of the amendments to the CL, which entered into force on 1 July 2023 and require stock companies to submit information on their shareholders and stockholders to the Enterprise Registrar by 1 July 2024 and thereafter (see Annex 1).

191. During the review period, Latvia did not receive any request for information related to bearer shares.

A.1.3. Partnerships

Types of partnerships

192. Latvian law recognises three types of partnerships:

- **general partnerships**: A general partnership has two or more partners undertaking business activities under a common business name based on a partnership agreement. All partners are entitled to act on behalf of the partnership and are jointly and severally liable for the debts/obligations of the partnership (s. 77(1) CL). There were 588 general partnerships in Latvia as of September 2023.
- **limited partnerships**: A limited partnership has one or more partners with limited liability for the obligations of the partnership up to the amount of their contributions (limited partners) and one or more partners with full liability for the obligations of the partnership (general partners) (s. 118(1) CL). There were 147 limited partnerships in Latvia as of September 2023.
- **European Economic Interest Groupings (EEIGs)**: The EEIG is a European form of partnership in which companies or partnerships from different European countries (the partners in the EEIG) can co-operate. It must be registered in the EU State in which it has its official address. There were four EEIGs in Latvia as of September 2023.

Identity information

193. Upon entry into the enterprise register a partnership established in Latvia through the use of its firm name may acquire rights and assume obligations, acquire property and other rights pertaining to property, as well as be a plaintiff and defendant in a court (ss. 89 and 90 CL). All partnerships, including foreign partnerships, are subject to the same disclosure requirements as companies with respect to identity and legal ownership information under the Commercial Law and the tax law as described in section A.1.1 of this report.

194. Identity information on all partners is available through the partnership agreement which should be available with the partnership or to the partners (s. 79 CL). The partnership agreement is not submitted to the Enterprise Registrar, but instead an application for registration, including information regarding the partners is required to be reported to the Registrar within 15 days of the formation of the partnership or within 15 days following any change or update on the partner identity information of the partnership.

195. Further, the tax return of each partner must include information on all other partners in a partnership (including foreign partnership) (s. 22(9) Law on Enterprise Income Tax).

196. The registration and subsequent filing with the register is supervised by the state notaries of the Enterprise Registrar. There is no difference in registration procedures for general or limited partnerships or EEIGs. Information on general or limited partners is provided upon registration and kept updated. If the submission of documents is not complete or is inaccurate, the state notary requests the applicant to rectify the deficiencies. If the deficiency is not rectified, the state notary refuses to make the entry into the enterprise register. Compliance with tax obligations of partnerships is supervised by the same measures as in respect of companies described in section A.1.1 of this report.

197. A partnership can be dissolved and thereby struck off from the commercial register if: i) the period for which it was founded has ended, ii) the members so decide, iii) bankruptcy procedures commenced, iv) the court so decides (s. 97(1) CL). In case of liquidation, the procedure is similar to that of companies as described in the section A.1.1. Thus, after the liquidation, the documents of the partnership shall be given for preservation to one of the members of the partnership or to a third party in Latvia, co-ordinating the place of preservation with the National Archives of Latvia. The documents of archival value of the partnership shall be given for preservation to the National Archives of Latvia in conformity with the provisions of the Law on Archives (s. 115(2) CL). Identity information on partners would classify as documents of archival value (see paragraph 97). The partner identity information shall be available with the National Archives of Latvia for 30 years

from the death of the person or for 110 years after the birth of the person if the date of a person's death is not possible to determine. If it is not possible to determine the dates of a person's death and birth, the record accessibility shall be restricted for 75 years after creation of the record (s. 13(4) the Law on Archives). Further, the identity information with respect to partnerships is also retained in the enterprise register.

Beneficial ownership

198. The obligation of AML-obliged persons to identify the beneficial owners of their customers, as described in section A.1.1 of this report, also applies to customers which are partnerships. Furthermore, business entities, the equity of which is not divided in shares (i.e. partnerships) (s. 18^2(1) PMLA) are also obliged to identify and keep information on their beneficial owners and submit that information to the Enterprise Registrar (see paragraph 134).

199. The same definition of beneficial ownership contained in the PMLA is applicable to partnerships and partnerships must follow the same procedure for the identification of beneficial owners as companies as described in section A.1.1. This means that the beneficial owner is any natural person with an ownership interest of 25% or more in the partnership and checking for control if a beneficial owner is not identifiable based on ownership. This approach could omit certain partners that exercise control but may not have sufficient ownership or capital contribution. Further, where no beneficial owner can be identified in this manner, the cascade approach is used, as in respect of companies (see paragraph 113). Thus, in case of doubts in the controlling ownership interest test, individuals exercising control through other means and then individuals holding senior managerial positions are identified as beneficial owners.

200. The Latvian authorities confirmed that partnerships incorporated under Latvian law must be analysed under section 1 of the PMLA that governs the identification of the beneficial owner for legal persons. Partnerships can fall within the scope of legal persons under the definition of this term as contained in the Glossary of the FATF Recommendations,[34] and partnerships established under Latvian law indeed seem to fall within this definition. As with all legal persons other than companies, the principle that should

34. FATF (2012-19), *International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation, FATF*, Paris, France. The definition of the term legal persons is as follows: "*Legal persons* refers to any entities other than natural persons that can establish a permanent customer relationship with a financial institution or otherwise own property. This can include companies, bodies corporate, foundations, anstalt, partnerships, or associations and other relevantly similar entities.".

then be applied to partnerships is that the determination of beneficial ownership should take into account the specificities of their different forms and structures.[35] By taking the approach to apply the same rules to partnerships as to companies, the difference in organisational structure between these two entities is not sufficiently taken into account.

201. In respect of general partnership, all partners are jointly and severally liable for the debts/obligations of the partnership. The management of the partnership affairs is provided in the partnership agreement and if the management of the partnership is entrusted to one member or to several members of the partnership, the rest of the members do not participate in the management of the partnership (s. 83(2) CL). To take a decision, the consent of all the members of the partnership who have the right to take the relevant decision shall be necessary (s. 87 CL). The level of a partner's control does not depend on their contribution to the partnership. This is a fundamental difference with companies, where the shareholders by default have voting rights at the shareholders' meetings based on their respective percentage of the capital contributions. It is for this reason that applying the same approach for a company to a general partnership does not sufficiently take into account the form and structure of the partnership. Instead, it would be more appropriate to, for example, always consider all partners as beneficial owners when they are natural persons, and the beneficial owners behind the corporate partners should also be identified. Depending on the circumstances, there could also be other persons exercising ultimate effective control over the general partnership who should be considered beneficial owners.

202. With respect to limited liability partnerships, some differences apply in the level of control when compared to general partnerships. For example, limited partners do not have the right to participate in the management of the partnership (s. 121(1) CL). The general partners control the day-to-day operations of the partnership, while the limited partners are largely passive investors with a right to review the management of the partnership and its financial matters. As is the case for general partnerships, the concept of control through ownership is not strongly present in the legal framework for limited liability partnerships, since it does not link control to the capital contributions made by the partners. Where default rules related to decision making apply to limited liability partnerships, they are not based on capital contributions. Applying the same approach for companies to limited liability partnerships does therefore also not sufficiently take into account the form and structure of this type of partnership. As in the case for general partnerships, it would be more appropriate to consider all general partners of a limited liability partnership as beneficial owners when they are

35. See paragraphs 16 and 17 of the Interpretive Note to FATF Recommendation 24.

natural persons and identify the beneficial owners behind the corporate partners (see paragraph 201). The Latvian authorities observed that this has been done in practice for identifying beneficial owners of limited liability partnerships.

203. Foreign partnerships are treated as foreign entities and as such, enforcement measures described in paragraph 150 would ensure the availability of their beneficial ownership information. As such, when identifying beneficial owners of general and limited partnerships, the main rule of applying a 25% ownership interest threshold as a starting point and checking for control if a beneficial owner is not identifiable based on ownership is applied. This approach could omit certain partners that exercise control but may not have sufficient ownership or capital contribution. There is no clear guidance from the supervising authorities on the interpretation of the beneficial ownership definition for the general and limited partnerships. It is, however, noted that the identity of the partners is available with the Enterprise Registrar. This means that where the partner is a natural person, its information is known (although it may not have been identified as a beneficial owner). In other circumstances, beneficial owners behind corporate partners may still be identified in applying the CDD rules, however this is uncertain, given the main rule of applying the same approach as for companies and the lack of further guidance. **Latvia is recommended to ensure that the beneficial owners of partnerships are required to be determined in accordance with the form and structure of each partnership**.

Oversight and enforcement

204. Partnerships are also subject to the same enforcement and oversight as companies (described in section A.1.1). The Law does not prescribe special sanctions for legal persons for failure to provide the information specified in the Law. General penalties described in paragraph 153 would apply.

205. Following the amendments to the AML law in 2017 described in paragraph 144 and measures explained in paragraphs 145 and 150, the Registrar has monitored the availability of identity and beneficial ownership information of general, limited and foreign partnerships for the peer review period. In case beneficial ownership information has not been submitted to the Enterprise Registrar by 1 July 2019, by default, the partners were registered as beneficial owners of the partnerships. If the members of the partnerships are other legal entities, the information on the beneficial owners of the partnership was not registered. There were 50 partnerships (8% of all partnerships) the beneficial ownership information of which was filled in by default by the Enterprise Registrar in 2019. These activities have ensured that 40.9% of general partnerships and 54.5% of limited partnerships have

disclosed beneficial ownership information as of December 2022. These are including the beneficial ownership information which was registered by the Enterprise Registrar by default during the transitional period and exceptions when no beneficial owner could be identified by a partnership after having exhausted all the possible means of the beneficial ownership determination.

Cases when beneficial ownership information could not be identified by partnerships and registered as exceptions by the Enterprise Registrar

Type of partnership	2020	2021	2022
Limited partnership	14	12	10
General partnership	23	25	22

206. Information on partnerships, including information on their members and beneficial owners, is available to everyone free of charge.

207. In the 2015 Report, Latvia received an in-text recommendation to monitor the application of sanctions in respect of partnerships' obligations to file identity information with the Enterprise Registrar and to apply them effectively in all cases where breach of partnership's filing obligation is found. There is a risk that the beneficial ownership information on partnerships in the enterprise register may not be accurate and up to date. The beneficial ownership information is available with the AML-obliged persons, who perform the discrepancy reporting to the Enterprise Registrar, however not all partnerships engage in ongoing business relationships with them and it is not mandatory to engage an AML-obliged person in Latvia.

208. Further, Latvia's enterprise register is a key source of beneficial ownership information which is relied upon by the Competent Authority to answer requests. However, there is insufficient supervision of the information that has been entered into it, especially in 2019 when the register was populated for some partnerships based on available information with the authorities. This information has not been verified since then. Further, there are partnerships reporting exceptions in the enterprise register on the grounds that they were unable to identify any natural person as beneficial owner. Overall, approximately, only half of general partnerships and limited partnerships have disclosed beneficial ownership information so far. Both these aspects need systematic monitoring for ensuring the accuracy of the beneficial ownership information in the enterprise register. In addition, whilst partnerships must update beneficial ownership information in the enterprise register within a specified period and the law requires that changes of beneficial ownership information are brought to their attention, this obligation is not sufficiently supervised in practice and there is no specified frequency for updating beneficial ownership information submitted to the enterprise register. As such, in practice, beneficial ownership information in the enterprise

register may not be up to date in all cases. This deficiency is not adequately compensated by the obligation of AML-obliged persons to report discrepancies that they may observe while conducting their own CDD as it is not mandatory to engage an AML-obliged person in Latvia. Further, there is a risk that AML-obliged persons may rely on beneficial ownership information in the enterprise register (see paragraphs 109 and 124) and do not identify discrepancies while conducting their CDD. Therefore, the **recommendation included in paragraph 179** is also applicable to partnerships and **Latvia is recommended to ensure that effective supervisory and enforcement measures are taken to ensure that adequate, accurate and up to date beneficial ownership information is available with respect to all relevant partnerships, in line with the standard**.

Availability of partnership information in EOIR practice

209. During the peer review period, Latvia received 102 requests regarding ownership information and sent the responses for all requests. Latvia confirmed that there were no separate statistics for companies and partnerships considering that, under Latvian Law, both companies and partnerships form together a broader category of legal persons. No peer raised an issue in respect of availability of identity or beneficial ownership information on partnerships in Latvia.

A.1.4. Trusts

210. Latvian domestic law does not contemplate the concept of trusts. Latvia is also not a signatory to the Hague Convention on the Law Applicable to Trusts and their Recognition. However, there are no restrictions for a resident of Latvia to act as a trustee, protector, administrator or otherwise in a fiduciary capacity in relation to a trust formed under foreign law.

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

211. As trusts are not contemplated under Latvian law, there is no obligation on foreign trusts to file information with the Enterprise Registrar. Information on a foreign trust would be available only to the extent the foreign trust controls a legal entity in Latvia or involves an AML-obliged person.

212. Latvian tax legislation ensures that information is available regarding the settlor and beneficiaries of a foreign trust operated by a Latvian trustee, although this interpretation has not yet been verified in practice (see paragraph 220). The tax law requires all resident natural persons and legal entities to pay income tax on all their income, regardless of the location of the source of wealth of such income, provided they are the beneficial

owners of such assets and income (s. 4 LTF). Thus, Latvian trustees who are the legal but not beneficial owners of trust assets have to be able to prove that they are not the beneficial owners so that they are not taxed on the income of the trust (s. 15, LTF). Accordingly, the identity of the settlor and the beneficiary of a trust would be provided as part of the documents to substantiate the trustee's tax position (e.g. trust deed, bank accounts, accounting records and underlying documentation).

213. Any person providing services by way of business in the framework of a trust or any similar contractual relationship under foreign law becomes a service provider in relation to the AML law and is subject to AML requirements (s. 1(10)(d) PMLA). As obliged entities, they are required to identify their clients and perform CDD measures which include identification of the founders, beneficiaries and beneficial owners of foreign trusts.

214. Thus, identity and beneficial ownership information must be kept by the AML-obliged persons when they have a trust or trustee as customer or in the ownership chain of a customer.

215. Overall, although Latvian domestic law does not recognise the concept of trust, where a Latvian resident acts as trustee of a foreign trust:

- The Latvian resident acting as trustee is an AML-obliged person under the PMLA "as providers of services related to the establishment and operation of a legal arrangement or a legal person" if the trustee is rendering "services". In such a case, the trustee must identify the beneficial owners of the trust.
- Other AML-obliged persons entering into business relationships with the trust are obliged to identify the beneficial owner(s) of their customer.
- The Latvian resident acting as trustee is obliged to keep information on settlor and beneficiaries of a foreign trust in order to substantiate its tax position under tax law.

216. The standard requires that the persons to be identified as beneficial owners of a trust should be:

- the settlor, the trustee(s), the protector (if any), the beneficiaries or class of beneficiaries
- any other natural person exercising ultimate effective control over the trust.

217. The term "beneficial owner" is defined in Section 1, paragraph 5 of the PMLA:

> A natural person who is the owner of the customer which is a legal person or legal arrangement or who controls the customer,

> or on whose behalf, for whose benefit or in whose interests business relationship is being established or an individual transaction is being executed, and it is at least:
>
> b) as regards legal arrangements – a natural person who owns or in whose interests a legal arrangement has been established or operates, or who directly or indirectly exercises control over it, including who is the settlor, the trustee or the protector (manager) of such legal arrangement.

218. The definition of a beneficial owner for legal arrangements under the AML-law which is applicable to foreign trusts is consistent with the standard. The definition and the first part of point b) of the definition cover the aspects of beneficiaries and also of any other natural person exercising ultimate effective control over the trust. Therefore, Latvian law provides for the availability of beneficial ownership information with respect to foreign trusts and similar foreign arrangements for at least five years.

Oversight and enforcement

219. The oversight and enforcement measures apply equally for company service providers as for other AML-obliged persons as described in section A.1.1 of this document.

220. A recommendation has been made in the 2015 Report for Latvia to monitor the practical availability of information on settlors and beneficiaries of foreign trusts operated by Latvian resident trustees and take the necessary measures to ensure its availability if such information is not practically available in line with the standard. The 2015 Report provided that the application of the obligations in respect of trusts was not founded in comparable practice and there were no cases encountered where a Latvian resident person acted as a trustee to confirm practical applicability of such interpretation. The level of awareness of the requirement to keep the relevant information even on theoretical level was low as it was not considered a practical issue. Latvia did not receive any requests for information regarding trusts during the reviewed period and accordingly no peer input was received in this respect. With respect to the comparable practice, the Latvian authorities have confirmed that this is still the case in 2023 as no cases where a Latvian resident person acted as a trustee have been yet encountered. Now there is an increased level of awareness of the requirement to keep the relevant information and it is considered a practical issue. The Latvian authorities informed that the Ministry of Justice, the Ministry of Finance and the Enterprise Registrar are jointly developing the legal framework for the registration of foreign trusts operating in Latvia. Furthermore, the SRS plans to ensure the exchange of information between the taxpayer

register and enterprise register maintained by the Enterprise Registrar. Meanwhile, information on settlors and beneficiaries of a foreign trust which has a non-professional trustee who is not an AML-obliged person in Latvia is not available with the enterprise register. The Latvian authorities explained that in practice all persons performing economic activity will be subject to the requirements of the PMLA as a professional trustee. Although cases where a foreign trust is operated by a non-professional trustee resident in Latvia and which does not engage any AML-obliged person (such as a bank) are very likely to be rare, Latvia should monitor that identity and beneficial ownership information on foreign trusts operated by Latvian resident trustees is practically available in line with the standard (see Annex 1).

Availability of trust information in EOIR practice

221. During the peer review period, Latvia did not receive any request for information with respect to trusts.

A.1.5. Foundations

222. The standard requires the availability of legal and beneficial ownership and identity information of relevant entities and arrangements, including foundations, deemed relevant in the case of the specific jurisdiction assessed.

223. Foundations in Latvia are regulated by the Associations and Foundations Law (AFL). A foundation is an aggregate of property that has been set aside for the achievement of a goal specified by the founder, which shall not have a profit-making nature (s. 2(2) AFL).

224. A foundation has the right to perform economic activity for the maintenance and utilisation of its own property and to achieve its goals (s. 7(1) AFL). Its income can be used only for purposes specified in the articles of association. Profit obtained from a foundation's economic activity cannot be divided among its founders (s. 7(2) AFL).

225. Moreover, foundations are not taxable persons. As such, foundations can only be established for a goal specified by the founder, which shall not have a profit-making nature and their profit cannot be distributed among their founders. Upon liquidation of a foundation, the remaining property of the foundation, after the covering of liquidation expenses and the satisfaction of the claims of creditors, falls within the jurisdiction of the State – for utilisation for similar purposes, except for cases where a donor has specified other procedures for the utilisation of the property in the case of the liquidation of a foundation (s. 108(2) AFL).

226. Therefore, considering the specific context of Latvia, foundations are not considered to be relevant entities.

227. There was an in-text recommendation in the 2015 Report for Latvia to ensure the effective application of sanctions also in respect of foundations in case of non-compliance with the registration requirements. The Latvian authorities confirmed that there are rare cases of non-compliance of foundations with their registration requirements and no cases where sanctions should have been applied were identified over the review period for this report. As foundations are not considered to be relevant entities, the in-text recommendation from the 2015 Report is removed.

A.2. Accounting records

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

228. The 2015 Report concluded that all relevant entities and arrangements were required to keep accounting records that correctly explain their transactions, enable the determination of their financial position with reasonable accuracy at any time and allow financial statements to be prepared. There was also a sound control and enforcement system in place. The legal and regulatory framework was considered to be in place, and Latvia was rated as Compliant with this element of the standard.

229. The legal and regulatory framework requiring the maintenance of accounting records and underlying documentation remains largely unchanged. This review concludes that all relevant entities and arrangements are required under the accounting law to keep accounting records. The requirements under the accounting law are supplemented by obligations imposed by the tax and AML laws. Overall, the requirements under Latvian law are sufficient to meet the standard for effective exchange of information. However, certain deficiencies have been identified in relation to the availability of accounting records for legal entities which cease to exist.

230. Latvia's legal and regulatory framework is adequately implemented to ensure availability of accounting information in respect of all relevant entities and arrangements.

231. Latvia was not able to provide the exact number of requests concerning accounting information received during the current review period, but the Competent Authority observed that this type of information is one of the most frequently requested in practice. The EOIR partners indicated that more than 90 requests concerning accounting information were sent to Latvia, including both individual and corporate taxpayers, and the peers were satisfied with the responses provided by Latvia. No peer reported any issues regarding availability of accounting information in Latvia.

232. The conclusions are as follows:

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

Deficiencies identified/Underlying factor	Recommendations
Whilst the accounting and tax laws stipulate that the accounting documents must be kept for at least five years, there is currently no express obligation to maintain all accounting records for a minimum 5-year period in the instances where the legal entity ceases to exist. Further, the law does not clearly state who will be legally responsible for maintaining accounting records for five years after the legal entity ceases to exist, where such records are to be kept and what penalties will apply if the information is not maintained. Not all accounting documents as required by the standard may be kept when archived.	Latvia is recommended to ensure that accounting records and underlying documentation are retained for at least five years for legal entities that cease to exist. It should also ensure that the responsibility for maintaining accounting records and underlying documentation in respect of legal entities that cease to exist is clearly allocated and that the availability of this information is supported by effective enforcement provisions.

Practical Implementation of the Standard: Largely Compliant

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

A.2.1. General requirements

233. The standard is met through the accounting law, complemented by the tax and AML laws.

Accounting Law

234. The general accounting obligations are stipulated by the Accounting Law (AL) that applies to all relevant entities, including companies, co-operative societies, partnerships, individuals conducting economic activity, associations, foundations and other legal or natural persons who perform economic activities in Latvia (s. 3). The entities covered by the AL have a duty to produce accounts, which must be truthful, comparable, timely, significant, understandable and complete (s. 6). The accounting records must clearly reflect all economic transactions of the undertaking, as well as each fact or event which causes changes in the state of the property of the

undertaking. Accounting must be conducted so that a third person qualified in the area of accounting may obtain a true and clear view of the financial position of the undertaking at the date of the balance sheet, of the results of the economic activities of the undertaking, of its cash flow for a specific time period, as well as be able to determine the beginning of each economic transaction and trace its course.

