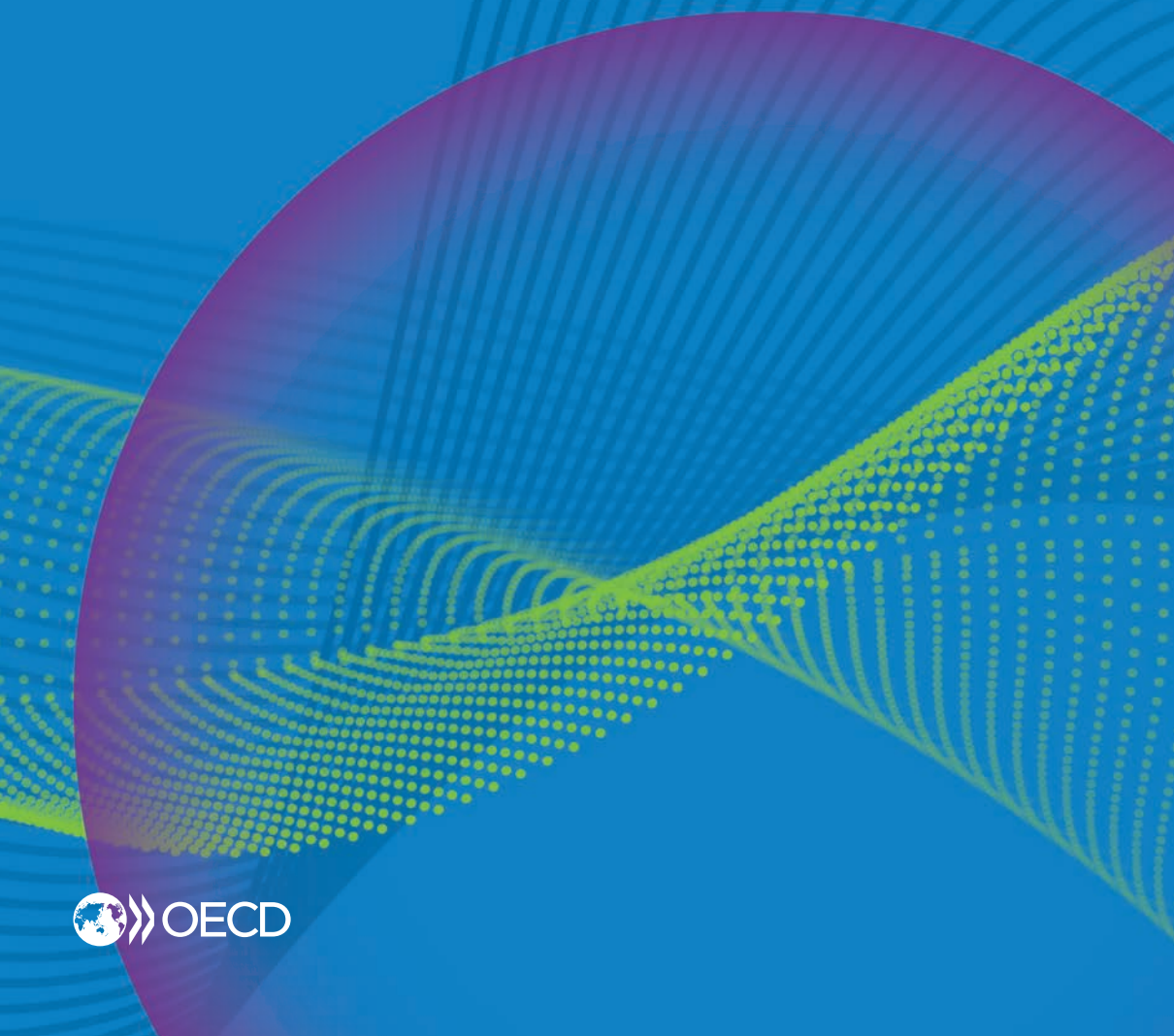
GLOBAL FORUM ON
TRANSPARENCY AND EXCHANGE OF INFORMATION FOR TAX PURPOSES

Peer Review Report on the Exchange of Information on Request

SAINT LUCIA

2023 (Second Round)



OECD

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

PEER REVIEW REPORT ON THE EXCHANGE OF INFORMATION ON REQUEST

BETTER POLICIES FOR BETTER LIVES

This peer review report was approved by the Peer Review Group of the Global Forum on Transparency and Exchange of Information for Tax Purposes on 8 February 2023 and adopted by the Global Forum members on 27 March 2023. The report was prepared for publication by the Secretariat of the Global Forum on Transparency and Exchange of Information for Tax Purposes.

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Table of contents

Reader's guide 5

Abbreviations and acronyms 9

Executive summary 11

Summary of determinations, ratings and recommendations 15

Overview of Saint Lucia 21

Part A: Availability of information 31

A.1. Legal and beneficial ownership and identity information 31
A.2. Accounting records 69
A.3. Banking information 84

Part B: Access to information 95

B.1. Competent authority's ability to obtain and provide information 95
B.2. Notification requirements, rights and safeguards 101

Part C: Exchange of information 105

C.1. Exchange of information mechanisms 105
C.2. Exchange of information mechanisms with all relevant partners 111
C.3. Confidentiality 112
C.4. Rights and safeguards of taxpayers and third parties 119
C.5. Requesting and providing information in an effective manner 120

Annex 1: List of in-text recommendations 127

Annex 2: List of Saint Lucia's EOI mechanisms 128

Annex 3: Methodology for the review 132

Annex 4: Saint Lucia's response to the review report 136

Reader's guide

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

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

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

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

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

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

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

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

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

Consideration of the Financial Action Task Force Evaluations and Ratings

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

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

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

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

More information

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

Abbreviations and acronyms

2016 TOR	Terms of Reference related to EOIR, as approved by the Global Forum on 29-30 October 2015
AML	Anti-Money Laundering
AML/CFT	Anti-Money Laundering/Countering the Financing of Terrorism
BO	beneficial ownership
CARICOM	Caribbean Community and Common Market
CDD	Customer Due Diligence
DCIR SDPM	Deputy Comptroller of the Inland Revenue Department, Strategic Design, Planning and Monitoring Division
DTC	Double Taxation Convention
ECCB	Eastern Caribbean Central Bank
EOI	Exchange of information
EOIR	Exchange of Information on Request
EUR	Euro
FATF	Financial Action Task Force
FIA	Financial Intelligence Authority
FSRA	Financial Services Regulatory Authority
Global Forum	Global Forum on Transparency and Exchange of Information for Tax Purposes
IBC	International Business Company
IRD	Inland Revenue Department
ITC Act	International Tax Co-operation Act
MLPA	Money Laundering Prevention Act

Multilateral Convention	Convention on Mutual Administrative Assistance in Tax Matters, as amended in 2010
OECS	Organisation of Eastern Caribbean States
RA	Registered Agent and Trust Service Provider
RIBC	Registry of International Business
ROCIP	Registry of Companies and Intellectual Property
TIEA	Tax Information Exchange Agreement
USD	United States Dollar
VAT	Value Added Tax
XCD	East Caribbean Dollar

Executive summary

1. This report analyses the implementation of the standard of transparency and exchange of information on request in Saint Lucia on the second round of reviews conducted by the Global Forum. It assesses both the legal and regulatory framework in force on 24 November 2022 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 July 2018 to 30 June 2021. This report concludes that Saint Lucia continues to be rated overall Largely Compliant with the standard.

2. During the first round of EOIR peer reviews against the 2010 Terms of Reference (ToR), Saint Lucia was reviewed three times. Its legal and regulatory framework was first evaluated in 2012. The second phase review on implementation of that framework in practice was carried out in 2014. The review concluded with the overall rating of Partially Compliant, mainly because of deficient accounting rules. Finally, Saint Lucia's progress in implementation of the 2010 ToR was assessed in a supplementary review in 2016. The Phase 2 Supplementary Review (2016 Report) concluded with Saint Lucia's overall rating being upgraded to Largely Compliant (see Annex 3 for details).

3. The following table compares the results from the latest first round review and the second round review of Saint Lucia's implementation of the EOIR standard.

Comparison of ratings for First Round Report and Second Round Report

Element	First Round Supplementary Report (2016)	Second Round Report (2022)
A.1 Availability of ownership and identity information	Largely Compliant	Largely Compliant
A.2 Availability of accounting information	Partially Compliant	Largely Compliant
A.3 Availability of banking information	Compliant	Largely Compliant
B.1 Access to information	Largely Compliant	Compliant
B.2 Rights and safeguards	Compliant	Compliant

Element	First Round Supplementary Report (2016)	Second Round Report (2022)
C.1 EOIR Mechanisms	Compliant	Compliant
C.2 Network of EOIR mechanisms	Compliant	Compliant
C.3 Confidentiality	Compliant	Compliant
C.4 Rights and safeguards	Compliant	Compliant
C.5 Quality and timeliness of responses	Largely 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

4. Saint Lucia made progress in the implementation of the standard since its last Round 1 review, notably in respect of its practice to access and exchange information for tax purposes. The 2016 Report found that since Saint Lucia only received one request, and this request involved information already in the possession of the competent authority, the ability to access information and share it in a timely manner could not be sufficiently tested. Since then, Saint Lucia has successfully used its access power for all ten requests received during the new review period and shared this information in a timely manner. As a result, Saint Lucia is considered to comply with the standard with respect to Elements B.1 (access to information) and C.5 (requesting and providing information in an effective manner). This led to the rating upgrade of the two elements from Largely Compliant to Compliant.

5. Saint Lucia greatly expanded its network of partners with the signature and entry into force of the Convention on Mutual Administrative Assistance in Tax Matters with effect from March 2017. The EOIR relationships of Saint Lucia raised from 32 to 147 partners.

6. Saint Lucia also made significant improvements in monitoring the compliance with accounting record requirements, for which Saint Lucia received a recommendation in the 2016 Report. Even though the review period was heavily affected by the COVID-19 pandemic, the Inland Revenue Department, Financial Intelligence Authority and Financial Services Regulatory Authority conducted compliance and audit activities to a satisfactory level, demonstrating fair monitoring and enforcement activities. The monitoring recommendation has been amended to reflect this progress. This led to the upgrade of the individual rating for Element A.2 (availability of accounting records) from Partially Compliant to Largely Compliant.

7. Furthermore, since the 2016 Report, Saint Lucia made significant improvements in monitoring the compliance with the legal obligations to maintain legal ownership information. Saint Lucia exercised enforcement powers when non-compliance was detected. The two company registers responsible for domestic and for international companies have struck-off many companies for non-compliance with their annual ownership filing obligations. The Inland Revenue Department and the Financial Intelligence Authority have also strengthened their audit activities to ensure compliance with the requirements to maintain ownership information.

Key recommendations

8. The standard was strengthened in 2016 to require the availability of information on the beneficial owners of legal entities, arrangements and bank accounts. Saint Lucia relies on annual filing obligations contained under company law and the customer due diligence obligations under the anti-money laundering (AML) framework to comply with the standard. The rules cover generally the identification of the beneficial owners of all legal relevant entities in conformity with the standard. Saint Lucia recently introduced some rules on beneficial ownership information requirements – such as the guidance on the identification of beneficial owners. Given their recent introduction, their implementation in practice could not be fully assessed. Saint Lucia is recommended to monitor the practical application of these rules.

9. Additionally, the Registrar for domestic companies has undertaken an extensive project to digitalise its operation and clean up the Register through striking off inactive companies.[1] However, it experienced delays in the digitalisation, due to financial constraints resulting from the COVID-19 pandemic. To cover the gap, the Registrar allocated additional human resources (now six full-time staff) to proceed with cleaning up the Register and manually check the annual returns. Although most domestic companies' annual returns would not involve complex structures, the current manual review of the annual returns of 13 000 domestic companies may not be adequate to ensure the quality of the information. Saint Lucia indicated that the digitalisation effort should be finalised in the first half of 2023, which will help the Registrar to monitor compliance more effectively and to deploy the freed resources into ensuring the adequacy of beneficial ownership information filled. Moreover, the striking off does not automatically lead to the dissolution of inactive companies after a certain time frame. This may lead to the unavailability of ownership information in certain instances. Accordingly, Saint Lucia is recommended to continue to strengthen its organisational

1. The Registrar for international business companies is already fully digitalised.

processes and/or resources and to ultimately dissolve inactive companies, to ensure the availability of adequate, accurate and up-to-date ownership (including beneficial ownership) information in all cases.

10. Another key recommendation relates to the availability of accounting records in line with the standard. Since the 2016 Report, Saint Lucia has put in place adequate monitoring systems and activities to ensure availability of accounting information. However, part of these activities could not be rolled out due to the constraints of the COVID-19 pandemic. In addition, since 1 July 2021, International Business Companies (IBCs), that were previously exempt from tax, must file annual tax returns and accounting information with the Inland Revenue Department. Saint Lucia should hence continue to implement its monitoring activities, including on newly taxable IBCs, to ensure availability of accounting information in all cases.

Exchange of information in practice

11. During the three-year review period from 1 July 2018 to 31 June 2021, Saint Lucia received 10 requests for information and sent no requests to its treaty partners. Communication with partners is positive and the authorities in Saint Lucia are considered by peers as accessible and effective. Partners are generally satisfied with the information they have received from Saint Lucia. Most requested information relates to banking information or information on international business companies and have been answered within 90 days.

Overall rating

12. Saint Lucia has achieved a rating of Compliant for seven elements (B.1, B.2, C.1, C.2, C.3, C.4 and C.5) and Largely Compliant for three elements (A.1, A.2 and A.3). Saint Lucia's overall rating is Largely Compliant based on a global consideration of its compliance with the individual elements.

13. This report was approved at the Peer Review Group of the Global Forum on 8 February 2023 and was adopted by the Global Forum on 27 March 2023. A follow up report on the steps undertaken by Saint Lucia to address the recommendations made in this report should be provided to the Peer Review Group no later than 30 June 2024 and thereafter in accordance with the procedure set out under the 2016 Methodology, as amended.

Summary of determinations, ratings and recommendations

Determinations and ratings	Factors underlying recommendations	Recommendations
Jurisdictions should ensure that ownership and identity information, including information on legal and beneficial owners, for all relevant entities and arrangements is available to their competent authorities *(ToR A.1)*		
The legal and regulatory framework is in place but needs improvement	Nominee shareholding must be notified to domestic companies, with the limit that they must represent at least 10% of voting rights. The International Business Companies Act does not include any such notification requirement. There is the inherent risk that not all nominators would be identified.	Saint Lucia is recommended to ensure that accurate identity information on the nominators and their beneficial owners is available in line with the standard where nominees act as the legal owners on behalf of any other persons.
	Saint Lucia relies upon the anti-money laundering framework as the basis for availability of beneficial ownership information of partnerships and trusts. However, there is no specified frequency of updating beneficial ownership information, so there could be situations where the available beneficial ownership information is not up to date. In addition, there is no requirement for partnerships to engage with an AML-obliged person; thus beneficial ownership may not be available for all relevant partnerships.	Saint Lucia is recommended to ensure that up-to-date beneficial ownership information in line with the standard is available in respect of all trusts having a nexus to Saint Lucia as well as all relevant partnerships.

Determinations and ratings	Factors underlying recommendations	Recommendations
EOIR Rating: Largely Compliant	The Registry of Companies and Intellectual Property has undertaken an extensive project to digitalise its operation and clean up the Register of domestic companies through striking off inactive companies. The process is not yet finalised due to constraints raised by the COVID-19 pandemic. In the meantime, additional resources (two full time employees in addition to the four existing full-time employees) were allocated to further clean up the Register and manually check the annual returns of all the around 13 000 domestic companies. Although most returns would not involve complex structures, the manual review of the annual returns, considering the allocated human resources, may not be fully adequate to review the filing and quality of annual legal and beneficial ownership returns of domestic companies. Additionally, the striking off does not automatically lead to the dissolution of inactive companies after a certain time frame. This second factor extends to IBCs. Hence, there might be the risk that adequate, accurate and up-to-date ownership information is not available.	Saint Lucia should continue to strengthen its organisational processes and/or resources and should ultimately dissolve inactive companies, to ensure the availability of adequate, accurate and up-to-date legal and beneficial ownership information in all cases.
	At the time of the review, the definition of beneficial owner, as well as administrative penalties had been newly introduced into the Money Laundering Prevention Act. Additionally, guidance was lacking on the beneficial ownership provisions under AML as well as company law to ensure they are applied in a manner in line with the standard. Guidance for the identification of beneficial owners for all entities and arrangements under the Money Laundering Prevention Act was issued in May 2022 and under the Companies Act in November 2022. The implementation of these recently enacted changes and clarifications could not be fully assessed.	Saint Lucia is recommended to monitor the implementation of the new framework for the identification of beneficial owners and exercise its enforcement powers where necessary.

Determinations and ratings	Factors underlying recommendations	Recommendations
Jurisdictions should ensure that reliable accounting records are kept for all relevant entities and arrangements *(ToR A.2)*		
The legal and regulatory framework is in place		
EOIR Rating: Largely Compliant	In July 2015, Saint Lucia put in place adequate monitoring systems and activities to ensure availability of accounting information, although part of these activities have slowed down due to the constraints of the COVID-19 pandemic. In addition, since 1 July 2021, International Business Companies that were previously exempt from tax, must file annual tax returns and accounting information with the Inland Revenue Department and are subject to tax audits. The implementation of these recently enacted changes could not be fully assessed. Saint Lucia also has new monitoring plans.	Saint Lucia is recommended to continue to strengthen its supervisory activities, to ensure the availability of accounting information, in particular with respect to International Business Companies, in line with the standard.
	There is a risk relating to the availability of accounting records of struck-off International Business Companies. As they do not lose their legal personality, they might be still conducting business overseas for which Saint Lucia is uninformed and accounting records of these activities might not be available.	Saint Lucia is recommended to speedily dissolve struck-off companies, to ensure the availability of accounting information in all instances.
Banking information and beneficial ownership information should be available for all account-holders *(ToR A.3)*		
The legal and regulatory framework is in place but certain aspects of the legal implementation of the element need improvement	Banks must ensure that all Customer Due Diligence documents are kept up-to-date and that routine reviews of existing records are done, particularly for categories of high-risk accountholders. However, there is no specified frequency of updating beneficial ownership information, so there could be situations where the available beneficial ownership information is not up to date.	Saint Lucia is recommended to ensure that up-to-date beneficial ownership information is available for all bank accounts, in accordance with the standard.

Determinations and ratings	Factors underlying recommendations	Recommendations
EOIR Rating: Largely Compliant	Prior to 2019, the supervision and oversight activities of domestic and international banks were inadequate. Legislative amendments were made in 2019 to strengthen the Financial Intelligence Authority and the Financial Services Regulatory Authority to allow them to carry out robust oversight programmes for international banks. This programme suffered from the consequences of the COVID-19 pandemic. In respect of domestic banks. the Eastern Caribbean Central Bank is their new supervisor since 1 December 2021. Significant progress in the oversight and monitoring activities of domestic and international banks took place afterwards. Given that most activities were fully rolled out recently, the effectiveness of the supervision and oversight activities could not be fully assessed.	Saint Lucia is recommended to continue to strengthen its supervision and oversight activities of domestic and international banks to ensure the availability of banking information.
	Saint Lucia recently improved its legal framework regarding the availability of beneficial ownership information, notably the implementation of a new definition of beneficial owner, imposition of administrative penalties for failure to comply and the issuance of binding guidance on the identification of beneficial owners in relation to all entities and arrangements.	Saint Lucia is recommended to monitor the implementation of these recent changes to ensure the availability of adequate, accurate and up-to-date beneficial ownership information on bank accounts is available in line with the standard.
Competent authorities should have the power to obtain and provide information that is the subject of a request under an exchange of information arrangement from any person within their territorial jurisdiction who is in possession or control of such information (irrespective of any legal obligation on such person to maintain the secrecy of the information) *(ToR B.1)*		
The legal and regulatory framework is in place		
EOIR Rating: Compliant		

Determinations and ratings	Factors underlying recommendations	Recommendations
The rights and safeguards (e.g. notification, appeal rights) that apply to persons in the requested jurisdiction should be compatible with effective exchange of information *(ToR B.2)*		
The legal and regulatory framework is in place		
EOIR Rating: Compliant		
Exchange of information mechanisms should provide for effective exchange of information *(ToR C.1)*		
The legal and regulatory framework is in place		
EOIR Rating: Compliant		
The jurisdictions' network of information exchange mechanisms should cover all relevant partners *(ToR C.2)*		
The legal and regulatory framework is in place		
EOIR Rating: Compliant		
The jurisdictions' mechanisms for exchange of information should have adequate provisions to ensure the confidentiality of information received *(ToR C.3)*		
The legal and regulatory framework is in place		
EOIR Rating: Compliant		
The exchange of information mechanisms should respect the rights and safeguards of taxpayers and third parties *(ToR C.4)*		
The legal and regulatory framework is in place		

Determinations and ratings	Factors underlying recommendations	Recommendations
EOIR Rating: Compliant		
The jurisdiction should request and provide information under its network of agreements in an effective manner *(ToR C.5)*		
Legal and regulatory framework:	This element involves issues of practice. Accordingly, no determination on the legal and regulatory framework has been made.	
EOIR Rating: Compliant		

Overview of Saint Lucia

14. This overview provides some basic information about Saint Lucia that serves as context for understanding the analysis in the main body of the report. It does not claim to be a complete picture of the legal and regulatory system of the jurisdiction.

15. Saint Lucia is an island located in the Eastern Caribbean. It is part of the Lesser Antilles and is located northeast of the island of Saint Vincent, northwest of Barbados, and south of Martinique (France). It has an estimated population of 166 637.[2] English is the official language in Saint Lucia. The currency is the East Caribbean Dollar (XCD).[3]

16. Saint Lucia has a GDP of USD 2.25 billion (EUR 2.12 billion) (2020 est.). The services sector is the greatest contributor to GDP at 82.8%, of which tourism accounts for 65% of GDP and the financial services sector makes up 9.1%.

17. Given its strong reliance on tourism, Saint Lucia's economy was heavily affected by the COVID-19 pandemic. The total visitors' arrival declined by 89% in the first half of 2021, when comparing the average level over the previous five years (2016-20). This led to contractions in various sectors, including the hotel, restaurant, transport and retail sector. This ongoing economic challenge also led to deteriorations on the labour market with an unemployment rate of 23% (March 2021) compared to 16% (December 2019) in pre-COVID times. As a result, the government recorded an overall deficit of USD 250.6 million (EUR 235.9 million) in the first half of 2021, whereas the average half-year deficit over the previous 5 years was at USD 7.2 million (EUR 6.7 million). The deficit resulted mainly from a decline in current revenue and an increase of public spending, as the government ramped up expenditure on health care and social services in its fight against the COVID-19 virus. The tight fiscal space had an impact on

2. July 2021 estimates, https://www.cia.gov/the-world-factbook/countries/saint-lucia/#people-and-society.
3. The Country is a member of the Eastern Caribbean Currency Union (ECCU). As at 21 February 2022, XCD 1 = EUR 0.33.

other envisaged public sector projects, which needed to be paused in order to react to the imminent repercussions of the pandemic.

Legal system

18. Saint Lucia is a constitutional monarchy whose written constitution establishes a parliamentary democracy system of governance modelled on the Westminster system of England. The constitution guarantees each individual's fundamental rights and provides for the separation of powers between the executive, the parliament, and the judiciary.

19. The Head of State is the British Monarch who is represented in the island by the Governor General. The head of the government is the Prime Minister who is appointed by the Governor General. The Prime Minister usually is the leader of the majority party or coalition. The Deputy Prime Minister is also appointed by the Governor General. With other key members of the executive branch of government, they form part of the cabinet.

20. The legislature is composed of a bicameral Parliament. The upper chamber is the Senate, which is made up of 11 seats. The lower chamber is the House of Assembly composed of 17 seats. Members of the Senate and the House of Assembly are appointed for five-year terms.

21. The United Kingdom's Privy Council is the final court of appeal in civil and criminal matters and the Caribbean Court of Justice in matters relating to the CARICOM Treaty. Below these courts is the Supreme Court (including the High Court and Court of Appeal), followed by the Magistrate Courts. (the hierarchy of these courts is in descending order). EOIR matters originate in the Magistrates Court.[4]

22. The Eastern Caribbean Supreme Court (comprising the High Court and Court of Appeal) is a superior court of record for the Organization of Eastern Caribbean States (OECS) with unlimited jurisdiction in each member state. The nine members of the OECS are Anguilla, Antigua and Barbuda, British Virgin Islands, Dominica, Grenada, Montserrat, Saint Lucia, Saint Kitts and Nevis, and Saint Vincent and the Grenadines. The headquarters of the ECSC are in Castries, Saint Lucia.

23. Deriving from the English legal system and the Civil Code of lower Canada (Quebec), Saint Lucia's legal framework comprises a civil law

4. The stages of appeal would proceed to the High Court, Court of Appeal and then the Privy Council. Saint Lucia is currently in the process of replacing the Privy Council with the Caribbean Court of Justice. Draft legislation to this effect has gone through the first reading. However, Saint Lucia noted that there have been no appeals for EOIR to date.

system based on a Civil Code, a common law system (including English common law) and relevant legislation enacted by Saint Lucia's parliament. The interpretations and precedents of English courts as well as some decisions of the Civil Code of lower Canada (Quebec) have persuasive authority in Saint Lucia but yield to decided authority made by Saint Lucia's own judicial system – The Eastern Caribbean Supreme Court.

24. The legal system is unitary and is subject to Saint Lucia's Constitution, which is the supreme law of the country. After the Constitution, the hierarchy of legislation in Saint Lucia is ordered as follows: the Acts passed by parliament, including the Civil Code Act and international agreements that are given effect through parliamentary approval; and subsidiary legislation, which can be in the form of regulations, statutory rules or orders. Tax treaties and international agreements take precedence over other Acts. As such, the provisions of the EOIR agreements will always prevail, when there is a conflict with an Act passed by Parliament.

Tax system

25. The Saint Lucian tax system includes both direct and indirect taxes, with Personal Income Tax (PIT), Corporate Income Tax (CIT), Customs and other Import Duties and Value Added Tax (VAT) being the most significant taxes in terms of amount collected. Stamp duty on property transfers and property taxes (on commercial property) are also levied. Revenue from taxes and duties represented 19.6% of Saint Lucia's GDP in 2020 (Economic and Social Review 2020). Capital gains, dividends, inheritance or bank interest are not taxed in Saint Lucia.

26. The Inland Revenue Department (IRD) forms part of the Ministry of Finance, Economic Development and the Youth Economy and is responsible for administering and collecting direct and indirect domestic taxes. IRD is one of the two main tax collection agencies – with the other being the Customs and Excise Department. IRD collects approximately 50% of the Government's total revenue.

27. The Income Tax Act governs the administration of income tax and defines the scope of persons "chargeable to tax" as all persons to whom chargeable income has accrued, covering persons who are tax residents in Saint Lucia on their worldwide income, and non-residents with respect of Saint Lucian source income whether accrued directly or indirectly. The corporate tax rate is equivalent to the highest personal income tax rate,[5]

5. The personal income tax rates, on chargeable income, is progressive, starting at 15% on the first XCD 15 000 (EUR 5 165); 20% between XCD 15 001 (EUR 5 166) and XCD 30 000 (EUR 10 331) and 30% above this threshold.

amounting to 30%. Saint Lucia moved to a territorial tax regime and introduced a foreign source income exemption[6] on business income, as of 1 January 2019.