235. An undertaking has an obligation to prepare an annual statement, which consists of a financial statement and a management report (s. 8 Law on Annual Statements and Consolidated Annual Statements (LASCAS)). A financial statement consists of at least a balance sheet, a profit or loss account, and an annex to the financial statement. Medium-sized and large undertakings[36] must also include a cash flow statement and a statement of changes in equity, which is not mandatory for small undertakings (s. 9 LASCAS).

236. Entries supported by source documents (prepared in electronic or paper form, see further paragraph 263 below) must be made in accounting registers (s. 8 AL). These entries must be made in a timely manner, ensuring that they are complete, accurate, and arranged in a systematic manner. Entries must match the content of the source document (s. 8 AL). Accounting registers must be maintained using a double entry accounting system (s. 10 AL). Individuals whose income from economic transactions during the previous accounting year does not exceed EUR 300 000 and non-governmental organisations whose income from economic transactions in two previous consecutive reporting years does not exceed EUR 100 000 may organise their accounting by the simple entry system (s. 10 AL). Detailed rules regarding the maintaining and organising of accounts are provided in the binding regulations issued by the Cabinet of Ministers of Latvia.

237. As regards the retention requirements, accounting documents[37] must be kept by all legal or natural persons who perform economic activities in Latvia for at least five years (s. 28 AL). More specifically, the minimum storage period of accounting documents is as follows:

- For annual statements – until the undertaking is reorganised or its activity is terminated, insofar as it is not laid down otherwise in other laws and regulations

36. A medium-sized undertaking is such undertaking which is not a small undertaking and which on the balance sheet date does not exceed at least two of three limit values: 1) balance sheet total – EUR 20 000 000; 2) net turnover – EUR 40 000 000; and 3) average number of employees during the reporting year – 250 (s. 5 Annual Accounts Law).

37. Accounting documents include source documents, accounting registers, inventory lists, annual statements, and accounting organisation documents in electronic or paper form (s. 1 Accounting Law).

- For inventory lists, accounting registers and accounting organisation documents – 10 years
- For employee income source documents, depending on the type of information – 10 or 75 years
- For other source documents – until the date they are necessary to ensure compliance with the requirements for the traceability of an economic transaction, but not less than five years.

238. Accounting documents in paper form must be stored in the territory of Latvia, whilst accounting documents in electronic form may also be stored in the territory of another European Union (EU) Member State (s. 27(1) AL).[38] All accounting records must be systematically arranged and kept in the archives of the undertaking at one or several storage points (s. 27(2) and 27(3) AL). Such documents may be removed from the undertaking only in the cases and in accordance with the procedures laid down by law (s. 27(4) AL).

239. The head of the undertaking (i.e. members of the board of directors, partners in a partnership, members of executive board of a foundation) is responsible for conducting of accounting, maintaining the accounting records, the preservation of all accounting documents and their availability to relevant authorities in the cases provided for in laws and regulations (s. 33(1) AL). A head of an undertaking is liable for any losses which have been incurred by the undertaking, the State (local government), or third party as a result of violation of the provisions of the AL due to his or her fault (s. 33(2) AL). The violations of the AL (including the failure to comply with the provisions for the conduct of accounting, the failure to submit an annual statement and consolidated annual statement, the failure to comply with the procedures for the registration and use of source documents) are punishable with a warning or a fine of up to EUR 2 000 (ss. 41-44 AL). Such administrative offence proceedings are conducted by the SRS (s. 45 AL).

Tax Law

240. The general accounting obligations as set out by the accounting law are further supported by the tax law. All taxpayers in Latvia are required to assess payable tax amounts and, for the purpose of substantiating the accuracy of tax liabilities, to retain documents supporting revenues and expenditures relating to financial and business activities and other documents supporting their tax position for at least five years (s. 15(1) and 15(4) of the Law on Taxes and Fees, hereafter LTF).

38. In accordance with the requirements laid down in Regulation (EU) 2018/1807 of the European Parliament and of the Council of 14 November 2018 on a framework for the free flow of non-personal data in the European Union.

241. Whilst taxpayers themselves are the primary source of accounting information in Latvia, certain information will be available with the SRS directly. All taxpayers in Latvia are required to submit the tax returns and informative returns to the SRS (s. 15(3) LTF). In particular, all companies, as described in paragraph 234 above, must submit the annual statement, see paragraph 235 above, and consolidated annual statement to the SRS through the Electronic Declaration System (s. 97 LASCAS). If the management of the undertaking has not submitted the annual statement and consolidated annual statement in accordance with the requirements of Section 97 LASCAS, the SRS shall apply an administrative penalty (s. 100 LASCAS).

242. For the failure to comply with the provisions regulating the conduct of accounting, the failure to submit an annual statement and consolidated annual statement within the specified time periods, or for the submission of an annual statement and consolidated annual statement not conforming to laws and regulations, the SRS may impose a warning or a fine of up to 400 units, i.e. EUR 2 000 (s. 42 AL).[39] The late submission of a tax return and informative returns is punishable under Sections 141 and 142 LTF by a warning or a fine of up to EUR 700 (tax declaration) or EUR 150 (informative returns).[40]

243. Latvia explained that the taxpayer's case is formed throughout the life cycle of the payer and reflects the entire economic activity of the taxpayer during that period. Taxpayers' cases are kept for 15 years after the liquidation of the taxable person. Latvia did not provide the source of these retention rules.

244. Some accounting information will be retained by the AML-obliged persons, most commonly sworn auditors. The annual statement prepared by all medium-sized undertakings or large undertakings and, in certain instances, of a small undertaking must be audited (reviewed) by a sworn auditor or commercial company of sworn auditors. Sworn auditor and commercial company of sworn auditors carry out statutory audit in accordance with the Law On Audit Services and compliance with International Standards on Auditing recognised in Latvia (s. 91 LASCAS). Such sworn auditors will be subject to the AML-related retention requirements – see further below.

AML Law

245. An obliged person under the AML legislation (including a person acting, in a business capacity, as trustee of a foreign trust) must keep the records related to the customer and transactions for five years after the termination of a business relationship or execution of an occasional transaction

39. One unit of fine equals to EUR 5.
40. EUR 7 100 for informative returns concerning employees by legal persons.

(s. 37(2) of the Law on the Prevention of Money Laundering and Terrorism and Proliferation Financing, hereafter PMLA). The scope of records to be kept is very broad and comprises all information obtained during the course of the CDD, information on all payments made by the customer and correspondence with the customer (s. 37(2) PMLA). For existing clients, the AML-obliged persons must ensure the storage, regular assessment and updating of the documents, personal data and information obtained during the course of the CDD according to the inherent risks, but at least once per each five years (s. 11^1(1) PMLA). The availability of information is secured by an obligation of clients to provide the AML-obliged person upon their request information on their executed transactions, economic and personal activity, financial position, sources of money or other funds (s. 28(1) PMLA).

246. Sworn auditors must store the CDD documents pursuant to the requirements provided for in the Law on Audit Services (s. 37(5) PMLA). The Law on Audit Services establishes the duty of sworn auditors to keep properly the audit working papers, and the time period for the storage of audit working papers shall be six years (s. 34(2)). Further, auditor's reports, prepared by a sworn auditor or responsible auditor appointed by a commercial company of sworn auditors, and also other documented information related to audits of the annual financial statement or consolidated financial statement shall be kept for at least five years (s. $34(2)^1$). The Law on Audit Services does not contain an explicit requirement to keep the records related to the customer and transactions for five years after the termination of a business relationship; however, Latvia clarified that sworn auditors, as AML-obliged persons, will be subject to the general retention requirements under Section 37(2) PMLA.

247. Under Section 78(1) PMLA, the following sanctions may be imposed on an AML-obliged person for the violation of the AML laws and regulations: (1) expressing a public announcement by indicating the person liable for the violation and the nature of the violation; (2) issuing a warning; (3) imposing a fine on a person (natural or legal) liable for the violation in double the amount of the profit obtained as a result of the violation (if it can be calculated) or another fine up to EUR 1 000 000; (4) suspending or discontinuing the activity (including to suspend or cancel the licence (certificate)); (5) setting a temporary prohibition on a person liable for the violation to fulfil the obligations specified for him or her by the AML-obliged person; (6) imposing an obligation to perform certain action or refrain therefrom; and (7) imposing an obligation on the AML-obliged person to dismiss the person liable for the violation from the position held.

248. The sanctions specified in Section 78 PMLA are imposed by the supervisory and control authority. In relation to the sworn auditors and commercial companies of sworn auditors the sanctions are imposed by the SRS

upon the proposal of the Latvian Association of Sworn Auditors (except for the sanction envisaged under s. 78(1)(4) PMLA) and in relation to the administrators of insolvency proceedings by the Insolvency Control Service upon the proposal of the Latvian Association of Certified Administrators of Insolvency Proceedings or without it if the Insolvency Control Service has carried out the supervisory and control measures independently (except for the sanction envisaged under s. 78(1)(7), see s. 77(1) PMLA).

Trusts

249. The accounting obligations previously described apply also to trustees who act in a business capacity. Acting as a trustee represents an economic activity, as defined in Section 1(3) of the Commercial Law (CL),[41] and therefore a Latvian professional trustee of a foreign trust is required to keep full accounting records and underlying documents for all operations of the trust (not simply for his/her own income derived from the trust) in line with the accounting standards. Further, both professional and non-professional trustees who are not the beneficial owners of the trust assets have to keep the necessary records to disprove their tax liability for income from that asset, albeit this interpretation has not yet been verified in practice (see paragraphs 212 and 220 above).

250. Professional trustees are also subject to the AML accounting requirements to keep documentation of transactions of the trust, although the AML requirements may not require the trustees to keep accounting records that fully reflect the financial position and assets/liabilities of the trust.

251. In practice, there has been no case encountered where a Latvian person acted as a trustee in domestic or exchange of information context. Nevertheless, the accounting law requirements and in particular the application of detailed accounting standards ensure that if a Latvian resident person acts as a trustee of a foreign trust in a business capacity the person has to keep separate accounting records in respect of the trust in line with the international standard. These obligations are further supported by AML obligations to keep transactional documentation and requirements under the tax law.

252. A potential narrow gap has been identified in the 2015 Report in relation to trusts which have a non-professional trustee who is not covered by accounting obligations and perform none of the aforementioned activities involving obliged persons under AML rules in Latvia. Latvia was recommended to monitor this potential gap to ensure that it does not limit effective exchange of information in tax matters. Latvia maintains that situation where a foreign trust is operated by a non-professional trustee resident in Latvia

41. Economic activities are any systematic, independent activities for remuneration (s. 1(3) Commercial Law).

which does not engage any service provider (such as a bank) is very likely to be rare. Whilst no progress has yet been made, Latvia reported that the work is ongoing on establishing the legal framework for the registration of foreign trusts operating in Latvia, which should enhance the availability of information in relation to professional and non-professional trustees (see paragraph 220), but is unlikely to ensure the availability of accounting records, including underlying documentation, in line with the standard. Accordingly, Latvia should continue to monitor the potential gap in relation to trusts which have a non-professional trustee who is not covered by accounting obligations and perform none of the activities involving obliged persons under AML rules in Latvia to ensure that it does not limit effective exchange of information in tax matters (see Annex 1).

Companies that ceased to exist and retention period

253. The retention requirements for accounting information are set by the accounting (paragraphs 237 and 238), tax (paragraph 240) and AML (paragraph 245) laws. Whilst the accounting and tax laws stipulate that the accounting documents must be kept for at least five years, there is currently no express obligation (other than that set out to ensure document retention by the AML-obliged persons in relation to their clients) to maintain accounting records for a minimum 5-year period in the instances where the legal entity ceases to exist. Accordingly, accounting records may not be available in all cases. **Latvia is recommended to ensure that accounting records and underlying documentation are retained for at least five years for legal entities that cease to exist**.

254. The circumstances in which the legal entity may cease to exist are described under Element A.1 (see paragraphs 95 et seq.). If an undertaking is being reorganised or its activity is terminated, the liquidation commission (liquidator) or the head of the undertaking shall determine the procedures for the subsequent storage of the documents of the undertaking after co-ordination with the National Archives of Latvia (s. 27(5) AL).

255. In case of solvent liquidations of a limited liability company (LLC), a liquidator is appointed by the shareholders or the court (see further paragraphs 96 and 97). The liquidator must ensure the preservation of and access to the documents of the company (s. 329 CL). The liquidator must give the documents of the company for preservation to one of the shareholders of the company or to a third party in Latvia, co-ordinating the place of storage thereof with the National Archives of Latvia (s. 329 CL). The documents of archival value[42] of the company must be given for preservation to

42. The archival value of a record is determined during the appraisal procedure of the relevant record by taking into account the following criteria: 1) a record shall reflect

the National Archives of Latvia in conformity with the provisions of the Law on Archives. In practice, only some selected accounting records (mostly related to company's employees, for example employment agreements and appendices, job descriptions, orders on acceptance and dismissal from work) are kept by the National Archives of Latvia.

256. In case of insolvency proceedings in relation to an LLC, the court will appoint an insolvency administrator (s. 19 of the Insolvency Law, hereafter IL). All records must be kept at the insolvency administrator's place of practice in Latvia (s. 26.[1](1) IL). The administrator has the right to hand over the debtor's documents to the State archives for storage free of charge upon the termination of the insolvency procedure (s. 27 IL). Latvia explained that in accordance with Section 1(1)(10)(j) AL, the head of the undertaking in an undertaking for which insolvency proceedings have been declared is the administrator of insolvency proceedings and, therefore, insolvency proceedings will be covered by the retention requirement under Section 27(5) AL, see paragraph 254. Accordingly, the head of the undertaking shall determine the procedures for the subsequent storage of the documents of the undertaking after co-ordination with the National Archives of Latvia. As in relation to solvent liquidations, what accounting records will be retained is determined by the National Archives of Latvia after evaluating the documents and identifying those that have the archival value.

257. The general rules and procedures applicable to partnerships (s. 115 CL), stock companies (s. 329 CL) and co-operative societies (s. 84 CSL) that go through solvent or insolvent liquidations are essentially the same and, therefore, the same concerns apply.

258. Latvia did not provide any evidence as to whether these provisions ensure the availability of accounting information in practice. Latvia explained that the SRS does not monitor and does not in practice verify the availability of the documents of the liquidated companies. If the company does not have tax debts and it has fulfilled all its obligations, it is removed from the records and no further monitoring is carried out by the SRS.

259. Further, a company may be struck off the enterprise register in the circumstances described by Sections 314[1](1) and 314[1](2) CL (see paragraphs 89 and 90). The strike off may be followed by liquidation or

activities of public administration, creation and implementation of the State policy; 2) the record is to be used protractedly for the implementation and protection of the obligations and rights of the authority or private individual; 3) the record shall have historical, social, cultural or scientific significance; 4) the origin and external peculiarities of a record; 5) the record shall reflect a special character of the event or fact; 6) the significance of the author of the record. The procedures for the calculation of archival value shall be regulated by the Cabinet (s. 8 Law on Archives).

insolvency proceedings, as described above. However, this will not be the case if none of the persons interested in the liquidation of the company submits an application to the Enterprise Registrar regarding the appointment of a liquidator, and insolvency proceedings have not been applied in relation to the company (s. 317(2) CL). Where the liquidator (or the insolvency administrator) is not appointed, it is highly unlikely that accounting records will be available for at least five years after the strike off.

260. To sum up, the procedures for the subsequent storage of the documents where the legal entity is reorganised, or its activity is terminated, is determined by the liquidator (where appointed) or the head of the undertaking. However, the law does not clearly state who will be legally responsible for maintaining accounting records for five years after the legal entity ceases to exist, where such records are to be kept and what penalties will apply if the information is not maintained. Not all accounting documents as required by the standard may be kept when archived. **Latvia is recommended to ensure that the responsibility for maintaining accounting records and underlying documentation in respect of legal entities that cease to exist is clearly allocated and that the availability of this information is supported by effective enforcement provisions**.

Relocation abroad

261. As a general rule, Latvian law does not allow for migration of companies, with some exceptions introduced under the framework of EU law. Relocation is possible within the framework of the EU through a merger and also through division and conversion. Latvia has implemented Directive (EU) 2019/2121 of the European Parliament and of the Council of 27 November 2019 amending Directive (EU) 2017/1132 as regards cross-border conversions, mergers and divisions, and therefore, since 1 June 2023, the CL provides a regulation for cross-border mergers, divisions and conversions. Also, as explained in paragraph 103, an SE can be migrated to another EU-member state without losing its legal personality.

262. In these circumstances, Latvia explained that the general storage provisions set out in Sections 27 and 28 AL will continue to apply (see paragraphs 237 and 238), with any electronic documents stored in the territory of the Republic of Latvia or another European Union Member State in accordance with the requirements laid down in Regulation (EU) 2018/1807 of the European Parliament and of the Council of 14 November 2018 on a framework for the free flow of non-personal data in the European Union and paper documentation in Latvia. However, the Latvian law does not explicitly specify that the requirements related to retention of accounting records are transferred to the "legal successor" and it is not clear how this obligation would apply in practice where the successor company is an entity established in another EU

Member State. Therefore, in the event of a relocation of a company from Latvia to another EU Member State, the law only ensures the availability of the information that is stored in the enterprise register, the SRS or with an AML-obliged person who had client relationships with this entity. Whilst in practice the information would typically be available in another EU Member State, the legal framework does not fully ensure its availability in Latvia. Latvia should ensure the availability of accounting information, including underlying documentation, for a period of at least five years, for companies that undergo a cross-border conversion, merger or division (see Annex 1).

A.2.2. Underlying documentation

263. All relevant Latvian entities as well as foreign entities involved in economic activity in Latvia are required to keep underlying documentation, including contracts, invoices and other documents which must be reflected in the entity's accounting records. Accounting records are based on accounting entries. Each accounting entry must be supported by a source document (s. 7 AL). A source document is a document attesting the existence of the economic transaction of the accounting entity and generally must include at least the following information:

- the title of the document
- the date of the document
- the registration number of the document
- the identification of its author:
  - the (firm) name
  - the registration number or personal identity number (in case of individual)
- participants in the economic transaction specifying the name and registration number of each participant
- description, basis and quantifiers (volumes, amounts) of the economic transaction
- other information necessary for the accounting entry and
- the signature of the person responsible for the accuracy of information provided (s. 11 AL).

264. As Latvia is an EU Member State and hence part of the intra-community VAT system, Latvian undertakings must further fulfil specific requirements regarding documentary evidence of transactions performed. Among other things, they must keep all documents from which intra-community flows of goods and services can be traced, and, more generally, all invoices.

265. As described above, the tax law requires taxpayers (which will include Latvian resident trustees of foreign trusts) to keep evidence providing information regarding income and expenses, as well as assets and liabilities (s. 15(1) and 15(4) LTF). The Latvian authorities advise that this includes keeping underlying copies of original documents, including invoices and contracts.

266. Further, as mentioned above, PMLA requires obliged persons to keep underlying documentation for transactions with their clients (s. 37(2) PMLA).

267. Therefore, the legal framework of Latvia ensures that the underlying documentation is maintained; subject to the deficiencies already described above in relation to the retention of accounting records (paragraphs 253 to 260) and non-professional trustees (paragraph 252).

Oversight and enforcement of requirements to maintain accounting records

268. Compliance with accounting record keeping obligations under accounting and tax law is enforced by the SRS. The total SRS staff is 3 436, out of which 1 761 is deployed in tax area and 350 deal with economic (including tax) crimes.

269. All entities registered with the Enterprise Registrar are automatically registered with the tax authority and required to file annual tax returns electronically by using the SRS Electronic Declaration System. The SRS system incorporates an automatic reminder sending function as the submission deadline is approaching. It also has an in-built control mechanism that warns a taxpayer about errors made in the declaration and prohibits the taxpayer from submitting incomplete or clearly deficient declaration. If it is determined that non-conforming documents have been added, the taxpayer should be informed and has the right to submit an annual tax return corresponding to the law. If it is not done, the taxpayer may be punished for not submitting an annual tax return.

270. All declarations are automatically analysed based on the risk criteria defined by the SRS. In response to results of the electronic risk analysis, appropriate tax administration measures are carried out. If the analysis reveals a high potential risk, a data credibility assessment is launched. This administrative measure is often carried out before or instead of control measures, such as thematic inspections or tax audits. Within the framework of the data credibility assessment the taxpayer is requested to provide additional information to explain the risks established or to adjust the declaration. If the taxpayer has provided the necessary corrections during the data credibility assessment, no tax control measures are needed.

271. The table below shows the number and share of legal entities which failed to comply with the time limit for submitting annual reports (financial statements) and corporate income tax declarations to the SRS. No penalties were applied during the review period.

Late filing of annual financial statements and corporate income tax declarations (2019-22)

Year	Annual financial statements	% of all legal entities	Corporate income tax declarations	% of all legal entities
2019	14 341	10.15%	24 490	22.92%
2020	13 463	9.54%	23 515	22.24%
2021	15 051	11.59%	23 233	19.70%
2022	31 765	24.47%	29 573	21.87%

272. The further two tables below show the number and share of legal entities which failed to submit annual financial statements and corporate income tax declarations, as well as the penalties applied by the SRS.

Failure to submit annual financial statements (2019-22)

Year	Not submitted	% of all legal entities	Number of penalties	Applicable fine, EUR
2019	9 529	6.74%	315	98 575
2020	5 596	3.96%	435	194 845
2021	8 106	6.24%	704	397 726
2022	[Not provided]	[Not provided]	[Not provided]	[Not provided]

Failure to submit corporate income tax declarations (2019-22)

Year	Not submitted	% of all legal entities	Number of penalties	Applicable fine, EUR
2019	1 636	1.53%	1 051	484 209
2020	1 562	1.47%	2 383	1 200 454.50
2021	7 737	6.56%	2 019	943 472.50
2022	16 037	11.85%	315	135 470

273. The Latvian authorities explained that the number of failures to submit may appear as increasing, but this is because the number of taxpayers who are subject to an obligation to submit these returns is equally increasing. The SRS makes efforts to achieve the submission of unsubmitted returns. In practice, many taxpayers submit their returns after the actions have been undertaken by the SRS, and these are indicated as late submissions. Therefore, in order to accurately compare the submission compliance of Latvian taxpayers, it is necessary to take into account the number of late submissions. Also, the 2021 and 2022 numbers are not directly comparable as, due to the COVID pandemic, the deadline for submitting the 2021 returns was extended by three months.

274. In accordance with the LTF and the Law on the State Revenue Service, the SRS performs audits of tax calculations and tax payments, examines the accounts of legal and natural persons and the basic documents thereof, other documents related to calculations and budget payments.

275. The SRS also carries out thematic inspections specifically focused on record-keeping compliance and, in particular, on control of accounting records. If deficiencies are found, the SRS directly applies sanctions for violation of record-keeping obligations. If these deficiencies may have consequence on the person's tax liability, a tax audit is launched. During the tax audit, accounting and other records substantiating person's tax liability are analysed and the tax can be reassessed.

276. The Tax Compliance Incentive Department of the SRS in the current review period has carried out the following control measures in relation to legal persons:

- 552 tax audits, additionally calculating payments in the budget for EUR 158 488 147. After receiving the decision on the initiation of the tax audit until the initiation of the tax audit, 46 legal persons themselves made clarifications in corporate income tax declarations for EUR 1 367 789 (see further the table below)
- 2 320 thematic inspections, as a result of which a fine was applied in 907 cases for EUR 774 808. During thematic inspections, 936 legal entities clarified corporate income tax declarations for EUR 3 888 230 (see further the table below)[43]
- 3 429 on-site inspections
- 411 surveillance measures.

43. If the legal entity made adjustments in its corporate income tax returns in several years, it has been counted once in the total. However, in the table, the number of legal entities that made adjustments in their corporate income tax return is indicated by year and may repeat.

277. The two tables below provide further details on tax audits and thematic inspections carried out from 1 April 2019 to 31 March 2022, as well as the associated fines.

Tax audits carried out for legal persons (1 April 2019-31 March 2022)

Year	Number of tax audits	Number of legal entities making adjustments in their tax returns	Number of legal entities fined	Total value of fines
2019	304	33	274	52 155 334
2020	170	13	157	40 837 054
2021	68	0	67	61 889 074
2022	10	0	9	3 606 685

Thematic inspections carried out for legal persons (1 April 2019-31 March 2022)

Year	Number of thematic inspections	Number of legal entities making adjustments in their tax returns	Number of legal entities fined	Total value of fines
2019	1 469	623	577	361 147
2020	543	254	236	293 944
2021	248	52	72	89 302
2022	60	16	22	30 415

278. Latvia explained that the tax control measures (including thematic inspections and tax audits) are carried out in relation to legal entities for which the risk analysis and in-depth assessment have identified high risks of non-compliance, as well as in other cases, such as requests from third parties or another department of the SRS, or when potential risks of non-taxation have been identified during the evaluation process of another taxpayer or during promotion/control measures. Latvia observed that the control measures are generally well-targeted and very effective. The effectiveness of tax audits is 92% (a tax audit with an additional calculation of more than EUR 0 is considered to be effective). The effectiveness of thematic inspection is 87% (a thematic inspection is considered to be effective if it can demonstrate or produce findings that there has been an infringement of regulatory acts).

279. Further, the SRS also has a supervisory function in relation to the AML-related obligations, as described under Element A.1 above, which is carried out by the Anti-Money Laundering Department (see paragraph 165). If the inspection carried out for AML purposes establishes that the subject of the law has not been keeping accounting records, sanctions are applied in accordance with Section 78 PMLA. Each inspection requests information on customer research and assesses how these documents are documented and maintained.

280. The SRS also promotes voluntary compliance in its communication with taxpayers. The objective is not the number of tax control measures, but smart monitoring to promote a fair business environment and prosperity – helping to improve the behaviour of compliance by sharing information and knowledge in support of voluntary commitments. These measures have proven effective and additional tax revenues have been generated during the current review period.

281. Practical availability of underlying documentation is supervised by the SRS together with availability of accounting records. The same supervisory and enforcement measures apply as outlined above. Latvia confirmed that no serious cases were identified by the SRS during the reviewed period which would indicate systemic issue in respect of practical availability of the relevant information in Latvia.

282. Overall, the level of compliance with obligations to keep accounting information and submit to the SRS appears to be appropriate to ensure availability of such information in Latvia.

Availability of accounting information in EOIR practice

283. Latvia was not able to provide the exact number of requests concerning accounting information received during the current review period. However, its EOIR partners indicated that more than 90 requests concerning accounting information were sent to Latvia, including both individual and corporate taxpayers, and the peers were satisfied with the responses provided by Latvia. No peer reported any issues regarding availability of accounting information in Latvia. There have been five cases where the taxpayer failed to provide the accounting information requested, which is considered further under Element B.1 (see paragraph 368).

A.3. Banking information

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

284. The 2015 Report found that domestic provisions required banking information to be available in Latvia for all account holders and that the supervision performed by the Financial and Capital Market Commission (currently, the Bank of Latvia) ensured that banking information pertaining to any account holders was maintained by financial institutions. Therefore, the element was determined to be in place and was rated Compliant.

285. The standard was strengthened in 2016 to require the availability of beneficial ownership information on bank accounts. In Latvia, the availability of banking information is provided by a combination of accounting law, the Credit Institution Law (CIL) and the Law on the Prevention of Money Laundering and Terrorism and Proliferation Financing (PMLA). Particularly, the PMLA requires the availability of beneficial ownership information on bank account holders. The analysis under Element A.1 of this report concludes that there is a deficiency in the legal framework related to the availability of beneficial ownership information of partnerships. This deficiency also applies to beneficial ownership information on accounts held in banks. Therefore, a recommendation to address the deficiency, in line with Element A.1 of this report, has been made. As a consequence, the rating for Element A.3 has been downgraded to Largely Compliant.

286. The conclusions are as follows:

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

Deficiencies identified/Underlying factor	Recommendations
The determination of beneficial ownership information on account holders in respect of general and limited partnerships follows the approach for companies, including taking a 25% ownership threshold as a starting point and checking for control if a beneficial owner is not identifiable based on ownership. This approach could omit certain partners that exercise control but may not have sufficient ownership or capital contribution. This is not in accordance with the form and structure of the partnerships in Latvia.	Latvia is recommended to ensure that in respect of bank accounts the beneficial owners of partnerships are determined in accordance with the form and structure of each partnership.

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.

A.3.1. Record-keeping requirements

Availability of banking information

287. Banks and other financial and credit institutions are AML-obliged persons under the PMLA (s. 3(1) PMLA). As such, the said entities are subject to record-keeping requirements with respect to transactional information, as well as identity information of their customers. Such information must be stored for at least five years following the end of the business relationship with a client or execution of an occasional transaction (s. 37(2) PMLA).

288. As AML-obliged persons, banks and other credit and financial institutions are required to conduct customer due diligence (CDD) procedures in order to obtain data on their business relationship and transactions performed by their customers and regularly monitor the business activities undertaken by their customers (ss. 11^1(1) and 20 PMLA). All CDD measures, documents gathered when identifying customers, document retention period after termination of a business relationship or execution of an occasional transaction and the event of the liquidation of a bank, the scope of records to be kept are the same as applicable to the AML-obliged persons under the AML-law requirements described in section A.1.1.

289. The retention requirements are set out by the AML law, as described under Element A.1.1 (paragraph 132). In the event of liquidation or insolvency of AML-obliged persons, their AML-obliged status is retained throughout the insolvency or liquidation proceedings (s. $3(1^1)$ PMLA). After the termination of such proceedings, a liquidator or an insolvency administrator is required to submit all documents covered by the AML retention requirements under section 37(2) PMLA to the National Archives of Latvia for archiving (s. 13(2)(4) of the Law on Archives). The documents are kept for 75 years in the National Archives of Latvia (s. 4(2)(4) of the Law on Archives). The Latvian authorities explained that the same rules apply to a branch of a foreign bank that ceases to operate in Latvia.

290. Furthermore, banks are required to maintain information on accounts operated by them based on their contractual obligations with clients. It is stipulated by the Credit Institutions Law (CIL) that a bank is obliged to provide to its clients (or their legal representatives) requested information regarding the accounts and transactions carried out by them (s. 62(1)(2) CIL).

291. Banking information is also available under the accounting law (AL). Banks are required to provide a true and clear view of their financial position, results of their economic activities, their cash flow and must allow reconstruction of all their economic transactions (s. 2 AL). Accounting entries must be supported by source documents attesting the existence of the economic transaction. Accounting records and underlying documentation must be kept for at least five years (s. 10 AL).

292. In addition, banks are required to maintain adequate records in order to fulfil requirements under Directive 2014/107/EU to report financial account information automatically.

Beneficial ownership information on account holders

293. The standard was strengthened in 2016 to specifically require that beneficial ownership information is available in respect of all bank accounts. In Latvia, this requirement is foreseen by the PMLA.

294. As AML-obliged persons, banks, credit and financial institutions are required to conduct CDD procedures in order to, inter alia, determine the beneficial owner of the customer (s. 11^1(1) PMLA). CDD procedures can be enhanced and simplified (see paragraph 120). In any case, customer identification remains mandatory.

295. The analysis of the AML legal framework in section A.1.1 of this report fully applies to banks insofar as it covers the definition of the term "beneficial owner" and the application of CDD measures. As described in paragraph 203, banks are required to identify and verify the identity of those natural persons owning at least 25% of the ownership interest in a partnership and checking for control if a beneficial owner is not identifiable based on ownership. This approach could omit certain partners that exercise control but may not have sufficient ownership or capital contribution. By taking the approach to apply the same rules to partnerships as to companies, the difference in organisational structure between these two entities is not sufficiently taken into account. **Latvia is recommended to ensure that in respect of bank accounts the beneficial owners of partnerships are determined in accordance with the form and structure of each partnership**.

296. As mentioned in section A.1.1, the AML-obliged person must ensure the storage, regular assessment and updating of the documents, personal data and information obtained during the course of the CDD according to the inherent risks, but at least once every five years (s. 11^1(1)(5) PMLA). The AML-obliged person shall, on a regular basis, but at least once every three years, review and update the money laundering and terrorism and proliferation financing risk assessment in accordance with the inherent risks (s. 8(1) PMLA). The risk-based approach takes into account the nature and

scale of the business, its affiliation with high-risk countries, volume and size of transactions, the type of customer, its ownership or shareholding structure, products and services used by the customer, among others (s. 11[1] PMLA).

297. In accordance with the guidelines published by the Bank of Latvia, the frequency for review and update of CDD documentation is based on risk approach and risk category of a customer. Banks decide on the frequency for updating CDD information based on the risk assessment of a customer. The Bank of Latvia has provided indicators for inherently high-risk customers, such as affiliation with high risk third countries, being a legal arrangement which is a private asset management company, executing large-scale cash transactions, etc.

298. In practice, the Bank of Latvia imposes that when setting the frequency of enhanced CDD with respect to high-risk customers, a bank shall set such period in term of months since the last enhanced CDD. For example, in view of the increased AML risks inherent to shell arrangements, a bank shall apply enhanced CDD measures every six months. However, in any case, as a rule of thumb, the bank shall determine the period of enhanced due diligence in accordance with its policies and procedures.[44] Nevertheless, the minimum update period set under the AML-law, five years, is obligatory for all AML-obliged persons, including banks.

299. Banks may rely on the outcomes of CDD procedures carried out by the credit institutions and financial institutions in the EU member states or the third countries, if all of the following conditions have been met (s. 29(1) PMLA):

- CDD information is immediately obtainable.
- CDD procedures applied by the third parties are similar to the requirements under the Latvian AML law and the third parties are controlled and supervised at least to the same extent as in Latvia.
- The risks related to the third parties or the country of their operation have been assessed properly and the respective risk mitigating measures have been taken.
- Operation or country of operation of the third parties are not characterised by a high risk of money laundering or terrorism and proliferation financing.

300. If a bank relies on the outcomes of CDD procedures conducted by other credit institutions and financial institutions, it does not give the right to

44. FCMC Recommendation No. 169 of 21 December 2021 “Recommendations for the establishment of the internal control system for anti-money laundering and countering terrorism and proliferation financing and sanctions risk management, and for customer due diligence”, available at AML_Rokasgramata_2021_EN.pdf (bank.lv).

the bank to rely upon supervision carried out by the third parties. The bank maintains an obligation to perform ongoing supervision of the business relationship of the customer (s. 29(2) PMLA). Thus, the ultimate responsibility for the CDD procedures rests with the banks in Latvia.

301. As mentioned above, banks must store beneficial ownership information for at least five years after the termination of a business relationship (s. 37(2) PMLA). In the event of liquidation, they shall retain the status of the AML-obliged person also during the course of insolvency or liquidation proceedings (s. 3(1[1]) PMLA). After the termination of the liquidation or insolvency proceeding, a liquidator or an insolvency administrator is required to submit all documents obtained during the course of CDD procedure to the National Archives of Latvia for archiving.

302. With respect to dormant accounts, they are understood as accounts on which for a certain period of time no transactions have been performed. A certain period of time is not uniformly defined in the regulatory acts, however, in the credit institutions internal control systems, it varies from around 3 (not less) to 12 months. Credit institutions have to perform additional CDD measures on the dormant accounts in cases when there is an increased activity after a period of dormancy.[45]

303. Concerning foreign trusts holding a bank account in Latvia, as elaborated in section A.1.4, the method to identify the beneficial owner of a trust is consistent with the standard. Therefore, Latvian law does provide for the availability of beneficial ownership information with respect to trusts and similar foreign arrangements that are account holders.

304. Further, the State Revenue Service (SRS) has maintained the Account Register since 2017 which contains information on beneficial owners of demand deposits, payment and investment accounts and individual safes. Information providers (credit institutions, credit unions payment service providers) submit information for inclusion in the Account Register at least once every two working days (s. 5, Account Register Law).

Oversight and enforcement

305. Practical availability of banking information is supervised and enforced by the AML Department of the Bank of Latvia, as elaborated in section A.1.1. The AML Department performs off-site ongoing monitoring of financial institutions, as well as regular on-site inspections. Banks are subject to on-site inspections based on risk analysis. On-site inspections can be either full AML

45. Regulation of the Bank of Latvia No. 5 of 12 January 2021, "Normative rules for creating a system for customer due diligence, enhanced due diligence and numerical risk assessment, and information technology requirements".

scope or special purpose inspections. In full scope inspections, an evaluation of all risks, as well as internal control mechanisms, is performed.

306. During the on-site visit, the representative of the AML Department of the Bank of Latvia explained that the on-site and off-site supervision performed by the Bank of Latvia is based on the assessment of the effectiveness of the internal control systems of a customer. The assessment of the internal control system of the customer is based on the evaluation of 10 elements of the internal control system, among which are risk assessment, AML/CFT strategy, organisational structure, CDD and transaction monitoring mechanisms, IT systems and data storage.

307. Banks' compliance with their legal obligations is further supervised by internal and external auditors. Internal auditors of a particular institution hold regular investigations regarding its compliance and submit their reports to the AML Department of the Bank of Latvia on the basis of requests.

308. Further, banks are required to have their accounts audited by sworn auditors who have the right to become acquainted with assets of the credit institution, accounting entries, documents verifying such entries, and any other information necessary to assess the bank's compliance with its legal obligations. The AML Department holds regular meetings with external auditors. If deficiencies are identified, the sworn auditor has to report them without delay to the AML Department for further action.

309. Pursuant to section 78 of the PMLA, supervisory authorities can apply fines for failure to comply with the obligations of the PMLA, as described in section A1.1. Furthermore, by way of derogation from paragraph 1 of the section 78 of the PMLA, the following sanctions may be imposed on banks for the violation of the AML laws and regulations (s. 78(3) PMLA):

- A fine in an amount of up to 10% of the total annual turnover. If the amount is less than EUR 5 000 000, the supervisory and control authority is entitled to impose a fine of EUR 5 000 000.
- A fine of up to EUR 5 000 000 on the official, employee or a person who, at the time of committing the violation, has been liable for the performance of a specific action upon assignment or in the interests of the bank.

310. Further, if a bank breaches obligations under the AL, any person has the right to claim compensation for losses caused by such breach (s. 17 AL). Heads of banks, responsible for violations of the AL for failure to comply with the provisions for the conduct of accounting, shall be subject to a warning or a fine of up to 400 units (i.e. EUR 2 000).[46]

46. One unit of fine equals to EUR 5 (s. 42 AL).

311. The frequency of inspections performed by the AML Department depends on the risk level defined for a bank. High-risk banks are subject to annual inspections, medium-high risk banks – once in one and a half year, medium-low risk banks – once in three years, but low-risk banks – once in four years. Since 2021, annual inspection plans have been published on the Bank of Latvia's website.

312. In addition to inspections and supervisory measures implemented by the AML Department in 2021, six banks were subject to external AML/CFT audit, including four medium-high risk banks. One of the external audits had limited scope.

313. In 2022, four banks have been subject to external AML/CFT audit, including one high-risk bank and one medium-high risk, whereas one medium-high risk bank was subject to limited external audit scope. For the total amount of penalties imposed, see paragraph 162.

314. As such, the oversight and enforcement are conducted by the AML Department via on-site or off-site reviews which may result in decisions on measures for remedial action, as well as, where applicable, monetary penalties for the AML-obliged persons, as well as the responsible persons.

Availability of banking information in EOIR practice

315. During the peer review period, Latvia received and answered 306 requests for banking information.

316. Peers were generally satisfied with the responses provided. Although banking information has not been provided in three cases (see further section B.1.1), there was no case where the requested information was not available with the bank. No issue in respect of availability of information with banks was indicated by peers.

Part B: Access to information

317. 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).

318. The Latvian Competent Authority has broad access powers to obtain and provide the requested information held by persons within its territorial jurisdiction. These powers include tax audits in premises of taxpayers and third parties, inspection of documents, requests for explanations and statements or power to summon a taxpayer.

319. However, access to bank information is subject to certain restrictions which may limit effective exchange of information. Under treaties which do not contain the exact post-2005 model wording specifically providing for exchange of information that is "foreseeably relevant" for carrying out provisions of the convention or to the administration or enforcement of domestic tax laws of the requesting party, access to bank information is subject to restrictions which are not in line with the standard. The 2015 Report therefore recommended that Latvia ensure that its competent authority has access powers in respect of all bank information that may be requested by any of its EOI partners. Further, prior to 2015, obtaining banking information in practice, including under EOI instruments which contain the post-2005 model wording, had been subject to restrictive conditions. In order to address this deficiency, Latvia amended its law with effect from 4 August 2015. In view of that, the 2015 Report recommended that Latvia monitor the implementation of this amendment. The practice during the current review

period exposed remaining gaps in relation to the access to bank information and Latvia is recommended to address them.

320. All information gathering powers that can be used for domestic purposes can also be used for EOI purposes regardless of whether there is a domestic tax interest. Latvia has in place enforcement provisions to compel the production of information, including criminal sanctions and search and seizure power. Nevertheless, the 2015 Report found that there appeared to be a hesitation to use stronger powers, such as tax audits for exchange of information purposes, and the compulsory powers were not applied over the period under review (even though in a few cases the requested information was not provided at that time). Latvia was therefore recommended to monitor effective use of all its access and compulsory powers for exchange of information purposes. In view of practice during the current review period, this recommendation is kept.

321. The 2015 Report found that the scope of information protected by attorney-client privilege is broad and might limit effective exchange of information. Latvia was therefore recommended to ensure that the scope of attorney-client privilege in its domestic law is consistent with the international standard. Although there was no case during the current review period where the requested information needed to be obtained from an advocate or other legal professional not acting on behalf of his/her client under the power of attorney and there was accordingly no case where a person refused to provide the information requested because of a professional privilege, Latvia did not address the deficiency in its legal framework and therefore the recommendation is retained.

322. The conclusions are as follows:

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

Deficiencies identified/Underlying factor	Recommendations
The provision of banking information under treaties which do not specifically provide for exchange of foreseeably relevant information is subject to restrictions which are not in line with the standard. Consequently, banking information cannot be exchanged in line with the standard with 5 out of Latvia's 152 EOI partners. Whilst the amended Section 63(11[1]) of the Credit Institutions Law improved access to banking information under EOI instruments which provide for exchange of foreseeably relevant information, the legal framework of Latvia still does not allow for access to all banking information fully in line with the standard.	Latvia is recommended to ensure that its competent authority has access powers in respect of all banking information requested by all its EOI partners in line with the international standard.

Deficiencies identified/Underlying factor	Recommendations
Latvian law protects all information obtained by the legal representative in connection with providing legal services without appropriate restrictions.	Latvia is recommended to ensure that the scope of attorney-client privilege in its domestic law is consistent with the international standard.

Practical Implementation of the Standard: Partially Compliant

Deficiencies identified/Underlying factor	Recommendations
Although the requested information was in the vast majority of cases obtained directly by the Latvian Competent Authority, the tax authority appears hesitant to use all its information gathering powers, including thematic inspections and compulsory measures, in order to obtain information requested for exchange of information purposes.	Latvia is recommended to monitor use of its access and compulsory powers so that the requested information is effectively obtained in all cases.

B.1.1. Ownership, identity and banking information

Accessing information generally

323. The competent authority in Latvia for EOI purposes is the State Revenue Service (SRS) (s. 5 Regulation No. 1245). The SRS is responsible for tax administration in Latvia and is supervised by the Ministry of Finance. In addition to administration of taxes, the SRS is also responsible for administration of mandatory social security contributions, customs, fees and other mandatory payments specified by the State (s. 1 of the Law on the State Revenue Service, hereafter "LSRS"). The SRS also includes the Finance Police responsible for prosecution of criminal tax offences (s. 3 LSRS).