28. Tax residence in Saint Lucia is defined in Section 2 of the Income Tax Act. Residence generally is established, when:

- In case of an individual: his or her permanent place of abode is in Saint Lucia and he or she is physically present therein for some period of time in the income year (subject to some exceptions granted by the Comptroller), or he or she is physically present in Saint Lucia for not less than 183 days in the year of income
- In case of a company: it is either incorporated in Saint Lucia, or controlled and managed from Saint Lucia.

29. A partnership is not a taxable entity, and partners are taxed individually on the basis of their tax-residence.

30. A person is defined to include an individual, a trust, the estate of a deceased person, a company, a partnership, and every other juridical person. Even where a person is not liable to tax in Saint Lucia, there may still be obligations imposed by the Income Tax Act to file an annual return and/or to keep certain information relevant for tax purposes, including accounting records. This, for instance, applies to international business companies (IBCs) which only earn foreign source income. Such an entity would benefit from the foreign source income exemption but would still be obliged to file and maintain records.

31. Free trade zones (FTZs) may be created in Saint Lucia, pursuant to the Free Zones Act. Presently, one FTZ has been created, in Vieux Fort, which is managed by Saint Lucia's Air and Sea Ports Authority. In the FTZ, investors may establish business and conduct trade and commerce outside of the national customs territory, and such businesses are also granted a five-year income tax holiday. Business activities can be conducted entirely within the FTZ, or between the FTZ and other countries. The Saint Lucia authorities clarified that the laws pertaining to the FTZ do not allow for the establishment of any types of entities or arrangements other than those generally provided for under Saint Lucia's laws. These entities and arrangements are subject to the same laws of Saint Lucia regarding ownership, accounting, and banking information.

6. It was introduced via Section 10A of the Income Tax (Amendment) Act No. 12 of 2018.

Financial services sector

32. The financial services sector contributed 9.1% of GDP in 2020. Net foreign assets held by banks was XCD 1.07 billion (EUR 3.5 million) at the end of December 2020 while net assets held by banks domestically was XCD 2.05 billion (EUR 6.7 million) at the end of December 2020. Given that net foreign assets constitute only half of the net domestic assets, Saint Lucia cannot be regarded as a significant international financial centre.[7]

33. Saint Lucia's financial services sector is regulated by the Financial Services Regulatory Authority (FSRA), previously known as the Financial Sector Supervision Unit, and by the Eastern Caribbean Central Bank (ECCB).

Financial Services Regulatory Authority

34. The FSRA was established through the enactment of the Financial Services Regulatory Authority Act (FSRA Act) and commenced its operations in January 2014. The FSRA is responsible for the regulation and supervision of the international financial sector (also called offshore sector), and the Non-Bank Financial Sector (e.g. insurance companies, money services business). Additionally, the FSRA regulates and supervises the Saint Lucia Development Bank.

35. The offshore sector is comprised primarily of 32 international insurance providers, 11 international banks, 7 international mutual funds, and 20 registered agent and trust service providers (RA, 19 licensed registered agents and 1 registered trustee).[8] The Non-bank Financial Sector comprises 26 domestic insurance entities, 14 credit unions and 15 money services business companies, 1 credit union league and 3 other Non-Bank Financial Institutions.

36. In supervising these entities, the FSRA has responsibility for the administration of the following pieces of legislation: Insurance Act, International Insurance Act, International Banking Act, International Mutual Funds Act, Co-operative Societies Act, Registered Agent and Trustee Licensing Act, Money Services Business Act, Saint Lucia Development Bank Act.

7. A general characteristic of an international financial centre is that net foreign assets are greater than domestic assets.
8. Saint Lucia noted that the single registered trustee is in the process of surrendering the licence.

Eastern Caribbean Central Bank

37. The ECCB is responsible for monitoring financial institutions licensed under the Banking Act across the Eastern Caribbean Currency Union (ECCU), including the four domestic banks in Saint Lucia. These banks do not operate in the offshore sector. The ECCB replaced the FIA as the designated supervisory authority for the domestic banking sector in December 2021. It can conduct inspections at licensed financial institutions. Inspections are informed by the ECCB's ML/TF risk assessment of its licensees. The ECCB is guided by the AML/CFT legislation of Saint Lucia as it relates to customer due diligence information. The ECCB's employs a risk-based AML/CFT Supervisory Framework which is supported by the AML/CFT legislation of the respective member country.

Anti-Money Laundering Framework

38. The Financial Intelligence Authority (FIA) of Saint Lucia is the designated anti-money laundering (AML) Supervisor for all reporting entities (Financial Institutions and Other Business Activities) with the exception of domestic banks. Domestic Banks are supervised by the ECCB. The role of the FIA and ECCB is to ensure that reporting entities comply with their obligations under various AML/CFT legislation.[9] For the purpose of this report, the Money Laundering (Prevention) Act (MLPA), as amended, is the most relevant act. The MLPA provides the legal basis for the supervision of, and detailed AML/CFT obligations for a broad range of AML-obliged persons, including Financial Institutions that capture the entities licensed by the FSRA above, and persons engaged in a relevant business activity (called other business, which include RAs, professional trustees, lawyers (approximately 200), accountants (10), real estate agents (number unknown), motor vehicle dealers (9) and dealers in precious metals and stones (4). It also provides the legal basis for the supervision conducted by the FIA and ECCB and establishes the FIA as an independent agency to receive reports of suspicious transactions from AML-obliged persons.

39. The MLPA, the Money Laundering (Prevention) (Guidance Notes) Regulations and the Proceeds of Crime Act are the key elements of the AML framework in establishing obligations for AML-obliged persons to keep ownership, identity and accounting information.

9. Money Laundering (Prevention) Act (MLPA); Money Laundering (Prevention) (Amendment) Act No. 13 of 2019; Anti-Terrorism; United Nations (Counter-Proliferation Financing) Act No. 29 of 2019; Proceeds of Crime Act.

40. Saint Lucia's latest Caribbean Financial Action Task Force review report was published in January 2021.[10] The report concluded that Saint Lucia should be placed under the enhanced follow-up process. Saint Lucia was assessed as partially compliant with respect to the FATF standard for Recommendations 10 (Financial Institutions: Customer due diligence), 22 (Designated Non-Financial Businesses and Professions: Customer due diligence), 24 (Transparency and beneficial ownership of legal persons) and 25 (Transparency and beneficial ownership of legal arrangements). With regard to the effectiveness of Saint Lucia's measures relating to the appropriate supervision, monitoring and regulation of AML-obliged persons for compliance with AML/CFT requirements (Immediate Outcome 3), the level of effectiveness was rated as low, with major improvements needed. The same low level of effectiveness was determined regarding the prevention of misuse for money laundering or terrorist financing by legal persons and arrangements, and the availability of information on their beneficial ownership (Immediate Outcome 5).

41. As a result of these ratings, Saint Lucia is in the process of undertaking the following:

- developing of an Action Plan, with time frames to remedy deficiencies
- amending the Money Laundering (Prevention) Act, International Banks Act, Financial Services Regulatory Act, Virtual Assets Service Providers Bill, and Companies Act
- updating the National Risk Assessment[11] (dating 2018). The assessment will focus on the risks of new technology and on legal persons and arrangements as well as money laundering risks.

Recent developments

42. Legislative developments since Saint Lucia's 2016 Report cover company law, tax law and AML legislation.

10. Saint Lucia's 4th Round of review under the Mutual Evaluation Procedure can be found here: https://www.fatf-gafi.org/media/fatf/documents/reports/mer-fsrb/CFATF-Mutual-Evaluation-Report-Saint-Lucia-2021.pdf.

11. This risk assessment allows jurisdictions to identify, assess and understand their money laundering and terrorist financing risks. Once jurisdictions understand these risks, they can apply AML/CFT measures that correspond to the level of risk.

Tax law

- From 1 January 2019, the previous option to pay corporate tax at 0% or 1% is no longer available to IBCs. Instead, Saint Lucia implemented a territorial tax system on all income of relevant entities. This amendment to Section 10A of the Income Tax Act affects all companies formed in or tax residents of Saint Lucia. All income, except from foreign sources, is taxed at the corporate income tax rate of 30%. Foreign-source business income is exempt.
- Saint Lucia joined the Inclusive Framework on BEPS in 2018 and committed to implementing the four minimum standards.
- Saint Lucia enacted the Economic Substance Act in December 2019. Under this Act, all entities in relevant sectors (geographically mobile sectors as listed by the OECD) are required to provide beneficial ownership and accounting information to the Competent Authority annually, three months after the end of the financial year of the relevant entity (Section 13 Economic Substance Act).
- The definition of permanent establishment (Section 2 Income Tax (Amendment) Act) was amended in 2018 to meet OECD standard.[12]

Company law

- In 2018, the Companies Act was amended to include requirements for companies to maintain a register with beneficial ownership information.
- A simplified striking off procedure was introduced in May 2021. The Registry is now able to strike off companies within 30 days of publishing in the gazette, and 1 725 companies have been struck off as at November 2022. This process will continue until the registry is up to date and will continue annually thereafter.
- The International Trust Act was repealed as of 30 June 2021 the drafting of a new Trust Act is underway. The Saint Lucia authorities indicated that the new act will incorporate all the necessary transparency, fairness and exchange of information provisions to meet the standard.

12. Pursuant to Section 2 of the Income Tax (Amendment) Act No 12 of 2018, a permanent establishment is defined as (i) a fixed place of business through which the business of an enterprise is wholly or partly carried on and (ii) a building site or construction or installation project only if it lasts more than twelve months; both of which include: (i) a place of management, (ii) a branch, (iii) an office, (iv) a factory, (v) a workshop, or (vi) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.

- The International Partnership Act was abolished as of 30 June 2021. Saint Lucia does not intend to replace this act with a new one.

Anti-Money Laundering legislation

- The Money Laundering (Prevention) (Amendment) Act No 16 introduced in December 2021 a definition of beneficial owner into the MLPA at Section 2, which was previously missing. Additionally, Sections 6A and 6B were amended to include administrative penalties and measures to strengthen monitoring and compliance activities.

Part A: Availability of information

43. Sections A.1, A.2 and A.3 evaluate the availability of ownership and identity information for relevant entities and arrangements, the availability of accounting information and the availability of banking information.

A.1. Legal and beneficial ownership and identity information

Jurisdictions should ensure that legal and beneficial ownership and identity information for all relevant entities and arrangements is available to their competent authorities.

44. The 2016 Report found that Saint Lucia's legal and regulatory framework for maintaining legal ownership information was in place. Saint Lucia was found Largely Compliant with the implementation of the standard in practice because monitoring activities over the review period were still at initial stages and there was no evidence of fines being imposed in practice.

45. Since the last assessment, Saint Lucia has monitored the implementation of the legal obligation to maintain ownership information and has also further refined the oversight system. The Registry of Companies and Intellectual Property (ROCIP) and the Registry of International Business (RIBC) streamlined the striking off process – resulting in many domestic, external and international business companies being struck off for non-compliance.

46. Whereas the RIBC is fully digitalised, the ROCIP is not yet digitalised. Given the resource constraints Saint Lucia faced during the COVID-19 pandemic, the ROCIP experienced delays in its digitalisation such that many tasks remain to be conducted manually. Although the system remains manual, ROCIP allocated more human resources (two more full-time employees in addition to the four existing ones), assisted by the Inland Revenue Department (IRD), to ensure the manual checks of the domestic companies' annual returns. The IRD and the Financial Intelligence Authority

(FIA) have also strengthened their audit activities to ensure compliance with the requirements to maintain ownership information.

47. Not discussed in the previous Reports, but now an integral part of the standard as strengthened in 2016, is the availability of beneficial ownership (BO) information on all relevant entities and arrangements. In Saint Lucia, beneficial ownership information is available through company law and AML law. The definition and method of identifying beneficial owners for all relevant entities and arrangements is in line with the standard. However, some rules and monitoring activities have been impacted due to COVID-19 or recently introduced, and hence their implementation could not be sufficiently tested.

48. Once the digitalisation effort of ROCIP is finalised it will free up more resources for further intensifying the checks on the accuracy of the annual returns containing beneficial ownership information of domestic companies. Even though most returns of domestic companies would not involve complex structures, the manual review of the BO annual returns may currently not be adequate to sufficiently assess the quality of the returns given the allocated resources. The monitoring activities relating to the adequacy of BO information relating to IBCs seems however robust.

49. During the current review period, Saint Lucia received ten EOI requests, of which three included requests for legal ownership information and two requests for beneficial ownership information. Saint Lucia provided information for all requests.

50. The conclusions are as follows:

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

Deficiencies identified/Underlying factor	Recommendations
Nominee shareholding must be notified to domestic companies, with the limit that they must represent at least 10% of voting rights. The International Business Companies Act does not include any such notification requirement. There is the inherent risk that not all nominators would be identified.	Saint Lucia is recommended to ensure that accurate identity information on the nominators and their beneficial owners is available in line with the standard where nominees act as the legal owners on behalf of any other persons.

Deficiencies identified/Underlying factor	Recommendations
Saint Lucia relies upon the anti-money laundering framework as the basis for availability of beneficial ownership information of partnerships and trusts. However, there is no specified frequency of updating beneficial ownership information, so there could be situations where the available beneficial ownership information is not up to date. In addition, there is no requirement for partnerships to engage with an AML-obliged person; thus beneficial ownership may not be available for all relevant partnerships.	Saint Lucia is recommended to ensure that up-to-date beneficial ownership information in line with the standard is available in respect of all trusts having a nexus to Saint Lucia as well as all relevant partnerships.

Practical implementation of the Standard: Largely Compliant

Deficiencies identified/Underlying factor	Recommendations
The Registry of Companies and Intellectual Property has undertaken an extensive project to digitalise its operation and clean up the Register of domestic companies through striking off inactive companies. The process is not yet finalised due to constraints raised by the COVID-19 pandemic. In the meantime, additional resources (two full time employees in addition to the four existing full-time employees) were allocated to further clean up the Register and manually check the annual returns of all the around 13 000 domestic companies. Although most returns would not involve complex structures, the manual review of the annual returns, considering the allocated human resources, may not be fully adequate to review the filing and quality of annual legal and beneficial ownership returns of domestic companies. Additionally, the striking off does not automatically lead to the dissolution of inactive companies after a certain time frame. This second factor extends to IBCs. Hence, there might be the risk that adequate, accurate and up-to-date ownership information is not available.	Saint Lucia should continue to strengthen its organisational processes and/or resources and should ultimately dissolve inactive companies, to ensure the availability of adequate, accurate and up-to-date legal and beneficial ownership information in all cases.

Deficiencies identified/Underlying factor	Recommendations
At the time of the review, the definition of beneficial owner, as well as administrative penalties had been newly introduced into the Money Laundering Prevention Act. Additionally, guidance was lacking on the beneficial ownership provisions under AML as well as company law to ensure they are applied in a manner in line with the standard. Guidance for the identification of beneficial owners for all entities and arrangements under the Money Laundering Prevention Act was issued in May 2022 and under the Companies Act in November 2022. The implementation of these recently enacted changes and clarifications could not be fully assessed.	Saint Lucia is recommended to monitor the implementation of the new framework for the identification of beneficial owners and exercise its enforcement powers where necessary.

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

51. The legal framework to ensure the availability of legal ownership and beneficial ownership information for various types of companies in Saint Lucia is analysed below.

Types of companies and registration process

52. Saint Lucia's law provides for the creation of various types of companies:

- Companies with share capital: domestic company formed under the Companies Act, which can be either ordinary (i.e. privately held) or public companies (i.e. a company whose shares are traded on a stock exchange).
- Companies without share capital (non-profit): A type of domestic company that is formed under the Companies Act, only with the permission of the attorney-general and for a socially useful purpose. A non-profit company can only pursue business that is of a patriotic, religious, philanthropic, charitable, educational, scientific, literary, historical, artistic, social, professional, fraternal, sporting or athletic nature, or the like, or to the promotion of some other useful object (Section 328 Companies Act). This company has no authorised share capital and cannot provide any pecuniary gain to its members. Any profits need to be used for furthering the stipulated purpose of the company (Section 329 Companies Act). It is also tax-exempt.

After the dissolution of a non-profit company, all assets and liabilities need to be transferred to a charitable or beneficial organisation in Saint Lucia. However, this default clause can be modified in the articles of incorporation, allowing for a distribution of the remaining property to its members. Given these characteristics, non-profit companies are of limited pertinence to the exchange of information for tax purposes. However, due to the possible revocability of the assignment of the assets to the non-profit company after the dissolution, they will be briefly addressed in the relevant sections.[13]

- International business companies (IBCs): Formed under the IBC Act, IBCs – prior to the amendment in 2018 – could only carry out business outside of Saint Lucia. This restriction has been lifted with effect from 1 January 2019; hence IBCs can do business in and outside of Saint Lucia. IBCs formed before 31 December 2018 enjoyed the benefit of a grandfathering period, which ended on 30 June 2021. As of 1 January 2019, an IBC can no longer elect to pay income tax at 1% or be tax-exempt. IBCs are subject to the territorial tax regime, i.e. foreign source income is exempt from corporate income tax, whereas income earned within Saint Lucia is subject to the ordinary corporate tax rate. Next to these characteristics for standard IBCs, there can be two specific types of IBCs, which are subject to further requirements:
  - An IBC can be formed as an Incorporated Cell Company limited to carrying out regulated international insurance business (Section 4 of the International Business Companies Amendment Act 2006). Each Incorporated Cell Company is an IBC, which is "linked" to individual cells, and each cell itself is considered to be an IBC (Section 3 of the International Business Companies (Amendment) Act 2006).
  - An IBC can apply to qualify for the regime of a Head Office Company, in accordance with Section 113A of the International Business Companies (Amendment) Act No. 3 of 2017. Qualifying criteria include physical premises in Saint Lucia, a minimum of 10 employees and at least one subsidiary outside of Saint Lucia.

53. The Companies Act also provides for the registration of two types of foreign companies, which are carrying on business within Saint Lucia.

- An "external company" is any firm or other body of persons, whether incorporated or unincorporated, that is formed under the laws of

13. Saint Lucia noted that in practice these non-profit companies are mostly established in memory for a deceased person, dedicated to a charitable purpose.

a country other than Saint Lucia (and other member State of the Caribbean Community (CARICOM) or the Organisation of Eastern Caribbean States (OECS)) (Section 551, Companies Act) (for more details see 2012 Phase 1 Review).

- A "Member state company" is any company formed under the laws of another CARICOM or OECS member state.

54. The ROCIP is the Companies Registrar in Saint Lucia. It is responsible for maintaining a register of all companies incorporated or registered under the Companies Act: domestic companies, external companies and member state companies. In contrast, IBCs have their own dedicated registry, being the RIBC.

55. To incorporate in Saint Lucia, domestic companies with share capital must submit their articles of incorporation, amongst other documents, to the ROCIP and within 90 days of registration they must submit ownership information to the Registry (the same rules continue to apply as described in paragraphs 73-74 of the 2014 Report). Non-profit companies need prior approval from the attorney general before they are formed and need to provide the list of officers (directors and secretary) for the incorporation (Section 69 Companies Act). Foreign companies are also required to register with the ROCIP before commencing business in Saint Lucia (Sections 340 and 377C, Companies Act) and need to submit various information in the registration process (e.g. company name, jurisdiction of incorporation) and documentation (e.g. certified copies of documents reflecting shareholder information from the jurisdiction of origin).

56. The registration and incorporation process for IBCs must always be conducted via a registered agent (RA), who is an AML-obliged person located within Saint Lucia. The registration process is similar to the one applicable to domestic companies (for details, see the 2014 Report, paragraphs 76-79). However, there is no mandatory requirement for IBCs to submit legal ownership information in the registration process to the RIBC. Nevertheless, there is a legal obligation to provide legal ownership information to the RA. The RIBC and the RAs met during the onsite visit confirmed that in practice IBCs are used for regional businesses in the Caribbean region. Over 70% of IBCs originate from the CARICOM member states. Even though IBCs can engage in any business, at present the majority (i.e. over 75%) are holding companies, holding both tangible and intangible assets. The remainder is usually engaged in digital services or captive insurance.

57. As of 17 October 2022, the number of companies registered with the ROCIP or the RIBC is as follows:

Type of company	Total number	Registration with
Domestic companies with share capital, including	12 591	ROCIP
Ordinary companies	12 585	ROCIP
Public companies	6	ROCIP
Domestic companies without share capital (non-profit companies)	320	ROCIP
International Business Companies (IBCs), including	3 451	RIBC
Standard IBC	3 423	
Incorporated Cell-Companies	17	
Head Office Companies	6 approved which have not withdrawn officially 4 active 1 application being reviewed	
External Companies	204	ROCIP
Member State Companies	15	ROCIP
Total	**16 581**	

58. As a comparison, in May 2016, there were 12 261 domestic companies (+2.7%) registered with the ROCIP and 3 352 IBCs (+2.9%) registered with RIBC. The number of companies therefore remains stable, with a slight increase in the numbers of domestic companies and IBCs.

Legal Ownership Information Requirements

59. The legal ownership requirements for companies are mainly found under company law, which imposes obligations on all domestic companies to keep their legal ownership information, and on all domestic and foreign companies to register and update such information with the Companies Registrar. These obligations are further supplemented by annual filing obligations of ownership information. In contrast, IBCs are required to file legal ownership information with their registered agent and to update such information via annual filing obligations of ownership information with the registered agent. Additionally, the registered agent is subject to AML obligations and hence is obliged to maintain up-to-date ownership information of the IBC (see below under Nominee). The following table shows a summary of the legal requirements to maintain legal ownership information in respect of companies.

Companies covered by legislation regulating legal ownership information[14]

Type	Company law	Tax law	AML law[15]
Domestic companies with share capital	All	All	Some
Domestic companies without share capital (Non-profit companies)	All	None	Some
International Business Companies	All	All	All
External Companies	All	All	Some
Member State Companies	All	All	Some

Company Law requirements

60. The Companies Act governs the requirements regarding legal ownership information for domestic, non-profit, external and member state companies. Legal ownership information is available as follows:

- With the domestic companies with share capital:[16] Section 177 of the Companies Act requires the maintenance of a shareholder register, including the names and addresses of every member as well as the dates on which they became and ceased to be members. The shareholder register must be kept by the company (Section 175 Companies Act). The exercise of any shareholder rights or receiving notice of shareholder meetings is conditioned upon a share transfer being registered in the shareholder register (Section 123 Companies Act).
- With the ROCIP: domestic, external and member state companies must submit ownership information to the ROCIP within 90 days of business registration via a return of allotments[17] (Section 18(2) Companies Act) and before commencing any business activity. All changes to such ownership information must be submitted to the Registrar within 30 days after a change occurs. Further, all domestic, external and member state registered companies must file an annual return to the ROCIP by 1 April, which includes a requirement to submit updated ownership information (Section 194 in

14. The table shows each type of entity and whether the various rules applicable require availability of information for "all" such entities, "some" or "none". "All" means that the legislation, whether or not it meets the standard, contains requirements on the availability of ownership information for every entity of this type. "Some" means that an entity will be covered by these requirements if certain conditions are met.
15. There is no requirement in Saint Lucia for domestic, external and member state companies to have an ongoing relationship with an AML-obliged person.
16. This does not capture domestic companies without share capital. They are non-profit entities and are not allowed to issue shares. Hence, they are not required to submit a return of allotments.
17. The return of allotments is a specific form for the share register.

conjunction with Section 377L Companies Act for domestic companies and Section 356 and Section 377L Companies Act for external and member state companies).

- With the non-profit companies: identity information on the directors and members is available with the company in their articles of incorporation and in the by-laws. The non-profit company is also obliged to file a director's return with the ROCIP, which discloses the identity of the directors (Section 330 in conjunction with Section 69 Companies Act). A notice of changes must also be filed with the ROCIP in relation to the list of directors should a change occur (Section 326 Companies Act). There is additionally an annual filing obligation of audited financial statements of the non-profit company with the ROCIP, which need to be accompanied by a report of the auditor of the company and a declaration that all these documents were approved by all directors (Part 10 Companies Act). Hence, the ROCIP will de facto have annual information on all directors of the non-profit company.

61. Saint Lucia's legislation complies with the minimum requirements regarding the retention period of at least five years under the standard, regarding shareholder information. The ROCIP must keep all documents received for a minimum of six years from their receipt (Section 515 Companies Act). In addition, companies must retain documents for six years in order to fulfil any follow-up requests made by the Registrar (Section 514 in conjunction with Section 515 Companies Act). In practice ROCIP keeps the records of all entities beyond six years and has so far not disposed of any records.

62. Any company failing to comply with any obligations under the Companies Act is committing an offence and can be subject to the general penalty provision resulting in the imposition of a one-time fine of XCD 5 000 (approx. EUR 1 614) (Section 541 Companies Act). Additionally, an amendment in 2015 to the Companies Act (no 13) introduced a specific penalty for domestic, external and member state companies, who fail to submit the annual return with updated ownership information to the ROCIP (Section 194(3) Companies Act).[18] The company in default is liable to a penalty of XCD 10 (EUR 3.26) for every month the default continues.[19]

18. Since non-profit companies do not have shareholders, they are not obliged to file the annual ownership return. Hence, these sanctions do not apply. However, the striking-off procedure does apply to non-profit companies (see below under enforcement).

19. The Registry is currently seeking to increase late filing fees. A proposal was made to the previous administration but was not implemented (general elections were held in July 2021). On the other hand, the Cabinet has recently approved an increase to XCD 50 (EUR 16.3) for every month the default continues. The Company Act will be amended in the coming months accordingly.

63. The ROCIP is the main authority monitoring the compliance of the registration and annual filing obligations and can decide to strike companies off the register (see paragraph 74).

International Business Companies (IBCs)

64. The IBC Act provides the legal requirements on the availability of ownership information for IBCs. Firstly, IBCs are required to maintain a shareholder register including their names and addresses and the dates on which they became and ceased to be a member (Section 28 IBC Act). The exercise of any shareholder rights or receiving notice of shareholder meetings is conditioned on a share transfer being registered in the share register (Section 60 IBC Act). IBCs are allowed to delete information from their share register relating to persons who are no longer members (Section 28(d) IBC Act). However, given that information needs to be retained for a period of six years (Section 2 in conjunction with Section 111 IBC Act), the information on former shareholders needs to be retained for such period as well. The share register needs to be kept at the registered office (i.e. at the RA).

65. Secondly, IBCs are required to file legal ownership information with their RA in Saint Lucia by 15 February every year (Section 28(6) IBC Act) that includes information of shareholders and directors. The RA is required to retain this information for seven years (Section 16(1) MLPA), and compliance with this requirement is monitored by the FSRA and FIA. Where an IBC fails to submit the shareholder/director return, a late submission penalty[20] of USD 250 (EUR 235) is due (Section 28(7) IBC Act). On top of this annual penalty, the IBC is subject to being struck off, as elaborated below in paragraphs 77-82.

66. Next to the application of fines and the striking-off procedure, domestic, external and member state companies as well as IBCs are incentivised to comply with their annual filing obligations through the issuance of a certificate of good standing. Such certificate is issued by the respective registrar only if the company complied with its annual filing obligations. In practice, this certificate of good standing is needed by companies for many transactions with third parties such as opening and retaining a bank account and real estate transactions. For member state companies wishing to register in Saint Lucia, as well as any entity, which wishes to continue as an IBC, a certificate of good standing is legally required under Section 377 C Companies Act (for member state companies), Section 84 and 85 IBC Act (for entities wishing to continue as IBCs). For all other domestic companies, the certificate of good standing is generally a matter of good practice and not stipulated in law.