324. The SRS has wide powers to gather information directly from the taxpayer, third persons and other government authorities, which include the power:

- to visit plots of land and premises in the ownership or use of legal or natural persons, where economic activities are performed, or which are related to obtaining of revenues for other legal or natural persons, and to perform control measures (such as an audit) therein (s. 10(1)(1) LSRS)
- to inspect the accounting and all other related documentation of legal persons and natural persons and to receive necessary explanations and statements in their respect (s. 10(2) LSRS)

- to request presentation of originals of documents and receive copies of documents from merchants, institutions, organisations, local governments, financial institutions and credit institutions for the accounting and registration of a taxable object (income) or examination of taxes and fees, as well as to receive necessary statements and copies of documents from natural persons which relate to the tax liability and payments, property and income of legal or natural persons to be inspected, as well as to request and receive relevant explanations (s. 10(5) LSRS
- to summon a taxpayer (including a third party) to attend the SRS (s. 10(11) LSRS).

325. All these powers can be used also for EOI purposes. There are no specific information gathering powers intended solely for EOI. The Regulation No. 1245 lays down procedural rules for their use in the field of EOI, which are also referenced when a request for information is sent by the Competent Authority (see section B.1.3). There are also no specific procedures or additional conditions for use of information gathering powers in respect of different types of information, except for banking information.

326. The Competent Authority benefits from a wide range of information held by, or directly accessible by the tax administration. The Competent Authority has access to the tax database containing all information filed in tax returns, information obtained from taxpayers during tax control measures, information from the enterprise register and information identified as relevant from open sources. The database also allows access to several government authorities' databases such as the Population Register, the Land Register, State Labour Inspectorate or Road Traffic Inspectorate. The Competent Authority explained that in practice internal databases constitute the most used source of information. Only when the internal sources or sources of other institution (such as the enterprise register), which is directly available to the Competent Authority, are exhausted, the remaining information is requested from the taxpayers or from other information holders, such as banks.

327. According to Internal Rules No. 6, if information from the databases of the SRS is required for the preparation of the response, the Direct Tax Unit of the International Information Exchange Division must contact other divisions of the SRS not later than 10 working days from the date of their receipt (Chapters 6 and 9 of Internal Rules No. 6), which must reply within one calendar month of receipt of the request (Chapter 13 of Internal Rules No. 6). In practice, however, Latvia explained that this is only done in complex cases (for example, when it is necessary to retrieve declarations and other accounting documentations). In practice, in complex cases, the Direct Tax Unit of the International Information Exchange Division sends an internal request for information to the Information Preparation Division

of the SRS regarding legal persons and to the Natural Persons Accounting Division of the SRS regarding natural persons. Only after internal resources are used, information is requested from the taxpayer or other information holder. The Latvia Competent Authority explained that whilst the practice has changed, the Internal Rules No. 6 are yet to be amended.

328. When information needs to be obtained from the taxpayers and other information holders, the requested information is obtained by the Competent Authority based on powers under Section 10(5) LSRS. The Competent Authority sends a letter under Section 10(5) LSRS and paragraph 17 of Regulation No. 1245 to the taxpayers or other information holders, such as credit institutions, requesting them to provide the described information. In accordance with the Internal Rules No. 6, the International Information Exchange Division shall request the necessary information from taxpayers in writing within 20 working days of receipt of the request (10 working days for credit institutions). The time limit is counted from the working day after the request is received. In practice, during the current review period, written requests to the taxpayers were made in 29 cases in 2019, in 26 cases in 2020, in 35 cases in 2021 and 7 cases in 2022. In most instances, the information was requested directly from the taxpayer itself and in three cases from insolvency administrators due to initiation of the company's insolvency process. In one case, the request was made to the Latvian Council of Sworn Notaries which is the representational and supervisory institution of sworn notaries. The time provided for response is 20 working days from taxpayers (10 working days from credit institutions), as set in Article 7 of the Internal Rules No. 6. During the peer review period, Latvia received and answered 306 requests for banking information and, as explained by the Latvian Competent Authority, in all cases this information was obtained from banks.

329. If the information cannot be obtained through a written request and requires an oral statement, the Competent Authority can ask the Client Service Department in the SRS to interview the respective person, based on Section 10(11) LSRS, although this was not required in practice during the review period in respect of any request.

330. In case information is needed from an other government body, the procedure on exchange of information upon request is being used and information from the other government authority shall be provided within one month from the date of receipt of SRS request, according to Section 5 of the Law on Submissions. Latvia did not make requests to other government bodies during the current review period.

Accessing legal and beneficial ownership information

331. To reply to an EOI request on legal and beneficial ownership information, the SRS first consults the enterprise register. The SRS has direct

access to the enterprise register which includes current and historical information on legal and beneficial owners. If the information is not in the enterprise register, the Competent Authority would use its powers of obtaining information from either the relevant entity or arrangement or a relevant AML-obliged person, if relevant. Representatives of AML-obliged persons met during the onsite visit confirmed that they would provide the relevant information when requested by the SRS (except for the cases covered by the attorney-client privilege which are considered below).

332. Furthermore, during the onsite visit, the Latvian Competent Authority observed that it would not be able to obtain the information on beneficial owners of bank accounts under the Credit Institutions Law (CIL). Whilst this deficiency is mitigated by the existence of the dedicated Account Register (which includes legal and beneficial ownership information on bank accounts held in Latvia after 2017), the Latvian Competent Authority took the view in one occasion during the current review period that it does not have explicit statutory powers to obtain the information on beneficial owners from banks directly (see further in paragraph 342). Subsequently, Latvia reported that the Ministry of Finance reviewed the legal framework and concluded that there are no legal obstacles to request beneficial ownership information directly from credit institutions, since this information is included in the account opening documents, which is mentioned in the CIL. However, this conclusion is not binding for credit institutions. On a plain reading of the CIL, it remains unclear whether beneficial ownership information is covered in full, or only the beneficial owners as identified at the point of opening the bank account.

Accessing banking information

333. Banking information requested for exchange of information purposes is obtained from banks by the Competent Authority using power under Section 10(5) LSRS. The CIL provides for conditions upon which the SRS can obtain banking information protected under bank secrecy rules and defines the information which can be provided.

334. If the information is requested pursuant to an international agreement which does not contain the exact post-2005 model wording specifically providing for exchange of information that is "foreseeably relevant" for carrying out provisions of the convention or to the administration or enforcement of domestic tax laws of the requesting party, Section 63(11) CIL applies. Under this section, (i) the information on the person who opened the bank account, (ii) the amount of interest and taxes paid for the money present in the relevant bank account and (iii) information or documents relating to a specific transaction in the account cannot be provided. The SRS must further submit to the bank specified information from the requesting jurisdiction in order to obtain the banking information. The information must

confirm (i) that the taxpayer concerned has not submitted tax declaration in the requesting jurisdiction as provided for under the laws of the requesting jurisdiction; (ii) that during a tax audit of the relevant taxpayer, violations of the regulatory enactments regarding accounting records or taxes have been detected; and (iii) that the relevant taxpayer does not make tax payments in accordance with the requirements of laws on taxes (s. 63(11) of the CIL).

335. The provision of banking information under treaties which do not contain language specifically referring to "foreseeable relevance" is subject to restrictions relating to conditions under which banking information can be provided and to the scope of the provided information which are not in line with the standard. Further, the requested jurisdiction should provide to the information holder only information which is necessary to obtain the requested information (see section B.2.1). Since most of the treaty partners with which Latvia concluded these treaties are covered by EU Council Directive 2011/16/EU or the Multilateral Convention, the wording of these DTCs is a concern in practice in respect of 5 jurisdictions out of Latvia's 152 EOI partners (see section C.1).

336. The competent authorities should have the power to obtain all information held by banks which is foreseeably relevant for carrying out the provisions of the international treaty or to the administration or enforcement of the domestic tax laws of the requesting jurisdiction. It is up to the requesting jurisdiction to decide which information to request for the purpose of EOI as provided for under the respective treaty. Therefore, the 2015 Report recommended that Latvia ensures that its competent authority has access powers in respect of all bank information, as requested by its EOI partners. Whilst acknowledging that the number of affected treaties that do not contain language specifically referring to "foreseeable relevance" has dropped from 16 to 5, as the domestic legal framework providing for access to banking information has not changed, the recommendation remains in place.

337. If the information is requested pursuant to the EOI instrument which contains the exact post-2005 model wording providing for exchange of information that is "foreseeably relevant" for carrying out provisions of the agreement or to the administration or enforcement of domestic tax laws of the requesting party, Section 63(11^1) CIL applies. This section was introduced into the CIL in 2013 and then amended in 2015. The first amendment inserted new paragraph 11^1 into Section 63 CIL, broadening access to banking information for requests under the EU Directive 2011/16/EU and EOI agreements containing post-2005 wording. The amendment came into force on 10 April 2013. Following this amendment, Section 63(11) CIL remains to be applied only in respect of EOI agreements which do not contain post-2005 wording. The second amendment came into force on 4 August 2015 and further broadens access to banking information under paragraph 11^1.

338. Under the amended Section 63(11[1]) CIL, the SRS can now obtain from the bank the following information:

- the number(s) of a bank account, including a closed bank account
- the name of the holder of the relevant bank account
- the person authorised to deal with the bank account
- the person who opened the bank account
- the opening balance and closing balance of the bank account during the reporting period
- the amount of interest and taxes paid for the money present in the relevant bank account for a specific period of time
- bank account statement for a specific period of time
- information or documents relating to a specific transaction in the account including copies of the payment orders, cash deposit slips, cheques (including cancelled cheques), loan contracts and of other documents certifying the transactions
- documents certifying opening of the accounts, including copies of the contract for opening the bank account, signature cards and of other documents obtained by a credit institution for customer identification purposes
- information regarding other accounts of the account holder in the bank during a specific period of time, as well as information regarding the payment card attached to the relevant accounts (the type, number and user thereof)
- information regarding attachment of the payment card to the bank account, and
- information listed above in respect of third persons' accounts if this information is foreseeably relevant or important for tax administration of a specific taxpayer or group of taxpayers (s. 63(11[1]) the CIL).

339. The amended paragraph 63(11[1]) CIL now explicitly requires banks to provide among others (i) banking information in respect of third persons' accounts and group of taxpayers, (ii) numbers of bank accounts (instead of confirmation of existence of a bank account of the identified persons) and (iii) copy of documentation kept in respect of individual transactions, as well as documentation related to opening of the account and CDD documentation. This amendment, in particular, now allows the competent authority of Latvia to obtain banking information on the basis of a group request, which would not appear possible under Section 63(11) CIL and correspondingly for

any requests based on the treaties which do not contain the exact post-2005 model wording of foreseeable relevance.

340. The 2015 Report observed that the amended Section 63(11[1]) CIL came into force shortly before the review and remained untested. Therefore, the Competent Authority was recommended to monitor its implementation, so that all banking information as requested by its EOI partners can be provided in line with the standard.

341. During the current peer review period, Latvia received 306 requests for banking information and requested this information directly from the relevant credit institution. The requested credit institution should provide the information requested within 14 calendar days of the receipt of the request (s. 63(3) CIL). The Latvian Competent Authority explained that in practice all requested information have been received in time and without delays. During the review period, banking requests were usually replied within 90 days (270 of 306 banking requests were replied within 1 month).

342. Latvia was not able to specify how many requests for banking information were received under Section 63(11) and Section 63(11[1]) respectively; however, it reported that:

- One request was declined due to the fact that the relevant treaty does not include the exact post-2005 model wording of foreseeable relevance and therefore the bank account information could only be requested by the Competent Authority under Section 63(11) CIL, which does not include the possibility of obtaining bank account information concerning the account holder who is not a resident of either Latvia or the requesting state (in this particular case, it was an entity of a third country).[47]
- One request was declined due to the fact that questions were out of the scope of Section 63(11[1]) CIL, as amended. The requesting jurisdiction asked Latvia to provide documents confirming the fact of issuing a Digi Pass to the taxpayer concerned and to clarify whether the taxpayer has had identification devices for the User of Remote Banking Services (an envelope containing the password for access to the Internet Banking server, an envelope with a PIN code for the Digi Pass device) and the number of Digi Pass of the specific bank account. According to the CIL, the Competent Authority could only ask about the persons using the means of remote management of the account and account opening documents.

47. Latvia further explained that according to Section 63(11) CIL, if the relevant international agreement does not provide for the provision of predictably important information or important information, the information on a specific taxpayer of the country requesting information can be provided.

- On one occasion, the Latvian Competent Authority did not request the information on beneficial owners of bank accounts as it concluded that this type of information is not covered under Section 63(11[1]) CIL and the information requested was not available in the Account Register (see paragraph 332).

343. During the current review period, Latvia responded to one request where the account holder was identified only through the account number by obtaining this information from the credit institution. No group requests have been received in practice; however, in view of the domestic law restrictions considered above, concerns are also raised in relation to Latvia's ability to process group requests where the information is held by a bank (see paragraphs 401 and 408).

344. To sum up, the provision of banking information under treaties which do not specifically provide for exchange of foreseeably relevant information is subject to restrictions which are not in line with the standard. Consequently, banking information cannot be exchanged in line with the standard with 5 out of Latvia's 152 EOI partners. While the amended Section 63(11[1]) CIL improved access to banking information under EOI instruments which provide for exchange of foreseeably relevant information, the legal framework of Latvia still does not allow for access to all banking information fully in line with the standard. **Latvia is recommended to ensure that its competent authority has access powers in respect of all banking information requested by all its EOI partners in line with the international standard**.

B.1.2. Accounting records

345. The access to accounting records follows the same general process as described in paragraph 323 et seq. Accordingly, the Latvian Competent Authority first consults its internal databases, containing corporate income tax returns, annual reports, information on employees – salaries, taxes paid and other documentation. If the requested accounting information is not there, the Latvian Competent Authority requests the information from the relevant entity or arrangement, its legal representative or its accountant, which typically involves agreements, invoices, payment approval documents and other documents. In practice, the taxpayers and other information holders have been co-operative, so no other measures have been necessary to obtain the information (see however paragraph 353 et seq.).

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

346. Section 17 of Regulation No. 1245 states that if the competent authority of an EU Member State, or the competent authority of a state[48] with which Latvia has entered into an international agreement, requests information according to the relevant EOI instrument, the SRS shall take the necessary measures in order to obtain the information referred to in the request.

347. International agreement is defined as one that has been ratified by the Parliament (s. 1 Regulation No. 1245). According to Section 20 of the Regulation No. 1245, the SRS shall obtain the requested information according to the procedures by which it would be obtained upon acting on its own behalf or upon the request of another institution of the Republic of Latvia in relation to a taxpayer of Latvia. Based on these provisions, a request made under an EOI agreement pertaining to a foreign tax matter is thus treated as a Latvian tax matter and is fulfilled using all the domestic tax information gathering powers available in Latvia, regardless of whether Latvia needs the information for its own domestic tax purposes.

348. A tax period is considered closed generally three years after its end. Although the tax period is closed for Latvian tax purposes (i.e. tax in Latvia cannot be levied), the SRS can exercise its information gathering powers to provide the requested information which is already at its disposal or to obtain it from the taxpayer or third parties. The Latvian Competent Authority confirmed that in practice during the peer review period many requests have been received where a relevant period was older than three years and this fact did not preclude the Competent Authority from obtaining the necessary information from the databases, taxpayers or other information holders.

349. Latvia was not able to specify the number of requests received over the period under review which related to a person with no nexus with Latvia for tax purposes. However, the Latvian Competent Authority explained that Latvia, for instance, received many requests where the requesting jurisdiction asked for information on bank accounts of entities from other jurisdictions and thus the information was gathered in the absence of domestic interest. No issues have been reported by peers.

48. The Latvia authorities have confirmed that dependencies and territories are also covered by the term “state”, and the SRS would take the necessary measures in order to obtain the information referred to in the request made by “dependencies and territories”.

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

350. There are administrative and criminal sanctions available to the SRS in case of non-compliance with an obligation to provide the requested information. In addition to summoning the taxpayer, the SRS can exercise search and seizure powers.

351. In the case of failure to provide the necessary requested information, inadequate provision of information, or provision of false information to the enterprise register or SRS, a warning or a fine of up to EUR 700 can be imposed on a natural person or a board member with or without deprivation of the board member's right to hold specific offices in commercial companies for a period up to three years (s. 3 of the Law on Administrative Penalties for Offences in the Field of Administration, Public Order, and Use of the Official Language).

352. As further detailed in paragraph 324 above, the SRS can visit premises where economic activities are performed, or which are related to obtaining of revenues for other legal or natural persons, can perform control measures (such as an audit) therein and take other measures to secure the access to information (s. 10 LSRS).

353. In practice, compulsory measures are rarely used for exchange of information purposes. The requested information is in majority of cases requested by the Competent Authority based on Section 10(5) LSRS (see paragraph 328). If the taxpayer fails to provide the information requested, the International Information Exchange Division informs the competent division of the SRS (the Obligations Enforcement Unit) dealing with unfulfilled obligations and they make a decision on the infringement process in accordance with the Law on Administrative Penalties for Offences in the Field of Administration, Public Order, and Use of the Official Language.

354. The Latvian Competent Authority confirmed that this mechanism has been used in practice. During the peer review period there have been nine cases where the Latvian Competent Authority informed the competent division for non-co-operation regarding a request for information. After that, the information was received from taxpayers in four cases. In three cases, a fine was imposed for not providing information. In two cases, the administrative process was not initiated. Latvia did not keep records of reasons why the administrative process was not initiated in these two cases. The Latvian authorities have acknowledged the issue of practical implementation of the standard and will review the internal rules regarding information gathering powers, including thematic inspections, tax audits and compulsory measures, in order to obtain information requested for exchange of information purposes effectively in all cases.

355. In cases where the only way of obtaining the information is to visit the taxpayer at the place of business (for example, to ascertain material engineering resources, the receipt of the service for the establishment of long-term investments), the Competent Authority approaches the Tax Compliance Incentive Department (prior to 2020, the Tax Control Department), as prescribed by Chapter 9.2 of Internal Rules No. 6. The EOIR team is not authorised to compel the Tax Compliance Incentive Department to open a tax audit or thematic inspections. The Tax Compliance Incentive Department, by receiving information, decides whether a thematic inspection is necessary. It should reply within two calendar months (Chapter 13 of Internal Rules No. 6). During the current peer review period, the Tax Compliance Incentive Department has carried out control measures in relation to three requests. The requested information included ownership information (both legal and beneficial), accounting documents and banking information. The Latvian Competent Authority further explained that it was not necessary to apply the restrictive measures of economic activity provided for in the administrative process or to start the administrative violation process for non-co-operation regarding the taxpayers concerned in those three requests. The taxpayers co-operated with the SRS officials and provided the necessary information to fulfil the EOI request.

356. The 2015 Report observed that tax audits were rarely performed solely for the purpose of exchange of information, although in a few cases incomplete responses were obtained using power under Section 10(5) LSRS. The 2015 Report also found that requests for information where no domestic tax was at stake were not adequately prioritised and therefore obtaining information for exchange of information purposes where more complex information or efforts were needed could be delayed. Inadequate prioritisation of exchange of information by the Tax Control Department appeared to have also negative impact on the use of compulsory measures. This conclusion was built upon one specific case (out of 531 requests) where the taxpayer was fined with EUR 300, but no further action was taken to verify availability of the information. The 2015 Report concluded that the Tax Control Department appeared to be hesitant to use its information gathering powers (including search and seizure powers) if the information is not relevant for domestic taxes. Whilst this approach had only limited negative impact on exchange of information practice – as in most cases the requested information was provided by the information holder upon request by the Competent Authority – the hesitation as to the use of all information gathering powers, including tax audit and search and seizure power, could potentially limit effective exchange of information if the holder of the information refuses to co-operate or otherwise denies to provide the requested information. It was therefore recommended that Latvia monitors use of its access and compulsory powers so that the requested information is effectively obtained in all cases.

357. To sum up, during the current review period, the requested information was obtained through thematic inspections carried out by the Tax Control Department in three cases (see paragraph 355). Further, there have been nine cases where the taxpayer failed to provide the information requested and the Latvian Competent Authority informed the competent division for non-co-operation regarding a request for information (see paragraph 354). Subsequently, the information was received in four cases. In three cases, a fine was imposed and, in two cases, the administrative process was not initiated. As no further action was taken to verify availability of the information in these five cases, the recommendation remains in place. Accordingly, although the requested information was in the vast majority of cases obtained directly by the Latvian Competent Authority, the tax authority appears hesitant to use all its information gathering powers, including thematic inspections and compulsory measures, in order to obtain information requested for exchange of information purposes. **Latvia is recommended to monitor use of its access and compulsory powers so that the requested information is effectively obtained in all cases**.

B.1.5. Secrecy provisions

358. 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

359. Latvian law provides for bank secrecy in respect of the identity, accounts, deposits and transactions of banks' clients (s. 61 CIL). The protected information can be provided to such persons themselves, to their lawful representatives, other persons upon consent of the client or state authorities based on authorisation by law (s. 62 CIL).

360. The CIL provides such authorisation to the SRS. Bank information regarding customers and their transactions can be submitted by a bank to the tax administration without the client's consent upon the written request of the SRS under the conditions laid down by the law. Such information is restricted to items specified in the CIL (see section B.1.1).

361. In practice, the Competent Authority obtains the requested banking information when conditions of Section 63(11) or Section 63(11[1]) of the CIL are fulfilled. As described in section B.1.1, these conditions did not allow exchange of banking information fully in line with the standard during the period under review. As a consequence, Latvia did not provide the requested banking information in three cases out of 306 requests for banking information received during the reviewed period (see paragraph 342).

Professional secrecy

362. Information obtained in connection with providing qualified legal services is protected under the Advocacy Law. Section 67 of the Advocacy Law stipulates that a sworn advocate may not divulge the secrets of his or her authorising person not only while conducting the case, but also after being relieved from the conducting of the case or after the completion of the case. The advocate must also ensure that these requirements are also observed in the work of his or her staff.

363. Further, under Article 6 of the Advocacy Law, state authorities (including the tax administration) must guarantee the independence of advocates. It is prohibited to request information or explanations from advocates, as well as to interrogate them as witnesses regarding the facts which have become known to them in providing legal assistance. It is also prohibited to monitor their correspondence or documents which advocates have received or prepared in providing legal assistance, to examine or confiscate them, as well as to execute a search in order to find and confiscate such correspondence and documents. However, an unlawful action of an advocate in the interests of a client or promotion of such unlawful action to a client should not be recognised as provision of such legal assistance and therefore information obtained by an advocate in such a case would not be protected. A court decision is necessary to prove that the advocate's actions were unlawful. The Latvian authorities indicated that only a few such cases have been initiated and it is difficult to prove such behaviour in practice.

364. Advocates have an obligation to report unusual or suspicious transactions to the AML supervisory authority (s. 30(1) PMLA). However, there is an exemption from the reporting obligation in the case of advocates defending their customers in pre-trial criminal proceedings or judicial proceedings, or in the case of providing advice for avoiding judicial proceedings (s. 30(3) PMLA). The representatives of industry were uncertain as to whether they are obliged to report the reporting of a discrepancy in relation to beneficial ownership information to the Enterprise Registrar.

365. The attorney client privilege contained in the Latvian law is very broad and goes beyond the limits of the international standard. The international standard allows protection of confidential communication between a client and his/her admitted legal representative for the purpose of providing legal advice or for the purposes of existing or contemplated legal proceedings. This means that the protected information (i) should not be meant to be disclosed to any third persons, (ii) the information must have been obtained by the legal representative only when acting as a legal representative (and not in his/her other capacity such as a nominee shareholder, a trustee, a settlor, a company director or under a power of attorney to represent the company in its business affairs) and (iii) the protected information does not include purely

factual information such as on the identity of a director or beneficial owner of a company. As Latvian law protects all information obtained by the legal representative in connection with providing legal services without appropriate restrictions, the 2015 Report recommended that **Latvia is recommended to ensure that the scope of attorney-client privilege in its domestic law is consistent with the international standard**.

366. In practice, the Competent Authority requests information from the taxpayer who is obliged to provide the requested information. Accordingly, there was no case when the information needed to be requested from an advocate or other legal professional not acting on behalf of his/her client under the power of attorney and there was accordingly no case when a person refused to provide the information requested because of professional privilege. It is however common that the information is received from advocates, tax advisors or other legal professionals acting on behalf of their clients as their legal representatives. Therefore, it appears that the identified legal gap had limited impact on exchange of information practice during the reviewed period. However, considering the broad protection of information, it remains a concern for practical exchange of information.

367. Accordingly, although there was no case during the current review period where the requested information needed to be obtained from an advocate or other legal professional not acting on behalf of his/her client under the power of attorney, Latvia did not address the deficiency in its legal framework and therefore the recommendation remains in place.

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.

368. The 2015 Report determined that Latvia has a legal and regulatory framework in place in relation to the notification requirements and Latvia was rated Compliant with this element of the standard. This remains the case.

369. The conclusions are as follows:

Legal and Regulatory Framework: in place

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

Practical Implementation of the Standard: Compliant

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

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

Notification

370. Latvia's domestic legislation does not require prior notification. At the time of the 2015 Report, the SRS was required to notify the taxpayer concurrently with providing the requested information to the requesting competent authority (s. 22(4) LTF). If there was a reason to believe that such notification could hinder assessment or payment of taxes in Latvia or in the requesting jurisdiction, the notification could be delayed for up to 90 days after transmitting the requested information (s. 22(4) LTF). Although that legal regulation had limited impact on exchange of information practice, at that time, Latvia was considering a legal amendment which would abolish obligation to notify the taxpayer completely. The 2015 Report contained an in-text recommendation that Latvia proceed with the legal amendment which would abolish obligation to notify the taxpayer and align its legal regulation and practice in a way which is in accordance with the standard.

371. Latvia amended the LTF on 16 November 2017 to exclude Section 22(4) that required the notification of the taxpayer concurrently with providing the requested information to the requesting competent authority. No notification has been provided in practice during the current review period. The in-text recommendation is thus removed.

372. The taxpayer or other information holder (e.g. legal representative) is implicitly informed of the EOI purpose of the notice for information by reference to paragraph 17 of Regulation No. 1245 (paragraph 328). The Latvian Competent Authority confirmed that while obtaining information from the taxpayer itself, it always checks with the treaty partner in cases where that is the only way to obtain information and the partner jurisdiction had indicated that the taxpayer should not be informed. In the letter to the bank, the SRS details information requested and the legal basis for such request (i.e. the treaty under which the information is requested and reference to the domestic law), which discloses the EOI purpose. Latvia has an anti-tipping off provision in the AML and banking laws. Although it applies to the Financial Intelligence Unit of Latvia and some other instances and does not explicitly prevent the information holder from informing its customer or partner of the existence of an EOI request, the Latvian authorities indicated that in practice there is no culture of tipping off clients in Latvia and the

SRS has not received any information or indication that information holders may have informed their client on the EOI request. Further, the practice of checking with the treaty partner in cases where contacting the taxpayer is the only way of obtaining information and where the partner jurisdiction had indicated that the taxpayer should not be informed, limits the risk for exchange of information.

Appeal rights

373. The taxpayer has no right to appeal the provision of information to the requesting competent authority. Accordingly, no appeal has been encountered in respect of EOI practice during the period under review.

Other rights and safeguards

374. The Latvian regulatory framework does not provide clear rules detailing what information should be provided by the SRS to a person holding the information requested for EOI purposes. The requested information is gathered in the same way as in domestic cases, e.g. the SRS must instruct the holder of the information on the taxation period and items to be audited and inform him/her on which legal basis the information is requested (s. 18(10) LTF). However, it is not clear from the law whether this includes only reference to the domestic law providing for the information gathering power or reference to a specific treaty or some further information is required. The legal regulation is also not clear on what information received from the requesting jurisdiction should be provided to the holder while giving him/her the necessary information to obtain the requested information. Since the legal regulation is unclear, the 2015 Report included an in-text recommendation that this issue should be monitored by Latvia to ensure that no further information than indicated is provided to the holder of the information in all cases. As no changes have been reported by Latvia in the regulatory framework and in practice such letters, in some instances, may disclose the requesting jurisdiction (see further paragraph 433), the in-text recommendation remains in place (see Annex 1).

Part C: Exchange of information

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

376. At present, Latvia's EOI network comprises 152 EOI partners of which 146 jurisdictions through the Multilateral Convention on Mutual Administrative Assistance in Tax Matters (the Multilateral Convention), 64 double tax treaties (DTCs), 2 Tax Information Exchange Agreements (TIEAs) and the EU Council Directive 2011/16/EU on Administrative Co-operation in the Field of Taxation (EU Directive 2011/16/EU) (see Annex 2).

377. The 2015 Report rated Latvia as "Largely Compliant" with this element of the standard since, as a result of domestic law limitations with respect to access to banking information, Latvia did not have EOI relationships in force providing for effective exchange of banking information to the standard where the relevant treaties did not contain the exact post-2005 model wording of foreseeable relevance (sub-Element C.1.3). The number of affected EOI relationships has now decreased from 16 of 99 Latvia's EOI partners to 5 out of 152 (i.e. Belarus, Kyrgyzstan, Tajikistan, Turkmenistan, Uzbekistan), as most of the treaty partners with which Latvia concluded the treaties which do not contain the exact post-2005 model wording of foreseeable relevance are now covered by the Multilateral Convention. However, the deficiency has not been fully eliminated and the recommendation remains in place. Further, exchange of banking information under those treaties which contain post-2005 model wording is subject to Section 63(11[1])

of the Credit Institutions Law (CIL), as amended in 2015. The 2015 Report concluded that since that amendment had come into force only recently, it remained to be tested in practice and Latvia was given an in-text recommendation to monitor its implementation. As confirmed by practice during the current review period (see section B.1), the 2015 amendment has not removed all the impediments for effective exchange of information. Therefore, Latvia is recommended to address this issue.

378. The Latvian law requires that the identity of the person under inspection is provided by the requesting jurisdiction. The 2023 amendment of Regulation No. 1245 specified that the person concerned in the request for information may be identified by name or otherwise; however, this amendment applies only to the exchange of information with the competent authorities of other Member States of the European Union (EU). This raises doubts as to whether Latvia will be in a position to answer group requests from non-EU jurisdictions in line with the standard. Accordingly, Latvia is recommended to ensure that its domestic legislation allows it to exchange information in accordance with the standard in relation to group requests under all of its EOIR mechanisms.

379. All of Latvia's EOI agreements are in force, including the Multilateral Convention and six new DTCs which have been signed after the 2015 Report (Cyprus,[49] Hong Kong (China), Japan, Kosovo,[50] Saudi Arabia and Viet Nam). Two protocols, amending the DTCs with Singapore and Switzerland, have also come into force. Since the 2015 Report, the Multilateral Convention has entered into force in respect of new jurisdictions (see Annex 2).

380. The Multilateral Convention covers the vast majority of the EOIR network of Latvia (146 jurisdictions or 96% of the exchange partners), and the instrument is in accordance with the standard. With respect to the bilateral EOIR relationships not supplemented by the Multilateral Convention, under five DTCs which do not contain the exact post-2005 model wording of foreseeable

49. 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.

50. This designation is without prejudice to positions on status, and is in line with United Nations Security Council Resolution 1244/99 and the Advisory Opinion of the International Court of Justice on Kosovo's declaration of independence.

relevance (i.e. Belarus, Kyrgyzstan, Tajikistan, Turkmenistan, Uzbekistan) access to bank information is restricted as identified above. Latvia commenced negotiations in 2021 to amend four out of five DTCs affected but these has not been completed yet. Since the previous review period, Latvia can exchange information with two new jurisdictions with which the Multilateral Convention is not in force. The DTCs with Kosovo and Viet Nam meet the standard.

381. In practice, as a general rule, Latvia interprets and applies the Multilateral Convention in accordance with its Commentaries, and its DTCs in accordance with the Commentary on Article 26 of the OECD Model Tax Convention on Income and Capital.

382. Overall, Element C.1 is determined in place but certain aspects of the legal implementation of the element need improvement and the rating remains Largely Compliant.

383. The conclusions are as follows:

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

Deficiencies identified/Underlying factor	Recommendations
The Latvian law requires that the identity of the person under inspection is provided by the requesting jurisdiction. The 2023 amendment of Regulation No. 1245 specified that the person concerned in the request for information may be identified by name or otherwise; however, this amendment applies only to the exchange of information with the competent authorities of other Member States of the European Union (EU). This raises doubts as to whether Latvia will be a position to answer group requests from non-EU jurisdictions in line with the standard.	Latvia is recommended to ensure that its domestic legislation allows it to exchange information in accordance with the standard in relation to group requests under all of its EOIR mechanisms.
Exchange of banking information under those treaties which do not contain the post-2005 model wording of foreseeable relevance is restricted by Section 63(11) of the Credit Institutions Law. As a result, Latvia does not have EOI relations in force providing for effective exchange of banking information to the standard with 5 out of Latvia's 152 EOI partners. Further, exchange of banking information under those treaties which contain post-2005 model wording is subject to Section 63(11^1) of the Credit Institutions Law, as amended in 2015. As confirmed by practice during the current review period, the 2015 amendment has not removed all the impediments for effective exchange of information. In view of these restrictions, concerns are also raised in relation to Latvia's ability to process group requests where the information is held by a bank.	Latvia is recommended to ensure that all its EOI relations provide for exchange of information to the standard and that its domestic law allows it to exchange all banking information in line with the standard.

Practical Implementation of the Standard: Largely Compliant

No issues have been identified on the implementation in practice of the EOIR instruments. However, once the recommendations on the legal framework are addressed, Latvia should ensure that they are applied and enforced in practice.

Other forms of exchange of information

384. Besides EOIR, Latvia participates in Automatic Exchange of Financial Account Information (Common Reporting Standard, CRS); in Automatic Exchange of Country-by-Country Reports (CbCR) in line with the OECD/G20 Base Erosion and Profit Shifting (BEPS) Action 13; in the Mandatory Disclosure Rules for CRS Avoidance Arrangements and Opaque Offshore Structures; in the Spontaneous Exchange of Information of tax rulings within the framework of BEPS Action 5; spontaneous exchange of information and in other forms of international co-operation for tax purposes, such as the service of documents and joint audits.

C.1.1. Standard of foreseeable relevance

385. The 2015 Report concluded that all but one of Latvia's DTCs provide for exchange of information that is "foreseeably relevant", "necessary" or "relevant" to the administration and enforcement of the domestic laws of the contracting parties concerning taxes covered in the DTCs. This scope is set out in the EOI Article in the relevant DTCs and is consistent with the standard.

386. The 2015 Report further acknowledged that Latvia's DTC with Switzerland signed in 2002 allowed exchange of information only to the extent that it relates to the application of the treaty and therefore did not meet the standard of "foreseeable relevance". However, the wording of this DTC was not a concern in practice upon ratification of the Multilateral Convention by Switzerland. Further, since then, Latvia and Switzerland signed a protocol of amendment to their DTC, which brought it in line with the standard. It entered into force on 3 September 2018. Accordingly, all of Latvia's DTCs provide for exchange of information that is "foreseeably relevant", "necessary" or "relevant" to the administration and enforcement of the domestic laws of the contracting parties concerning taxes covered in the DTCs, including those concluded after the 2015 Report (Cyprus, Hong Kong (China), Japan, Kosovo, Saudi Arabia and Viet Nam).

387. Under the TIEAs with Guernsey and Jersey the requested party is under no obligation "to provide information which is neither held by the authorities nor in the possession of nor obtainable by persons who are within its territorial jurisdiction". Thus, it uses the words "obtainable by"

instead of the expression “in control of” used in Article 2 of the OECD Model TIEA. This deviation is not considered to be inconsistent with the standard.

388. The TIEA with Jersey includes a provision which varies from Article 5(5)(g) of the OECD Model TIEA. The provision allows the competent authority of the requesting party to make a request only when it is unable to obtain the requested information by other means, except where recourse to such means would give rise to disproportionate difficulty. As no exchange of information requests had been sent under the TIEA at the time of the 2015 Report to verify its application in practice, an in-text recommendation was issued that Latvia monitors its implementation. No requests have been sent or received from Jersey since the last peer review report; however, since the EOI relationships are covered by the Multilateral Convention, the in-text recommendation is removed.

389. The Multilateral Convention and the EU Directive 2011/16/EU provide for exchange of information in line with the foreseeable relevance criteria.

390. Overall, Latvia’s EOI instruments meet the standard of “foreseeably relevant”, as described in the Commentary to Article 26 of the OECD Model Tax Convention and the Commentary to the OECD Model TIEA. However, the wording of treaties which do not specifically provide for exchange of “foreseeably relevant” information triggers a restriction on access to banking information (see section C.1.3 below).

391. Section 18 of Regulation No. 1245 describes the information to be included in a request to demonstrate foreseeable relevance:

- the identity of the person under inspection
- the period for which the information is requested
- the nature of the information requested and the form in which the competent authority would prefer to receive it
- the tax to be paid for determination of which the information is sought
- the reasons for believing that the information requested is foreseeably relevant to administration and enforcement of tax laws of the requesting party
- the grounds for believing that the information requested is present or held in the requested party or is in the possession of or obtainable from a person within the jurisdiction of the requested party
- to the extent known, identification of the person who is believed to be in possession of, or able to obtain, the requested information, and
- a statement that the requesting party has pursued all means available thereto to obtain the information, except those that would give rise to disproportionate difficulty to the requesting party.

392. No supporting documentation is required. Further, under Section 19 of Regulation No. 1245, if the required information indicated above is not included in the request, the competent authority cannot accept the request and must inform the requesting party of the reasons. The Latvian authorities explained that, in practice, if the required information is not provided, the competent authority will usually contact the requesting jurisdiction by means available (in order to speed-up the process via e-mail if possible) before refusing the request and inform them on missing information and clarification sought.

393. Whilst the requirements of Section 18 of Regulation No. 1245 are in principle in line with the standard, the rigorous interpretation of this section (e.g. in respect of identification of the person under inspection or reasons required for believing that the information requested is foreseeably relevant) in combination with an obligation to refuse any request which does not contain the required information, may limit effective exchange of information.

394. The Latvian authorities explained that the statutory requirements are interpreted in line with Article 5(5) of the Model TIEA. In particular, the Latvian authorities specified that Regulation No. 1245 would not require Latvia to decline a request that does not identify the person under inspection through the name and address but nonetheless contains sufficient information to identify the taxpayer. In practice, during the current review period, Latvia responded to one request where the account holder was identified only through the bank account number (see paragraph 343).

395. In practice, Latvia declined two requests for information during the period under review on the basis that the requested information was not foreseeably relevant:

- One request was declined because it did not satisfy Regulation No. 1245 in that it contained no specific indication of connection to Latvia (e.g. there were no grounds for believing that the information requested is present or held in the receiving state or is in the possession of, or obtainable from a person within the jurisdiction of the laws and regulation of the state which received the request). No additional information was requested by Latvia as the requesting jurisdiction indicated in its initial request that it cannot provide further information as to the foreseeable relevance.
- In another case, the request did not meet the requirements of Regulation No. 1245 in that it did not contain the identity of the person under inspection; the reasons for believing that the information requested is foreseeably relevant, relevant or necessary to tax administration; and identification of the particular person (for a natural person – given name, surname, personal identity number, for a legal person – taxpayer name and registration code) (to the extent known)

who is believed to be in possession of, or able to obtain, the information requested. Latvia wrote a request for additional information but did not receive it.

Clarifications and foreseeable relevance in practice

396. Requests for clarification were sought in 18 out of 572 requests received during the period under review (3% of all incoming requests). The Latvian authorities explained that there were several reasons for seeking such clarifications, including insufficient background information or incorrect details. In 15 of these cases, sufficient clarifications were provided by the requesting jurisdictions and therefore the Latvian Competent Authority provided the requested information. In three cases, no clarification was provided by the requesting jurisdiction and therefore the Latvian Competent Authority considered the cases as closed. Latvia explained that the usual procedure involves writing to the requesting jurisdiction (usually by e-mail), if necessary, with an official letter and requesting clarification or additional background information. If no information is received, Latvia considers the case as closed; however, no specific period is set as to when the case is closed and whether the closure takes place after a friendly reminder. In some instances during the current review period, the processing of clarifications delayed the provision of information.

397. No issue in respect of Latvia's interpretation of the criteria of foreseeable relevance was indicated by peers. In view of the above, it is concluded that Latvia interprets this criterion in line with the standard.

Group requests

398. All EOI mechanisms of Latvia contain a wording compatible with group requests and the Latvian authorities explained that those EOI mechanisms are interpreted to allow for group requests. However, Section 18 of Regulation No. 1245 requires that the identity of the person under inspection is provided by the requesting jurisdiction. Section 15[1], was introduced into Regulation No. 1245 on 17 January 2023, to specify that "information shall be of foreseeable relevance to the exchange of information with the competent authorities of other Member States of the European Union if the competent authority of the requesting member considers at the time of the request that under its law there is a reasonable possibility that the information requested will relate to the tax affairs of one or more taxpayers (whether identified by name or otherwise) and will be relevant for the purpose of carrying out tax administration activities". There is no similar provision applicable in relation to other foreign competent authorities. This raises concerns that group requests received from non-EU Member States may not be processed in accordance with the standard as, on the rigorous

interpretation of Section 18 of Regulation No. 1245, the identity of the person under inspection is not provided and, under Section 19 of the same act, if the request does not contain the information required by Section 18, the competent authority "shall refuse to provide the information".

399. There are no further domestic rules or practices in Latvia that would prescribe what information must be specifically included in a group request and how to process them. The Latvian Competent Authority explained that group requests will be processed as any other request received and, if any information required by Section 18 of Regulation No. 1245 is missing, clarifications will be sought from the requesting jurisdiction. Whilst in the event of conflict a ratified international treaty will prevail over domestic law (s. 13 of the Law on International Agreements of the Republic of Latvia), no group request has yet been received to confirm that the information will be provided in practice.

400. To conclude, the Latvian law requires that the identity of the person under inspection is provided by the requesting jurisdiction. The 2023 amendment of Regulation No. 1245 specified that the person concerned in the request for information may be identified by name or otherwise; however, this amendment applies only to the exchange of information with the competent authorities of other Member States of the European Union. This raises doubts as to whether Latvia will be a position to answer group requests from non-EU jurisdictions in line with the standard. **Latvia is recommended to ensure that its domestic legislation allows it to exchange information in accordance with the standard in relation to group requests under all of its EOIR mechanisms**.

401. As further covered in sub-section C.1.3, given the requirements set by Section 63(1) CIL, responding to a group request with respect to the treaties which do not contain the exact post-2005 model wording of foreseeable relevance does not appear possible where the information is held by a bank. Further, in relation to those treaties which contain post-2005 model wording, it is not clear how group requests will be processed in practice under Section 63(11[1]) CIL which stipulates which type of information can be obtained from a bank.

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

402. The 2015 Report identified that three of Latvia's DTCs do not explicitly provide that the EOI provision is not restricted by Article 1 (Persons Covered).[51] Protocols amending the DTCs with Singapore and Switzerland have been signed and both entered into force on 3 September 2018. Latvia

51. These are the DTCs with Germany, Singapore and Switzerland.

has further advised that it interprets the EOI provision to allow exchange of information with respect to all persons. In any event, these three EOIR relationships meet the standard through the application of the Multilateral Convention.

403. In respect of the TIEAs signed by Latvia, they contain a provision concerning jurisdictional scope which is equivalent to Article 2 of the OECD Model TIEA. The Multilateral Convention and the EU Directive 2011/16/EU provide for exchange of information in respect of all persons.

404. Latvia explained that during the current review period it has received many requests for bank account information in respect of persons who were neither resident in the requesting jurisdiction, nor in requested jurisdictions, and this information was obtained from the banks under Section 63(11[1]) CIL. However, this type of request could not be processed for the treaty which does not include the exact post-2005 model wording of foreseeable relevance (see paragraph 408), as happened on one occasion during the current review period (see paragraph 342). No further issues restricting exchange of information in this respect has been experienced by Latvian authorities or by peers.

C.1.3. Obligation to exchange all types of information

405. Both TIEAs and the Multilateral Convention concluded by Latvia contain a provision similar to Article 5(4) of the OECD Model TIEA, which ensures that the requested jurisdiction shall not decline to supply the information requested solely because it is held by a financial institution, nominee or person acting in an agency or a fiduciary capacity, or because it relates to ownership interests in a person.