20. Penalties for IBCs are expressed in USD in the IBC Act.

Companies that ceased to exist

67. In Saint Lucia, legal ownership information of companies that ceased to exist will be maintained by the ROCIP or by the registered agent. All ownership and identity information that has been submitted to the ROCIP (in case of domestic, non-profit, member state and external companies) or to the registered agent (in case of an IBC) would be maintained for a minimum of six years by the ROCIP and seven years by the RA, which is in line with the standard.

68. In principle, domestic and non-profit companies and IBCs can be subject to either voluntary or compulsory winding-up (Section 378 Companies Act for domestic companies and Section 89 and 90 of the IBC Act for IBCs). Given that in these instances, the legal ownership information remains with the ROCIP and the registered agent, companies that ceased to exist should pose little concern with regard to the availability of ownership information. Nevertheless, paragraphs 230-231 describe in more detail, who is responsible for retaining all company records, which has proven its relevance in the context of Element A.2.

Tax law requirements

69. Companies have no requirement under tax law to submit ownership information to the IRD either at the time of registration or with the annual tax return. The Income Tax Act nonetheless obliges all companies to retain ownership information for a period of six years after the end of the income year, to which the record pertains (Section 90(4) Income Tax Act). A company failing to comply with this requirement is liable to a fine of XCD 1 000 (EUR 328) (Section 140 Income Tax Act).

70. All persons, including domestic and external companies, that are chargeable to tax under the Income Tax Act must register with the Comptroller of Inland Revenue and file an annual return of income. After an amendment of the IBC Act (IBC (Amendment) Act No 13 of 2018), the new Section 109 of the IBC Act, effective 30 June 2021 now also requires all IBCs to file annual income tax returns. As of 17 October 2022, there are 3 467 international business and 6 488 domestic companies registered for tax purposes with the IRD (representing respectively 100% of IBCs registered with RIBC and 52% of domestic companies registered with the ROCIP). To ensure that all relevant companies register with IRD, IRD accesses the ROCIP Database where information on recently formed companies is contained. Furthermore, the Taxpayer Services Officers and the Intelligence Unit Officers pay periodic visits to the ROCIP to obtain relevant and/or updated information on companies registered whether new, existing or defunct.

71. Saint Lucia noted that the IRD registrants represent entities which are actively involved in business. Some persons register companies to reserve a name. These companies may file annual shareholder and beneficial ownership returns with the ROCIP but may not have commenced activities. This might cause the divergence in numbers between the ROCIP registration and IRD registrations regarding domestic companies.[21]

72. The IRD monitors the availability of legal ownership information and the compliance with document retention in its tax audits described under section A.2 in paragraphs 239-250.

Legal ownership information – Implementation and enforcement measures in practice

73. The entities charged with monitoring the ownership obligations outlined above are the ROCIP (for domestic and foreign companies), RIBC (for IBCs), FSRA/FIA (for RAs) and IRD (for all companies). An overview of the oversight activities undertaken by these entities is detailed below.

Registry of Companies and Intellectual Property

74. The following paragraphs firstly describe the overall responsibility and resources of the ROCIP in practice. Subsequently, the main progress achieved through the manual monitoring as well as the envisaged digitalisation plan will be described. This is followed by details on the clean-up exercise conducted by the ROCIP sanctioning inactive companies through striking them off the register.

75. The ROCIP is responsible for the registration of all domestic companies, non-profit companies, external companies and member state companies. The ROCIP acts as the custodian of the records of companies filed with the registrar. All information filed with the ROCIP is available for search and scrutiny to the public at a fee. This includes legal and beneficial owner information, annual returns, financial statements, and transactions such as mortgages, charges, sales and purchases. Government agencies, including the tax authority, are free to search and scrutinise the ROCIP's records.

76. The ROCIP is the main authority monitoring the compliance of the registration and annual filing obligations for domestic, member state and

21. Saint Lucia noted a system is scheduled to be tested in the end of 2022, which facilitates that when a company registers with ROCIP it is automatically registered with IRD simultaneously. This should align both registers and is part of the current digitalisation effort.

external companies. In 2015, the ROCIP implemented a system of oversight to monitor entities that fail to submit annual returns. The endeavour was that the monitoring of annual filing obligations will be digitalised to ensure a more efficient and broad monitoring system. However, the implementation of such system has not taken place so far, due to the budgetary constraints resulting from the COVID-19 pandemic.[22] As a result, the monitoring remains a manual task. Four full-time staff of the ROCIP are dedicated to this task. Since the digitalisation process was delayed, IRD allocated two additional staff to help the ROCIP with these manual checks in 2021. Accordingly, the annual return, which needs to be filed by 1 April every year, is manually cross-checked by the ROCIP with the information on file in order to ensure that the data on file is up to date. Saint Lucia noted that the compliance rate for on time filling was at approximately 50%. However, since currently the system is manual, compliance rates might constitute approximations.[23]

77. The ROCIP has the power to strike off defaulting companies from the register (Section 519 Companies Act). The striking-off process has been streamlined through an amendment (No 4) to the Companies Act in 2021, which now allows the striking-off by publication in the Gazette. Prior to this amendment, the striking-off required an additional notice issued to each affected entity, which slowed down the process immensely in practice (for more details on the previous striking-off process, see paragraphs 53-54 of the 2016 Report). In the new procedure, the publication in the Gazette constitutes sufficient notice to the company of an impending strike-off procedure. After the date of publication, the company has 30 days to rectify the non-compliance before being struck off.

78. Saint Lucia applied and collected fines mostly in instances when companies complied after the notice of default was published in the gazette and hence provided the late filing penalties next to the missing fillings. However, even though fines have been issued and collected in practice, the current system of ROCIP does not allow to provide statistics on the volume.

22. The ROCIP noted that *digiGov* will be implemented during 2022 and 2023. With the implementation of this Government's e-services platform, the online filing of annual returns and e-payment will be possible. Hence, the tracking and monitoring of the compliance of companies and the issuance of necessary actions to defaulting companies will be easier.

23. The Cabinet has also approved the position of monitoring officer, whose position should be filled during 2022. The request is currently with the Department of the Public Service. The envisaged tasks for this new position are the following: monitoring of the compliance with annual filing obligations (shareholder, beneficial owner returns and the financial statements (non-profits)), report defaulters for further action, monitor commencement and cessation of business in relation to business names, liaise with other government departments.

79. Although the system is currently manual, the ROCIP has been able to make significant progress in cleaning up the registry. There was a backlog of old inactive domestic companies. Therefore, rather than imposing fines on companies that would most probably not pay them as they are no longer active nor with assets, the ROCIP with the help of IRD is systematically striking off these companies monthly. So far, all inactive companies have been identified and for the years 1939 to 2003 these legacy defaulters have been struck off. Saint Lucia noted that the current monthly process of striking off legacy defaulters should be completed by 2023. After this, the striking off will occur annually for current defaulters. Saint Lucia further noted that thanks to the striking-off process, compliance levels are increasing.

80. Struck-off companies are barred from doing business in Saint Lucia and from acting with respect to the assets or affairs of the company. In practice, struck-off companies are not able to receive updated certificates of good standing, with the effect of being barred from conducting many transactions with third parties. Saint Lucia indicated that in practice – not required by law – banks freeze the accounts of struck-off companies. Account holders will lose access to the account until an updated certificate of good standing is provided. Banks monitor the gazettes for the lists of struck-off entities regularly.

81. Nevertheless, striking off is not always followed by a dissolution of the company and the struck-off company retains its legal personality. The ROCIP has power to restore a domestic company to the register at any point once all outstanding annual returns are provided together with all outstanding fees (Sections 376 and 519 Companies Act) and the receipt of the application for restoration Form 25. There is no clear time limit for the revival of domestic companies, provided in the legislation; so they may be revived at any time after being struck off from the Register. In the absence of a timeframe within which a struck-off company may be restored by the Registrar, it is unclear when a struck-off company can be definitively considered to have ceased to exist.

82. In total, the ROCIP has already struck off 1 725 companies in their effort to rid the Registry of old legacy defaulters as well as current defaulters. Seven of these companies (less than 0.5%) were restored after submitting the outstanding annual returns and fees. It is unknown how many companies which were struck off have been dissolved after the decision of their striking off was gazetted.

Registry of International Business

83. RIBC is responsible for the registration of all IBCs. It is also the custodian of the records of IBCs filed with the Registrar by the RAs. Unlike the ROCIP, RIBC is a fully digitalised registry. All information filed at the registry is available for online search and scrutiny to the public for a nominal fee.

Government agencies are free to search and scrutinise companies' records. RIBC has five staff members.

84. IBCs are required to file legal ownership information with their RA in Saint Lucia by 15 February every year, pursuant to Section 28(6) of the IBC Act. The annual return must include information of shareholders/directors. The RA is required to retain this information for seven years (Section 16(1) MLPA), and compliance with this requirement is monitored by the FSRA and FIA. The RA does not transfer this information to the RIBC.

85. The RA is required to submit to the RIBC a list of all IBCs that are in default of the obligation to submit the annual returns with the updated shareholder register (Section 28(10) IBC Act) by 31 March (i.e. 6 weeks following the 15 February deadline). Based on this information, the compliance rate with the annual filing obligation of the annual return with the RA is high. From all the IBCs registered, only a few were in default and most of them rectified the default once notified, as shown below:

Year	Total number of IBCs	Default	Rectified	Compliance rate
2019	3 833 (3 608 grandfathered + 225 new)	66	28	98.3%
2020	3 637 (3 478 grandfathered + 159 new)	57	20	98.4%
2021	3 484 (3 241 grandfathered +243 new)	20	3	99.4%

86. The Registrar publishes the names of defaulting IBCs in the official government gazette.[24] This list must be published at least 90 days prior to 31 December and must set out that the companies must remedy the default before 31 December, after which the companies are struck off. In practice, before the end of August of each year, RIBC notifies each company by publication in the Gazette that is non-compliant in respect of annual returns and clearly marks them as not being in good standing.

87. If the company remedies the missing information before being struck off by submitting the required returns to the registered agent and paying the penalty of USD 250 (EUR 235), the registered agent must submit a declaration to the RIBC stating that the company has now complied with its obligation (Section 28(9) IBC Act) and must transfer the late submission penalty received from the IBC.

88. If the company does not remedy the situation, it will then be struck from the RIBC in January of the following year.

24. See paragraph 58 of the 2016 Report for details.

89. RIBC has the power to restore an IBC within three years of the time the IBC was removed. Restoration requires submission by the RA of the request for restoration (i.e. the prescribed form *Application to Renew Annual Registration* for the unpaid years together with the annual fees and accrued penalties). The RA must declare that all outstanding annual returns have been received (Section 100 jo. 111 IBC Act). After these three years, reinstatement is possible only via a court order. There is no time limit for IBCs to be restored via court order. The Court is not restricted from allowing the name to be used, provided that the use of the same name is not calculated to deceive. During the review period, six IBCs were restored to the RIBC by order of the Court.

90. In practice, representatives of RAs confirmed that they will submit the request for restoration to the RIBC only after receiving all outstanding annual returns. Struck-off companies do retain their legal personality. Nevertheless, ownership information relating to the years between being struck off and restoration must be provided for the company to be restored. Additionally, the latest ownership information before strike-off is retained by the RA (for seven years). Accordingly, the process of striking off could pose risks on the availability of ownership information of struck-off IBCs, with legal personality, after seven years, given that the RA will not retain the ownership records further.

91. The Registrar keeps records of the defaulters (the lists) and of penalties imposed when the state of non-compliance is cleared. In 2018-21 the RIBC conducted the following enforcement actions.[25]

Year	No. of IBCs in default of filing annual returns given notice to strike off in the Gazette	No. of IBCs in default of paying annual fees given notice to strike off in the Gazette	Number of defaulters struck off effective 1 January of the next calendar year	No. of IBCs restored	Total penalty fees collected USD
2018	313	498	355	50	160 460
2019	118	378	425	86	150 100
2020	100	432	496	66	144 470
2021	116	489	489	57	146 200

92. As shown in the table above, failure to pay annual fees at the end of the calendar year is the primary reason for striking off. A smaller number of IBCs is in default of filing the annual returns as well as the paying of the annual fee. RIBC noted that this entire procedure is conducted online. To conclude, the oversight system and activities carried out by the RIBC are robust and adequate. There is no backlog of inactive non-compliant IBCs.

25. The numbers in the table are specific only to matters pertaining to the listed year in the respective row.

93. However, the RIBC can only act on the basis of the default list submitted by registered agents. If there is no list, the inference is that the registered agent has received from the IBCs the required ownership information. Due to this important role of registered agents, robust monitoring activities of their compliance is necessary and is conducted by FSRA together with FIA (see below).

Financial Services Regulatory Authority and Financial Intelligence Authority

94. FSRA and FIA supervise the availability of legal and beneficial ownership information of IBCs through their audit activities on RAs.

95. The FSRA oversight programme for registered agents consists of two main aspects: off-site reviews (desktop monitoring) and an onsite inspection programme. FSRA conducted the following audit activities on registered agents from 1 July 2018 to 30 June 2021:

No. of entities				Offsite reviews					Number of onsite inspections				
				Number				Compliance	Number				Compliance
2018	2019	2020	2021	2018	2019	2020	2021		2018	2019	2020	2021	
18	18	18	19	13	13	12	5	89%	1	0	1	1	75%

96. During its offsite reviews, the FSRA requires RAs to provide a predetermined 5% sample of shareholder, beneficial ownership and accounting information. The FSRA conducted 43 offsite reviews of the 19 RAs between 2018 and 2021. The compliance level was 89%.[26]

97. The Authority's onsite inspection programme was re-designed in 2014 with the aim of having each licensee inspected at least once every two years. As the onsite inspection programme was impacted by financial restraints, staff turnover as well as COVID, between 2018 and 2021, of the 19 RA, only 3 were subject to an onsite audit. The FSRA noted that the compliance level of the RAs was generally high regarding the keeping of shareholder information for their clients.

98. The audits check whether the following elements are present and well documented: signed application form, purpose of the business, due diligence questionnaire, register of directors, identity documents (ID) for directors, register of shareholders, ID for shareholders, register of ultimate beneficial owner, filed annual directors' return, filed annual shareholders'

26. For the future, Saint Lucia noted that the offsite audit of a predetermined 5% sample will take place on a semi-annual basis.

return, constitutional documents, due diligence process documented on file. The presence of the annual shareholders' return is one element of the audit. Taken all areas for audit together, the compliance level found by these audit checks was 75%.

99. The FSRA communicated identified deficiencies to the registered agents and made recommendations in the form of an onsite report and follow-up. The registered agents are usually given a certain period to rectify deficiencies. However, FSRA did not apply monetary sanctions. FSRA clarified that its role is not to enforce but to ensure that entities are aware of their obligations under the MLPA.

100. The onsite audit activities of FSRA are complemented by onsite visits conducted by FIA, which is the responsible regulator for the administration of the AML obligations under the MLPA for the international financial sector, which includes registered agents (see paragraph 38). Regarding ownership information, FIA checks during their audits, whether all client records are retained for the required seven years. FIA conducted 14 onsite visits on the 19 registered agents during 2020-21. FIA indicated that all RAs kept the ownership information of their clients at minimum for 7 years – mostly longer.

101. Saint Lucia has indicated that FIA, IRD and FSRA have commenced discussions to pool resources in order to further monitor compliance with record keeping obligations more efficiently and use synergies. This joint effort commenced in 2022 and is in the process of being enhanced further. This is reflected in joint meetings and collaborative onsite examinations where necessary to ensure a holistic approach is maintained in the process of supervision and monitoring.

Conclusion

102. Since the 2016 Report, Saint Lucia made significant improvements in monitoring the compliance of legal obligations to maintain ownership information, and exercised enforcement powers in case non-compliance was detected. ROCIP, RIBC, IRD and FSRA, together with FIA, have improved the robustness of their monitoring system and have started to adequately exercise their enforcement powers. The ROCIP has undertaken an extensive project to digitalise its operation and to clean up the Register. The IRD is also developing a system, which will register new companies to both the ROCIP and IRD simultaneously. This should align both registers and is part of the current digitalisation effort. Since the digitalisation effort was impacted by financial constraints resulting from the COVID-19 pandemic, the ROCIP has allocated additional human resources (two full-time staff in addition to the four existing full-time staff) to proceed with cleaning up the Register and manually check the annual returns of around 13 000 domestic companies. Although the vast majority of returns would not involve complex structures,

the manual review of the annual returns may not be fully adequate to review their quality given the allocated resources. The digitalisation effort should be finalised in 2023, which will help the ROCIP to monitor compliance more easily and deploy the freed resources into ensuring the adequacy of ownership information filed. Moreover, the striking off does not automatically lead to the dissolution of inactive companies after a certain time frame. This may lead to the unavailability of ownership information in certain instances. Accordingly, **Saint Lucia should continue to strengthen its organisational processes and/or resources and should ultimately dissolve inactive companies, to ensure the availability of adequate, accurate and up-to-date ownership information in all cases.**

Availability of legal ownership information in EOIR practice

103. Since the 2016 Report, Saint Lucia received seven requests about legal ownership information mostly relating to IBCs (three of these instances fell into the current review period of 1 July 2018-30 June 2021). Peers were satisfied with the information provided.

Availability of beneficial ownership information

104. The standard was strengthened in 2016 to require that beneficial ownership information be available on companies. In Saint Lucia, this aspect of the standard is mainly met through company law and AML legislation. Each of these legal regimes is analysed below. The IRD does not receive any information on the beneficial owners of taxpayers.

Companies covered by legislation regulating beneficial ownership information

Type	Company law	Tax law	AML law
Domestic Companies (with and without share capital)	All	None	Some
International Business Companies	All	None	All
External Companies and Member State Companies (tax resident)[27]	All	None	All

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

Beneficial ownership held by companies and register

105. Beneficial ownership information on domestic, non-profit, external and member state companies is available with the companies and with the ROCIP, as set out below. With respect to IBCs, beneficial ownership information is available with the IBCs (and their registered agents in Saint Lucia).

106. Domestic and non-profit companies are required to maintain a register of their beneficial owners pursuant to the 2018 amendment to the Companies Act (Companies Amendment Acts No 2 of 2021 and No 10 of 2018). Under Section 177(3) A of the Companies Act, the information to be maintained must include the name and address of the beneficial owners of the company, the date on which the beneficial owner became such or ceased to be a beneficial owner, as well as the percentage of shares with voting rights that the beneficial owner holds in the company.

107. Beneficial ownership information must also be submitted by domestic and non-profit companies to the ROCIP within 90 days of a company's incorporation through filing a notice of beneficial owners (Section 69A Companies Act and Form 28). The information includes the name, address and occupation of the beneficial owners as well as the amount of voting rights and percentage of shares held. All changes to such information are also required to be submitted to the Registrar within 15 days through filing a notice of change (Section 77 Companies Act).

108. Further, the amendments to the Companies Act enlarged the scope of the annual filing obligation of all domestic (not non-profit) companies (as described under paragraphs 60-61). The annual return now also includes updated beneficial ownership information (Section 194 in conjunction with Section 377C Companies Act) effective for tax year 2020.

109. The same obligations introduced via the 2018 amendment to the Companies Act (i.e. maintenance and filing of beneficial ownership information) apply to external and member state companies (Section 177(3) A in conjunction with Section 355 Companies Act).

110. The Companies Registrar must keep all documents received for a minimum of six years from receipt (Section 515 Companies Act). Section 514 in conjunction with Section 515 of the Companies Act require a company to retain documents for the same period in order to fulfil any follow-up requests made by the Registrar.

111. Companies failing to comply with any obligations under the Companies Act, which include the requirement of maintaining information on beneficial owners, are committing an offence and can be subject to the penalty provisions described in paragraph 62.

112. The power of the ROCIP to strike off defaulting companies from the register (Section 519 Companies Act) also applies to companies that fail to file the annual updated beneficial ownership information.

113. During the onsite visit, the ROCIP noted that the structures of domestic companies are usually not complex and hence the identification of the beneficial owners is not a difficult task. Part of the current manual checks is the review of the information contained in the beneficial ownership annual return. As noted above, the compliance rate with the filing requirement is at approximately 50% only. However due to the striking-off process, compliance levels are increasing. Once the digitalisation effort is completed, more time and resources will be allocated to ensure beneficial ownership information is adequate and accurate. More accurate statistics on the compliance rate will be available when the process is digitised.

114. IBCs[28] are required to maintain beneficial ownership information pursuant to a 2018 amendment to the IBC Act (IBC Amendment Act No 13 of 2018). Firstly, IBCs are required to maintain a register of beneficial owners at their registered office in Saint Lucia at all times (Section 28(1) A IBC Act), i.e. at the registered agent. The register of beneficial owners must include the name and address of each beneficial owner, the date on which he/she became or ceased to be a beneficial owner of the IBC as well as the percentage of shares with voting rights the beneficial owner is holding in the IBC. The IBC must give notice of any changes to the register of beneficial ownership within a reasonable time (Section 28(4) IBC Act) to its registered office so that information can be updated. What constitutes a reasonable period is however not further specified, but in any event, the information must be updated at least annually through the return. These records need to be retained for a period of six years (Section 2 in conjunction with Section 111 IBC Act).

115. Secondly, the amendments to the IBC Act broadened the scope of the annual filing obligation to also include the requirement applicable to IBCs to file updated beneficial ownership information with their registered agent (RA) pursuant to Section 28(6) of the IBC Act. It must also be received by the RA by 15 February of the following year aligned to the submittal of the return on shareholder information. This annual update clarifies the requirement under Section 28(4) IBC Act, as it ensures an update taking place at least annually. The RA is required to retain this information for seven years (Section 16(1) MLPA). The FSRA and FIA monitor this obligation through audits of the RA's compliance with record keeping obligations (including the annual returns and the content thereof).

28. For IBCs that are formed as a Incorporated Cell Company, the main IBC as well as each individual cells, is considered to be an separate IBC as mentioned in paragraph 52. Each of these separate IBCs is subject to the BO requirements.

116. Identical to the process described in paragraphs 85-87 relating to defaulting IBCs regarding the annual return on shareholder information, the RA must submit to the RIBC the list of defaulting IBCs. Defaulting IBCs on their beneficial ownership annual return are subject to the same late submission fees amounting to USD 250 (EUR 235) (Section 28(7) IBC Act) and being struck off the register. Unlike the ROCIP, RIBC does not receive beneficial ownership information and does not check the accuracy of beneficial ownership information. This information is verified by the respective RA, who is an AML-obliged person.

Definition of beneficial owner

117. Amendments to the Companies Act, the IBC Act and the Money Laundering Prevention Act all contain the following definition of beneficial owner:

> ""beneficial owner" means a natural person:
>
> (a) who ultimately owns or controls a company;
>
> (b) who exercises ultimate effective control over a legal person or legal arrangement, such as a senior manager; or
>
> (c) on whose behalf a transaction or activity is being conducted.

118. This definition is further refined through specifying that "ultimately own or control" means "direct or indirect ownership or control of 25% or more of shares, voting rights or ownership interest in a company".

119. In May 2022, binding Guidance on the identification of Beneficial Owners was issued (BO Guidance) to ensure that the beneficial ownership provisions are applied in a manner in line with the standard. However, this BO Guidance only references the MLPA. Hence, it was unclear whether it also applied to the method of identification under company law. In order to rectify this unclarity, Saint Lucia issued a second binding BO Guidance (BO Guidance 2) in November 2022, which applies to the method of identification under the Companies Act.

120. Both BO Guidance clearly describe the method of identifying beneficial owners and describes the cascading approach in conformity with the standard. The BO Guidance clarify that beneficial owner should be understood as an individual or individuals (being a natural person or several natural persons), who fall under the definition or are captured by the method of identification (Chapter 2.1 BO Guidance and p.7-8 BO Guidance 2). The BO Guidance covers control via ownership, control via other means and the default option of capturing the natural person who holds the position of senior manager within the legal person, if the first two steps of the

cascading approach did not result in the identification of a beneficial owner (Chapter 3 BO Guidance and p.13-14 BO Guidance 2).

121. Both BO Guidance clarify that control via ownership should also cover aggregate control, as shareholders may collaborate to increase a person's level of control through formal or informal agreements. It ensures that if no natural person meets the controlling ownership interest threshold, beneficial owners may be identified under the test of control through other ownership means. Saint Lucia's definition of beneficial ownership includes direct and indirect control by natural persons and individual and joint control, which is in conformity with the standard.

122. Both BO Guidance also provide instructions on the meaning of control via other means.

> (e) A natural person may exercise effective control over an entity if he has the powers and authority to take actions and make decisions for the entity, including on matters relating to its financial affairs, financial relationships, operations or other matters that may fundamentally affect the company, without having ownership interest over the entity. Such powers may be attained through other means, such as:
>
> (i) Having dominant influence to appoint or remove directors/ senior management;
>
> (ii) Having the power of attorney over the entity;
>
> (iii) Owning stocks or rights over outstanding debts that are convertible into voting equity;
>
> (iv) Participating in the financing of the company; or
>
> (v) Having control through trusts, agreements, arrangements, understandings, policies or practices, close and intimate family relationships or if a company defaults on certain payments.
>
> A natural person demonstrating control may be, among others, the entity's senior management, directors or an authorised signatory.
>
> In addition, there may be a presumption of control, even if not exercised, where a natural person uses, enjoys, or benefits from the assets of the legal person.

123. Saint Lucia's definition is in line with the standard, and the method for identifying the beneficial owners of companies are in line with the standard.

Anti-Money Laundering Law

124. Saint Lucia's AML regime establishes obligations on a broad range of AML-obliged persons (see paragraph 38) to conduct customer due diligence (CDD), which includes the identification as well as the retention of beneficial ownership information on their clients. While not every company in Saint Lucia has the obligation to engage with an AML-obliged person, IBCs are required to engage with a registered agent at all times, who is required to comply with CDD obligations.

125. The MLPA requires AML-obliged persons to identify and verify the identity of beneficial owners before or while establishing a business relationship. AML-obliged persons must take reasonable measures to verify the identity of beneficial owners and understand the ownership and control structure of their customers (Section 17(4) and (11) MLPA). Reasonable measures include using reliable independent source documents, data or information per Section 17(4) of MLPA. In practice these sources are passports, public registries, and face-to-face meetings with the beneficial owners.

126. AML-obliged persons are required to keep all records obtained through compliance with CDD rules and supporting documents for a minimum of seven years after the termination of the business relationship or after the date on which the relevant transaction was recorded (Section 16(7)(a)(b) MLPA).

127. Section 17(2) of the MLPA further places an obligation on AML-obliged persons to ensure that all CDD documents are kept up-to-date and that routine reviews of existing records particularly for high-risk categories of customers or business relationships are carried out. In practice, Saint Lucia indicated that AML-obliged persons update BO information for high-risk customers annually at minimum. However, there is no specified frequency for updating beneficial ownership information in the legal or regulatory framework.

128. AML-obliged persons who do not comply with their CDD and record retention obligations commit an offence and are subject to a fine. This can amount to a penalty amounting to a minimum of XCD 100 000 (EUR 32 706) but not exceeding XCD 500 000 (EUR 163 533) or imprisonment for a term between 7 years and 15 years (Section 16(9) MLPA). New administrative sanctions were also introduced in 2021 through the Amendment No 16, giving the FIA the power to impose administrative penalties of up to XCD 5 000 (EUR 1 634) or in case of a continuous failure a daily penalty of XCD 500 (EUR 163) for each day the failure continues.

129. The FIA and the ECCB are the supervisory authorities, which are responsible for administering and enforcing the requirements under the MLPA.