406. In the current review period, out of Latvia's 64 DTCs:

- 13 DTCs contain language akin to the Article 26(5) of the OECD Model Tax Convention providing for the obligations of the contracting parties to exchange information held by financial institutions, nominees, agents and ownership and identity information[52]
- Latvia's other 51 DTCs do not contain language akin to Article 26(5) of the OECD Model DTC.
- There is no DTC signed by Latvia which prohibits exchange of information held by banks, nominees or persons acting in an agency or fiduciary capacity or because the information relates to an ownership interest.

52. The DTCs with China, Cyprus, Hong Kong (China), India, Japan, Kosovo, Mexico, Qatar, Saudi Arabia, Singapore, Switzerland, the United States, and Viet Nam.

407. For those DTCs that do not contain language akin to Article 26(5) of the OECD Model Tax Convention, the absence of this language does not automatically create restrictions on exchange of bank information. The commentary to Article 26(5) indicates that while paragraph 5, added to the OECD Model Tax Convention in 2005, represents a change in the structure of the Article, it should not be interpreted as suggesting that the previous version of the Article did not authorise the exchange of such information.

408. As detailed previously in section B.1 of this report, there are limitations in Latvia's domestic law with respect to access to banking information, which limit effective exchange of information. Exchange of banking information under those treaties which do not contain the post-2005 model wording of foreseeable relevance is restricted by Section 63(11) CIL. As a result, Latvia does not have an EOI relationship providing for effective exchange of banking information in force with 5 of Latvia's EOI partners.[53] Latvia explained that the identified gap represents a small group of Latvia's EOI partners and in relation to all but one of these DTCs (Belarus), a respective procedure to negotiate amendments to the DTCs have started in 2021 but has not been completed yet. Whilst recognising that the share of affected EOI relationship has dropped from 16% (16 out of 99 of Latvia's EOI partners)[54] to 3% (5 out of 152 of Latvia's EOI partners) since the 2015 Report, the deficiency has not been fully eliminated and the recommendation that Latvia brings all its EOI relationships into line with the standard remains. Further, exchange of banking information under those treaties which contain post-2005 model wording is subject to Section 63(11^1) CIL, as amended in 2015. The 2015 Report concluded that since that amendment came into force only recently, it remained to be tested in practice and Latvia was therefore recommended to monitor its implementation. As confirmed by practice during the current review period (see section B.1), the 2015 amendment has not removed all the impediments for effective exchange of information. In view of these restrictions, concerns are also raised in relation to Latvia's ability to process group requests where the information is held by a bank (see paragraph 401). Therefore, **Latvia is recommended to ensure that all its EOI relations provide for exchange of information to the standard and that its domestic law allows it to exchange all banking information in line with the standard**.

53. Belarus, Kyrgyzstan, Tajikistan, Turkmenistan, Uzbekistan.
54. Armenia, Belarus, Israel, Kuwait, Kyrgyzstan, North Macedonia, Morocco, Montenegro, Serbia, Singapore, Switzerland, Tajikistan, Turkmenistan, Turkey, United Arab Emirates and Uzbekistan.

C.1.4. Absence of domestic tax interest

409. The 2015 Report concluded that domestic tax restriction may be a concern in practice in respect of 14 jurisdictions[55] for which the DTCs did not contain paragraph 4 of Article 26 of the OECD Model Tax Convention and which were not covered by either EU Council Directive 2011/16/EU or the Multilateral Convention. Accordingly, the 2015 Report contained an in-text recommendation for Latvia to work with the EOI partners where domestic interest restrictions exist to remove these restrictions and bring these EOI relations to the standard.

410. The two new DTCs with Kosovo and Viet Nam contain a provision similar to paragraph 4 of Article 26 of the OECD Model Tax Convention. In the current review period, domestic tax restriction remains a concern in practice in respect of five jurisdictions.[56] Latvia explained that in practice it is able to use all its domestic information gathering measures for EOI purposes regardless of a domestic tax interest (see Section B.1.3). Latvia does not require reciprocity in respect of EOI partners who require a domestic tax interest for providing the requested information. The Competent Authority of Latvia was not able to provide the number of requests received over the current review period which related to a person with no nexus with Latvia for tax purposes. Latvia observed that it has commenced negotiations to amend four out of five DTCs affected, see paragraph 408 above, but no change has yet been made. Whilst no peer reported that this issue affected the effectiveness of exchanges in practice during the current review period, Latvia should continue working with the EOI partners where domestic interest restrictions exist to remove these restrictions and bring these EOI relations to the standard (see Annex 1), as recommended by the 2015 Report.

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

411. There are no limiting provisions in any of Latvia's EOI instruments which would indicate that there is a dual criminality principle to be applied and there has been no case where Latvia declined a request because of dual criminality requirement, as has been confirmed by peers.

412. Information exchange may be requested both for tax administration purposes and for tax prosecution purposes. The standard is not limited to information exchange in criminal tax matters but extends to information requested for tax administration purposes (also referred to as "civil tax matters").

55. Armenia, Belarus, Israel, Kuwait, Kyrgyzstan, North Macedonia, Montenegro, Morocco, Serbia, Singapore, Tajikistan, Turkey, Turkmenistan and Uzbekistan.
56. Belarus, Kyrgyzstan, Tajikistan, Turkmenistan, Uzbekistan.

413. All of Latvia's EOI instruments provide for exchange of information in both civil and criminal tax matters. Latvia does not require information from the requesting competent authority as to whether the requested information is sought for criminal or civil tax purposes and no peer input indicated any issue in this respect. The same procedures apply in respect of exchange of information for civil and criminal tax matters. Latvian authorities confirmed that Latvia will not require use of a specific instrument for exchange of information in criminal matters even if the requesting jurisdiction indicates that the information will be used in criminal tax proceedings.

C.1.7. Provide information in specific form requested

414. Latvia's EOI instruments allow for the provision of information in a specific form requested (including depositions of witnesses and production of authenticated copies of original documents) to the extent permitted under Latvia's domestic law and administrative practices. Only Latvia's DTC with the United States contains specific reference to the form of information, providing that if specifically requested by a treaty partner, the other partner shall provide information in the form of depositions of witnesses and authenticated copies of unedited original documents (including books, papers, statements, records, accounts and writings).

415. Peer input indicated that during the current review period Latvia did not always provide the requested information in the form required by the requesting jurisdiction to satisfy its legal requirements. One peer noted that certification/affidavits were not provided by Latvia, whereas these affidavits are necessary to introduce the documents as evidence in court as the file is related to criminal tax offences. Latvia should endeavour as far as possible to provide information in a specific form where a contracting party need it to satisfy its evidentiary or other legal requirements (see Annex 1).

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

416. To enter into force, EOI agreements must be ratified by the Latvian Parliament (ss. 8 and 10 of the Law on International Agreements of the Republic of Latvia). The draft agreement is signed upon approval of the Cabinet of Ministers. Upon signing the agreement together with supporting documentation and incorporating law is submitted to the Parliament for approval. The domestic ratification process is completed after the signed agreement is approved. The Ministry of Foreign Affairs subsequently informs the other party thereof.

417. All Latvia's EOI agreements including the Multilateral Convention are in force, including six new DTCs signed after the 2015 Report (Cyprus,

Hong Kong (China), Japan, Kosovo, Saudi Arabia and Viet Nam). Two protocols, amending the DTCs with Singapore and Switzerland, have also come into force. None of the EOI agreements took more than two years to be ratified and enter into force during the current review period.

418. For exchange of information to be effective, the contracting parties must enact any legislation necessary to comply with the terms of the agreement. As discussed in sub-section B.1 and subject to the identified deficiencies, Latvia has the legislative and regulatory framework in place to give effect to its agreements.

EOI mechanisms

Total EOI relationships, including bilateral and multilateral or regional mechanisms	152
In force	146
In line with the standard	141
Not in line with the standard	5[a]
Signed but not in force	6[b]
In line with the standard	6
Not in line with the standard	0
Total bilateral EOI relationships not supplemented with multilateral or regional mechanisms	6
In force	5
In line with the standard	1[c]
Not in line with the standard	5[d]
Signed but not in force	0

Notes: a. Belarus, Kyrgyzstan, Tajikistan, Turkmenistan, Uzbekistan.

b. The Multilateral Convention is not in force with Gabon, Honduras, Madagascar, Papua New Guinea, Philippines, Togo (the Multilateral Convention is also signed but not in force in the relationships with the United States and Viet Nam but DTCs in line with the standard are in force with the two partners).

c. Kosovo.

d. Belarus, Kyrgyzstan, Tajikistan, Turkmenistan, Uzbekistan.

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.

419. Latvia's EOI network covers all of its significant partners including its main trading partners, all OECD members and all G20 countries.

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

421. The conclusions are as follows:

Legal and Regulatory Framework: in place

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

Practical Implementation of the Standard: Compliant

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

C.3. Confidentiality

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

422. The 2015 Report acknowledged that information obtained from treaty partners, which may be relevant for assessment of domestic taxes, is uploaded to the tax database, whilst not being labelled to indicate that it has been obtained pursuant to the international treaty and should be used and disclosed only in accordance with it. As the domestic confidentiality rules allowed disclosure of information which goes beyond the standard (such as investigation of other than tax crimes), this could lead in certain cases to the use of information which is not authorised by the respective treaty and is not in line with the standard. Accordingly, the 2015 Report recommended that Latvia must take measures to ensure that the received information is treated in accordance with the respective treaty under which it was received.

423. As no changes have been made in marking the received information as obtained under an international treaty, the recommendation remains in place. Latvia is recommended to address this risk.

424. The conclusions are as follows:

Legal and Regulatory Framework: in place

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

Practical Implementation of the Standard: Largely Compliant

Deficiencies identified/ Underlying factor	Recommendations
The provisions of Latvia's exchange of information agreements override domestic confidentiality rules which allow disclosure of information that goes beyond the standard. However, as the received information from non-EU jurisdictions may not be clearly marked as obtained under an international treaty, concerns remain that in practice it may be used not in line with the standard.	Latvia is recommended to take measures to ensure that all information exchanged, including correspondence with other Competent Authorities, is treated in accordance with the respective treaty under which it was received, and to monitor the application of such measures.

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

425. All Latvia's EOI agreements have confidentiality provisions to ensure that the information exchanged will be disclosed only to persons authorised by the agreements. While a few of the articles in the Latvian DTCs might vary slightly in wording, these provisions contain all the essential aspects of Article 26(2) of the OECD Model Tax Convention. Both Latvia's TIEAs have confidentiality provisions modelled on Article 8 of the OECD Model TIEA. Confidentiality of the provided information in line with the standard is also provided for in Article 22 of the Multilateral Convention. As the provisions in Latvia's EOI agreements override any contradicting domestic legislation, Latvian authorities are required to keep confidential all information received as part of a request or as part of a response to a request regardless of any provisions in other laws.

426. Following the amendment through the protocol which entered into force on 3 September 2018, the DTC with Switzerland now provides for disclosure of information to authorities dealing with prosecution matters in respect of taxes covered by the DTC. The DTC with the Netherlands specifically allows for provision of the exchanged information to the arbitration board to carry out the mutual agreement procedure under the DTC; however, Latvia can exchange information with the Netherlands under EU Council Directive 2011/16/EU and the Multilateral Convention.

427. 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, Latvia reported that there were 34 requests where the requesting partner sought Latvia's consent to utilise the information for non-tax purposes and Latvia granted such permission in all cases. In seven cases, Latvia received permission to use the information for other purposes under EU Council Directive 2011/16/EU and the Multilateral Convention.

428. Under the Latvian tax law, a civil servant of the tax administration is prohibited from disclosing any information on the taxpayer, which the civil servant becomes aware of in the course of carrying out his/her statutory duties, without obtaining the taxpayer's consent (s. 22(1) LTF). Administrative and criminal sanctions apply if information is disclosed in breach of this law.[57] However, there are some exceptions. These exceptions cover information on the taxpayer's tax arrears that have arisen as a result of the tax review (audit) or data compliance audit or late payment of taxes, information on a natural person who carries on business and is not registered by the Enterprise Registrar and other instances envisaged by s. 22(1) LTF. Such information can be provided to the tax administration supervisory bodies such as Ministry of Finance for ensuring and controlling public revenues and monitoring programme of the state budget; to other tax administration offices for the performance of tax administration functions, including the competent authorities of other jurisdictions in accordance with the provisions of international agreements; to law enforcement agencies and courts for investigation and prosecution purposes; or to other public authorities for monitoring the performance of public administration functions and tasks laid down in special laws on the regulation of public services (s. 22(2) LTF). According to Section 22(6) LTF, these persons are also subject to the confidentiality requirements set out in Section 22 LTF.

429. The LTF permits disclosure of information obtained during the course of tax administration to parties which are not involved in the tax administration, prosecution in respect of taxes or the oversight of the above which goes beyond the use of information permitted under the international standard. However, the provisions of Latvia's EOI agreements ratified by the Parliament (Saeima) override domestic laws, meaning that the confidentiality provisions present therein have full legal effect in Latvia (s. 13 of the Law on International Agreements of the Republic of Latvia). This is further confirmed by Regulation No. 1245 which contains confidentiality rules mirroring Article 26(2) of the Model OECD Tax Convention (s. 36 Regulation No. 1245). Under Regulation No. 1245, information which the SRS receives

57. Ss. 36-38 State Civil Service Disciplinary Law, ss. 200 and 329 Criminal Law, s. 30 Liability of Public Officials and Other Persons of Law on Prevention of Conflict of Interest in Activities of Public Officials, and ss. 7 and 8 Law on Administrative Liability.

from the competent authority of another state is assigned the status of restricted access and it may only be disclosed to such persons or authorities (including courts and administrative institutions), which are involved in tax calculation, collection, bringing persons to legal liability, application of compulsory measures or adjudication of appeals in relation to taxes. Such persons or authorities shall use the information only for the referred-to purposes. The referred-to information may only be disclosed in an open court or court adjudications.

430. A taxpayer has a right to familiarise himself/herself with the reports on audit findings and documents on the audit file which relate to him/her, except for such information contained therein which is considered restricted pursuant to the law (s. 16(1)(4) LTF). The Law on Information Disclosure defines "restricted information" as information intended and specified for internal use by an institution (s. 5(2)). Such specification can be given by the author of the information or the head of an institution (s. 5(3)). Information received from foreign institutions or foreign persons (including EOI competent authorities) must be classified by the SRS as "restricted information".[58]

431. In practice, the Latvian Competent Authority reported that there was no case during the current review period where the EOI request or supporting documentation were disclosed to the taxpayer. No issues in this respect have been reported by Latvia's peers.

C.3.2. Confidentiality of other information

432. The confidentiality provisions in Latvia's exchange of information agreements and domestic law do not draw a distinction between information received in response to requests or information forming part of the requests themselves. As such, these provisions apply equally to all requests for such information, background documents to such requests, and any other document reflecting such information, including communications between the requesting and requested jurisdictions and communications within the tax authorities of either jurisdiction. In practice, the same confidentiality rules apply in respect of all information received from a treaty partner.

433. When the SRS needs to gather information from the taxpayer or a third-party information holder, it discloses only the minimum necessary information to enable the collection of the information. The EOI purpose is not specifically indicated in the template letter, albeit it is implicit in the reference to special procedures envisaged by Regulation No. 1245 and the contact person in the International Information Exchange Division of

58. Procedures of Document Management of the SRS No. 52; List of Restricted Access Information at the Disposal of SRS No. 251.

the SRS. The name of the requesting jurisdiction is not disclosed to the taxpayers and other information holders. In the typical letter to a bank, the SRS provides details on the requested information and the legal basis for such a request (i.e. the treaty under which the information is requested and reference to the domestic law). Accordingly, when a request is made under any of Latvia's bilateral instruments (and not multilateral instruments), the letter to the bank will disclose the name of the requesting jurisdiction. Latvia should monitor that the minimum necessary information is disclosed, especially when handling requests under bilateral instruments and keep its treaty partners informed that there would be a need to disclose the name of the jurisdiction (see Annex 1).

Confidentiality in practice

Human resources

434. According to internal procedures, all background verification checks are performed for candidates for employment and periodically (at least twice a year) security checks are performed for all SRS employees. Also, information is checked during the submission of annual declarations by public officials. There are no additional or different checks for employees with access to data exchanged under an international exchange agreement or for people who administer the system.

435. Verifications and checks in relation to contractors are performed in accordance with the Public Procurement Law. Likewise, these checks are also carried out for the applicant's officials, subcontractors, all members of the supplier association or private partnership, merchant ("parent company"), which has a decisive influence on the applicant.

436. In case the relationship between the employee and SRS is terminated, according to internal procedures, on the last working day all accesses to the SRS premises and SRS IT systems, including e-mail and physical access, are blocked. A person is obliged to observe the confidentiality of the information also after the termination of his/her employment (s. 22(6) LTF).

Labelling and handling of confidential information within the SRS

437. Internal regulations determine the circulation of documents in the SRS. The "State Revenue Service document management procedure" No. 52 regulates the organisation of document management. The archiving and the conditions for the destruction of documents are described in the "Procedure of archive management, file organisation and preparation in the State Revenue Service". These processes are co-ordinated by the National Archives of Latvia, which supervises the SRS archive.

438. The head of the Direct Tax Unit, which is part of the International Information Exchange Division, is responsible for the preparation of the EOIR-related documents, their evaluation, preservation until the transfer to the archive, management and systematisation of the documentation. The original request in paper form, including attachments, is stored in the Competent Authority's archive. The archive is kept under a lock in the Competent Authority's office and a key is given only to the authorised officials. Entry to the tax authority premises is restricted, protected by an electronic code and a security guard is present at all times (see further below in paragraph 446 et seq.). All information received and sent electronically is stored in the SRS Document Management System. The users of this system are all employees in accordance with the defined rights required for the performance of their duties and the corresponding user roles of the document management system. Latvia explained that relevant policies and procedures are set according to job descriptions, but these procedures are not stipulated in any documents (e.g. internal rules).

439. In practice, EOI requests received from treaty partners are handled by the authorised persons within the Competent Authority. All requests and supporting documentation are kept in electronic format in the SRS Information Exchange System, which is an integral part of the SRS Document Management System:

- Any information received in hard copies are registered by the SRS clerk in the SRS Document Management System and then transferred to the International Information Exchange Division. The requests are then scanned and uploaded to the SRS Information Exchange System by the authorised persons within the Competent Authority.
- Requests received from EU countries (via common communication network (CCN) mail) and third countries (by functional e-mail) are registered by the authorised persons within the Competent Authority in the SRS Document Management System.

440. The deputy director of the Tax Board hands over the request via the mentioned system to the Head of the International Information Exchange Division, who assigns it to the head of the Direct Tax Unit, and it is then allocated to an employee dealing with direct tax requests.

441. The 2015 Report acknowledged that information obtained from treaty partners which may be relevant for assessment of domestic taxes is uploaded to the tax database, whilst such information is not labelled to indicate that it has been obtained pursuant to the international treaty and should be used and disclosed only in accordance with it. As the domestic confidentiality rules allow disclosure of information which goes beyond the standard (such as investigation of other than tax crimes), the 2015 Report

concluded that this could lead in certain cases to the use of information which is not authorised by the respective treaty and is not in line with the standard. Accordingly, the 2015 Report recommended that Latvia must take measures to ensure that the received information is treated in accordance with the respective treaty under which it was received. Latvia has since clarified that the information obtained from treaty partners is not uploaded in the tax database. This information is uploaded in the SRS Information Exchange System (which, as explained in paragraph 439, is a sub-section of the SRS Document Management System) and provided to the initiator of the request. The information is used only for tax purposes of the relevant taxpayer. In practice, as observed by the Latvian Competent Authority, some requests are labelled by the sending jurisdiction as exchanged pursuant to the international treaty. Further, the Latvian Competent Authority explained that information received via the eFCA is marked as exchanged under EU Directive 2011/16/EU. The Latvian Competent Authority explained that when the information is marked as received under EU Directive 2011/16/EU (or under an international treaty if marked by the sending jurisdiction), tax officials are guided by Regulation No. 1245 (see paragraph 429), which complies with the standard. During the current review period, three out of five main exchange partners of Latvia have been EU Members States (see paragraph 467). Nevertheless, it remains Latvia's practice that the information received from non-EU jurisdictions is not labelled by the Latvian Competent Authority to indicate that it has been obtained pursuant to the international treaty and should be used and disclosed only in accordance with it. In consideration of the above, whilst the practical effect of the identified deficiency has decreased, concerns remain that the information received from non-EU jurisdictions may not be treated in accordance with the respective treaty under which it was received.

442. Only authorised persons can access the SRS Information Exchange System and can view the exchanged information, including the inbound and outbound requests. User rights to information systems are provided only after approval by employee's manager and the approval system owner for the systems that contain treaty-exchanged data is the SRS's Deputy Director General and Director of Tax Board. Each access to the SRS Information Exchange System is traceable and the person accessing it is always uniquely identified. In practice, however, the access to the EOIR information does not appear to correspond with the specific functions carried out by such employees. The staff that is authorised to access the SRS Information Exchange System includes the entire International Information Exchange Division (12 employees, 2 heads of units and the division head) and is not limited to the personnel responsible for exchange of information on request in direct tax matters (3 employees). Similarly, the functional e-mail used by the Competent Authority for communication with its treaty

partners and the mentioned CCN mail, as well as the locker where printed documents are kept, are accessible by the entire International Information Exchange Division. Further, the original request is sent by the Direct Tax Unit of the International Exchange of Information Division to the respective divisions within the SRS when their involvement is envisaged to collect information requested (see Element B.1). Latvia explained that all persons dealing with information obtained from treaty partners are bound by confidentiality rules detailed above and in the case of their breach, sanctions will apply. Whilst the information remains within the SRS, the practice of sharing the original request with other divisions raises concerns as to whether the information is treated in accordance with the respective treaty under which it was received.

443. The SRS implements "Clean Desk Policy" for employees. In accordance with the SRS internal rules, the employee needs to look after his/her workplace and not to leave any documents on the working table after the end of the working hours. The manager of each unit is responsible for his/her employees and must carry out regular checks. This policy appears to be followed in practice, which mitigates the fact that the unit responsible for EOI requests operates in an open-space office, accessible for employees working on the same floor (which includes tax and customs officials).

444. For exchange partners that are not EU Member States, encrypted emails or registered post are used by Latvia when a taxpayer's information is included in the e-mail (for example, reminders including only a reference number are communicated by ordinary email). Information prepared internally and sent out in paper is labelled as treaty protected (unlike incoming correspondence, see in paragraphs 438-445 above). Latvia further observed that most documents are received via secure e-mails and the number of written documents is decreasing.

445. To conclude, the provisions of Latvia's EOI agreements override domestic confidentiality rules which allow disclosure of information that goes beyond the standard. However, as the received information from non-EU jurisdictions may not be clearly marked as obtained under an international treaty, concerns remain that in practice it may be used not in line with the standard. Accordingly, **Latvia is recommended to take measures to ensure that all information exchanged, including correspondence with other Competent Authorities, is treated in accordance with the respective treaty under which it was received, and to monitor the application of such measures**.

Physical security and access

446. There is an internal procedure to control employees and visitors' access to premises. All external visitors must be registered and accompanied by an employee. In the public zones of the State Joint Customer Service Centre's open type office visitors can move freely without supervision. Visits in restricted zones are allowed only during the SRS working hours and with a prior official arrangement. After person's identity verification and registration by the security service, the person is handed an individual card with predefined access which must be returned to the security service after the visit. With this card, the person can move freely in the predefined areas of the SRS building with some exceptions where visiting is allowed only in the presence of an employee. Visitors are not allowed in the areas where confidential information on taxpayers is kept. Meetings with visitors take place in the special meeting rooms. The SRS administrative building's security access is ensured by individually programmable proximity cards that ensure person's identification and authentication in the building's integrated access control system. PIN codes and biometry fingerprint scanners are also used for the most restricted zones of the building. The Security Regime Assurance Department in collaboration with the security service are responsible for reviewing access logs and ensuring that only authorised access is approved. When an unauthorised access is identified during access control system audit review, the Security Regime Assurance Department inspects the breach and identifies the persons. An internal SRS inquiry may take place.

IT security

447. An IT security training is mandatory for all employees and is carried out annually. The Information Systems Security Management Department updates presentation where most important security issues are covered (there is information about internet use, phishing, social engineering, passwords, etc.); however, this training does not cover the confidentiality aspects related to the treaty protected information. Users have to take a test to evaluate their understanding of IT security. Similar, there is regular training and tests related to the processing of personal data.

448. Additional information to employees is distributed if active campaigns of fishing or ransomware or other attacks are detected. All new employees participate in a 3-month long mentoring programme, during which they are introduced to internal regulations, including the procedure for processing and protecting personal data, regulations on the security of information systems, and are instructed on how information is processed and used in accordance with the domestic, EU and international laws.

449. All security requirements for contractors are embedded in their legal agreements. The SRS does not provide security and awareness training for external employees.

450. The activities of all SRS employees in SRS IT systems are audited and can be verified at any time by the direct manager (in particular, the access to the SRS Information Exchange System is monitored by the head of the relevant unit and division, but this audit does not include access to the SRS Document Management System). At least two times a year, all managers check the activities of their employees in IT systems where they may establish whether the employee carried out an inappropriate activity with the information available. The employee and the employee's direct manager are responsible for the use of information only for work purposes. In case of breach, disciplinary proceedings shall be initiated, which are investigated by the Internal Security Department of the SRS and the Human Resource Management Department.

Incident/breach management

451. The SRS has well-defined policies and procedures for reporting, monitoring and resolving IT incidents (including security related incidents). However, the policies and procedures for non-IT related incidents (e.g. physical access, incidents regarding paper documents, behaviour against defined information security policies) do not appear to be as clearly defined. Latvia explained that in practice all non-IT incidents, i.e. security breaches, are recorded. The HR is responsible for employee certificates. The procedure for the access cards is in accordance with internal regulations (both on the part of the employee and the administrator of technical security systems), and violations and cases of loss are recorded. There is an established procedure to promptly notice uncontrolled activities with the access card, and violations are examined according to the established procedure. Technical security systems are used, which are monitored by specially trained personnel, as well as – within the scope of duties – a security company. Any violations are assessed.

452. In case of breach and any failures due to "technical" issues or a "human" error, the IT department or Information Systems Security Management Department will inform the International Information Exchange Division, and the division will inform the relevant competent authority. In the event of an incident, an examination is carried out, within which the liability of the violator is assessed (criminal liability, administrative liability, disciplinary liability). Information on all violations of the Law on Prevention of Conflict of Interest in Activities of Public Officials is sent to the Corruption Prevention and Combating Bureau for decision. There is however no written procedure regarding the notification of other Competent Authorities

and the Co-ordination Body or the Global Forum Secretariat of breaches of confidentiality or failures of safeguards, and of the sanctions imposed and remedial actions undertaken. Also, the staff dealing with EOI matters was not aware of any policy related to breaches of confidentiality and the required course of action. Latvia should put in place a systematic policy to prevent and handle confidentiality breaches which would ensure the protection of exchanged information (see Annex 1).

453. In practice, Latvian authorities indicated that no data breach is known to have occurred in connection with EOIR. No peer reported that there have been any cases where information received by the competent authority in Latvia from an EOI partner has been improperly disclosed.

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.

454. All of Latvia's EOI instruments, including the new ones concluded after the adoption of the 2015 Report, are in line with the standard on the rights and safeguards of taxpayers and third parties, and provide that the contracting parties are not obliged to provide information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information the disclosure of which would be contrary to public policy.

455. The 2015 Report observed that the attorney client privilege contained in Latvian law is too broad and might limit effective exchange of information. It therefore recommended Latvia to address this gap. Whilst no issues have arisen in practice during the current review period, Latvia did not take any steps to address the recommendation to restrict the scope of the protection under the term "professional secret" in its domestic laws so as to be in line with the standard for the purpose of EOI agreements. The recommendation therefore remains in place.

456. The conclusions are as follows:

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

Deficiencies identified/ Underlying factor	Recommendations
Latvia's EOI agreements do not define the term "professional secret" and the scope of the term under its domestic laws is wider than permitted by the international standard.	Latvia is recommended to limit the scope of "professional secret" in its domestic laws so as to be in line with the standard for exchange of information.

Practical Implementation of the Standard: Largely Compliant

No issues have been identified in the implementation of rights and safeguards available in the existing EOI instruments. However, once the recommendation on the legal framework is addressed, Latvia should ensure that they are applied and enforced in practice.

C.4.1. Exceptions to the requirement to provide information

457. All of Latvia's EOI agreements contain provisions for rights and safeguards for taxpayers in line with the standard except for the DTC with the Netherlands which does not contain such provision. However, the Netherlands signed and ratified the Multilateral Convention and therefore the DTC is not a concern in practice. In addition, Latvia can exchange information with the Netherlands under EU Council Directive 2011/16/EU which contains such exceptions in line with the standard.

458. Except for the DTC mentioned above, all of Latvia's EOI agreements ensure that the contracting parties are not obliged to provide information which is subject to legal professional privilege. However, the term "professional secret" is not defined in the EOI agreements and therefore this term would derive its meaning from Latvia's domestic laws.

459. As described in section B.1.5 of this report and also noted in the 2015 Report, the attorney client privilege contained in Latvian law is too broad and goes beyond the international standard as it protects also communication produced for purposes other than that of seeking or providing legal advice or of use in existing or contemplated legal proceedings. The 2015 Report concluded that Latvia's EOI agreements do not define the term "professional secret" and the scope of the term under its domestic laws is wider than permitted by the international standard and recommended to address the gap. As no change has been made by Latvia in respect of this recommendation, it remains in place. **Latvia is recommended to limit the scope of "professional secret" in its domestic laws so as to be in line with the standard for exchange of information**.

460. In practice, there was no case during the period under review where the information needed to be requested from an advocate or other legal professional not acting on behalf of his/her client under the power of attorney and there was also no case when a person refused to provide the information requested because of professional privilege. No peer has raised an issue concerning professional secrecy.

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.

461. Latvia has received 572 requests and sent 969 requests during the current review period. Latvia has answered 92% of its incoming requests within 90 days; however, it did not provide regular status updates for the remaining 8%. The processes for dealing with requests are not fully structured and rely upon practical experience of the EOI team. There are no established procedures for the provisions of status updates when required. The quality of outgoing requests is generally good and additional clarifications on their foreseeable relevance, in the limited cases where the partner jurisdiction requested it, were provided in an effective manner.

462. The 2015 Report concluded that Latvia has in place appropriate organisational processes. Nevertheless, there appeared to be room for improvement in terms of resources dedicated to exchange of information practice, which had negative impact on Latvia's ability to systematically provide status updates. Latvia was recommended to take measures to ensure that appropriate resources are put in place so that it continues to provide information in a timely manner and, in cases where the information is not provided within 90 days, it updates the requesting competent authority on the status of the request in all cases. As no improvement has been made as to the provision of status updates, the recommendation remains.

463. The conclusions are as follows:

Legal and Regulatory Framework

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

Practical Implementation of the Standard: Compliant

Deficiencies identified/Underlying factor	Recommendations
Latvia has in place appropriate organisational processes. Nevertheless, there appears to be room for improvement in terms of resources dedicated to exchange of information practice. The workload does not currently lead to delays in exchange of information; however, it has negative impact on Latvia's ability to systematically provide status updates and may lead to delays or drop in quality of responses where more requests will need to be handled.	Latvia is recommended to take measures to ensure that appropriate resources are put in place so that it continues to provide information in a timely manner and, in cases where the information is not provided within 90 days, it updates the requesting competent authority on the status of the request in all cases.

C.5.1. Timeliness of responses to requests for information

464. Latvia received 572 requests related to direct taxes over the period, which is similar to the number of requests received (531) in the previous review period (1 July 2011 to 30 June 2014).

465. The table below shows the time needed to send the final response to incoming EOI requests, including the time taken by the requesting jurisdiction to provide clarification (if asked).

Statistics on response time and other relevant factors

		2019 (9 months)		2020		2021		2022 (3 months)		Total	
		Num.	%	Num.	%	Num.	%	Num.	%	Num.	%
Total number of requests received	[A+B+C+D+E]	226	100	172	100	151	100	23	100	572	100
Full response: ≤ 90 days		212	94	158	92	141	93	15	65	526	92
≤ 180 days (cumulative)		224	99	169	98	148	98	17	74	558	98
≤ 1 year (cumulative)	[A]	225	100	171	99	151	100	18	78	565	99
> 1 year	[B]	0	0	1	< 1	0	0	0	0	1	< 1
Declined for valid reasons		6	3	5	3	2	1	1	4	14	3
Requests withdrawn by requesting jurisdiction	[C]	1	< 1	0	0	0	0	0	0	1	< 1
Failure to obtain and provide information requested	[D]	1	< 1	5	3	2	1	0	0	8	1
Requests still pending at date of review	[E]	0	0	0	0	0	0	5	23	5	1
Outstanding cases after 90 days		14		14		10		8		46	
Status update provided within 90 days (for outstanding cases with full information not provided within 90 days, responses provided > 90 days)		1	7	0	0	1	10	0	0	2	4

Notes: Latvia counts each request with multiple taxpayers as one request, i.e. if a partner jurisdiction is requesting information about 4 persons in one request, Latvia counts that as 1 request. If Latvia receives a further request for information that relates to a previous request, with the original request still active, Latvia will append the additional request to the original and continue to count it as the same request. However, if additional information is sought, which was not requested previously, then a new request is required, since the previous case is already closed.

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.

466. Latvia's response times has been around 90% of requests responded within 90 days, which is an improvement in comparison with the previous review period (with approximately 70% of requests answered within 90 days). Latvia explained that information which is held by the SRS is usually provided within 90 days. As regards to information held by banks, the information

usually is provided also in a timely manner with objective exceptions, for example, complex requests with several accounts, or where the tax investigation period covers several years. As regards to information requested from the taxpayer, it takes more time to collect the information – more than 90 days. Only a small number of requests has not been fully dealt with within 180 days (2%) during the review period.

467. Most requests over the reviewed period were received from France, Russia,[59] Lithuania, Poland and Belarus.[60] All requests regarding legal persons were related to companies. The largest share of requests in practice related to banking and accounting information. Most of the requests where a response was not provided within 90 days related to requests for accounting underlying documentation and verification of transactions where information was obtained directly from the taxpayer or through tax control measures. The main difficulties Latvian authorities are confronted with when obtaining the requested information are cases where the taxpayer or the holder of the information is not identifiable, or complex cases where information is obtained by tax control measures requiring co-operation with other SRS departments and by the taxpayer.

468. Over the reviewed period, Latvia declined 14 requests for information for valid reasons:

- Latvia declined two requests for information on the basis that the requested information was not foreseeably relevant, as discussed under Element C.1 (see paragraph 395).
- In four cases, requests have been declined due to the issues related to the legal basis of exchanges. One request was declined as it related to the period before the relevant DTC came into force. One request was declined as the matter related to VAT and the relevant DTC does not cover assistance in relation to VAT. One request was declined because no correct legal basis was indicated in the request (Latvia asked the requesting jurisdiction to indicate a correct legal basis). One request was firstly declined due to lack of a legal basis, however, eventually, the information was provided (this request is included in the table).

59. The DTC with Russia is suspended as of 16 May 2022 in accordance with the amendment of 12 May 2022 to the law "On Agreement between the Government of the Republic of Latvia and the Government of the Russian Federation for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital and its Protocol".

60. The Ministry of Foreign Affairs of Latvia recommended putting on hold bilateral relations with Belarus.

- In relation to six cases, Latvia could not identify the taxpayers initially. Of these, in two cases, the requests were answered after clarification was received in relation to the identity of taxpayers. In one case, bank account information was requested but the account number were incorrect. After the clarification was received, Latvia provided the information requested. In the remaining three cases, the taxpayer was not registered in Latvia and could not be identified in the tax database. Before declining these three requests, Latvia requested additional information in order to be able to identify the taxpayer, but it was not provided.
- Finally, two requests were declined as they were the same request sent multiple times.

469. Three requests have been declined due to the limitation on the access to banking information discussed under Element B.1 (see paragraph 342). Further, in five instances information could not be gathered (see paragraph 354), which are counted as "failures" to provide full information in the summary table above. The Latvian Competent Authority reported that there have been no other instances during the review period where it has failed to provide the requested information (with the exception of seven cases described in this paragraph). This is an improvement in comparison with the previous review period where Latvia failed to provide banking information in relation to 26 requests.

Status updates and communication with partners

470. The 2015 Report found that Latvia did not systematically provide status updates in cases where the requested information was not provided within 90 days and made a recommendation to address this issue. The obligation to provide status updates is set out in Regulation No. 1245 and Internal Rules No. 6; however, Latvian authorities observed that, due to work overload of the Competent Authority and limited human resources, status updates were provided only occasionally and whenever it was feasible. The lack of status updates has been repeatedly raised in the peer input received for the purpose of this review. Accordingly, Latvia has in place appropriate organisational processes. Nevertheless, there is room for improvement in terms of resources dedicated to exchange of information practice. The workload does not currently lead to delays in exchange of information; however, it has negative impact on Latvia's ability to systematically provide status updates and may lead to delays or drop in quality of responses where more requests will need to be handled. **Latvia is recommended to take measures to ensure that appropriate resources are put in place so that it continues to provide information in a timely manner and, in cases where the information is not provided within 90 days, it updates the requesting competent authority on the status of the request in all cases**.

C.5.2. Organisational processes and resources

Organisation of the competent authority

471. The Latvian Competent Authority for exchange of information in tax matters is the SRS (Section 5, Regulation No. 1245). The International Information Exchange Division within the SRS is responsible for handling practical exchange of information. The Division forms organisational part of the SRS Tax Board. The Division is administering all types of exchange of information in respect of direct and indirect taxes under Latvia's EOI instruments, including automatic exchange of information. The International Information Exchange Division acts also as the Central Liaison Office for the purposes of EU Directive 2011/16/EU.

472. Information on the competent authority and officials is published in the PICS database that is maintained by the European Commission and also published at the Global Forum's Competent Authorities secure database.

473. The International Information Exchange Division is staffed with 15 employees, including the Head of Division and Heads of two units. Three staff members are responsible for exchange of information upon request in the field of direct taxes, which is an increase from one person in the previous review period. However, this number has fluctuated between one and three over the current review period. The same unit also includes three persons responsible for automatic exchange of information and is led by the head of the Direct Tax Unit. Another unit is responsible for exchange in the field of indirect taxes and other forms of administrative co-operation. The head of the Direct Tax Unit reports to the Head of the International Information Exchange Division who in turn is directly subordinated to the deputy director of the SRS Tax Board. One of the main functions and tasks of the International Information Exchange Division is to ensure the exchange of information with foreign tax administrations, which includes preparing requests, controlling the timeliness of the responses (both incoming and outgoing) and assuring the quality of the requests prepared.

474. All requests are received by the International Information Exchange Division; however, other SRS departments may be involved in preparation of responses to EOI requests in the field of direct taxes. The 2015 Report described that if obtaining of the requested information requires direct contact with the taxpayer or retrieving information from the tax database, the division approached the Client Service Office of the SRS Tax Board. If more complex information was requested, then a tax audit could be launched by the responsible department. Since 2015, the procedure has changed several times due to reorganisation of the SRS. If obtaining of the requested information requires direct contact with the taxpayer or retrieving information

from the tax database, the International Information Exchange Division is now doing it directly without involving other SRS departments, except in complex cases (see Element B.1, paragraph 327 et seq.).

Resources and training

475. New employees of the SRS, including of the International Information Exchange Division, are required to pass a general training which deals with the rules of confidentiality, as described under Element C.3. Each new International Information Exchange Division employee is being acquainted with all relevant legal regulations and SRS internal procedures and is being trained by the Heads of Division and Units and assisted by the experienced colleagues. The Division also prepares and updates the methodology and guidelines on preparation and processing of requests and informs employees of involved SRS departments on any relevant changes thereof.

476. No systematic training is provided to the SRS employees who deal with requests. The only training for EOI employees and employees of the SRS in general (persons involved in the EOIR process) reported by Latvia for the current review period was organised within the implementation of the EU Central Application (the eFCA) in 2019. As a result, EOI officers do not appear to be fully aware of the recent changes in law related to exchange of information and where difficulties related to the interpretation of, for instance, foreseeable relevance are encountered in practice, the EOI officers consult the Ministry of Finance. In 2023-24, the Direct Tax Unit of the International Information Exchange Division plans to create an online course for new and existing SRS employees who deals with requests. Further, whilst the work of the Direct Tax Unit is guided by Regulation No. 1245 and Internal Rules No. 6 on general procedural aspects, there is no staff manual which would detail each key step in the internal and external processing of requests and retrieval of information. The Latvian authorities plan to prepare a material (user-manual) for staff dealing with EOIR. In the meantime, the handling of EOI requests appears to rely on the practical experience of current employees which may create risks in the future. Latvia should ensure that enough training is provided to its current and new EOI staff (see Annex 1).

Competent authority's handling of the request

Incoming requests

477. Processing of EOI requests is based on Regulation No. 1245. Detailed rules are further contained in Internal Rules No. 6.

478. All EOI requests are received by the International Information Exchange Division via its functional e-mail or via SRS Document Management System. Latvia explained that it is planned in future to use only the SRS Document Management System which will be synchronised with the functional e-mail address (notifications sent to the mentioned e-mail).

479. Upon receipt, all requests are recorded into the SRS Information Exchange System. Requests from EU member countries are received electronically through the common communication network (CCN).[61] Requests from non-EU jurisdictions are typically received through the post, albeit the number of requests sent by email is growing. In respect of requests received from EU Member countries, acknowledgment of receipt is sent via the CCN network. All requests are allocated by the head of the Direct Tax Unit to an EOI officer for review and validity check. The EOI officer verifies whether the request contains the required information and whether the request is complete (e.g. signatures, attachments). If information necessary to evaluate foreseeable relevance is missing, a clarification is requested from the requesting jurisdiction.

480. During the current review period, in the majority of cases, the information has been provided from the tax databases available to the SRS, or obtained by the Direct Tax Unit from the taxpayers or other information holders (banks). In case the information requested is in possession of SRS, e.g. is available in SRS databases, the EOI official who is responsible for dealing with the particular request, may access it directly, or – in complex cases – requests information from the responsible division within the SRS (see paragraph 327). If obtaining the information requires launch of a tax audit or thematic inspections, the Direct Tax Unit approaches the SRS Tax Compliance Incentive Department who may initiate tax control measures. During the current peer review period, the Tax Compliance Incentive Department has carried out control measures in relation to three requests (see paragraph 355).

481. Latvia observed that in the past practical difficulties experienced in obtaining information in order to respond to requests from EOI partners related to the situations when in some cases the information is requested from the taxpayer by using regular mail, and the letter sent to the taxpayer is being returned without reaching the recipient as the mentioned person does not live at the declared place of residence and SRS does not possess his/her current address. However, in practice, the International Information Exchange Division and the Tax Compliance Incentive Department are

61. The common platform developed by the European Union for all transmissions by electronic means between competent authorities in the area of customs and taxation.

now primarily relying on communication via electronic means (it is mandatory for legal persons to use electronic means for communication with the SRS, whilst for natural persons the use of electronic declaration system or e-address is voluntary albeit recommended).

Requests for banking information

482. As described under Element B.1, in the current review period, Latvia has received 306 requests for banking information. Banking information is requested by the International Information Exchange Division directly from banks using power under Section 10(5) of the LSRS as described in section B.1. The official responsible for dealing with the particular request requests information from the bank within 10 working days from the date of receipt of request (Chapter 8 of Internal Rules No. 6). In the letter to the bank, the SRS details information requested and the legal basis for such request (i.e. the treaty under which the information is requested and reference to the domestic law) (see further sub-Element C.3.2). All requests to banks are sent electronically via official e-address. In accordance with Section 63(3) CIL, banks are given 14 calendar days to provide the information. In practice, in the majority of cases during the current review period, the information has been provided within this deadline.