130. The supervision unit of the FIA was established in 2019. During the COVID-19 pandemic, the inspections were conducted in a hybrid manner (virtual and at the premises of the entity) due to social distancing requirements. In general, inspections cover the obligations of AML-obliged persons under the MLPA. The areas of the inspections include but are not limited to: data collected with respect to Customer Due Diligence, adherence to retention periods, procedures and internal controls in respect of their clients. Supervision activities includes determining:

- if the beneficial owner(s), directors and shareholders are named on file
- If the jurisdiction of beneficial owner(s), directors and shareholders are listed on file
- whether due diligence screening is conducted prior to accepting clients and on an ongoing basis
- whether all required records are maintained by the entity or its agent
- whether the beneficial owner(s) are identified and verified especially in the cases of complex structures and
- what the customer's ownership structure is.

131. The ECCB, as part of its duties as a supervisory authority, can conduct inspections at licensed financial institutions and non-financial entities. Inspections are informed by the ECCB's ML/TF risk assessment of its licensee. The ECCB is guided by the AML legislation of Saint Lucia as it relates to customer due diligence information. The ECCB's employs a risk-based AML Supervisory Framework which is supported by the AML legislation of the respective member country.

132. The supervisory process of the two agencies is currently being formalised. Legislative amendments to the MLPA were made in 2021 (Amendment No 16) giving the ECCB as well as the FIA administrative powers to impose sanctions and penalties, which it was lacking before.

Beneficial ownership information – Enforcement measures and oversight

133. The entities charged with monitoring the beneficial ownership obligations outlined above are the ROCIP (for domestic, non-profit, external and member state companies), RIBC (for IBCs), and FSRA/FIA (for RAs). An overview of the oversight activities undertaken by these entities is detailed under the previous subsection dedicated to the availability of legal ownership information. Specificities related to the oversight of beneficial ownership information were provided with the rules on availability of legal ownership information.

Conclusion

134. Saint Lucia has established a supervisory framework to monitor the compliance of the legal obligations to maintain beneficial ownership information and reasonably exercised enforcement powers in case non-compliance was detected. RIBC, FSRA together with FIA have a robust monitoring system and have adequately exercised their enforcement power. The ROCIP has undertaken an extensive project to digitalise its operation and clean up the Register. Since the digitalisation effort was impacted by financial constraints resulting from the COVID-19 pandemic, the ROCIP has allocated additional human resources (two full-time staff in addition to the four existing full-time staff) to proceed with cleaning up the Register and to manually check annual returns. The digitalisation effort should be finalised in 2023, which will help the ROCIP to monitor compliance more easily. Although the vast majority of returns of domestic companies would not involve complex structures, the manual review of the BO annual returns may not be fully adequate to review their quality given the allocated resources currently. Moreover, the striking off does not automatically lead to the dissolution of inactive companies after a certain time frame. This may lead to the unavailability of ownership information in certain instances. **Saint Lucia should continue to strengthen its organisational processes and/or resources and should ultimately dissolve inactive companies, to ensure the availability of adequate, accurate and up-to-date beneficial ownership information in all cases.**

135. Additionally, at the time of the review, the definition of beneficial owner, as well as the ability to impose administrative penalties have been newly introduced into MLPA. Both BO Guidance for the identification of beneficial owners for all entities and arrangements were also issued after the review period. The implementation of these recently enacted changes and clarifications could not be fully assessed. **Saint Lucia is recommended to monitor the implementation of the new framework for the identification of beneficial owners and exercise its enforcement powers where necessary**.

Nominees

136. Saint Lucia recognises the concept of nominee ownership. Persons carrying out a business of providing nominee services (that is, professional nominees) are regulated under Saint Lucia's AML regime and are subject to CDD obligations. Consequently, professional nominee shareholders are required to identify the person for whom they act and take reasonable measures to verify the identity of this person. For a detailed analysis of the legal requirements for nominees to maintain ownership information, see paragraphs 115-120 of the 2014 Report.

137. However, there is no impediment for non-professional persons to act as nominees. Accordingly, non-professional nominees would have no obligation to record the identity of the principal. Saint Lucia has noted that all nominees encountered in the jurisdiction have been professional nominees, which mitigates the materiality of the issue.

138. In addition to the requirements under AML law, the Companies Act also provides obligations for persons with a substantial shareholding (i.e. those with at least 10% of the unrestricted voting rights) of a domestic company, which cover some nominee arrangements, irrespective of whether the nominee is a professional AML-obliged person or not. Each person with a substantial shareholding in a domestic company is to give notice in writing to the company stating his/her/its name and address and giving full particulars of the shares held directly or through a nominee (naming the nominee) (Section 181 and182 Companies Act). That person is required to do so within 14 days after becoming aware of the substantial shareholding. When the person ceases to be a substantial shareholder, the person must give notice in writing to the company stating the date on which he/she ceased to be a substantial shareholder of the company. The company is required to keep a register of all such filings.

139. No corresponding filing requirements exist for IBCs. However, all IBCs need to have a responsible registered agent, who is an AML-obliged person. The RA is required to conduct CDD on every shareholder, who is registered in the share register. The registered agent is required to maintain extensive due diligence on all directors, shareholders and beneficial owners, which includes bank references, photo ID's and utility bills confirming the residential address of these persons. The MLPA also requires registered agents to keep documentary evidence to prove the identity of a person, who is a nominee.

140. Furthermore, Saint Lucia noted that the population of nominee service providers is well known and small in Saint Lucia, thus facilitating the task of the registered agent in relation to local nominees. However, since nominee shareholder could be from a third jurisdiction, there is the risk that the CDD will not always discover that shares are held by a nominee. The combination by the aforementioned requirements and practices would ensure the availability of information on the nominator in most instances, however a risk remains on nominees, particularly from third jurisdiction and non-professional nominees, not to be identified. **Accordingly, Saint Lucia is recommended to ensure that accurate identity information on the nominators and their beneficial owners is available in line with the standard where nominees act as the legal owners on behalf of any other persons.**

Availability of beneficial ownership information in EOIR practice

141. Since the 2016 Report, Saint Lucia received six requests for beneficial ownership information mostly relating to IBCs (two of these requests fell into the current review period of 1 July 2018-30 June 2021). No issues were raised by peers in obtaining such information in practice.

A.1.2. Bearer shares

142. Saint Lucia's law does not allow for the issuance of bearer shares. It provides only for the issuance of registered shares.

A.1.3. Partnerships

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

144. Partnerships are generally defined as a relationship "between persons carrying on a business in common with a view of profit" (Article 21 Commercial Code).

- In ordinary partnerships, each partner has unlimited liability in respect of the partnership's obligations (Article 28 Commercial Code). Each partner needs to be a natural person.
- Limited partnerships are formed in the manner described in Articles 64 to 72 of the Commercial Code and must be registered, otherwise they will be deemed to be ordinary partnerships (Article 65 Commercial Code). A limited partnership must have at least one general partner who has unlimited liability (natural person) and at least one limited partner (which may be a body corporate) whose liability is limited to the amount of the capital contributed and who cannot participate in the management of the partnership (Articles 65 and 67 Commercial Code).

145. As of 30 June 2021, 30 ordinary partnerships were registered with the ROCIP and no limited partnerships or foreign partnerships were registered.

146. The creation of international partnerships (either general or limited) is not possible any longer in Saint Lucia as the International Partnership Act was abolished as of 1 July 2021 and will not be replaced. In practice, only one international partnership had ever been registered in Saint Lucia.

Identity information

147. Identity information in respect of all partners of partnerships in Saint Lucia is available in accordance with the standard, as determined by the previous reports. All domestic partnerships are captured via registration requirements under the Commercial Code and under tax law. Foreign partnerships having a sufficient nexus to Saint Lucia will be captured by the tax law, as it applies to every partnership carrying out a business in Saint Lucia.

148. Ordinary partnerships must register with the ROCIP and provide a written statement at registration including the names of all partners and the date of the commencement of the partnership (Article 20 Commercial Code). An ordinary partnership ceases to exist if there is any change in its partners and as such, there is no requirement to provide change of partner information (Article 51 Commercial Code). However, the Commercial Code is currently under review to be amended to ensure that the ROCIP will be notified, if there is a change in the ordinary partnership and hence the partnership ceased to exist.

149. Limited partnerships must be registered with the Registrar (the Registrar of the Supreme Court) by providing information including the partnership's principal place of business and the full name of each of the partners indicating which are the general and limited partners (Article 68 Commercial Code). Any change to this information must be notified by a signed statement delivered to the Registrar within seven days, otherwise the general partner(s) will be subject to a daily fine of XCD 4.80 (EUR 1.57) (Article 69 Commercial Code).

150. Additionally, all partnerships have annual filing obligations under tax law, which include updated identity information. Partnerships are not taxed at the partnership level (Section 21 Income Tax Act), but "every partnership carrying on business in Saint Lucia", is required to file an annual return of income (Section 84(2) Income Tax Act) which includes the names and addresses of the partners in the partnership. This requirement under tax law is sufficiently broad to capture domestic as well as foreign partnerships conducting business in Saint Lucia.

151. Pursuant to Section 132 of the Income Tax Act, an automatic penalty of 5% of the tax liability is levied on all persons who do not comply with the tax filing requirements. Once the tax return is filed by the entity, this fine is automatically added to its tax liability. The tax liability of the individual partners is used for calculating the penalty and will be charged to each partner for his or her share of the partnership's income. A records and documents retention requirement of a minimum of six years applies to partnerships and their respective identity information (Section 90 Income Tax Act). A partnership failing to comply with those requirements is liable to a fine of XCD 1 000

(EUR 328) or imprisonment for 1 year of the responsible general partner(s) (Section 140 Income Tax Act).

152. In practice, out of the 30 ordinary partnerships registered with the ROCIP, 12 are registered with IRD. Saint Lucia noted that some of the unregistered partnerships have now become companies, which is not reflected in the ROCIP, as ordinary partnerships are currently not required to update ROCIP of any change (see paragraph 148). The current system under testing will align both registers in the near future.

Beneficial ownership

153. Partnerships have no obligation to maintain information on their beneficial ownership comparable to the obligations of companies, and given also that partnerships have no requirement to engage in a relationship with an AML-obliged person, beneficial ownership information is not available on all relevant partnerships.[29]

154. If a partnership engages in a relationship with an AML-obliged person, the 2021 Amendment No 16 of the MLPA applies, which introduced the requirement for an AML-obliged person to identify and verify the identity of the beneficial owners of clients (as described in paragraphs 125-130). As discussed previously, the general definition of beneficial owner stipulates the following:

> ""beneficial owner" means a natural person: (a) who ultimately owns or controls a company; (b) who exercises ultimate effective control over a legal person or legal arrangement, such as a senior manager; or (c) on whose behalf a transaction or activity is being conducted.

155. For partnerships, the BO Guidance clarifies that all partners in a partnership need to be identified and any other natural person with effective control over the partnership. The guidance also clarifies that if a non-natural person is party to a legal arrangement, a look-through approach needs to be applied.

156. For establishing the beneficial owners of partnerships, the BO Guidance refers to the partnership agreements, a copy of the partnership mandate, and the list of authorised signatories as sources to take into consideration when determining who ultimately controls the partnership.

29. Draft amendments to the Commercial Code are currently before the Legislative Drafting Unit and will incorporate obligations for partnerships to identify their beneficial owners. It is also intended to include ROCIP registration requirements for foreign partnerships, who are doing business in Saint Lucia.

157. The definition and method for identifying beneficial owners of partnerships is in line with the standard. Section 17(4) and (11) of the MLPA further require AML-obliged persons to take reasonable measures to verify the identity of beneficial owners and understand the ownership and control structure of their customers. Reasonable measures include the using of reliable independent source documents, data, or information as per Section 17(4)(a) MLPA. AML-obliged persons are required to keep all records obtained through CDD measures and supporting documents for at least seven years following the termination of the business relationship or after the date on which the transaction was recorded (Section 16 (7)(a)(b) MLPA).

158. Section 17(2) of the MLPA further places an obligation on AML-obliged persons to ensure that all CDD documents are kept up-to-date and that routine reviews of existing records particularly for high-risk categories of customers or business relationships are done, in addition to updates triggered by specific events. However, there is no specified frequency of updating beneficial ownership information, so there could be situations where the available beneficial ownership information is not up to date. **Saint Lucia is recommended to ensure that up-to-date beneficial ownership information in line with the standard is available in respect of all relevant partnerships**.

159. Additionally, since these rules only covers partnerships which are engaged with an AML-obliged person, there is a coverage gap. Saint Lucia noted that there are currently only 30 partnerships registered in Saint Lucia – all being ordinary partnerships. These partnerships usually are for lawyers or accountants providing local services or small local retail shops. Based on the small number of partnerships and that they all have business only within the local economy, the perceived risk associated with this sector is deemed small. Their identity information also needs to be filled with ROCIP. Hence, the identity information of each partner is available via tax and commercial law. Only in the rare instance, where the partner (natural person) is controlled by another person, the beneficial owner information would be missing. In case of a foreign partnership, if they do not engage with an AML-obliged person, their identity information would be available via tax law, but not their beneficial ownership information. Even though there are currently no limited partnerships incorporated in Saint Lucia, this can change in the future. Since the limited partners in a limited partnership can be a body corporate, the gap regarding the availability of beneficial ownership information of partnerships can grow in the future. **Accordingly, Saint Lucia is recommended to ensure that beneficial ownership information in line with the standard is available in respect of all relevant partnerships.**

Oversight and enforcement

160. The IRD monitors the availability of identity information and the compliance with document retention rules in its tax audits. The oversight inspection programme of IRD is described under section A.2 in paragraphs 239-250.

161. FIA, FSRA and ECCB monitor the availability of beneficial ownership information of partnerships, when they engage with an AML-obliged person. If the AML-obliged person is a domestic or international bank, the oversight inspection programme described under section A.3 in paragraphs 287-304 is applicable.

Availability of partnership information in EOIR practice

162. In the three-year period under review, Saint Lucia has not received any EOI requests for information relating to the identity or beneficial ownership information of a partnership.

A.1.4. Trusts

163. Jurisdictions should take all reasonable measures to ensure that beneficial ownership information[30] is available to their competent authorities in respect of express trusts (i) governed by the laws of that jurisdiction (ii) administered in that jurisdiction, or (iii) in respect of which a trustee is resident in that jurisdiction.

164. Saint Lucia follows the English common law tradition and hence provides for the establishment of ordinary trusts under common law (including English common law – Article 916A, Civil Code). As of 30 June 2021, there were six ordinary trusts registered with the IRD.

165. Saint Lucia law further provides for the establishment of international trusts under its International Trust Act 2006, but this act was repealed on 30 June 2021 and is subject to redrafting. At that date, there were still 12 international trusts registered with the RIBC,[31] but they were quickly closed. As from July 2021, no more international trusts are registered in Saint Lucia.

30. Beneficial ownership information for trusts includes information on the identity of the settlor, trustee(s), protector (if any), all of the beneficiaries or class of beneficiaries, and any other natural person exercising ultimate effective control over the trust.

31. They are captured by a combination of tax law, AML requirements and common law obligations.

166. The previous Reports concluded that the legal and regulatory framework in Saint Lucia was in place to ensure that identity information regarding the parties to a trust is available through a combination of common law, AML and other regulatory requirements.

167. Since the last review, the legal framework has changed as the AML regime has been amended, the International Trust Act has been repealed, and new rules on domestic and international trusts are in the process of being drafted. Based on the current legal framework in place, all relevant trusts, are captured by a combination of tax law, AML requirements and common law obligations.

Requirements to maintain identity information in relation to trusts

168. First, common law fiduciary duties cover identity information of parties to the trust and document retention requirements. Trustees must have full knowledge of all the trust documents, act in the best interests of the beneficiaries, and only distribute assets to designated beneficiaries. These obligations implicitly require trustees to identify all the beneficiaries of the trust since this is the only way trustees can carry out their duties properly.

169. If trustees fail to meet their common law obligations, they are liable for legal action for breach of their fiduciary duties. The principles of English common law as they apply to trusts are set out in the East Caribbean Supreme Court decision of *Raymond Flood vs. First Caribbean International Bank Ltd.* which is applied in Saint Lucia and the Saint Lucian High Court decision of *Desmond Deveaux vs. Richard Johnson.*[32] Pursuant to English common law requirements (as applied in these cases), trustees must maintain ownership and identity information regarding the trust. Firstly, the trustee is required to administer the trust solely in the interests of the beneficiaries and, therefore, the beneficiaries will have to be made clearly identifiable in the trust deed. Secondly, the trustee owes a duty to manage the trust in accordance with the instructions of the settlor, meaning that the settlor will also have to be clearly identifiable in the trust deed.

170. In the event of non-compliance with these duties by the trustee, beneficiaries have the right to enforce the trust agreement (Beswick v Beswick [1968] AC 58). In the event of non-compliance of a trustee's duties, the settlor or beneficiaries can commence legal proceedings against the trustee (for details see paragraphs 153 to 156 of the 2014 Phase 2 review).

171. Common law principles are important for the availability of information, but they are only enforceable by the parties to the trusts or persons with

32. Case No. SLUHCV 200610056 and Case No. SLUHCV 2010/0783.

legitimate interest, which does not include the authorities. The principles are thus complemented by statutory obligations.

172. Regarding AML requirements, trustees of international trusts and professional trustees in Saint Lucia of ordinary trusts (including foreign trusts) need to be licensed and are AML-obliged persons. They are required as part of their CDD obligations to maintain identity information on all parties to the trust. Regulation 139 of the Money Laundering (Prevention) (Guidance Notes) Regulations requires that a trustee must obtain information on the identity of the settlor or any person transferring assets to the trust, the beneficiaries and the protector.

173. Professional and non-professional trustees are also captured by Saint Lucia's tax law. Saint Lucia's Income Tax Act requires trust's representative taxpayers (i.e. the trustee) of all trusts "established in Saint Lucia" to file annual income tax returns (for the income earned by the trust itself), which include some identity information, and to retain supporting records (Section 2 Income Tax Act).[33] This annual income return requires the inclusion of the names and addresses of any beneficiaries to whom income was distributed in the relevant tax year. No information on the other parties to the trust is provided, and no identity information is provided when no distributions are made, so this obligation alone would not meet the standard. However, the Income Tax Act captures all trustees of domestic and foreign trusts and requires them to keep all documents related to the business activity of being a trustee. Saint Lucia noted that this requirement would require a trustee to keep all information regarding the parties to the trust (the settlor and beneficiaries) in order to justify the trustee's tax obligations. All trustees are obliged to retain records related to the trust for a period of six years after the end of the income year to which the record pertains (Section 90(4) Income Tax Act).

174. As of 30 June 2021, there were six ordinary trusts registered with the IRD. The IRD monitors the availability of identity information and the compliance with document retention in its tax audits.

33. For more detail, see the 2014 Phase 2 review (paragraphs 162-165). Saint Lucia has noted that "established in Saint Lucia" is understood as covering all trusts which are subject to the laws of Saint Lucia, even including trusts with no connection with Saint Lucia other than that the settlor chooses the trust to be governed by Saint Lucia's law. In this latter event, the 2014 Phase 2 review noted doubts about how enforcement measures would be applied on those trusts whose only connection with Saint Lucia was that they are governed by the laws of Saint Lucia, as there may be no person with a territorial connection with Saint Lucia. However, it was further noted that trust information would be available in the jurisdiction where the trustee is located as the relevant records would be situated there. Hence, the issue was not further explored.

Requirements to maintain beneficial ownership information in relation to trusts

175. The 2021 Amendment No 16 of the MLPA introduced the requirement for an AML-obliged person to identify and verify the identity of the beneficial owners before or during the course of establishing a business relationship (as described in paragraphs 125-130). The general definition of beneficial owner stipulates the following:

> "beneficial owner" means a natural person: (a) who ultimately owns or controls a company; (b) who exercises ultimate effective control over a legal person or legal arrangement, such as a senior manager; or (c) on whose behalf a transaction or activity is being conducted.

176. Chapter 3.3 of the AML BO Guidance further stipulates that beneficial ownership information includes information on the identity of the settlor, trustee(s), protector (if any), all of the beneficiaries or class of beneficiaries, and any other natural person exercising ultimate effective control over the trust. Additionally, if a party to a trust is not a natural person, a look-though approach and the applicable rules regarding the beneficial ownership of the looked-through legal entities or arrangements need to be applied. Accordingly, the definition and method of identifying beneficial owners of the trust is in line with the standard.

177. Section 17(4) and (11) of the MLPA further require persons providing trust services to take reasonable measures to verify the identity of beneficial owners and understand the ownership and control structure of their customers. Reasonable measures include the using of reliable independent source documents, data, or information as per Section 17(4)(a) MLPA. AML-obliged persons are required to keep all records obtained through CDD measures and supporting documents for at least seven years following the termination of the business relationship or after the date on which the transaction was recorded (Section 16 (7)(a)(b) MLPA).

178. Section 17(2) of the MLPA further places an obligation on AML-obliged persons to ensure that all CDD documents are kept up-to-date and that routine reviews of existing records particularly for high-risk categories of customers or business relationships are done, in addition to updates triggered by specific events. However, there is no specified frequency of updating beneficial ownership information, so there could be situations where the available beneficial ownership information is not up to date. **Saint Lucia is recommended to ensure that up-to-date beneficial ownership information in line with the standard is available in respect of all trusts having a nexus to Saint Lucia**.

179. AML-obliged persons, who do not comply with their CDD and record retention obligations commit an offence and are subject to a fine (see paragraph 128).

180. The MLPA covers trustees of an international trust and professional trustees of domestic and foreign trusts (Part B of the Second Schedule of the MLPA), and thus do not apply to non-professional trustees. This gap in coverage is mitigated (although not fully closed) by Sections 15(6), 15(7) and 17(11) of the MLPA which provide that a person must disclose whether he/she is acting on behalf of another person to AML-obliged persons when forming a business relationship and when carrying out transactions. In these cases, the trust will be captured by the CDD framework under the MLPA, as the non-professional trustee needs to disclose her/his status.

181. Tax law requirements and common law fiduciary duties, which cover identity information of parties to the trust and document retention requirements do not require identifying the natural persons behind any participant in a trust that would not be a natural person and cannot be relying on for the identification of beneficial ownership of trusts. Accordingly, there are no requirements for trusts having a non-professional trustee and who do not engage with an AML-obliged person, to ensure the availability of beneficial ownership information. However, considering trusts are not very common in Saint Lucia and Saint Lucia noted that all trustees in Saint Lucia have always constituted professional trustees so far, the materiality of this gap seems limited in practice. Saint Lucia should continue to monitor the provision of trust services by non-professional trustees to ensure the availability of information identifying any other natural person exercising ultimate effective control over the trust in case a non-professional trustee manages a trust (see Annex 1).

Oversight and enforcement

182. The IRD monitors the availability of identity information and the compliance with document retention requirements in its tax audits. The oversight inspection programme of IRD is described under A.2 in paragraphs 239-250.

183. FIA and FSRA monitor the availability of beneficial ownership information of a trust, through their oversight inspection programmes of RAs, as these cover all professional trust service providers in Saint Lucia. The oversight inspection programme is described in paragraphs 94-100.

Availability of trust information in EOIR practice

184. During the review period, Saint Lucia did not receive any EOI requests related to a trust.

A.1.5. Foundations and Co-operatives

185. The laws of Saint Lucia do not include the concept of a foundation. However, co-operatives can be created in Saint Lucia pursuant to the Co-operative Societies Act, and upon registration become a body corporate.

186. A co-operative is defined as an entity comprising a group of people with a commitment to joint action on the basis of democracy and self-help to secure a service or economic arrangement that is both socially desirable and beneficial to all taking part (for example, a credit union, worker's society or agricultural society).

187. All co-operatives must be registered with the Registrar of Co-operatives. All financial co-operatives are regulated by the FSRA, and all producer co-operatives are regulated by the Ministry of Agriculture. As of 30 June 2021, there were 14 Financial Co-operatives (which are all credit unions), 1 credit union league, and 22 Non-Financial Co-operatives registered in Saint Lucia.

- Credit unions: these are so-called financial co-operatives. Credit unions are deposit taking institutions. They provide similar services to domestic commercial banks such as loan products and other offerings to members such as savings. However, their client-base is restricted to members only.
- Credit union league: This league serves the credit unions and other co-operatives through representing their interest, providing legal advice, and creating outreach activities.
- Non-Financial Co-operatives include the following:
  - Fishermen Co-operatives serve their members and their family members. The co-operative exists to pool resources of fishermen together such as ordering in bulk supplies they would need for their day-to-day operations.
  - Taxi Co-operatives provide services to their members (generally taxi drivers). The main object is to source business (volume of activity/contracts) to maintain a steady flow of income.
  - Agriculture Co-operatives and Art/Floral Co-operatives buy products from members, and in turn look for markets to sell the product to. Members come together to meet targets for larger scale markets to supply in larger quantities. The co-operative may also seek to obtain fertilizer whether through the government or otherwise to increase the quality of the members' produce.

188. Under Section 23 of the Co-operative Societies Act, only citizens or residents of Saint Lucia may be members of co-operatives and co-operatives must keep a register of all members which includes their names and addresses and the date on which they became, and ceased to be, a member (Section 25 Co-operative Societies Act). A transfer of a membership share must be approved by the board of the co-operative and is effective only upon registration of the transfer with the co-operative (Section 95 Co-operative Societies Act).

189. A co-operative must have at all times a registered office in Saint Lucia and the address of such office must be specified in the by-laws (Section 17 Co-operative Societies Act). This office must make available the co-operative's records, including registers of members, copies of its by-laws, all minutes of meetings of members and directors and the register of directors.

190. Although Co-operatives are exempt from income tax (Section 235 Co-operative Societies Act) and as such are not required to file a return of income with the Comptroller (Section 84 (2) Income Tax Act), they are still subject to the record keeping obligations described in Section 90 of the Income Tax Act (see paragraphs 201-206).

191. Next to the above requirements, all financial co-operatives (i.e. the credit unions) constitute AML-obliged persons under the MLPA (Schedule 2 Part A (3) No 16 Money Laundering (Prevention) (Amendment) Act 2021). Accordingly, all members (i.e. the clients of the financial co-operative) will be subject to the AML CDD requirements as described under section A.3. They are also subject to regular onsite and offsite inspection of FSRA. Between 2018 and 2021, FSRA conducted 8 onsite and 51 off-site inspections regarding all obligations under the MLPA. The FSRA reported that the compliance level of the credit unions was at 80%.

192. Taking into account their nature and purposes, the co-operatives in Saint Lucia bring limited risks for transparency purposes, as they are not materially relevant for economic purposes, given that most co-operatives are set up at a local level and with respect to most common fields of activity such as agriculture and social solidarity. Members can only be residents or citizens of Saint Lucia. Additionally, credit unions are sufficiently regulated and supervised. Accordingly, it does not appear that co-operatives pose more than a marginal risk with respect to the availability of ownership information.

193. Saint Lucia notes it has never received in practice a request for information related to co-operatives.

A.2. Accounting records

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

194. Saint Lucia implemented important reforms in 2015 and 2016, to introduce consistent obligations for all relevant entities and arrangements to maintain full accounting records, including underlying documents, for a minimum of five years. Accordingly, the 2016 Report concluded that Saint Lucia's legal and regulatory framework was in place for the availability of accounting records for domestic companies, IBCs, ordinary and limited partnerships, trusts and co-operatives. Since the 2016 Report, the International Trust Act has been repealed. The legal and regulatory framework on the availability of accounting information continues to be in place.

195. The reforms also included an oversight programme to monitor compliance with accounting record requirements, which was too recent to be tested in practice. The 2016 Report recommended Saint Lucia to monitor the new system of oversight to ensure the accounting record requirements are complied with in practice. The practical availability of accounting information continues to be supervised mainly by the Inland Revenue Department (IRD), the Financial Intelligence Authority (FIA) and the Financial Services Regulatory Authority (FSRA).

196. Since the 2016 Report, Saint Lucia made significant improvements in monitoring the compliance of taxpayers regarding their tax filing obligations. The IRD has conducted multiple tax audits, whereas the FSRA has conducted audits of registered agents – despite the difficulties arising from the COVID pandemic. Given resource constraints, some of the planned oversight activities could only be rolled out to a limited extent or had to be shifted to desk audits.

197. Additionally, Saint Lucia has amended its tax system to a territorial system. The territorial system requires all IBCs to register with IRD, effective 1 July 2021, and file tax returns. Prior to 1 July 2021, only IBCs having opted for the 1% corporate income tax filed annual tax returns (which consisted of 316 IBCs in 2019 and 408 IBCs in 2020, i.e. less than 10% of the IBCs). Accordingly, Saint Lucia should ensure that its tax audit strategy sufficiently captures IBCs, in particular the availability of underlying accounting documentation, as no other authority is monitoring the availability of such documentations of IBCs.

198. During the review period, Saint Lucia received three requests for accounting information, mostly relating to IBCs. Peers were satisfied with the information provided.

199. The conclusions are as follows:

Legal and Regulatory Framework: in place

No material deficiencies have been identified in the legislation of Saint Lucia in relation to the availability of accounting information.

Practical implementation of the Standard: Largely Compliant

Deficiencies identified/Underlying factor	Recommendations
In July 2015, Saint Lucia put in place adequate monitoring systems and activities to ensure availability of accounting information, although part of these activities have slowed down due to the constraints of the COVID-19 pandemic. In addition, since 1 July 2021, International Business Companies that were previously exempt from tax, must file annual tax returns and accounting information with the Inland Revenue Department and are subject to tax audits. The implementation of these recently enacted changes could not be fully assessed. Saint Lucia also has new monitoring plans.	Saint Lucia is recommended to continue to strengthen its supervisory activities, to ensure the availability of accounting information, in particular with respect to International Business Companies, in line with the standard.
There is a risk relating to the availability of accounting records of struck-off International Business Companies. As they do not lose their legal personality, they might be still conducting business overseas for which Saint Lucia is uninformed and accounting records of these activities might not be available.	Saint Lucia is recommended to speedily dissolve struck-off companies, to ensure the availability of accounting information in all instances.

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

200. The requirement to keep accounting records and their underlying documentation in line with the standard is mainly ensured by tax law for all relevant entities and arrangements. This primary source of obligations in respect of accounting records is supplemented by company law, and to a lesser extent by common law and AML law.

Tax Law

201. Every person carrying on business must keep accounting records as described in Section 90 of the Income Tax Act. “Business” is defined as “any profession, trade, venture, or undertaking and includes the provision

of personal services or technical and managerial skills and any adventure or concern in the nature of trade but does not include any employment". The IRD has reported that this will cover every trade, profession and business undertaking, including entities involved in the management of passive investments in Saint Lucia.

202. The record keeping obligations under the Income Tax Act are broad in their scope and apply to all relevant legal persons and arrangements. Since 1 July 2021, Section 5A of the IBC Act places IBCs into the scope of the Income Tax Act and its record keeping obligations.

203. The accounting records required to be kept pursuant to Section 90 of the Income Tax Act are: "such records or books of accounts as are necessary to reflect the true and full nature of the transactions of the business, regard being made to the nature of the activities concerned and the scale on which they are carried on". In practice IRD requires the taxpayer at a minimum to maintain records of the following:

- Income earned/or received
- Expenditure outlining to whom paid, when paid and method used to make payment
- Salaries and wages including details of statutory deductions
- Sources documents for three points above
- Banking transactions and statements
- Accounts payables and receivables.

204. IRD further clarified that it takes into consideration the context of size, sophistication, and complexity of the taxpayer's operation, when considering, which records, and books are considered *necessary*. A simple profit and loss/income statement have been accepted for roadside shops, whereas a conglomerate or a business with operations with significant assets and or employees is expected that the full suite of financial statements including the profit and loss/income statement, balance sheet, cash flow, and statement of changes in equity to be provided. In addition, there should be notes to these statements that are in sufficient detail to explain how the reported figures are arrived at and how they were aggregated.

205. Further, every person carrying on any business must "preserve all books of account and other records which are essential to the explanation of any entry in such books of account of that business for a period of six years" (Section 90(4) Income Tax Act). These requirements are in line with the standard in respect of the maintenance of reliable accounting records and underlying documentation.

206. According to Section 90(3) Income Tax Act, the accounting records are to be kept in Saint Lucia unless the Comptroller of IRD approves them for being kept at another location. The circumstances for allowing this exception under tax law are not clear, but Saint Lucia noted that no such request has ever been made in practice. Saint Lucia clarified that this provision does not apply to IBCs, which can keep accounting records abroad but further provisions in the IBC Act apply (see below). The Income Tax Act further specifies that for companies (including IBCs since the amendment to the IBC Act), a natural person resident in Saint Lucia must be communicated to the Comptroller as the principal officer, who is responsible and answerable for complying with the obligations under the Income Tax Act (Section 92 Income Tax Act). The principal officer is also subject to the penalties stipulated in the Income Tax Act in the case of non-compliance.[34]

207. Section 90(4) sets a six-year retention period. Section 90(5) gives the Comptroller the power to require the retention of accounting records by any person for such a period of time as he/she considers necessary for their proper examination. On the other hand, Section 90(6) stipulates that the Comptroller may approve the disposal of any books of account or other records within such lesser period than six years as he/she thinks fit. Examples for when this discretion applies refer to:

- where a company goes into liquidation or a trust or body of persons has been terminated
- in any other case where the Comptroller is satisfied that it is reasonable to do so.

208. This discretion will not result in non-compliance with the standard, as Saint Lucia noted that the Comptroller will take into consideration the retention period of five years under the EOI standard before issuing a decision on shortening the retention period. Over the last three years, two requests for the disposal of books of account or other records were received, but neither was before the expiration of the six-year period. While the six-years had expired, these requests were aimed to receive a formal approval that there are no objections to the disposal.

209. Additionally, the IRD will be in possession of some accounting information, since any person who carries on business in any year needs to file a tax return, which must be accompanied by a copy of the financial

34. Similarly, for partnerships, every partnership needs to appoint a natural person resident in Saint Lucia as a point of contact partner or agent, whose name and address needs to be communicated to the Comptroller (Section 93 Income Tax Act). This person constitutes the primary representative of the partnership and is responsible and answerable for every duty under the Income Tax Act – including the retention of accounting records.

statements of the respective year, including balance sheet and Profit and Loss Statement (Section 91 Income Tax Act). The IRD will retain this information for a minimum of six years.

Company Law

Domestic companies and non-profit companies

210. In addition to the above-mentioned tax requirements, Company law imposes some complementary accounting requirements (although by themselves they would not be sufficient to fully meet the standard). All companies formed under the Companies Act must prepare annual financial statements (Section 149-151 Companies Act), being a balance sheet, statement of income and retained earnings, and a statement of changes in financial position. Companies are also subject to a separate obligation, under Section 187 Companies Act, to keep "adequate" accounting records, which include records sufficient to enable the directors to ascertain the financial position of the company with reasonable accuracy on a quarterly basis.

211. Section 187(3) Companies Act does not preclude the possibility to keep these accounting records outside of Saint Lucia. However, the Act specifies that the records must be brought back to Saint Lucia on a quarterly basis either to the registered office of the company or to some other place in Saint Lucia designated by the directors of the company. However, as stipulated in paragraph 206, the Comptroller of IRD must first approve the records for being kept at another location and no such request has ever been made in practice.

212. Non-profit companies are also required to file audited financial statements annually with ROCIP (Part 10 Companies Act) (see paragraph 60).

International Business Companies

213. In addition to the requirements under tax law, IBCs are subject to the record keeping obligations under the IBC Act since its amendment in 2015 and 2016. Any accounting records, including underlying documentation,[35] general or subsidiary ledgers, sales receipts and invoices must be kept and maintained for a period of six years from the date of the transaction (Section 111(1) IBC Act).

35. Underlying documentation is defined in Section 2 of the IBC Act as "any medium by which information is recorded in relation to a transaction or other business relation and includes an invoice or contract".

214. IBCs do not have an obligation to keep their records in Saint Lucia. Two provisions mitigate the risk of accounting records not being available. First, Section 111(4) of the IBC Act further compels an IBC to submit such records to its registered office when required to do so by any law in force in Saint Lucia or international agreement for tax purposes or mutual legal assistance. The IBC is required to deliver any requested accounting information to the office of its registered agent within 21 days of receipt of the notice for the information from the competent authority (Section 111(4) IBC Act). Where the IBC fails to deliver such accounting information, it is liable to a fine of USD 1 000 (EUR 941) for every month in default (Section 111(5) IBC Act).

215. Second, Section 111(9) of the IBC Act requires an IBC to submit unaudited financial statements, at the office of its registered agent, within three months of the end of the financial year of the international business company. The unaudited financial statements need to be accompanied by a signed declaration of the director or secretary of the company, which *solemnly* and *sincerely* declares that the records, including underlying documentation, are retained for a period of six years (Form 7A). An IBC that fails to submit the unaudited financial statements together with Form 7A to its RA is liable to pay a penalty of USD 100 (EUR 94) for every month or part of the month that the IBC fails to submit the required documents. By 31 December each year, the RA of the IBC is then required to send a list to the IBC Registrar of all IBCs that have not complied with the requirement. IBCs in default will be gazetted and subsequently struck off the registry for continued non-compliance (as described in A.1.1).

216. A RA that fails to comply with the requirement to submit this information to the IBC Registrar or provides false information will commit an offence and be liable to a fine of up to USD 3 000 (EUR 2825) (Section 111(13) IBC Act).

Other entities and arrangements

Partnerships

217. The main requirement for retaining accounting records for ordinary and limited partnerships is contained in the Income Tax Act described above.

218. Supplementary to that, the Commercial Code establishes requirements for accounting records, which are applicable to ordinary and limited partnerships.

219. Partners are bound to render “true accounts and full information” of all things affecting the partnership to any other partner, and all partners must account to the partnership for any benefit derived from any transaction

concerning the partnership, or any use by the partner of the partnership's property, name or business connections (Sections 47-48 Commercial Code).

220. No minimum retention period for these accounting records is stipulated in the Commercial Code but the six-year tax retention period applies.

Trusts

221. As with the other entities and arrangements, the main requirement for trustees to retain accounting records is contained in the Income Tax Act, which includes the six-year retention period.

222. Supplementary to that, trusts formed under Saint Lucia's laws are subject to common law fiduciary obligations on trustees to keep accurate accounts and records (see 2014 Phase 2 review paragraph 212).

223. Additionally, professional trustees are subject to the record keeping obligations under the AML regime, which requires them to maintain all transactional records for a period of seven years after the completion of the transaction recorded (Section 16 MLPA).

224. The AML Guidelines provides that AML Service Providers should maintain "all relevant records on the identity and transactions of their customers, both locally and internationally, for seven years". This should include all entry, ledger, and supporting (such as credit and debit slips, and cheques) records as described in paragraph 172 of the Money Laundering (Prevention) (Guidance Notes). They should be maintained in such a manner that permits the reconstruction of individual transactions (paragraph 180).

Co-operatives

225. While co-operatives are exempt from income tax and from the obligation to file an annual return, they remain subject to accounting record-keeping obligations, as described in Section 90 of the Income Tax Act. Supplementary to these requirements, Part 8 of the Co-operative Societies Act, requires co-operatives to prepare audited annual financial statements, which facilitates that the accuracy of the accounts is confirmed by an auditor.

Entities and arrangements that ceased to exist and retention period

226. In Saint Lucia, annual statements of entities that ceased to exist will be available with the IRD and with the RAs of IBCs.

227. First, some records are available with public authorities. The IRD will be in possession of annual statements, which need to be attached to the annual tax return. This filing obligation covers all relevant entities and arrangements, which conduct business in Saint Lucia, including all IBCs since 1 July 2021 (see paragraph 209).

228. Additionally, the accounting records of domestic companies which are public companies, in the form of annual financial statements[36] must be filed with the Registrar annually not less than 21 days before each annual shareholder meeting (Section 154(1) Companies Act). Such records will remain at the registrar for a six-year period and will hence remain available after the company ceases to exist.

229. In addition to these sources, the following will provide the details of entity-specific retention requirements.

230. For domestic companies, according to Section 485 of the Companies Act, in the case of a mandatory winding-up procedure, the Court appoints a responsible person for retaining the books and records of the company. In the case of a voluntary wound up company, the general meeting of the company by ordinary resolution appoints a responsible person, or the committee of inspection, in case of creditor's voluntary winding-ups. After five years from the dissolution of the company, no responsibility rests on the company, the liquidators or any person to whom the custody of the books and papers has been committed. Any person, who does not comply with the document retention requirement commits an offence and is subject to a fine amounting to XCD 5 000 (approx. EUR 1 884) (Sections 485 (4) and 541 Companies Act).

231. For IBCs, Section 111 of the IBC Act requires registered agents to keep all IBC accounting records, which need to be annually submitted by the IBC to the RA, up to six years after the business relationship ends. In case of winding-up, the appointed liquidator will be responsible for keeping the records. In addition, the responsible RAs will keep all the annual financial statements for a minimum of seven years.

232. With regard to partnerships, partners are bound by the document retention period even after the partnership is dissolved. In case the partnership is dissolved by the death of a partner, the surviving partner(s) needs to retain the accounting records (Section 48 Commercial Code).

233. There appears to be no legal requirements, which specify the residency of the person, who should retain the accounting records (e.g. liquidator). Hence, in the case the person responsible for retaining the books and paper

36. Financial statements include the balance sheet, a statement of retained earnings, a statement of income, and a statement of changes in financial position.

is a resident of a different jurisdiction, the accounting records will potentially be held outside of Saint Lucia, leading to a situation where nobody with possession or control over the underlying documentation will be in Saint Lucia. This may lead to situations where the information cannot be timely provided. However, under tax law, all companies (domestic and IBCs) as well as partnerships, need to appoint a natural person, resident in Saint Lucia, who is personally responsible and liable for all obligations under the Income Tax Act, including the retention of underlying documentation. This natural person needs to be communicated to the IRD and remains to be responsible for any tax related matter (including the retention of accounting records) after the entity ceases to exist. Accordingly, this potential nexus gap of a non-resident liquidator is remedied, given that there is a designated, responsible natural person in Saint Lucia.

234. Unlike domestic companies, IBCs can also redomicile. In such a case, Section 88 explicitly states that the IBC continues to be liable for all obligations that existed prior to its continuation as a company under the laws of another jurisdiction. The RAs and the IRD will be in possession of the annual accounts, however the underlying documentation will most likely be with the IBC. Given that the Director or Secretary of the IBC needs to sign a notarised declaration that all underlying documentation is retained and will be provided to the RA (Form 7A), as described in paragraph 215, the RA in Saint Lucia would have the right to request the underlying documentation from the IBC even after the relocation. However, it is unclear how this obligation would be enforceable for the RA. Saint Lucia should ensure that underlying documentation is consistently available in practice in relation to IBCs that redomicile out of Saint Lucia for a minimum period of five years, in line with the standard (see Annex 1).

235. Financial co-operatives as well as trusts managed by a professional trustee are captured by the AML obligations (Section 165 MPLA), which requires the retention of records for seven years, irrespective of a winding-up, by the liquidator or professional trustee.

236. Registered agents and professional trustees are important gate keepers in Saint Lucia in terms of record retention of IBCs. If the registered agent ceases activities, the court will appoint a liquidator/receiver, who will be responsible for retaining all client records in accordance with AML document retention requirements.

Conclusion

237. A combination of tax law, AML requirements and company law facilitates that accounting information is available, even after an entity ceases to exist.

Oversight and enforcement of requirements to maintain accounting records

238. The IRD is the main supervisor of the availability of accounting records for all relevant entities and arrangements. For IBCs, FIA and FSRA can be regarded as additional supervisors, as they supervise the RAs, who can be regarded as intermediaries monitoring the availability of accounting records.

Inland Revenue Department

239. Any person that fails to keep the records as required under Section 90 of the Income Tax Act is guilty of an offence and liable to a fine of XCD 1 000 and to imprisonment for one year (Section 140 Income Tax Act). In addition, a failure to furnish the tax return together with the required documents can lead to penalties; 5% of the amount of tax charged in case of delay or twice the amount of tax which would have been lost if he/she had been assessed on the basis of the incorrect return or information furnished in case of fraud or wilful default (Sections 132 and 133, Income Tax Act). In practice, the late filing penalty under Section 132 of the Income Tax Act is applied automatically and added to the tax due for the respective assessments. The penalty under Section 133 is only applied on a discretionary basis following an audit, where significant adjustments have been made.

240. The IRD implemented a detailed oversight inspection programme in July 2015, which could not be tested in the 2016 Report, as it fell outside of the review period (1 July 2013-31 June 2015). For the current review period, the IRD showed many improvements in its oversight inspection programme and addressed many data gaps, which were identified in the 2016 Report.

241. Since July 2015, the IRD has two audit units. One is responsible for *Large and Medium Taxpayers* (i.e. taxpayers earning gross income of at least XCD 400 000 (EUR 144 358)), which consists of 17 auditors. The other unit focuses on the *Small and Micro Taxpayers* and consists of 14 auditors. These units have the responsibility to ensure that taxpayers comply with the requirement to maintain accounting records and submit accurate tax returns and financial statements.

242. Both units have a dedicated *Late and Non-Filers Unit* which is responsible for ensuring taxpayer compliance with the submission of accurate tax returns, together with required financial statements. Non-filers are pursued to comply with their filing obligations. The department prepares reports on the filing compliance monthly for the core type of taxes being monitored. These reports focus on corporate income tax, value added tax, personal income tax and Pay As You Earn (P A Y E) annual declarations. Failure to submit returns would result in the imposition of the relevant sanctions.

243. To ensure the compliance with tax filing obligations, the units conducted the following compliance activities during the review period:

Large and medium late non-filers unit's activities for periods 2018/19 to 2020/21

Activities	2018/2019	2019/2020	2020/2021
Extension of time	341	147	305
Contacts and notifications	5 719	4 918	2 969
Interviews	17	28	4
Accounts reviewed[37]	3 886	3 095	1 861
Field visits[38]	76	28	3

Small and micro late non-filers unit's activities for periods 2018/19 to 2020/21

Activities	2020/2021	2021/2022	Apr 2022/Aug 2022
Extension of time	16	122	132
Contacts and notifications	1 478	3 189	2 616
Interviews	6	4	7
Accounts reviewed	889	1 851	1 301
Field visits	1	0	0

244. The activities of the *Large and Medium Late Non-Filers* Unit have shown compliance improvements. The compliance rate of return filing obligations gradually increased from 76.1% in 2019, to 77% in 2020 and to 80.14% in 2021 regarding corporate income tax returns and accompanying financial statements. Non-compliant taxpayers received warning letters and were denied requests for extensions of time for the current years' filings – next to the late filing penalties.

245. The taxpayer audit units review compliance with the maintenance and preservation of accounting records. Audit case selection and screening is risk-based and includes the analysis of filing data for several years

37. The review entails establishing the outstanding returns and contacting the taxpayer to request their submission. Three notices are sent to the taxpayer reminding them of the need to file. In some instances, interviews and field visits are conducted to ascertain the reasons why the returns are not filed and to assist taxpayers. If after the third notice the outstanding returns are not submitted, estimated assessments are generated and issued to the taxpayer.

38. Field visits are conducted to make contact with the taxpayer, confirm whether the business is still operating and provide taxpayer with information to assist with completing outstanding returns. They are also conducted to verify the nature of business operations, as part of data gathering for the creation and issuing of estimated assessments.

and third-party data. The risk-based screening takes into account *inter alia* the matched data from the customs and excise department, the data from income tax and VAT filings, and sector averages for VAT input and output ratios.

246. The annual audit work plan outlines the activities or types of audit cases (comprehensive, limited scope, refund, single tax and desk) to be undertaken by the unit to monitor and report on audits. The IRD conducts further random audits, geared towards information gathering with the goal of identifying future risk assessment and industry benchmarking.

247. The following table shows the audit cases conducted during April 2018 – October 2021 and the increase in tax due in XCD resulting from the audit by tax type. The result of these tax audits was an increase in taxes to be paid. As all required documents were produced by all audited entities (sometimes subject to a reminder), no penalties for failure to keep records were levied during the period.

	April 2018-March 2019		April 2019-March 2020		April 2020-March 2021		April 2021-March 2022	
Audit tax type	**No. of cases**	**Tax change**	**No. of cases**	**Tax change**	**No. of cases**	**Tax change**	**No. of cases**	**Tax change**
Income tax	50	12 759 204	18	7 561 616	57	124 306 367	85	6 840 650
Personal income tax	42	716 607	4	409 407	50	3 236 148	44	2 153 651
Corporate income tax	8	12 042 597	14	7 152 208	7	121 070 218	41	4 686 999
Miscellaneous tax	3	35 082	9	8 713 504	11	21 512 006	9	12 336 306
P.A.Y.E.	0		0		1		3	43 749
Withholding tax	3	35 082.70	9	8 713 504	10	21 512 006	6	12 292 557
Value added tax	39	2 498 839	26	1 791 829	15	1 328 456	36	6 298 514
Total	92	15 293 126	53	18 066 950	83	147 146 829	130	25 475 471

248. Saint Lucia provided more granular data on audits, which specifically looked at the availability of accounting records and ownership information. Saint Lucia noted that due to COVID-19, the number of audits declined, and later increased as more desk audits were conducted to respond to the changed circumstances during the pandemic. Between April 2018 and March 2022, the following number of audits were conducted focusing specifically on the existence of accounting records and ownership information (the compliance rate was over 90% in these audits):

Time period	Number of audits	IBCs
April 2018-March 2019	48	2
April 2019-March 2020	48	1
April 2020-March 2021	38	-
April 2021-March 2022	93	-

249. Since 1 July 2021, all IBCs need to register with the IRD. This change began in 2021 with 941 new registrations of IBCs with the IRD. Saint Lucia noted that there is no planned audit activity specifically focused on IBCs. However, all IBCs are part of the taxpayer base of the annual audit plans. Thus, all audit activities are applicable to IBCs. If an IBC is regarded as high risk, it will be subject to a tax audit. Saint Lucia clarified that when auditing IBCs, the IRD requests the underlying documentation from IBCs though using Section 87 of the ITC.

250. To respond to this change of potential audit subjects, the IRD revised the list of Large and Medium Taxpayers in December 2021. From those 1 432 companies classified as Large and Medium companies, 238 now constitute IBCs, which constitutes approx. 7% of the whole IBC population.

Financial Services Regulatory Authority and Financial Intelligence Authority

251. FSRA and FIA supervise the availability of accounting records through their audit activities on RAs.

252. As stated in paragraph 215, IBCs are required to submit unaudited financial statements, annually to the office of their RA together with a signed declaration of the director or secretary of the company, which includes a notarised declaration that the records, including underlying documentation, are retained for a period of six year (Form 7A). RAs must retain this information and inform the IBC Registrar in case an IBC defaults with this obligation. The IBC Registrar will then conduct the gazetting and subsequent striking off as described in A.1.1.

253. The reported compliance rate with the annual filing obligation of the financial statements with the RA is high. Based on the data of the IBC Registrar, from all the IBCs registered, only a few were in default and most of them rectified the default once being notified, as shown below:

Year	Default reported by RAs	Rectified	Reported compliance rate (after rectification)
2019	90	51	98.9%
2020	108	47	98.2%
2021	1	1	100%

254. However, the IBC Registrar can only act on the basis of the default list submitted by RAs. If there is no list, the inference is that the RA has received from the IBCs the required annual financial statements. Due to this important role of RAs, robust monitoring activities of their compliance is necessary and is conducted by FSRA together with FIA.

255. The FSRA oversight programme for the RAs consists of two main aspects, offsite reviews (desktop monitoring) and an onsite inspection programme.

256. Regarding the availability of accounting records, the off-site element of the oversight programme by the FSRA requires RAs to provide a pre-determined 5% sample of Form 7A, which is accompanied by the financial statements and the notarised statement that underlying documentation is kept by the IBC. The FSRA conducted 43 offsite audits covering all of Saint Lucia's RA population (i.e. 19 RAs). The FSRA indicated the compliance level regarding Form 7A was 89% (which does not only include the accounting records but also the annual return for shareholder and beneficial ownership information).

257. As the onsite inspection programme was affected by financial restraints, staff turnover and COVID-related restrictions, between 2018 and 2021, of the 19 registered agents, only 3 were subject to an onsite audit. FSRA noted that the compliance level of the registered agents was generally high regarding the keeping of accounting records (i.e. financial statements as well as the notarised statement that underlying documentation is kept by the IBC) for their clients.

258. The audits generally look whether the following elements are present and well documented: signed application form, purpose of the business, due diligence questionnaire, register of directors, identity documents for directors, register of shareholders, identity documents for shareholders, register of ultimate beneficial owner, filed annual directors' return, filed annual shareholders' return, constitutional documents, and due diligence process documented on file. The presence of the unaudited financial statements is one element of the audit. Taken all areas for audit together, the compliance level was 75%.

259. The deficiencies were communicated to the entities. Recommendations were provided in the form of an onsite report and follow-up was conducted with the entities. However, no monetary sanctions have been applied by FSRA.

260. The onsite audit activities of FSRA are complemented by onsite visits conducted by FIA. FIA is the responsible regulator for the administration of the AML obligations under the MLPA for the international financial sector, which includes RAs. Regarding accounting records, FIA checks

during their audits, whether all client records are retained for the required seven years. FIA further reviews the unaudited accounts during the onsite inspections and requests the underlying documentation if the accounts warrant more details. During 2020-21, FIA conducted 14 onsite visits on the 19 RAs. All RAs kept the accounting records of their clients at minimum for seven years – mostly longer. However, Saint Lucia noted that during these onsite visits FIA has not requested sight of underlying documentation.

261. Saint Lucia has indicated that FIA, IRD and FSRA have commenced discussions to pool resources in order to further monitor compliance with record keeping obligations and use synergies better. This joint effort commenced in 2022 and is in the process of being further refined.

Conclusion

262. Since the 2016 Report, Saint Lucia has put in place monitoring systems and activities to ensure the availability of accounting information. Part of these activities have slowed down due to the constraints of the COVID-19 pandemic and are resuming, notably onsite inspections. In addition, since 1 July 2021, IBCs that were previously exempt from tax, must file annual tax returns and accounting information with the IRD and the authorities have new monitoring plans. Saint Lucia should continue to implement its monitoring activities, including on newly taxable IBCs, to ensure availability of accounting information in all cases. **Accordingly, Saint Lucia is recommended to continue to strengthen its supervisory activities to ensure the availability of accounting information, in particular with respect to IBCs, in line with the international standard**.

263. Furthermore, there is an additional risk on the availability of accounting records relating to struck-off IBCs (see paragraphs 85-90 under section A.1). They might be still conducting business overseas unnoticed in Saint Lucia and accounting records of these activities might not be available. **Saint Lucia is recommended to speedily dissolve struck-off companies, to ensure the availability of accounting information in all instances**.