Internal deadlines

483. Deadlines for steps in obtaining and providing the requested information are contained in Regulation No. 1245 and Internal Rules No. 6. These deadlines (as described in section B.1) are compatible with effective exchange of information, as evidenced in timeliness of Latvia's responses. As a general rule, the requested information shall be provided in as short a time as possible after receipt of the request (s. 21 Regulation No. 1245). It is noted that tax control measures are launched rarely for exchange of information purposes and only in cases where more complex information is requested which cannot be obtained by use of power under Section 10(5) of LSRS.

484. The Direct Tax Unit of International Information Exchange Division is responsible to ensure compliance with the deadlines referred to in Article 7 of Council Directive No. 2011/16/EU and of the internal procedures by sending reminders regarding expiry of the period for submission of a reply. In practice, this is done through sending standardised emails to the generic email address of the respective SRS department handling the EOI request. Emails are followed by phone calls where necessary.

485. Latvia explained that, as far as possible, officials of the International Information Exchange Division monitor timeliness of the responses and

provide status updates if needed (see paragraph 470). The process is manual, no automatic acknowledgment is sent. The status updates are sent via CCN-mail to EU countries and via functional e-mail to third countries.

Communication

486. Latvia accepts requests only in English. If the request is not in English, the requesting competent authority will be asked to translate the request.

487. Exchange of information among competent authorities of EU Members uses standard electronic format of requests. In respect of non-EU jurisdictions, Latvia does not require any specific format of incoming requests as far as information contained in the request includes information in line with Article 5 paragraph 5 of the OECD Model TIEA.

488. The CCN network is used for communication with competent authorities of EU Member states, ensuring prompt and secure information exchange.

489. The 2015 Report found that Latvia uses regular post for communication with competent authorities from non-EU jurisdictions standard. The 2015 Report concluded that the use of standard post might lead to delays in providing the requested information and it does not protect confidentiality of exchanged information in all cases. Latvia was therefore given an in-text recommendation to use more effective communication tools with its treaty partners outside of EU, such as emails with encrypted attachments or registered post. Latvia has since reported that e-mails with encrypted attachments or registered post are used in all cases. No issues have been reported by peers in the current review period. The in-text recommendation is therefore removed.

490. Communication between the Direct Tax Unit of the International Information Exchange Division and other SRS departments is carried out through emails and internal SRS postal service. The Direct Tax Unit always uses email to contact the respective SRS divisions requesting it to obtain the information. If the EOI request includes supporting documentation in paper which is relevant for the tax control measures needed to obtain the information, the Direct Tax Unit sends the supporting documentation to the Tax Compliance Incentive Department also by the internal post.

IT tools and monitoring

491. All incoming and outgoing requests are registered in the SRS Information Exchange System by the EOI officers. The system includes name of the requesting jurisdiction, identification of the taxpayer under investigation, status of the request, date of receipt, date of final response, reference number, assigned officer responsible for processing the request

and the main subject of the request. The system allows monitoring of deadlines; however, it does not automatically generate reminders where the deadlines are approaching or lapsed. In practice, the EOI officers were not able to generate the list of pending requests through the system.

492. All incoming and outgoing requests are being registered and deadlines are being monitored. Process of handling EOI requests is monitored by the head of the Direct Tax Unit by daily contact with EOI officers handling the requests. There are internal control proceedings each quarter performed by the direct managers. The Information Exchange Division provides regular information (monthly/quarterly data) on the administrative co-operation (number of requests/responses sent/received, late replies, replies provided within one month, number of taxpayers involved, etc.) to the deputy director of the Tax Department, SRS Deputy Director General and Director General. The Head of Division and its respective units monitor and evaluate the quality, compliance with deadlines and workload of division employees.

Outgoing requests

493. During the current review period Latvia sent 969 requests, which is a significant increase in comparison with the previous review period in which 329 requests related to direct taxes were sent.

494. Requests for EU countries are prepared by the tax auditor or tax inspector in the eFCA. Requests to jurisdictions outside EU are prepared in paper form. Both, requests prepared in eFCA and in paper form, are send to the functional e-mail of the International Information Exchange Division or through the SRS Document Management System.

495. The Competent Authority then processes the request according to the Cabinet Regulations No. 1245 and internal rules. If any request requires corrections, the Competent Authority contacts the tax auditor or tax inspector via e-mail or phone call.

496. Requests sent to the jurisdictions outside EU are prepared as letters in paper form and signed by the Deputy Director of the Tax Board of the SRS. Requests sent to EU jurisdictions are prepared and sent electronically via the eFCA by the International Information Exchange Division.

497. Before sending requests, the Competent Authority verifies the relevant contact persons and addresses in the Global Forum's Competent Authorities secure database. If necessary, before sending the request, the Competent Authority contacts the requested jurisdiction in order to make sure the form of the request is suitable. In most cases, the Competent Authority of Latvia sends a common form of the request if no special request has been made by the requested jurisdiction.

498. The International Information Exchange Division sends requests to EU countries via secured CCN-mail and to partner jurisdictions outside EU via encrypted e-mail or using registered postal mail. As far as possible encrypted e-mails are primarily used.

499. If any requests for clarifications are made, the Competent Authority reported that it would usually reply to the clarification made within two weeks. In 2019, Latvia sent 299 outgoing requests and received 26 requests for clarification; in 2020 – 371 outgoing requests sent and 11 requests for clarifications received, in 2021 – 249 outgoing requests sent and 4 requests for clarification received, and in 2022 (up to 31 March 2022) – 50 outgoing requests sent and 3 requests for clarification received. Latvia responded to all requests for clarification. Peers have not raised any issues in relation to the incoming requests from Latvia.

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

500. Exchange of information assistance should not be subject to unreasonable, disproportionate, or unduly restrictive conditions. Other than those matters identified earlier in this report, there are no further aspects of Latvia's laws or practices that restrict 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.1.1**: Latvia should monitor the effective implementation of the amendments to the Company Law, which entered into force on 1 July 2023 and require stock companies to submit information on their stockholders to the Enterprise Registrar by 1 July 2024 and thereafter (paragraphs 101 and 190).
- **Element A.1.4**: Latvia should monitor that identity and beneficial ownership information on foreign trusts operated by Latvian resident trustees is practically available in line with the standard (paragraph 220).
- **Element A.2**: Latvia should continue to monitor the potential gap in relation to trusts which have a non-professional trustee who is not covered by accounting obligations and perform none of the activities involving obliged persons under AML rules in Latvia to ensure that it does not limit effective exchange of information in tax matters (paragraph 251).
- **Element A.2**: Latvia should ensure the availability of accounting information, including underlying documentation, for a period of at least five years, for companies that undergo a cross-border conversion, merger or division (paragraph 262).
- **Element B.2:** As the legal regulation is unclear as to what information received from the requesting jurisdiction should be provided to a person holding the information requested for EOI purposes, this issue should be monitored by Latvia to ensure that no further

information than indicated is provided to the holder of the information in all cases (paragraph 374).

- **Element C.1.4**: Latvia should continue working with the EOI partners where domestic interest restrictions exist to remove these restrictions and bring these EOI relations to the standard (paragraph 410).
- **Element C.1.7**: Latvia should endeavour as far as possible to provide information in a specific form where a contracting party need it to satisfy its evidentiary or other legal requirements (paragraph 415).
- **Element C.2**: Latvia should continue to conclude EOI agreements with any new relevant partner who would so require (paragraph 420).
- **Element C.3**: Latvia should monitor that the minimum necessary information is disclosed especially when handling requests under bilateral instruments and keep its treaty partners informed that there would be a need to disclose the name of the jurisdiction (paragraph 433).
- **Element C.3**: Latvia should put in place a systematic policy to prevent and handle confidentiality breaches which would ensure the protection of exchanged information (paragraph 452).
- **Element C.5**: Latvia should ensure that enough training is provided to its current and new EOI staff (paragraph 476).

Annex 2. List of Latvia's EOI mechanisms

Bilateral international agreements for the exchange of information

	EOI partner	Type of agreement	Signature	Entry into force
1	Albania	DTC	21-Feb-2008	10-Dec-2008
2	Armenia	DTC	15-March-2000	26-Feb-2001
3	Austria	DTC	14-Dec-2005	16-May-2007
4	Azerbaijan	DTC	03-Oct-2005	19-Apr-2006
5	Belarus	DTC	7-Sept-1995	31-Oct-1996
6	Belgium	DTC	21-Apr-1999	7-May-2003
7	Bulgaria	DTC	4-Dec-2003	18-Aug-2004
8	Canada	DTC	26-Apr-1995	12-Dec-1995
9	China (People's Republic of)	DTC	7-Jun-1996	27-Jan-1997
		Protocol	24-Aug-2011	19-May-2012
10	Croatia	DTC	19-May-2000	27-Feb-2001
11	Cyprus	DTC	24-May-2016	27-Oct-2016
12	Czech Republic	DTC	25-Oct-1994	22-May-1995
13	Denmark	DTC	10-Dec-1993	27-Dec-1993
14	Estonia	DTC	11-Feb-2002	21-Nov-2002
15	Finland	DTC	23-March-1993	30-Dec-1993
16	France	DTC	14-Apr-1997	1-May-2001
17	Georgia	DTC	13-Oct-2004	24-Mar-2005
		Protocol	29-May-2012	27-Nov-2012
18	Germany	DTC	21-Feb-1997	26-Sep-1998
19	Greece	DTC	27-March-2002	7-Mar-2005
20	Guernsey	TIEA	5-Sep-2012	4-Oct-2013
21	Hong Kong (China)	DTC	13-Apr-2016	24-Nov-2017

	EOI partner	Type of agreement	Signature	Entry into force
22	Hungary	DTC	14-May-2004	22-Dec-2004
23	Iceland	DTC	19-Oct-1994	27-Dec-1995
24	India	DTC	18-Sep-2012	28-Dec-2013
25	Ireland	DTC	13-Nov-1997	18-Dec-1998
26	Israel	DTC	20-Feb-2006	13-July-2006
27	Italy	DTC	21-May-1997	16-Jun-2008
28	Japan	DTC	18-Jan-1917	5-July-2017
29	Jersey	TIEA	28-Jan-2013	13-Dec-2013
30	Kazakhstan	DTC	6-Sep-2001	2-Dec-2002
31	Korea	DTC	15-Jun-2008	26-Dec-2009
32	Kosovo	DTC	24-Nov-2020	22-Nov-2021
33	Kuwait	DTC	9-Nov-2009	25-Apr-2013
34	Kyrgyzstan	DTC	7-Dec-2006	4-Mar-2008
35	Lithuania	DTC	17-Dec-1993	30-Dec-1994
36	Luxembourg	DTC	14-Jun-2004	14-Apr-2006
37	North Macedonia	DTC	8-Dec-2006	25-Apr-2007
38	Malta	DTC	22-May-2000	24-Oct-2000
39	Mexico	DTC	20-Apr-2012	02-Mar-2013
40	Moldova	DTC	25-Feb-1998	24-Jun-1998
41	Montenegro	DTC	22-Nov-2005	19-May-2006
42	Morocco	DTC	24-July-2008	25-Sep-2012
43	Netherlands	DTC	14-March-1994	29-Jan-1995
44	Norway	DTC	19-July-1993	30-Dec-1993
45	Poland	DTC	17-Nov-1993	30-Nov-1994
46	Portugal	DTC	19-Jun-2001	7-Mar-2003
47	Qatar	DTC	26-Sep-2014	1-June-2015
48	Romania	DTC	25-March-2002	28-Nov-2002
49	Russia[62]	DTC	20-Dec-2010	6-Nov-2012
50	Saudi Arabia	DTC	07-Nov-2019	1-July-2021

62. Suspended as of 16 May 2022 in accordance with the amendment of 12 May 2022 to the law "On Agreement between the Government of the Republic of Latvia and the Government of the Russian Federation for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital and its Protocol".

	EOI partner	Type of agreement	Signature	Entry into force
51	Serbia	DTC	22-Nov-2005	19-May-2006
52	Singapore	DTC	6-Oct-1999	18-Feb-2000
		Protocol	20-April-2017	3-Aug-2018
53	Slovak Republic	DTC	11-March-1999	12-Jun-2000
54	Slovenia	DTC	17-Apr-2002	18-Nov-2002
55	Spain	DTC	04-Sep-2003	14-Dec-2004
56	Sweden	DTC	05-Apr-1993	30-Dec-1993
57	Switzerland	DTC	31-Jan-2002	18-Dec-2002
		Protocol	2-Nov-2016	3-Sep-2018
58	Tajikistan	DTC	9-Feb-2009	29-Oct-2009
59	Türkiye	DTC	3-Jun-1999	23-Dec-2003
60	Turkmenistan	DTC	11-Sep-2012	4-Dec-2012
61	Ukraine	DTC	21-Nov-1995	21-Nov-1996
62	United Arab Emirates	DTC	11-March-2012	11-Jun-2013
63	United Kingdom	DTC	08-May-1996	30-Dec-1996
64	United States	DTC	15-Jan-1998	30-Dec-1999
65	Uzbekistan	DTC	3-July-1998	23-Oct-1998
66	Viet Nam	DTC	19-Oct-2017	6-Aug-2018

Convention on Mutual Administrative Assistance in Tax Matters (as amended)

The Convention on Mutual Administrative Assistance in Tax Matters was developed jointly by the OECD and the Council of Europe in 1988 and amended in 2010 (the Multilateral Convention).[63] The Multilateral Convention is the most comprehensive multilateral instrument available for all forms of tax co-operation to tackle tax evasion and avoidance, a top priority for all jurisdictions.

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

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

transparent environment. The Multilateral Convention was opened for signature on 1 June 2011.

The Multilateral Convention was signed by Latvia on 29 May 2013 and entered into force on 1 November 2014 in Latvia. Latvia can exchange information with all other Parties to the Multilateral Convention.

The Multilateral Convention is in force in respect of the following jurisdictions: Albania, Andorra, Anguilla (extension by the United Kingdom), Antigua and Barbuda, Argentina, Armenia, Aruba (extension by the Netherlands), Australia, Austria, Azerbaijan, Bahamas, Bahrain, Barbados, Belgium, Belize, 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.

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).

EU Directive on Mutual Administrative Assistance in Tax Matters

Latvia can exchange information relevant for direct taxes upon request with EU member states under the EU Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation (as amended). The Directive came into force on 1 January 2013. All EU members were required to transpose it into their domestic legislation by 1 January 2013, i.e. Austria, Belgium, Bulgaria, Croatia, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Romania, the Slovak Republic, Slovenia, Spain and Sweden. The United Kingdom left the EU on 31 January 2020 and hence this directive is no longer binding on the United Kingdom.

Annex 3. Methodology for the review

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

The evaluation is based on information available to the assessment team including the exchange of information arrangements signed, laws and regulations in force or effective as at 2 August 2023, Latvia's EOIR practice in respect of EOI requests made and received during the three year period from 1 April 2019 to 31 March 2022, Latvia's responses to the EOIR questionnaire, inputs from partner jurisdictions, as well as information provided by Latvia's authorities during the on-site visit that took place from 3 to 6 April 2023 in Riga.

List of laws, regulations and other materials received

Commercial laws

Account Register Law

Accounting Law

Annual Accounts Law

Associations and Foundations Law

Cabinet Accounting Regulations

Law On Audit Services

Law on Annual Statements and Consolidated Annual Statements

Co-operative Societies Law

Financial Instrument Market Law

Insolvency Law

Commercial Law

Law on European Co-operative Societies

Law on Investment Companies

Law on the Enterprise Register

Taxation laws

Law on Enterprise Income Tax

Law on Personal Income Tax

Law on Savings and Loan Associations

Law on Taxes and Fees

Law on the State Revenue Service

Banking laws

Credit Institutions Law

Anti-money laundering laws

Law on the Prevention of Money Laundering and Terrorism and Proliferation Financing

Other

Advocacy Law

Criminal Law

Law on Information Disclosure

Law on Administrative Liability

Law on Administrative Penalties for Offences in the Field of Administration, Public Order, and Use of the Official Language

Law on Audit Services

Law on International Agreements of the Republic of Latvia

Law on Archives

Law on Submissions

Law on Prevention of Conflict of Interest in Activities of Public Officials

Notariate Law

Liability of Public Officials and Other Persons of Law on Prevention of Conflict of Interest in Activities of Public OfficialsPublic Procurement Law

State Civil Servant Disciplinary Law

Constitution of the Republic of Latvia

Tax treaties

Cabinet of Ministers Regulation No. 246 of 11 June 2019, "Procedures by which Administrators of Insolvency Proceedings and Persons Supervising Legal Protection Proceedings Keep Records"

Cabinet Regulation No. 1245 of 5 November 2013, "Procedures for the Performing Exchange of Information in the Field of Taxation between the Competent Authorities of Latvia and Other European Union Member States and Competent Authorities of Foreign States with which International Agreements Ratified by the Saeima of the Republic of Latvia have been Entered into", referred to as "Cabinet Regulation No. 1245"

Cabinet Regulation No. 537 of 22 September 2015, "Regulations Regarding the Registration of Taxpayers' and Taxpayers' Units with the State Revenue Service"

Regulation of the Bank of Latvia No. 5 of 12 January 2021, "Normative rules for creating a system for customer due diligence, enhanced due diligence and numerical risk assessment, and information technology requirements"

European Banking Authority, "Guidelines on customer due diligence and the factors credit and financial institutions should consider when assessing the money laundering and terrorist financing risk associated with individual business relationships and occasional transactions"

FCMC Recommendation No. 169 of 21 December 2021 "Recommendations for the establishment of the internal control system for anti-money laundering and countering terrorism and proliferation financing and sanctions risk management, and for customer due diligence"

FCMC Regulations No. 5 of 12 January 2021 "Regulations on the Establishment of Customer Due Diligence, Enhanced Customer Due Diligence and Risk Scoring System and Information Technology Requirements"

State Revenue Service, "Procedure of archive management, file organisation and preparation in the State Revenue Service" (No. 24 of 9 March 2021)

State Revenue Service Internal Rules No. 6 of 19 January 2021 "Procedures for ensuring the exchange of information in the field of direct taxation between Member States of the European Union, countries with which international agreements have been concluded regarding the prevention of double taxation and tax evasion, and State Revenue Service departments regarding the exchange of information on request, spontaneous information and the request for an administrative notification", referred to as "Internal Rules No. 6"

State Revenue Service, "List of Restricted Access Information at the Disposal of the State Revenue Service" (No. 251 of 19 October 2022)

State Revenue Service, "Procedures of Document Management of the State Revenue Service" (No. 52 of 8 September 2021)

Latvian Association of Sworn Auditors, Procedures for Measures to be taken on the Commercial Companies of sworn auditors and Sworn Auditors for the Enforcement of Money Laundering and Terrorism and Proliferation Financing Law and the International and National Sanctions Act

Latvian Council of Sworn Notaries, Guidelines for sworn notaries on development of internal control systems for anti-money laundering, counter terrorism financing and non-proliferation, as well as international and national sanction purposes

Latvian Sworn Bar Associations, Internal control system instruction for sworn lawyers "Money Laundering and Terrorism and Proliferation prevention of financing and compliance with international and national sanctions"

Latvian Association of Sworn Auditors, Guidelines on the arrangements for the appointment of certified auditors and measures to be taken by commercial companies of certified auditors to ensure compliance with the requirements of the Law on Prevention of Money Laundering and Terrorism and Proliferation Financing and the Law on International and National Sanctions of the Republic of Latvia

Current and previous reviews

This report provides the outcomes of the third peer review of Latvia conducted by the Global Forum.

Latvia previously underwent reviews in 2014 and 2015. The review of its legal and regulatory framework (Phase 1) in 2014 and the review of the implementation of that framework in practice (Phase 2) in 2015 were conducted according to the 2010 Terms of Reference and the Methodology used in the first round of reviews. That report of that evaluation (the 2015 Report) concluded that Latvia was rated Largely Compliant overall.

The present review combines Phase 1 and Phase 2 and has been conducted according to the 2016 Terms of Reference and the Methodology used in the second round of reviews.

Information on each of Latvia's reviews is provided in the table below.

Summary of reviews

Review	Assessment team	Period under review	Legal framework as of	Date of adoption by Global Forum
Round 1 Phase 1	Ms Ivonete Bezerra de Sousa, (Brazil); Mr Wayne Lonnie Brown (Bermuda); Mr Radovan Zidek (Global Forum Secretariat)	not applicable	29 January 2014	March 2014
Round 1 Phase 2	Ms Ivonete Bezerra de Sousa, (Brazil); Mr Wayne Lonnie Brown (Bermuda); Mr Radovan Zidek (Global Forum Secretariat)	1 July 2011 to 30 June 2014	7 August 2015	September 2015
Round 2	Ms Sina Tannebaum (Switzerland); Mr Bongani Gamedze (Eswatini); Ms Anzhela Cedelle and Ms Kuralay Baisalbayeva (Global Forum Secretariat)	1 April 2019 to 31 March 2022	2 August 2023	3 November 2023

Annex 4. Latvia's response to the review report[64]

Successful cooperation between tax authorities on exchange of tax information creates a transparent economic environment for people, businesses and jurisdictions, therefore Latvia is committed to the internationally agreed standards for transparency and exchange of information in tax matters.

The report reflects the actual situation of our country regarding its legal framework, practices and procedures in the field of transparency and exchange of tax information. We believe that the recommendations given in the peer review report will ensure effective implementation of the international standards of transparency and exchange of information for tax purposes.

Latvia will put its efforts to ensure that its legal framework, practices and procedures are in line with the international standard and will continue to strive to be the best partner in exchanging information for tax purposes, be it in regard the treaty network, the information available or the swiftness of the exchange.

Latvia uses the opportunity to express its sincere appreciation for the contributions, engagement and the constructive approach of the assessment team, the Secretariat and the Peer Review Group during discussions of the report.

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

GLOBAL FORUM ON TRANSPARENCY AND EXCHANGE OF INFORMATION FOR TAX PURPOSES

Peer Review Report on the Exchange of Information on Request LATVIA 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 Latvia, as part of the second round of reviews conducted by the Global Forum on Transparency and Exchange of Information for Tax Purposes since 2016.

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