Availability of accounting information in EOIR practice

264. Since the 2016 Report, Saint Lucia received eight requests about accounting records (four for accounting information and four for underlying documentation) mostly relating to IBCs (three of these requests fell into the current review period of 1 July 2018-30 June 2021). No issues were raised by peers in obtaining such information in practice.

A.3. Banking information

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

265. The 2016 Report concluded that banks' record-keeping requirements and their implementation in practice were in line with the standard. There has been no relevant change in the provisions or practice since this report. Saint Lucia's banking laws require banks to maintain full identity information on their clients and keep full records of their transactions.

266. The standard was strengthened in 2016 to require the availability of beneficial ownership information of account-holders. This is part of banks' AML obligations. Saint Lucia's legal and regulatory framework with respect to the identification of beneficial owner(s) of bank accounts is generally in line with the standard. There is a deficiency to ensure that beneficial ownership information is up to date, as the AML obligations require the beneficial ownership information to be up to date, without providing for a specified frequency in the legal or regulatory framework to update the information. Hence there is a risk that beneficial ownership information might be outdated. Additionally, some rules and oversight activities were adopted recently, and their implementation could not be sufficiently tested in practice.

267. During the review period, Saint Lucia received ten requests for banking information. Peers were satisfied with the information provided.

268. The conclusions are as follows:

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

Deficiencies identified/Underlying factor	Recommendations
Banks must ensure that all Customer Due Diligence documents are kept up-to-date and that routine reviews of existing records are done, particularly for categories of high-risk accountholders. However, there is no specified frequency of updating beneficial ownership information, so there could be situations where the available beneficial ownership information is not up to date.	Saint Lucia is recommended to ensure that up-to-date beneficial ownership information is available for all bank accounts, in accordance with the standard.

Practical implementation of the Standard: Largely Compliant

Deficiencies identified/Underlying factor	Recommendations
Prior to 2019, the supervision and oversight activities of domestic and international banks were inadequate. Legislative amendments were made in 2019 to strengthen the Financial Intelligence Authority and the Financial Services Regulatory Authority and allow them to carry out robust oversight programmes for international banks. This programme suffered from the consequences of the COVID-19 pandemic. In respect of domestic banks, the Eastern Caribbean Central Bank is their new supervisor since 1 December 2021. Significant progress in the oversight and monitoring activities of domestic and international banks took place afterwards. Given that most activities were fully rolled out recently, the effectiveness of the supervision and oversight activities could not be fully assessed.	Saint Lucia is recommended to continue to strengthen its supervision and oversight activities of domestic and international banks to ensure the availability of banking information.
Saint Lucia recently improved its legal framework regarding the availability of beneficial ownership information, notably the implementation of a new definition of beneficial owner, imposition of administrative penalties for failure to comply and the issuance of binding guidance on the identification of beneficial owners in relation to all entities and arrangements.	Saint Lucia is recommended to monitor the implementation of these recent changes to ensure the availability of adequate, accurate and up-to-date beneficial ownership information on bank accounts is available in line with the standard.

A.3.1. Record-keeping requirements

269. Saint Lucia has 4 commercial banks, which provide financial services – mostly deposit taking – to domestic customers. Saint Lucia also has 11 international banks, which provide financial services to third parties who are not residents of Saint Lucia – usually high net-worth foreign nationals. These international banks are IBCs and either qualify as a Class A (seven) or Class B (four) bank.

- Class A banks are required to have a physical presence in Saint Lucia and are usually actively engaged in transactional accounts (wire transfers), providing corporate loans and trade financing to non-residents of Saint Lucia.

- Class B banks are restricted to conducting business with a "specific group of persons" of less than 10. They are usually affiliates or subsidiaries of commercial banks operating in the Caribbean region. Class B banks are captives and provide loans to their parent company/affiliate companies and as a result, most of the transactions are intra-group transactions.

270. Domestic banks and Class A banks are required to keep and store their books and records in Saint Lucia at all times (Section A 8 of the FSRA Guidance Notes International Banks Act). The minimum "substance" requirements for Class A banks are physical premises and more than two full-time employees in Saint Lucia, which constitute *the meaningful mind and management* of the bank. The substance of the bank's registered agent, i.e. its premises or personnel thereof are not qualifying substance of the Class A bank (Section 2 International Banks Act in conjunction with Section A 2 of the FSRA Guidance Notes International Banks Act).

271. Class B banks are not always required to have physical premises distinct from the office of their registered agent, but all must keep and store all books and records relating to the banking activity in Saint Lucia at all times (Section A 8 of the FSRA Guidance Notes International Banks Act). This exception to the physical requirement applies only to the three subsidiaries of regulated financial groups subject to effective consolidated supervision by a financial service regulator. These Class B banks (being captives) have deposits from the parent or group of persons, where the FSRA has conducted an entry control before granting the licence. The volume of transactions is usually very small during a fiscal year, accordingly, keeping the books and records relating to these transactions in Saint Lucia has not been difficult.

272. The other Class B bank is required to have a physical presence in Saint Lucia, with the same minimum substance requirements, as those applicable to Class A banks (Section 2 International Banks Act in conjunction with Section A 5 of the FSRA Guidance Notes International Banks Act).

273. Accordingly, the books and records of all licensed banks (domestic and international) should be available Saint Lucia.

Availability of banking information in general

274. The 2016 Report concluded that banks' record-keeping requirements and their implementation in practice were in line with the standard. There have been no relevant changes to the legal framework since then.

275. Accordingly, Saint Lucia's AML framework under the MLPA, requires all banks to maintain client identity information as well as all financial and

transactional information relating to account holders. These records need to be kept for a minimum of seven years after the day on which an account is closed or seven years after the day on which a transaction recorded took place (Section 16 (7) MLPA).

276. Non-compliance can amount to a penalty amounting to a minimum of XCD 100 000 (EUR 32 706) but not exceeding XCD 500 000 (EUR 163 533) or imprisonment for a term between 7 years and 15 years (Section 16(9) MLPA) (for more details on the legal framework see paragraphs 237-244, 2014 Phase 2 Review).

277. If a bank winds up its operation, a liquidator will be in charge of the winding-up process. The MLPA only places obligations on banks that are licensed. Accordingly, upon revocation of a licence the bank is no longer required to comply with the requirements of the MLPA. However, the liquidator will be required to retain the information after the bank ceases to exist. The liquidator is also required to provide such information on the wound-up entity upon request to the FIA (Section 6 1b MLPA), thereby ensuring that banking information is kept when the bank ceases to exist. The liquidator either needs to be appointed by the Courts in Saint Lucia upon an affidavit by the FSRA (in case of an involuntary liquidation) or approved by the FSRA (in case of a voluntary liquidation). Even though the legislation does not specifically refer to the residency of the liquidator, the FSRA noted that it will only appoint resident liquidators, in order to ensure that the costs of the court proceedings remain low and the proper performance of the liquidator's duties, including the retention of documents and the ongoing interactions with the authorities in Saint Lucia.

Availability of beneficial ownership information

278. The standard, as strengthened in 2016, specifically requires that beneficial ownership information be available in respect of all bank accounts.

279. The MLPA requires banks to identify and verify the identity of the beneficial owners of a client before or while establishing a business relationship. It further stipulates that the bank should take reasonable measures to verify the identity of the beneficial owners and understand the ownership and control structure of the customer (Section 17(4) and (11) MLPA). Reasonable measures include the use of reliable independent source documents, data or information as per Section 17(4)(a) MLPA. Paragraph 168(d) of the Money Laundering (Prevention) (Guidance Notes) further stipulates that the records in relation to verification need to comprise the names and addresses of the beneficial owners of the product and also any counterparty to a transaction.

280. The 2021 Money Laundering (Prevention) (Amendment) Act No 16, Section 2 of the MLPA introduced a new definition of beneficial owner, which is the same as the one applicable under the Companies Act and the IBC Act. The analysis of this definition is set out in section A.1 of this report. The definition is complemented by the BO Guidance, which stipulates the method of identifying beneficial owners for all entities and arrangements in conformity with the standard:

- For companies: The BO Guidance captures control via ownership (including direct, indirect and aggregate control), control via other means and the default option of capturing the natural person who holds the position of senior manager within the legal person, if the first two steps of the cascading approach did not result in the identification of a beneficial owner (see paragraphs 117-122).
- For partnerships: The BO Guidance clarifies that all partners within the partnership and other natural person with effective control over the partnership need to be identified. In the case a non-natural person is party to a legal arrangement, a look-through approach needs to be applied (see paragraph 155).
- For trusts: The BO Guidance stipulates that beneficial ownership information includes information on the identity of the settlor, trustee(s), protector (if any), all the beneficiaries or class of beneficiaries, and any other natural person exercising ultimate effective control over the trust. If a party to a trust is not a natural person, a look-though approach and the applicable rules regarding the beneficial ownership of the looked-through legal entities or arrangements need to be applied (see paragraph 176).
- For foreign foundations: The BO Guidance stipulates that beneficial ownership information should capture the natural persons, who ultimately own or control the foundation, who exercise ultimate effective control over the foundation, or on whose behalf a transaction or activity is conducted. The BO Guide stipulates that the sources where the AML-obliged persons can find this information on foundations are the foundation charter, minutes of meetings, list of members and registration forms (Chapter 4.1 BO Guidance).

281. During the onsite visit, bank representatives demonstrated a good understanding of the method to identify and verify beneficial ownership. Bank representatives clarified that they have followed the approach stipulated by FATF for many years, but the new guidance was welcome. They indicated that they apply a cautious approach to CDD, particularly domestic banks, due to concerns about losing correspondent banking relationships. It was confirmed that IBCs are always subject to enhanced due diligence requirements.

282. Banks are required to keep all records obtained through CDD measures and supporting documents for at least seven years following the termination of the business relationship or after the date on which the transaction was recorded (Section 16(7)(a)(b) MLPA).

283. Section 17(2) of the MLPA further places an obligation on banks to ensure that all CDD documents are kept up-to-date and that routine reviews of existing records particularly for high-risk categories of customers or business relationships are done. The low-risk indicators for clients as stipulated in the MLPA are Saint Lucian residents, whose accounts are serviced solely for salary purposes or financial arrangements via regulated financial institutions and also account holders, who are licensed financial institutions (Part III para 145 MLPA). The high-risk indications inter alia include all non-Saint Lucian residents (Para III para 147 MLPA).

284. All interviews with the private sector highlighted that updating of all beneficial ownership information takes place at minimum once a year in practice. However, no specified frequency for updating client information is provided in the legislation or Guidance. The supervisory authorities further stated that the frequency of updating client information forms part of their onsite inspections. Internal guidelines for the inspections require the performance of ongoing monitoring of high-risk accounts, again without providing a benchmark on what frequency would be necessary to constitute up-to-date information. Saint Lucia further noted that there has not been any case where the supervisory authorities found the frequency to be insufficient. However, as there is no specified frequency of updating beneficial ownership information; efficiency cannot be ascertained on which frequency is considered as adequate. Hence, there could be situations where the available beneficial ownership information is not up to date. **Saint Lucia is recommended to ensure that up-to-date beneficial ownership information is available for all bank accounts, in accordance with the standard.**

285. Banks are permitted to rely on third parties to conduct CDD measures or intermediaries to introduce business on their behalf (Section 17 (7) MLPA). However, this third-party reliance is only permissible if the bank immediately obtains the necessary CDD information from the third party (Section 17(8)(a) MLPA). Additionally, banks are required to take adequate steps to be satisfied that copies of identification, data and other relevant documentation relating to the customer due diligence requirements will be made available from the intermediary or third party upon request without delay, and that the intermediary or third party is appropriately regulated and supervised, to ensure that customer due diligence requirements are in place (Section 17(8)(b) and (c) MLPA). The MLPA emphasises that where a bank relies on intermediaries or other third parties, the ultimate responsibility for customer identification and verification remains with the bank

(Section 17(15) MLPA). Accordingly, this introduced business provision in Saint Lucia is in conformity with the standard. Introduced business is utilised by international banks. Saint Lucia noted that onsite findings revealed that introducers are mainly used in the form of referrals and the international banks still collect all relevant CDD documents on the referred customers. Accordingly, in practice no reliance is placed on introducers for the conducting of CDD.

286. Banks who do not comply with CDD and record retention obligations commit an offence and are subject to a fine. This can amount to a penalty amounting to a minimum of XCD 100 000 (EUR 32 706) but not exceeding XCD 500 000 (EUR 163 533) or imprisonment of the directors, general managers, secretaries or other officers who are found liable for a term of not less than 7 years and not exceeding 15 years (Section 16(9) MLPA). New administrative sanctions have also been introduced in 2021 through the Amendment No 16 giving FIA and ECCB the power to enforce administrative penalties of up to XCD 5 000 (EUR 1 634) or in case of continuous failure a penalty of XCD 500 (EUR 163) for each day the failure continues.

Oversight and enforcement

287. FSRA, FIA and ECCB are responsible for administering and enforcing the requirements under the MLPA and are responsible for monitoring the availability of banking information though their audit activities. FSRA and FIA are responsible for the supervision of international banks and ECCB is responsible for the supervision of domestic banks.

Supervision of international banks – Financial Services Regulatory Authority and Financial Intelligence Authority

288. The FSRA oversight programme for international banks consists of two main aspects, offsite reviews (desktop monitoring) and an onsite inspection programme. FSRA conducted the following audit activities on international banks during 1 July 2018-30 June 2021:

No. of international banks				No. of onsite audits				No. of offsite audits				Compliance rate of banks
2018	2019	2020	2021	2018	2019	2020	2021	2018	2019	2020	2021	
14	11	11	11	1	2	1	0	12	10	10	10	90%

289. The Authority's onsite inspection programme was re-designed in 2014 with the aim of having each licensee inspected at least once every two years. As the onsite inspection programme was impacted by financial restraints, staff turnover as well as COVID limitations, between 2018 and 2021, of the 11 international banks, only 4 were subject to an onsite audit during which books and records were reviewed.

290. The onsite inspections assessed:

- the state of affairs and condition of the regulated entity independently and in relation to its peers
- the board's oversight and whether the management is capable and provides the board with complete and accurate reports
- compliance with laws and regulations (including MLPA), particularly regarding CDD documentation
- the adequacy of and adherence to the bank's own policies and procedures
- the regulated entity's risk management systems and structure

291. Additionally, 42 offsite audits were conducted on all 11 international banks. The offsite element of the oversight programme by the FSRA requires banks to provide a predetermined 5% sample of client records and CDD documentation. Taken all areas of the audits together (onsite and offsite) the overall compliance level was 90%.

292. FSRA noted that the deficiencies usually did not relate to CDD, but to areas relating to properly documented functions in relevant internal manuals. The deficiencies were communicated to the banks. Recommendations were provided in the form of reports and follow-up was conducted with the respective banks. FSRA clarified that its role is not to enforce but to ensure that entities are aware of their obligations under the MLPA. Accordingly, the audit activities of FSRA are complemented by supervisory activities conducted by FIA.

293. FIA is the responsible regulator for the administration of the AML obligations under the MLPA for the international financial sector, which includes international banks. The supervision unit of the FIA was established in 2019. The inspections were conducted in a hybrid manner due to social distancing requirements resulting from the COVID pandemic (virtual and at the premises of the bank or RA (in case of a Class B Bank, which qualifies as a captive). The inspections cover the obligations of AML-obliged persons under the MLPA. The areas of the inspections include but are not limited to: data collected with respect to Customer Due Diligence, adherence to retention periods, procedures and internal controls in respect of their clients. Supervision includes determining:

- whether the beneficial owner, directors and shareholders are named on file
- whether the jurisdiction of beneficial owner, directors and shareholders are listed on file
- whether due diligence screening is conducted prior to accepting clients and on an ongoing basis

- whether the beneficial owner is identified and verified, especially in the cases of complex structures
- the entities ownership structure.

294. FIA conducted no onsite audits in 2018-19 and 6 onsite audits during 2020-21 on the 11 international banks[39] (next to 42 offsite audits). FIA noted that international banks are compliant with their CDD procedures (compliance level was 91%). The non-compliance was in the areas relating to quarterly reports to the board or the absence of properly documented functions of a compliance officer in a manual. However, where non-compliance was observed, no penalties and sanctions were imposed as FIA was lacking power to do so. The MLPA Amendment Act from 16 December 2021 provided the FIA with new administrative powers to impose fines and sanctions on AML-obliged entities, which still need to be tested in practice.

295. During the review period, the FSRA together with the FIA took swift actions against a non-compliant bank. This case was about a Class A bank, with physical premises in Saint Lucia. The total assets under management of the bank represented less than 1% of the assets of the international bank sector (0.13% in 2016 and 0.77% in 2017).[40] Throughout the years of the banking business, the bank generally maintained good communication levels with the authorities, including various face-to-face meetings. Onsite inspections were conducted in 2016, 2017 and 2019 along with continuous desktop monitoring. The management, staff and directors were co-operative in providing documents. However, a change in transparency and communication levels was observed during 2019, when FSRA demanded some corrective action.

296. During the 2019 onsite inspection, the FSRA noted shortcomings. Some of these constituted inadequate maintenance of records, non-submission of audited accounts, complaints from clients and investors of the bank and complaints of employees regarding unpaid salaries.

297. The FSRA insisted on the rectification of these issues and the bank ceased its regular communications with the FSRA in 2019.

298. Due to the non-co-operation, the FSRA took swift actions (ordering the bank to cease from conducting banking business on 19 June 2019, more on-sites and meetings) followed by the revocation of the banking licence (effective 3 December 2019). A receiver was appointed for liquidating the bank and official investigations were launched by the FIA with the

39. In case of a Class B bank, which is a captive, the onsite visits are conducted at the responsible RA.

40. Total sector assets of international banks constituted XCD 494 840 694 in 2016 and XCD 468 377 176 in 2017.

assistance of the Royal Saint Lucia Police Force. During the police investigations, it was further discovered that the bank had already removed critical client records and had restricted access to online documents.

299. Saint Lucia noted that since the bank is in liquidation, the main entity that can pursue meaningful litigation with respect to restoring depositor's funds is the liquidator. Accordingly, the liquidator is preparing for court action against the bank and is currently at the stage of compiling the necessary data and relevant information, to allow for action to be taken against the promoters of the bank. However, notwithstanding, the FSRA is still conferring with external legal counsel to determine whether the offences section of the International Banks Act can be applied after a banking licence has been revoked.

300. Even though the information is not available anymore in Saint Lucia, Saint Lucia monitored the bank before the events sufficiently, and also acted swiftly and took appropriate actions. Additionally, as Saint Lucia has allocated more resources into the supervision of banks through an increased volume of onsite and offsite inspection, such incidents of non-compliance are less likely to happen again in Saint Lucia.

Supervision of domestic banks – Eastern Caribbean Central Bank

301. The ECCB is the AML supervisor for domestic banks. This formal appointment happened recently through an Amendment to the MLPA on 16 December 2021. Prior to this, the FIA was the named AML/CFT supervisor; however due to limited resources it was unable to fully carry out its supervisory functions for these domestic banks. The ECCB provides extensive training sessions, onsite examinations, as well as offsite assessments of domestic banks. It has extensive knowledge on AML matters.

302. The ECCB as part of its duties as a supervisory authority, can conduct inspections at licensed financial institutions. Inspections are informed by the ECCB's ML/TF risk assessment of its licensees. The ECCB is guided by the AML legislation of Saint Lucia as it relates to customer due diligence information. The ECCB's employs a risk-based AML Supervisory Framework which is supported by the AML legislation of the respective member country.

303. The ECCB circulated to all domestic banks the annual compliance questionnaire on 31 March 2022. it has also established an onsite examination schedule and conducted onsite visits checking inter alia the CDD documentation and transactional records on two of the four domestic banks. The recent amendment to the MLPA also allow the ECCB to impose fines and sanctions on AML-obliged entities.

304. In general, Saint Lucia stated that domestic banks have a strong culture toward ensuring that all required information is obtained and refuse business if CDD is incomplete. Interviews with representatives of domestic banks highlighted their low-risk appetite and a strong compliance culture conducting the same enhanced level of CDD for all customers – even low risk, because of concerns about losing their correspondent banking relationship with foreign banks.

Conclusion

305. Prior to and at the beginning of the peer review period, the supervision and oversight activities on domestic and international banks were inadequate. From 2019, improvements were made to provide the means for FIA and FSRA to carry out a stronger oversight programme for international banks. The planned oversight activities were impacted by the COVID-19 pandemic, which resulted in social distancing requirements as well as chronic resource challenges. In respect of domestic banks, the ECCB has been appointed as the new supervisor of domestic banks with effect from 1 December 2021. Significant progress in the oversight and monitoring activities of domestic and international banks took place at the end of the review period and Saint Lucia introduced administrative penalties to be applied by FIA and ECCB. **Accordingly, Saint Lucia is recommended to continue to strengthen its supervision and oversight activities of domestic and international banks to ensure the availability of banking information.**

306. Saint Lucia recently improved its legal framework regarding availability of beneficial ownership information. The definition of beneficial owner, as well as administrative penalties have been introduced into MLPA. Guidance for the identification of beneficial owners for all entities and arrangements has also been issued after the review period. **Hence, Saint Lucia is recommended to monitor the implementation of these recent changes to ensure the availability of adequate, accurate and up-to-date beneficial ownership information on bank accounts is available in line with the standard**.

Availability of banking information in EOI practice

307. During the current review period, Saint Lucia received 9 requests for banking information mostly relating to IBCs and individuals and peers were satisfied with the responses. Requests covered inter alia account opening documents, opening balances, beneficial ownership information, signature cards, copies of loan documents and correspondence between bank and account holder.

Part B: Access to information

308. 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).

309. The 2016 Report concluded that Saint Lucia's comptroller of the Inland Revenue Department (ITD) had broad powers under both the International Tax Co-operation Act (ITC Act) and the Income Tax Act to access all types of information for EOI purposes. The competent authority has information gathering capabilities under both acts for domestic tax purposes (Income Tax Act) and to comply with obligations under Saint Lucia's EOI agreements (Income Tax Act and ITC Act). The regulatory framework also includes adequate penalties for failure to comply with a request for information notice. As a result, the legal and regulatory framework under Element B.1 was regarded as "in place". There have been no changes to the legal framework since then.

310. However, as the only request received during the review period of the 2016 Report did not require the competent authority to obtain the requested information through formal channels or use any compulsory powers, the competent authority's abilities to access information under the ITC Act remained untested in practice.[41] Accordingly, Saint Lucia was

41. The 2014 Report mentions that Saint Lucia only used its access powers under the Income Tax Act to gather information in all cases during the review period (1 July 2010 through 30 June 2013).

recommended to monitor its application of its access powers. Since then, Saint Lucia has successfully used Section 7 of the ITC Act to access information for all ten requests received during the review period, which involved accessing information from different information holders (e.g. banks and Registered agents). Accordingly, the recommendation to test the access powers under the ITC is removed.

311. The conclusions are as follows:

Legal and Regulatory Framework: in place

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

Practical implementation of the Standard: Compliant

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

B.1.1. Ownership, identity and banking information

Accessing information generally

312. Saint Lucia's competent authority is the Minister of Finance. Under the International Tax Co-operation Act (ITC Act), the Comptroller of the IRD is the authorised representative of the Minister of Finance for EOI purposes (Section 5(1) ITC Act). The powers to gather information under the ITC Act also have been delegated to the Comptroller of the IRD.

313. The access powers for Saint Lucia's competent authority are defined in the Income Tax Act and the ITC Act. As described in the 2016 Report, both acts grant the Comptroller broad access powers covering all types of information that may be the subject of an EOI request (including legal ownership, beneficial ownership, accounting and banking information). There has been no change in the relevant rules since then. The ITC Act is the main Act used to access information (Section 7 of the ITC Act in particular) and the Income Tax Act is no longer used in practice for this purpose.

314. The Comptroller is authorised to obtain relevant information from any person within the jurisdiction who has the information in his/her possession or custody, or under his/her control (Section 7 ITC Act). The statutory powers apply irrespective from whom information is to be obtained or the nature of the information sought. Hence, the broad access powers also include the power to obtain information held for AML purposes (see paragraph 316). This understanding was also confirmed during the onsite by

private sector representatives. The access powers may require a person or entity to provide documentation, testimony or access to premises for the Comptroller to examine business records in order to answer an EOI request.

315. Accordingly, the powers of the competent authority include enquiries to produce information, inspection, and search and seizure. Search and seizure are used pursuant to Sections 7 and 8 of the ITC Act, where there are "reasonable grounds to suspect that an offence against the ITC Act is being, or about to be, committed". It is an offence against the ITC Act to not provide information, if requested, and to wilfully alter, destroy, damage or conceal any requested information (Section 7 ITC Act). In these instances, the Comptroller can obtain a search warrant to enter premises and seize any article, document or information, which he or she has cause to believe may be relevant to a request (see paragraphs 325-328).

Accessing beneficial ownership information

316. The Comptroller's access powers can be used to obtain all types of information, including beneficial ownership information. Under Section 7 of the ITC Act, the Comptroller is able to obtain beneficial ownership information held by ROCIP, the RA, the entity itself as well as other AML-obliged persons. The confidentiality provision in Section 38 of the MLPA is also superseded if another act requires the disclosure of information (Section 38 (1) MLPA).

317. The Comptroller's access powers with regard to beneficial ownership information was used in six instances mostly relating to IBCs (two of these requests fell into the current review period of 1 July 2018-30 June 2021 and peers were satisfied with the information). This information was obtained from banks as well as from RAs.

Accessing banking information

318. The Comptroller's access powers can be used to obtain banking information. Under Section 7 of the ITC Act, the Comptroller is able to obtain banking information from a bank as well as entities themselves. There is no special procedure required to obtain banking information.

319. In practice, Saint Lucia requires that its EOI partner provides enough information to assist the bank in retrieving the relevant documentation, such as the account number or name on the account. The name of the bank is extremely useful to assist in making the investigation more efficient. Without the name of the bank, the competent authority would have to write to all banks to seek the information. Saint Lucia noted that this is not a preferred situation but if there is no other option, Saint Lucia will endeavour to obtain the information in such a way. However, to date, Saint Lucia has always been given sufficient information to assist with obtaining banking documents.

320. Since the 2016 Report, the Comptroller's access powers with regard to banking information were used in 14 instances mostly relating to IBCs and individuals (9 of these instances fell into the current review period of 1 July 2018-30 June 2021 and was successfully done as confirmed by peers).

B.1.2. Accounting records

321. The Comptroller's access powers can also be used to obtain accounting records. Under Section 7 of the ITC Act, the Comptroller is able to obtain accounting records held by IRD, the RA, the entity itself as well as other AML-obliged persons.

322. Since the 2016 Report, the Comptroller's access powers with regard to accounting records was successfully used in eight instances (four for accounting information and four for underlying documentation). Most requests for accounting information related to IBCs (three requests on IBCs' accounting records fell into the review period of 1 July 2018-30 June 2021). Information was obtained from the RAs, which were in possession (financial statements) and control (underlying documentation) of the required information.

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

323. The legal basis for the use of domestic access powers in cases where there is no domestic tax interest is the ITC Act. The ITC Act also allows the competent authority to access all types of information for all entities for the purpose of fulfilling an EOI request. The Act also gives the force of law to Saint Lucia's EOI agreements.

324. Saint Lucia noted that all the requests received by the competent authority during the review period are in relation to foreign nationals who have either bank accounts, companies or property in Saint Lucia. In all these cases, Saint Lucia had no domestic tax interest (e.g. IBCs were not subject to tax in Saint Lucia previously) (see also C.1.4). As confirmed by peers, Saint Lucia did not decline any of these incoming requests during the period under review.

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

325. Saint Lucia has in place effective enforcement provision to compel the production of information (see 2016 Report paragraphs 182-184). Under Section 7(7)(c) of the ITC Act, a person who does not comply with a notice to deliver information to the competent authority is liable, upon conviction, for a fine not exceeding XCD 50 000 (EUR 16 330) and/or to imprisonment

for a term not exceeding 6 years. All notices requesting information state the powers of the competent authority, the legal obligation of the taxpayer or third party to comply and the penalties for non-compliance. All persons, including banks and registered agents, are subject to the same penalties for non-compliance under Section 7 of the ITC Act.

326. In addition, there are specific penalties for IBCs which refuse to comply with a request for information under Section 111 of the IBC Act. The provision requires IBCs to submit requested documents within 21 days to the registered agent upon a request "lawfully required under the provisions of any law in force in Saint Lucia, an agreement for tax purposes or an agreement for mutual legal assistance". In case of non-compliance, the IBC is liable to pay a monthly penalty of USD 1 000 (EUR 941) until the records are submitted and/or the IBC will be subject to the strike-off procedure as described under section A.1.1. Saint Lucia noted that even though the RIBC would levy penalties under the IBC Act, the competent authority is responsible for enforcing the ITC Act. Accordingly, in practice the RIBC and the competent authority would work together to determine which penalty is most appropriate in each case.

327. In addition, as indicated in paragraph 315, the competent authority has the power to enter premises to audit and seize documents. The power to search and seize is used pursuant to Sections 7 and 8 of the ITC Act, where there are "reasonable grounds to suspect that an offence against the ITC Act is being, or about to be, committed".

328. In practice no sanctions or other enforcement powers have been used to compel information holders to comply with a request for information, as there was no need to do so during the review period.

B.1.5. Secrecy provisions

329. The 2016 Report concluded that the secrecy provisions contained in Saint Lucia's law are in line with the standard.

330. Under Saint Lucia's domestic legal framework, secrecy provisions exist under the Constitution and the Income Tax Act. In addition, specific provisions apply for information regarding international mutual funds, international insurance entities, domestic banks and financial institutions, and International Trusts. However, in the context of fulfilling an EOI request, the competent authority's access powers override all confidentiality obligations of international mutual funds, international insurance companies, banks and other financial institutions, and trusts (see paragraphs 299-315, 2014 Report).

331. There has been no relevant change in these rules since then.

Bank secrecy

332. The Banking Act imposes obligations on persons not to disclose the identity of assets, liabilities, transactions or other information in respect of a depositor or customer of a financial institution. As mentioned in the 2016 Report, secrecy obligations are lifted where the information is to be accessed for EOI purposes. This understanding was confirmed by representatives of the banking sector during the onsite visit.

333. In practice the competent authority has asked information from banks in ten instances during the review period and they have provided it, when approached.

Professional secrecy

334. The 2014 Phase 2 Review (paragraphs 310-315) determined that secrecy provisions applicable to various professions did not prevent the effective exchange of information by the Saint Lucian competent authority. The scope of Saint Lucia's attorney-client privilege does not cover situations where the lawyer is acting in a non-attorney role such as a fiduciary, nominee or registered agent. This restrictive interpretation of the attorney-client privilege was confirmed by representatives of law professionals during the onsite visit. The Saint Lucian authorities have also confirmed that the professional secrecy exception in relation to lawyers is applied in a manner, which does not prevent tax authorities from accessing books of account, working papers and other documentation held by lawyer in their non-attorney capacity, when the competent authority exercises its information gathering powers.

335. In practice, registered agents usually constitute lawyers and they have been approached by the competent authority on multiple occasions for information. None has ever invoked legal privilege, or made a secrecy claim, to refuse the production of information for EOI purposes. Likewise, Saint Lucia's EOI partners indicate that professional secrecy has never caused any problem in practice in relation to EOI. There have been no cases in which an EOI request has been denied or in which, as a result of the information provided, an entity or individual has raised an objection founded on professional secrecy.

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.

336. The 2016 Report found that there were no issues regarding prior notification requirements or appeal rights and the element was determined to be in place. Saint Lucia was rated Compliant with this element. There was however a recommendation to monitor the manner in which the competent authority exercises its discretion in extending the retention period (discussed below) where an objection is raised and legal recourse is sought.

337. In practice, Saint Lucia indicated that during the current review period and until the onsite visit held in May 2022, the competent authority did not retain information before it is provided to the requesting jurisdiction. All requests were handled in a timely manner. Considering the above, the discretion of the competent authority has been exercised without constituting an impediment to effective EOI in practice. The monitoring recommendation is therefore removed.

338. Accordingly, the conclusions are as follows:

Legal and Regulatory Framework: in place

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

Practical implementation of the Standard: Compliant

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

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

339. Rights and safeguards contained in Saint Lucia's law remain compatible with effective exchange of information and their application in practice does not unduly prevent or delay exchange of information.

Notification

340. The law does not require notifying the taxpayer who is the subject of the request either prior to exchanging the information or at a later stage. Section 5 of the EOI manual (entitled Notification to Taxpayer or Third Party

of a Request) explicitly states that the ITC Act "lays no obligation to notify a taxpayer of any request for information made by a treaty partner relating to the arrears of or any information pertaining to that taxpayer".

341. Saint Lucia further noted that the notice to the information holder requesting information only includes information deemed necessary for a third party to obtain the requested information (enough to identify the relevant transaction or taxpayer). The notice includes the legal reference to the ITC Act granting access powers and the penalties for non-compliance. A list of required information is provided without including non-relevant case details. The notice does not include the name of the requesting jurisdiction, as this is not deemed relevant to the provision of the information. Saint Lucian authorities clarified that, if possible, they will attempt to obtain the information without naming the taxpayer in question.

342. A person who is required to take any action or required to supply any information in relation to any matter to which an EOI request relates and who discloses relevant information to anyone, including the taxpayer, is liable for a fine of XCD 10 000 (EUR 3 255) or imprisonment for a period of two years, or both (Section 12(2) ITC Act). Accordingly, the ITC Act *de facto* includes an anti-tipping off provision, which impedes the information holder to inform the taxpayer of the existence of an EOI request. However, this does not apply to the registered agent of an IBC. Saint Lucia clarified that notices to provide information are served on the entity itself through its representative and discussions and clarifications also go through the entity, as represented by the registered agent.

343. Furthermore, Saint Lucia emphasised that the EOI Unit looks at each case individually and in case the requesting jurisdiction asks that the taxpayer be not informed of the request, it will have to inform the requesting jurisdiction if it appears that the taxpayer will be inadvertently informed, i.e. because the taxpayer itself is the only source of information. Nevertheless, the identity of the requesting jurisdiction and the EOI purpose for the request is not disclosed to the registered agent or taxpayer.

Appeal

344. Saint Lucia's law provides rights to the taxpayer or person of interest to object and seek recourse from the Courts to preclude the provision of the requested information on the basis of an alleged breach of constitutional protections. This objection can in theory materialise if a notice to provide information is served to an entity itself (directly or through its registered agent), which may then raise an objection. The objection must be subject to judicial review or other lawful recourse. Saint Lucia noted that that in practice this has never occurred in relation to an EOI request. Hence, it is

not known how long the judicial process may take. However, based on other judicial review cases for domestic purposes, Saint Lucia has indicated that this could take up to one year, depending on the issues at stake and the schedule of the Court.

345. Additionally, Saint Lucia received in the 2016 Report a recommendation to monitor the manner in which the competent authority exercises its discretion in extending the retention period where an objection is raised and legal recourse is sought.

346. The background to this monitoring recommendation was that in the 2014 Phase 2 Review, Saint Lucia received a recommendation to ensure that its domestic law provisions are compatible with the timely access and exchange of information. The law contained a mandatory retention period that could potentially interfere with exchange of information. The situation was such that once the competent authority received information pursuant to a notice or a search warrant, it was obliged to retain that information for 20 days prior to sending it to the requesting jurisdiction. Further, in the event a taxpayer or interested person objected to the provision of the requested assistance and sought legal recourse, the competent authority was obliged to extend the 20-day holding period. The Phase 2 report noted that the ITC Act did not set clear parameters as to the length of the retention period in such situations, which means in practice, the retention period could be extended until the objection was resolved.

347. Following the Phase 2 Review, Saint Lucia amended the ITC Act to allow the competent authority to exercise discretion in applying the 20-day holding period and in extending the retention period further, where an objection is raised and legal recourse is sought. As a result of this amendment, the 2016 Report included a recommendation for Saint Lucia to monitor the implementation of this amended law to ensure that the discretion to extent the retention period does not pose an impediment to effective EOI in practice.

348. In practice, Saint Lucia indicated that during the current review period and until the onsite visit held in May 2022, the competent authority did not retain information before it is provided to the requesting jurisdiction. All requests were handled in a timely manner. Considering the above, the potential discretion of the competent authority has not constituted an impediment to effective EOI in practice. The monitoring recommendation is therefore removed.

349. As a conclusion, the rights and safeguards (e.g. notification, appeal rights) that apply to persons in Saint Lucia and their implementation in practice are compatible with the requirement to ensure effective exchange of information.

Part C: Exchange of information

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

351. Jurisdictions generally cannot exchange information for tax purposes unless they have a legal basis or mechanism for doing so. The 2016 Report concluded that Saint Lucia's network of EOI relationships was in line with the standard (except for one) and provided for effective exchange of information by ensuring that all requests which meet the standard of foreseeable relevance can be responded to, irrespective of the tax residency of the taxpayer, in both civil and criminal tax matters. This network comprised 21 TIEAs, 1 regional CARICOM Income Tax Treaty covering 10 partners[42] and 1 double tax convention (DTC). Saint Lucia has not signed any new bilateral EOIR agreement since the previous review (see Annex 2). The present report therefore does not reproduce the analysis available in the Round 1 reports (see Annex 3).

42. The "CARICOM tax treaty" is a regional double tax convention between member states of the Caribbean Community (CARICOM); its full title is Agreement among the Governments of the Member States of the Caribbean Community for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, Profits or Gains and Capital Gains and for the Encouragement of Regional Trade and Investment.

352. The 2016 Report pointed out limitations in one EOI agreement and advised that Saint Lucia update its Double Tax Convention (DTC) with Switzerland to remove restrictions and incorporate wording in line with Articles 26(1) of the OECD Model Tax Convention. The DTC has not been updated but Saint Lucia signed the Convention on Mutual Administrative Assistance in Tax Matters (Multilateral Convention) on 21 November 2016, and it entered into force in Saint Lucia on 1 March 2017. The entry into force of the Multilateral Convention allows for full exchange to the standard with Switzerland.

353. The signature of the Multilateral Convention greatly increased the number of EOIR partners of Saint Lucia from 32 in the previous review period to 147.

354. During the review period, Saint Lucia's application and interpretation of its EOIR instruments met the standard when handling the ten EOI requests it received, which was also confirmed by the peers.

355. The conclusions remain as follows:

Legal and Regulatory Framework: in place

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

Practical implementation of the Standard: Compliant

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

Other forms of exchange of information

356. Apart from EOIR, Saint Lucia engages in Automatic Exchange of Information and Spontaneous Exchange of Information. Since 2016, Saint Lucia has automatically exchanged information with the United States under the Foreign Account Tax Compliance Act (FATCA) Intergovernmental Agreement on a reciprocal basis. Saint Lucia also exchanges information automatically with partner jurisdictions under the Common Reporting Standard, with currently 101 partner jurisdictions on a reciprocal basis. Saint Lucia also spontaneously exchanges information on rulings in accordance with the Action 5 BEPS report and is currently preparing to exchange Country-by-Country Reports in line with BEPS Action 13.

C.1.1. Standard of foreseeable relevance

357. Exchange of information mechanisms should allow for EOIR where it is foreseeably relevant to the administration and enforcement of the domestic tax laws of the requesting jurisdiction.

358. All of Saint Lucia's EOIR relationships,[43] including all TIEAs, the CARICOM tax treaty and the Multilateral Convention, are in line with the standard of foreseeable relevance.

359. In practice, Saint Lucia uses the standard request parameters as stipulated in Article 5(4) of the Model TIEA, in conformity with the standard. Saint Lucia does not require its EOI partners to complete a standardised template for the formulation of requests and instead receives and accepts requests in any format. If a request were considered unclear or incomplete, Saint Lucia would seek clarification or additional information from the requesting jurisdiction before declining to respond to it.

360. Saint Lucia did decline one request during the review period for valid reasons.

361. In this request, Saint Lucia contacted the requesting jurisdiction, as the request did not state any reason why the information was thought to be kept in Saint Lucia and the request was very broadly requiring the approach of all banks without any basis for investigation. Consequently, Saint Lucia contacted the requesting jurisdiction to seek clarification. Saint Lucia indicated that based on the clarification provided, the jurisdiction had been conducting searches in several regions around the globe to detect undeclared assets and North America was one such region. Based on information provided to Saint Lucia from the requesting jurisdiction, Saint Lucia determined that this was a fishing expedition. Nonetheless Saint Lucia conducted basic searches within governmental agencies and informed the jurisdiction that no record of the taxpayer in question was located in Saint Lucia. This response satisfied the requesting jurisdiction.

Group requests

362. None of Saint Lucia's EOI agreements or domestic law contain language prohibiting group requests. Saint Lucia interprets its EOI agreements and its domestic law such that it can reply to a group request to the extent that it meets the standard of foreseeable relevance as described in the 2012 update to the Commentary on Article 26 of the OECD Model Tax

43. Only the treaty with Switzerland is not in line with the standard, but since Switzerland is party to the Multilateral Convention, there is an EOIR relationship with Switzerland in place which is in line with the standard.

Convention. Saint Lucia's EOI Manual contains a chapter on group requests (Chapter 4), which describes the application of a similar procedure as applied in respect of other types of requests. This chapter is in line with the Commentary to Article 26 of the OECD Model Tax Convention.

363. During the period under review, Saint Lucia did not receive or make any group requests.

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

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

365. All the treaties signed by Saint Lucia meet the standard.[44]

366. In practice, no difficulties have arisen. Saint Lucia successfully answered requests relating to banking information on non-resident account holders.

C.1.3 and C.1.4. Obligation to exchange all types of information and absent domestic tax interest

367. The concept of "domestic tax interest" describes a situation where a contracting party can only provide information to another contracting party if the requested jurisdiction has an interest in the requested information for its own tax purposes. A refusal to provide information based on a domestic tax interest requirement is not consistent with the international standard. EOI partners must be able to use their information gathering measures even when invoked solely to obtain and provide information to the requesting jurisdiction for use solely by that jurisdiction.

368. The OECD Model Tax Convention Article 26(5) and the OECD Model TIEA Article 5(4), which are authoritative sources of the standard, stipulate that bank secrecy cannot form the basis for declining a request to

44. The CARICOM tax treaty does not contain the sentence indicating that EOI is not restricted by Article 1. However, its EOI provision applies to "carrying out the provisions of the Convention or of the domestic laws of the Contracting States concerning taxes covered by the Convention insofar as the taxation there under is not contrary to the Convention". This agreement would not be limited to residents because all taxpayers, resident or not, are liable to the domestic taxes listed in Article 2 (e.g. domestic laws also apply taxes to the income of non-residents). Exchange of information in respect of all persons is thus possible under the terms of this agreement.

provide information. Similarly, a request for information cannot be declined solely because the information is held by nominees or persons acting in an agency or fiduciary capacity or because the information relates to an ownership interest. In addition, jurisdictions must use their information gathering measures even though invoked solely to obtain and provide information to the other contracting party (OECD Model Tax Convention Article 26(4) and OECD Model TIEA Article 5(2)).

369. Saint Lucia's EOI relationships, except for the ones solely based on the CARICOM regional Tax Treaty (as is the case with Guyana and Trinidad and Tobago) meet these aspects of the standard. EOI under the CARICOM regional Tax Treaty is still not to the standard with Trinidad and Tobago due to serious domestic deficiencies regarding the access powers of the Trinidad and Tobago's competent authority and the application of reciprocity.[45] In addition, Guyana has not yet been reviewed by the Global Forum and information is not available as regards Guyana's competent authority's power to access banking information and to obtain ownership, identity and accounting information for EOI purposes. However, in practice Saint Lucia noted that they would look at a request on a case-by-case basis and provide information to these jurisdictions if requested without applying a strict reciprocity requirement in these instances if deemed appropriate.

370. During the review period, Saint Lucia exchanged different types of information, including ownership, accounting and banking information. These exchanges involved information in which Saint Lucia had no domestic tax interest as the requests related to foreign nationals or companies which were not taxpayers in Saint Lucia.

C.1.5. Absence of dual criminality principles and C.1.6. Civil and criminal tax matters

371. All of Saint Lucia's EOI agreements provide for EOI in both civil and criminal matters. None contains restrictions limiting EOI in criminal matters or based on dual criminality principles.

372. The practical application of exchanges relating to criminal tax matters has been demonstrated successfully in previous reports (see paragraph 214, 2016 Report). In this review period, four requests that related to a criminal tax matter were answered.

45. As reviewed by the Global Forum in the 2011 Phase 1 Peer Review Report of Trinidad and Tobago.

C.1.7. Provide information in specific form requested

373. There are no impediments under Saint Lucian domestic law and tax treaties that would prevent Saint Lucia from providing information in the specific form requested.

374. According to the comments received from Saint Lucia's treaty partners, there were no instances where Saint Lucia was not able to provide the information in the specific form requested or under an acceptable format. During the review period, Saint Lucia for instance provided attestations for provided documents.

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

375. At the time of the 2016 Report, Saint Lucia's EOI network covered 32 partners through 21 TIEAs, 1 CARICOM Income Tax Treaty covering 10 partners and 1 DTC, with all these EOI agreements being in force.

376. Since then, Saint Lucia signed the Multilateral Convention on 21 November 2016, and it entered into force in Saint Lucia on 1 March 2017.

377. Saint Lucia has enacted all the legislation necessary to comply with the terms of its agreements (see paragraph 220, 2016 Report). Generally, once an EOI agreement has been signed, an International Tax Co-operation Order is drawn up under Section 15 of the ITC Act, scheduling the agreement to the ITC Act in order to become part of domestic law. The order is then gazetted, at which stage, ratification occurs, and the agreement will then have full legal effect as part of the ITC Act. Upon publication of the Order in the Official Gazette, a notification is sent to the exchange partner via the Ministry of External Affairs and the EOI agreement will then come into force pursuant to its terms – and if the partner has done the same. The same ratification process applies to multilateral agreements. Saint Lucia has reported that in practice this scheduling process is quite short, agreements are usually ratified expeditiously and the whole process of ratification should not take longer than six months. The same process exists for DTCs and TIEAs. All EOIR agreements have been scheduled to the ITC Act and are hence in force.

378. The following table summarises the outcomes of the analysis under Element C.1 in respect of Saint Lucia's EOI relationships.

EOI mechanisms

Total EOI relationships, including bilateral and multilateral or regional mechanisms	**147**
In force	137
In line with the standard	135
Not in line with the standard	2 [a]
Signed but not in force	10 [b]
In line with the standard	10
Not in line with the standard	0
Total bilateral EOI relationships not supplemented by a multilateral mechanism	**3**
In force	3
In line with the standard	1 [c]
Not in line with the standard	2 [a]
Signed but not in force	0

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

b. MAAC: Benin, Burkina Faso, Gabon, Honduras, Madagascar, Papua New Guinea, Philippines, Rwanda, Togo, United States.

c. TIEA: United States.

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.

379. The 2016 Report did not identify any issue in respect of the scope of Saint Lucia's EOI network or its negotiation policy, but Saint Lucia was recommended to continue to develop its exchange of information network in accordance with the standard with all relevant partners.

380. Since that Review, Saint Lucia has expanded its EOI network from 32 jurisdictions to 147. This EOI network comprises 1 DTC, 21 TIEAs, the Multilateral Convention and the CARICOM regional Tax Treaty. Saint Lucia's EOI network encompasses a wide range of counterparties, including all its major trading partners, all G20 members and all OECD members. The recommendation is therefore addressed.

381. Comments were sought from peers in the preparation of this report and no peer advised that Saint Lucia had refused to negotiate or sign an EOI agreement with it.

382. 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 a relationship, Saint Lucia should continue to conclude EOI agreements with any new relevant partner who would so require (refer to Annex 1).

383. The determination and rating are as follows

Legal and Regulatory Framework: in place

The network of information exchange mechanisms of Saint Lucia covers all relevant partners.

Practical implementation of the Standard: Compliant

The network of information exchange mechanisms of Saint Lucia covers all relevant partners.

C.3. Confidentiality

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

384. Saint Lucia's EOI agreements and domestic laws ensure the confidentiality of all information exchanged with treaty partners, and are thus in line with the standard, as was confirmed in the 2016 Report.

385. The EOI manual sets out rules on storage, data security and access to ensure the confidentiality of information when processing EOI request. In terms of practical implementation, the organisational processes and procedures are adequate to ensure the confidentiality of all information received from EOI partners.

386. The conclusions remain as follows:

Legal and Regulatory Framework: in place

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

Practical implementation of the Standard: Compliant

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

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

387. The 2016 Report concluded that all of Saint Lucia's EOI agreements, including the CARICOM regional Tax Treaty, meet the standard for confidentiality, including the limitations on disclosure of information received, and use of the information exchanged, which are reflected in Article 26(2) of the OECD Model Tax Convention and Article 8 of the OECD Model TIEA. The Multilateral Convention, which came into force after the 2016 Report also provides for confidentiality in line with the standard under Article 26.

388. Secrecy of information exchanged is protected by confidentiality provisions under the ITC Act. Section 12 of the ITC Act imposes a duty on all officials involved in the EOI process to keep the information confidential. Any person who contravenes such duty is punishable upon conviction by a fine up to XCD 10 000 (approximately EUR 3 256) or a term of imprisonment of up to two years.[46] It is in the discretion of the court, based on the facts of the case, to decide which penalty to apply. Saint Lucia confirmed that officials are bound by these confidentiality provisions even after their tenure has expired.

389. Section 6(2) of the ITC allows the disclosure of information to any person if authorised by Cabinet, the Comptroller or any other enactment. These exceptions to the obligation to keep the information secret are applicable to information obtained directly through the administration of the Income Tax Act. However, since international agreements are made part of the domestic law of Saint Lucia, the confidentiality requirements contained in these agreements are directly applicable.

390. The current doctrine and jurisprudence of Saint Lucia stipulate that the most recent law prevails, in the case there would be a conflict with another law in Saint Lucia.[47] Most of Saint Lucia's international agreements are recent. There is also a monitoring group, which is responsible for ensuring that the Parliament does not pass legislation in the future, which may conflict or repeal any law which gives force to an EOI agreement.

391. 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

46. Additionally, the Income Tax Act imposes a duty on all officials involved in the EOI process to keep the information confidential. Any person who contravenes such duty commits an offence and is liable to a fine of XCD 1 000 (approximately EUR 325) or imprisonment of one year (Section 139(b), Income Tax Act).

47. F A R Bennion, Bennion on Statutory Interpretation – A code, Fifth Edition, and Ellen Street Industries Ltd v Minister of Health [1934] KB 590, 597(CA) Maugham LJ.

the information authorises the use of information for purposes other than tax purposes. In the period under review, Saint Lucia reported that its partners did not seek Saint Lucia's consent to utilise the information exchanged for non-tax purposes and similarly Saint Lucia did not request its partners to use information it received for non-tax purposes (given that Saint Lucia submitted no outbound EOI requests).

C.3.2. Confidentiality of other information

392. The confidentiality provisions in Saint Lucia's exchange of information agreements do not draw a distinction between information received in response to requests and information forming a part of a request. The provisions apply equally to information received and provided under an EOI agreement, including background documents and records of communications.

Confidentiality in practice

393. The IRD has proper security measures, both in terms of physical security and in terms of procedure relating to staff rotation and conduct, as already established by the 2016 Report. The Information System Unit, the internal auditor, and managers are responsible for the upkeep of the general security. The Information Systems Unit and Administrative Unit review policies annually.

Human resources and training

394. The Public Service Commission within the Ministry of Public Service is responsible for the hiring process of all Saint Lucia government staff, including the IRD. Prospective employees and contractors must pass a background check, which involves the review of police records and references.

395. All new employees are required to sign a declaration that they will handle all documents and information relating to taxation of any person as secret and confidential. At that time, they are specifically advised of the rules relating to the confidentiality of information and the penalties for breaching those rules. Additionally, staff are given training on departmental policies relating to unauthorised use, clean desk, departure, computer and internet acceptable use. The policies are also placed on the servers for ease of reference.

396. Furthermore, staff members are regularly reminded of their obligations under the confidentiality provisions of the Acts administered by the Department and the Staff Orders for the Public Service of Saint Lucia. Departmental policies are provided to all staff and periodic reminders are sent online to promote compliance. These reminders usually include

instructions on how to keep data confidential and secure, for example through reiterating the clean desk policy. Reminders are also given on unauthorised access. Additionally, Saint Lucia noted that the Department is in the process of developing and implementing annual training programmes, with the assistance of the Government Information Technology Services to educate staff on unauthorised access, data security and confidentiality. As of May 2022, the proposed training was still in the testing phase, as not all staff have internet access at their workstations. This poses a challenge to the implementation of web-based activities. The following confidentiality and data safeguard trainings were provided to staff members since the end of the review period of the last review:

- training conducted by EOI Unit in September 2016 (done with auditors)
- Confidentiality and Safeguards training with all IRD sections from November to December 2018
- training for staff conducted by the EOI Unit in February and March 2019 (carried out with Audit, Collections, Data Entry and Customer Service)
- audit staff have also completed Knowledge Sharing Platform (KSP) trainings provided by the Global Forum on an individual basis in 2022.

397. Regarding contractors, it is ensured that each contract covers confidentiality obligations for the third parties and/or their agents relating to the handling of confidential tax information. Contracts are drafted and reviewed based on the nature and particulars of the service engagement. Third parties which may have access to confidential tax information take an oath of secrecy in addition to the requirement to follow all departmental procedures for unauthorised access and data security, which are applicable during their tenure and beyond.

398. Saint Lucia noted that only known and trusted contractors are given access to IRD premises. However, they are always supervised by a member of staff. If the contractors are given physical access, the EOI data always remains under lock and key. If the contractors are given electronic access to the network, then they are bound by the oath of secrecy and are also monitored by staff members. EOI data is always stored separately, and the network cannot be accessed without the correct authorisation.

Physical and logical security measures, labelling and storage

399. All staff have an individual key card which gives access to the parts of the premises that are not accessible to the public. These cards are part of the card access system, which is used in all the IRD's physical locations.

Access cards have different tiers which restrict access to premises depending on the roles and responsibilities of the employee. For example, rooms containing taxpayer files and/or information received through EOI are separately locked and accessible only to authorised staff, i.e. the competent authority delegate, the administrative assistant and the EOI staff. Visitors are required to sign a log book and be accompanied by a staff member to enter non-public areas.

400. In addition, security guards and cameras are posted at various strategic points. Areas where confidential information is housed (physical and electronic) are not easily accessible even by staff members, who would require the requisite key card authorisation or log in credentials. Authorisation can only be granted by the management.

401. EOI data is labelled and processed separately once received and does not go into the general mail of the Department. Information is given to the competent authority directly for review and to be passed on to the Deputy Comptroller Strategic Design Planning and Monitoring Division (DCIR SPDM) and EOI Unit. All treaty requests and exchanged data are treated as confidential and stored in separate physical and electronic locations (hard copies are scanned and placed on the secure server, which is separated from the network and located on another subnet) with limited access. The EOI Manual provides clear guidance on how to store the physical and electronic EOI files. Only certain members of the Office of the Comptroller/Competent Authority, DCIR SPDM and the EOI Unit have access to EOI data upon sign-in to their work devices. The hard copies are kept in a safe box in the office of the Comptroller, who is the only person having access to these documents. The EOI Officers only have access to the scanned, digitalised version placed on the secure server, which is password protected and only accessible by the EOI Officers. The IT department can also monitor audit logs and key card logs. Files are encrypted for transmission via email, and passwords are stored in the secure folder.

402. In addition, all EOI data is labelled whether physically or electronically to distinguish it from other data. In this regard, the EOI manual explicitly states that any information that has been furnished by the competent authority of the requesting jurisdiction to facilitate a request, that is, documentation pertinent to the case, must remain confidential and be stamped on each page (physically as well as electronically) with the following inscription

> This document has been obtained under the ITCA and must be maintained in strict confidence. Its use and disclosure is restricted to the purposes identified in the agreement with the applicable country from whom this information was received.

403. The EOI data is kept in separate files from the taxpayer files, and the EOI file, whether physical or digital, will never be shared with a taxpayer or auditor. Saint Lucia noted that if information is received with respect to any taxpayer for an audit, the data will first be redacted and prepared by the EOI officers to ensure that only what is necessary is submitted. The identity of the requesting jurisdiction is not disclosed. The redacted documents will also be stamped to indicate that the information constitutes treaty protected exchanged data. This redacted data is all that may appear in a taxpayer's file.

404. If a taxpayer exercises his/her/its appeal rights (as described in paragraphs 344-349), the taxpayer must send a written request to the Comptroller in order to access data in their taxpayer files. Access may only be granted with approval of the Comptroller and will only include redacted data.

405. Hard copies (originals) are placed on file and have so far not been discarded, as the volume of requests received by Saint Lucia has been moderate. However, the general procedures for the disposal of information are contained in the Departmental Records and Retention Policy. Physical documents are shredded or buried deep in an undisclosed designated disposal site under the supervision of assigned staff. Records are kept, which outline which documents were disposed of. Accordingly, if in the future Saint Lucia needs to dispose of confidential information, such procedure would be applied. Information contained on hard drives, disks and other storage mediums is destroyed by physically destroying the medium (either by drilling, smashing or cutting).

Breach monitoring and breach response

406. In adherence to the IRD Information Systems Security Policy, Saint Lucia conducts various activities to monitor the occurrence of breaches. All network devices are configured to log essential information such as login and log off times, client IP addresses and destination addresses. Additionally, an active directory is configured to trace successful and unsuccessful user and workstation log off and log on times as well as access to sensitive data (folders and files). All logs, except for active directory and antivirus logs, are forwarded to a central server to be kept for a minimum of one year.

407. All device logs and log reports are reviewed on a weekly basis by delegated information and communication technology (ICT) personnel, to detect any potential anomalies.

408. In case of a breach, Saint Lucia has an incident response protocol contained in the disaster and business contingency plan. ICT personnel must respond to incidents promptly, by alerting the parties affected.

409. Saint Lucia further noted that if a security breach involves treaty exchanged data, the EOI Unit will be involved in the investigation and will take the following steps:

- determine which treaty partners and/or organisations have been affected by the breach
- review the reports and send correspondence to all affected parties within 36 hours of the breach
- provide follow up reports to the affected parties indicating the steps which have been taken to prevent a reoccurrence of such an event
- take decisive action to prevent the reoccurrence of such an event including but not limited to disciplinary action taken on staff involved in the breach, enhanced physical security measures (key access, changed locks, change location) increased internet security (increased security tests, additional fire walls, debugging, revising departmental protocols).

410. No confidentiality breach has been sanctioned so far. Saint Lucia noted that there has been a recent case in which an employee of the IRD colluded with a taxpayer and altered documents to create a more favourable tax outcome for the taxpayer. This un-authorised modification was detected and subject to decisive and dissuasive action to prevent the reoccurrence of such conduct. The taxpayer was charged and found guilty in November 2021 for uttering or using False Documents for Tax Purposes. He was sentenced to six months in jail. The trial of the employee is yet to start as the parties decided to have separate trials. The employee was charged with the un-authorisation modification of the contents of a computer or computer network, contrary to Section 267(1)(a) of the Criminal Code of the Revised Laws of Saint Lucia. The employee is currently on bail subject to strict travel restrictions. Even though this case is not connected to a security breach related to EOIR data – but rather a case of fraud, it demonstrates that Saint Lucia has proper safeguards in place to detect and react to misconduct committed by staff members.

411. In conclusion, Saint Lucia has sufficient provisions both in its EOI agreements and in its domestic laws to ensure the confidentiality of all information exchanged as well as all information relating to requests with its treaty partners. In addition, the organisational processes and procedures are adequate and applied in practice to safeguard proper conduct of staff members and hence to ensure the confidentiality of information received from EOI partners.

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.

412. All of Saint Lucia's EOI agreements contain provisions that the requested state is not obliged to provide information considered professional or trade secrets, or information the disclosure of which would be contrary to public policy. All these provisions are in line with the international standard described in Article 7(2) of the OECD Model TIEA and Article 26(3)(c) of the OECD Model Tax Convention (see paragraphs 401-407, 2014 Phase 2 Review).

413. Furthermore, the scope of the attorney-client privilege in Saint Lucia was found to be in line with the standard. In Saint Lucia, communications between a client and an attorney are, generally, only privileged to the extent that the attorney or other legal representative acts in his or her capacity as an attorney or other legal representative. Where attorney-client privilege is more broadly defined, Saint Lucia has confirmed that it does not provide valid grounds on which to decline a request for exchange of information. To the extent, therefore, that an attorney acts as a nominee shareholder, a trustee, a settlor, a company director or under a power of attorney to represent a company in its business affairs, exchange of information resulting from and relating to any such activity cannot be declined because of the attorney-client privilege rule, which is in line with the standard.

414. During this review period (as in previous review periods), no issues relating to attorney-client privilege have occurred in practice or been raised by peers. In practice, many RAs in Saint Lucia are attorneys. None invoked attorney-client privilege when they received a notice for information in their capacity as RAs, due to their understanding of the limited scope of this privilege. Such understanding was also confirmed in the interviews conducted during the onsite visit with representatives of RAs, which were also attorneys.

415. No issues relating to the rights and safeguards of taxpayers and third parties have been encountered in practice, nor have they been raised by any of Saint Lucia's exchange of information partners.

416. Therefore, the conclusions remain as follows:

Legal and Regulatory Framework: in place

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

Practical implementation of the Standard: Compliant

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

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

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

417. The 2016 Report and the 2014 Phase 2 Review both found Saint Lucia's EOI unit to be well organised and adequately resourced. Both also considered the processes and procedures in place (as codified in the EOI manual) to be sound. However, during the 2014 Phase 2 Review period (i.e. 1 July 2010-30 June 2013), Saint Lucia's competent authority did not undertake all measures to compel the provision of IBC ownership and accounting information where necessary to satisfy a request. As a result, Saint Lucia was unable to provide the requested information in all instances. Thus, Element C.5 was rated Largely Compliant, and Saint Lucia was recommended to continue monitoring the practical implementation of the EOI unit's organisational processes. The 2016 Report noted that Saint Lucia clearly prioritised EOI and had shown a commitment to improving its procedures and processes. However, Saint Lucia had only received one request during the review period (i.e. 1 July 2013-30 June 2015) and had not had to exercise its access powers to obtain the requested information. Accordingly, due to the resulting absence of sufficient EOI practice, the rating of Largely Compliant and the monitoring recommendation remained in the 2016 Report.

418. In the current review period (1 July 2018-30 June 2021), Saint Lucia has further improved its procedures and processes and has gained more EOI practice. It received 10 requests and answered all in less than 90 days. In most of these cases, banking information was requested, and Saint Lucia successfully exercised its access powers to obtain the requested information and exchange it in a timely manner. Accordingly, the procedures of the EOI unit are regarded as sufficiently tested and the recommendation is regarded as addressed.

419. 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

No material deficiencies have been identified in exchange of information in practice.

C.5.1. Timeliness of responses to requests for information

420. Over the period under review (1 July 2018 to 30 June 2021), Saint Lucia received 10 requests for information, which mostly related to natural persons and IBCs. These requests covered banking information in 10 instances (mostly relating to non-resident natural persons and IBCs), accounting records relating to IBCs in 3 instances, 4 requests for legal ownership information and 2 requests for beneficial ownership information. Requests also covered other types of information (i.e. whether the corporation filed accounts in Saint Lucia, tax return information, incorporation documents, minutes from the board of directors' meetings, assets and holding of immovable property). The most significant partners for incoming requests are the United Kingdom, the United States and France. All peers were satisfied with the answers received from Saint Lucia.

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

Statistics on response time and other relevant factors

	1 July 2018-30 June 2019	1 July 2019-30 June 2020		1 July 2020-30 June 2021		Total	
	Num.	Num.	%	Num.	%	Num.	%
Total number of requests received	0	6	100	4	100	10	100
Full response: ≤ 90 days	--	6	100	4	100	10	100
≤ 180 days (cumulative)		6	100	4	100	10	100
≤ 1 year (cumulative)	--	6	100	4	100	10	100
> 1 year	--	0		0		0	0
Declined for valid reasons	--	0		1 [a]	25	1	10
Outstanding cases after 90 days	--	0		0		0	0
Status update provided within 90 days (for outstanding cases)	--	0		0		0	0
Requests withdrawn by requesting jurisdiction	--	0		0		0	0
Failure to obtain and provide information requested	--	0		0		0	0
Requests still pending at date of review	--	0		0		0	0

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

The time periods in this table are counted from the date of receipt of the request to the date on which the final and complete response was issued. However, if additional information is provided, beyond the initial request, the date of receipt of the additional information is not counted.

a. This request is double counted, as Saint Lucia provided basic information and declined this request within 90 days, as elaborated in paragraph 361.

422. During the period under review (1 July 2018 to 30 June 2021), Saint Lucia received requests involving different information holders (e.g. banks and RAs) and answered all requests within 90 days. Peer input confirms the timeliness and the good quality of the information received. One request was declined for valid reasons (within 90 days) as it was a fishing expedition in which Saint Lucia nonetheless provided the information at their disposal but did not further investigate, as described under C.1.1.

Status updates and communication with partners

423. The EOI Manual requires status updates to be provided within 90 days, together with a sample letter to be used in case information cannot be provided within 90 days. All requests received during the peer review period were answered within 90 days, so that no status update was necessary. In general, Saint Lucia ensures that the communication is on-going and provides information once it becomes available, informs the requesting jurisdiction of what is outstanding, and the efforts being taken to retrieve this information. All these updates are sent within 90 days. There had not been an occasion where updates have not been provided to a jurisdiction – also outside the review period.

424. The contact details of the competent authority are found on the Global Forum's secure competent authority's database. Peer input is positive in connection with the ease of contacting the Saint Lucian competent authority.

425. External communication with other jurisdictions is done mostly via encrypted email. Occasionally, communication via phone or online file-sharing services have occurred.

C.5.2. Organisational processes and resources

Organisation of the competent authority, resources and training

426. Pursuant to the ITC Act, the Minister for Finance is the competent authority. The Minister has however delegated this authority to the Comptroller of the IRD. Its EOI unit consists of the Comptroller and Deputy Comptroller, and two EOI Officers (i.e. the Tax Compliance Officer and the EOI Officer). Four additional staff lend assistance to the unit on a need basis, namely the administrative assistant, senior legal officer, assistant Comptroller and system administrator.

427. Both EOI Officers have received specific EOIR training provided by the Global Forum and on the job training. The trainings include the Global Forum Exchange of Information on Request conducted in 2016 and the Beneficial Ownership training conducted in 2018. Furthermore, anyone

entering the unit – whether in a supervisory or other role – is provided with the EOI manual, which is updated annually. PowerPoint slides and other relevant training material is also shared on the intranet. In addition, Saint Lucia noted that the competent authority is taking full advantage of the KSP online trainings provided by the OECD. Thanks to these online trainings, the audit staff from the Department also benefit from the trainings through increasing their awareness of the benefits of sending EOI requests.

428. The EOI unit receives funding as part of the IRD's annual budget. This allocation pays salaries and equipment required by the section. Saint Lucia noted it has been affected by serious resource constraints, especially in the wake of the COVID 19 pandemic. Nevertheless, Saint Lucia noted that the Department is seeking to expand the unit by two additional staff to assist with monitoring exercises. In comparison to the 2016 Report, the competent authority benefits from two EOI Officers, instead of one. The level of resources and the level of EOIR knowledge in the EOI Unit are commensurate to the number and level of complexity of requests Saint Lucia receives and are proportionate to ensure effective EOI in practice.

Incoming requests

429. All incoming requests are logged into an EOI database with an allocated reference number. Upon receipt, requests are treaty stamped and sent to the DCIR SPDM/EOI Unit for review. The EOI unit reviews the request and verifies that it stems from the Competent Authority authorised jurisdiction lists and reviews the request for completeness. The unit will determine if the request is reasonable and meets the requirements of foreseeable relevance. The EOI Manual enumerates items, which should be particularly looked at in the verification process, including that:

- the request fulfils the conditions set forth in the Exchange Agreement with the respective country
- the request is signed by the competent authority of the requesting country and includes all necessary information to process the request
- the information requested is of a nature which can be provided having regard to the legal instrument on which it is based and the relevant laws of Saint Lucia
- sufficient information is provided to identify the taxpayer
- sufficient information is given to understand the request
- the information requested is necessary or foreseeably relevant.

430. The EOI Unit acknowledges receipt of the request within seven days and proceeds to write to the relevant entities to obtain the required information. In case a request is unclear or incomplete, the unit will inform the requesting jurisdiction whether the request will commence or be paused until the additional information is received. This happened once during the review period (see C.1.1).

431. Before requests for information are sent to third parties, the Exchange of Information Officer(s), with the assistance of other key personnel within the Department, will ascertain if such information is readily available in-house. If information is available within the Department, relevant personnel will work together to collate and prepare the data for sharing. If information is not readily available, the Exchange of Information Officer(s) will make requests to third parties.

432. In general, Saint Lucia indicated that if the information is in the Department, the EOI Unit tries to obtain such information within one week. If the information is held within another governmental authority, the competent authority provides 14 days for the provision of information. In case the information is in possession or control of a third party (including taxpayers, service providers, banks) the EOI Unit provides 21 days to obtain information

433. Once information is received, it is reviewed by the EOI officers to ensure that it corresponds to the request made and for completeness. If the officers are not satisfied with the documents presented, then the information holder will be contacted to obtain the required information. The requesting jurisdiction will be given whatever relevant information has been received and will be informed of efforts being made to obtain missing documents. During the review period, it has occurred that Saint Lucia has sent off part of the answers, informing the jurisdictions that further information and clarifications are in the process of being obtained.

434. Saint Lucia noted that it is customary that the competent authority asks the requesting state to provide feedback on the information provided. To date, the only feedback Saint Lucia received was in relation to an email whereby the requesting jurisdiction had not received the update and assumed that Saint Lucia neglected to respond. The email was however blocked by the server of the requesting jurisdiction. The email was resent, and the issue resolved thanks to clear communication.

Outgoing requests

435. The standard was updated in 2016 to include a requirement to ensure the quality of requests made by the assessed jurisdiction. Saint Lucia did not make any EOI requests during the review period.

436. Saint Lucia's EOI Manual provides rules for handling outgoing requests and establishes procedures to ensure the quality of EOI requests. All outgoing requests would be made through the EOI unit. Saint Lucia's procedures for outgoing requests follow the Global Forum's EOI Working Manual.

437. Pursuant to the Saint Lucia's EOI Manual, all outgoing requests should meet the following criteria:

- The request must fulfil the conditions set forth in the Exchange Agreement with the respective country.
- The request must be signed by the competent authority of Saint Lucia and include all the necessary information to process the request.
- The information requested must be of a nature which can be provided, having regard to the legal instrument on which it is based and the relevant laws of the jurisdiction from which the information is being requested.
- Sufficient information must be provided to identify the taxpayer.
- Sufficient information must be given to understand the request.

438. Once a request is prepared by the Audit Section, it will be submitted to the DCIR SDPM. The DCIR SDPM will in turn pass on the documents to the Tax Compliance Officer for review. If the documents are in order, a reference number will be assigned and a log will be made of the request.

439. The Tax Compliance Officer will review the request to ensure that it is in conformity with applicable bilateral/multilateral taxation agreements, tax information exchange agreements and any other governing document. If the request is not clear or complete, the Tax Compliance Officer will notify the DCIR SDPM and appropriate actions will be taken to rectify the situation.

440. The Tax Compliance Officer will assist other personnel regarding the preparation of requests. Notwithstanding, the onus is on the Audit Section to fill in the necessary details of the requests as per the checklist included in the EOI Manual. All requests must be signed by the Audit Manager and must be transmitted under confidential cover.

441. A request verified by the Tax Compliance Officer is forwarded to the DCIR SDPM who, upon review, will submit the document to the Office of the Comptroller of IRD for signature and transmission to the requested jurisdiction.

442. The original request for information is to be maintained in a file held by the Comptroller of IRD. A copy of the request for information is to

be submitted to the DCIR SDPM for follow-up and is to be included in a country file to be maintained by the DCIR SDPM. The relevant request log must be updated to reflect that the request has been submitted and is to be subsequently updated when documentation or information pertaining to the request has been partly or fully received.

443. When documentation or information under a request has been fully received, the case is closed and labelled "completed". The manual stipulates that the face of every page or document received from a treaty partner, or any information derived therein must be treaty stamped. The Tax Compliance Officer should review and supply the relevant information to the Audit Manager and a letter must be sent to the foreign competent authority to provide feedback on the information received. The Manual further stipulate that only relevant information should be disseminated to the audit section.

444. Saint Lucia has in place a process that should ensure the quality of requests made.

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

445. Apart from the issues described earlier in the report, no other factors were identified that could hinder effective EOI.

Annex 1: List of in-text recommendations

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

- **Element A.1.4:** Saint Lucia should continue to monitor the provision of trust services by non-professional trustees to ensure the availability of information identifying any other natural person exercising ultimate effective control over the trust in case a non-professional trustee manages a trust (see paragraph 181).
- **Element A.2:** Saint Lucia should ensure that, in line with the standard, underlying documentation is consistently available in practice, for a minimum period of five years, in relation to international business companies that redomicile out of Saint Lucia (see paragraph 234).
- **Element C.2:** Saint Lucia should continue to conclude EOI agreements with any new relevant partner who would so require (see paragraph 382).

Annex 2: List of Saint Lucia's EOI mechanisms

Bilateral international agreements for the exchange of information

	EOI partner	Type of agreement	Signature	Entry into force
1	Aruba	TIEA	May 2010	Oct 2011
2	Australia	TIEA	March 2010	Jan 2011
3	Belgium	TIEA	Dec 2009	Nov 2011
4	Canada	TIEA	June 2010	May 2011
5	Curaçao	TIEA	Oct 2009	Oct 2011
6	Denmark	TIEA	Dec 2010	Oct 2011
7	Faroe Islands	TIEA	May 2010	Oct 2011
8	Finland	TIEA	May 2010	Oct 2011
9	France	TIEA	April 2010	Jan 2011
10	Germany	TIEA	June 2010	Jan 2011
11	Greenland	TIEA	May 2010	Oct 2011
12	Iceland	TIEA	May 2010	Oct 2011
13	Ireland	TIEA	Dec 2009	Jan 2011
14	Mexico	TIEA	July 2013	Feb 2014
15	Netherlands	TIEA	Dec 2009	Jan 2011
16	Norway	TIEA	May 2010	Oct 2011
17	Portugal	TIEA	July 2010	Oct 2011
18	Sint Martin	TIEA	Oct 2009	Oct 2011
19	Sweden	TIEA	May 2010	Oct 2011
20	Switzerland[48]	DTC		Aug 1963
21	United Kingdom	TIEA	Jan 2010	Jan 2011
22	United States	TIEA	Jan 1987	May 2014

48. Extension of the DTC of 30 September 1954 between United Kingdom and Switzerland by exchange of notes on 20/26 August 1963.

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

The Convention on Mutual Administrative Assistance in Tax Matters was developed jointly by the OECD and the Council of Europe in 1988 and amended in 2010 (the Multilateral Convention).[49] The Multilateral Convention is the most comprehensive multilateral instrument available for all forms of tax co-operation to tackle tax evasion and avoidance, a top priority for all jurisdictions.

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

The Multilateral Convention was signed by Saint Lucia on 21 November 2016 and entered into force 1 March 2017 in Saint Lucia. Saint Lucia can exchange information with all other Parties to the Multilateral Convention.

The Multilateral Convention is in force in respect of the following jurisdictions: Albania, Andorra, Anguilla (extension by the United Kingdom), Antigua and Barbuda, Argentina, Armenia, Aruba (extension by the Netherlands), Australia, Austria, Azerbaijan, Bahamas, Bahrain, Barbados, Belgium, Belize, Bermuda (extension by the United Kingdom), Bosnia and Herzegovina, Botswana, Brazil, British Virgin Islands (extension by the United Kingdom), Brunei Darussalam, Bulgaria, Cabo Verde, Cameroon, Canada, Cayman Islands (extension by the United Kingdom), Chile, China (People's Republic of), Colombia, Co-ok Islands, Costa Rica, Croatia, Curaçao (extension by the Netherlands), Cyprus,[50] Czech Republic, Denmark, Dominica, Dominican

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

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

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

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, 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: Benin, Burkina Faso (entry into force on 1 April 2023), Gabon, Honduras, Madagascar, Papua New Guinea, Philippines, Rwanda (entry into force on 1 December 2022), Togo, United States (the original 1988 Convention is in force since 1 April 1995, the amending Protocol was signed on 27 April 2010).

CARICOM Agreement for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion.

The CARICOM Income Tax Treaty (CARICOM treaty) is an international agreement concluded among Caribbean jurisdictions for the avoidance of double taxation and prevention of fiscal evasion with respect to income taxes. The agreement is based on the OECD model double tax convention and in Article 24 provides for exchange of information in tax matters.

The CARICOM treaty is signed and in force in respect of 10 jurisdictions. These jurisdictions are: Barbados (signed: 30 June 1995, in effect: 1 January 1996); Belize (signed: 6 July 1994, in effect: 1 January 1995); Dominica (signed: 1 March 1995, in effect: 1 January 1997); Grenada (signed: 6 July 1994, in effect: 1 January 1997); Guyana (signed: 16 August 1994, in effect: 1 January 1998); Jamaica (signed: 6 July 1994, in effect: 1 January 1996); Saint Lucia (signed: 6 July 1994, in effect: 1 January 1996); Saint Kitts and

Nevis (signed: 6 July 1994, in effect: 1 January 1998); Saint Vincent and the Grenadines (signed: 6 July 1994, in effect: 1 January 1999) and Trinidad and Tobago (signed: 6 July 1994, in effect: 1 January 1995). Antigua and Barbuda signed the CARICOM treaty on 6 July 1994 and it has entered into force on 1 January 1999.

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 November 2021, and the Schedule of Reviews.

The evaluation is based on information available to the assessment team including the exchange of information arrangements signed, laws and regulations in force or effective as at 24 November 2022, Saint Lucia's EOIR practice in respect of EOI requests made and received during the three year period from 1 July 2018 to 30 June 2021, Saint Lucia's responses to the EOIR questionnaire, inputs from partner jurisdictions, as well as information provided by Saint Lucia's authorities during the onsite visit that took place from 30 May to 3 June in Castries.

List of laws, regulations and other materials received

Anti-Terrorism Act, Chapter 3.16

Business Companies Act, Cap. 12.14

Commercial Code

Civil Code

Companies Act, Cap. 13.01

Companies Amendment Act No 2 of 2021

Companies Amendment Act No 10 of 2018

Co-operative Societies Act, Cap. 12.06

Financial Services Regulatory Authority Act, Cap. 12.23 as amended

Free Zones Act, Cap. 15.17 as amended by Amendment Act 11 of 2018

Income Tax Act and Income Tax (Amendment) Act No 12 of 2018

Insurance Act, Cap. 12.08

International Banking Act, Cap. 12.17

International Business Companies Act

International Business Companies (Amendment) Acts of 2006, 2017

International Insurance Act, Cap. 12.15

International Mutual Funds Act, Cap. 12.16

Money Laundering (Prevention) (Guidance Notes) Regulations

Money Laundering (Prevention) Act, Cap 12.20

Money Laundering (Prevention) (Amendment) Act No 3 of 2019

Money Laundering (Prevention) (Amendment) Act 2021

Money Services Business Act, Cap. 12.22

Proceeds of Crime Act, Chapter 3.04

Registered Agent and Trustee Licensing Act, Cap. 12.12

Saint Lucia Development Bank Act, Cap. 12.02

United Nations (Counter-Proliferation Financing) Act No. 29 of 2019

VAT Act, Cap. 15.42

Authorities interviewed during onsite visit

Saint Lucia Inland Revenue Department

Registry of International Business

Registry of Companies and Intellectual Property

Financial Intelligence Unit

Financial Services Regulatory Authority

Eastern Caribbean Central Bank

Private sector representatives of domestic banks, international banks, registered agents and lawyers.

Current and previous reviews

This report provides the outcomes of the fourth peer review of Saint Lucia's implementation of the EOIR standard conducted by the Global Forum.

Saint Lucia previously underwent EOIR peer reviews in 2011, 2014 and 2016 conducted according to the Terms of Reference (ToR) approved by the Global Forum in February 2010 (2010 ToR) and the Methodology used in the first round of reviews. The 2011 Report evaluated Saint Lucia's legal and

regulatory framework. The legal framework for the availability of accounting information was not in place. There were also doubts on the extent of the access powers of the competent authority. The 2014 Report evaluated the implementation in practice. The access powers had been clarified in the meantime, and the new powers remained to be tested. Because the legal framework for the availability of accounting information was not in place, Element A.2 was rated Non-Compliant. In Round 1, the overall rating was first Partially Compliant with the following individual ratings: Non-Compliant for A2, Partially Compliant for B1, Largely Compliant for A1 and C5, Compliant for A3, B2, C1, C2, C3 and C4.

Saint Lucia afterwards amended the accounting legislation to conform to the standard and further strengthened the access powers of the competent authority. Then, following a supplementary report in 2016, the overall rating became Largely Compliant with the legal framework assessed as in place for all the elements of the standard, and the following ratings assigned: Partially Compliant for A2, Largely Compliant for A1, B1, C5 and Compliant for the other elements. Most recommendations related to the implementation and enforcement of the new legislation put in place, that were too recent to be fully tested during the review.

The current Report presented the first review of Saint Lucia against the 2016 Terms of Reference and concludes that Saint Lucia is overall Largely Compliant with the international standard.

Information on each of Saint Lucia'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 Maria Graça Pires, Tax Officer of the International Relations Department, Ministry of Finance of Portugal; Mr Graham Hunt Senior Policy Analyst, Inland Revenue Department of New Zealand; Ms Caroline Malcolm from the Secretariat of the Global Forum	n.a.	March 2012	August 2011
Round 1 Phase 2	Ms Maria Graça Pires, from the International Relations Department, Ministry of Finance of Portugal; Ms Nicola Guffogg, the Head of the Income Tax Division for the Isle of Man; Ms Mary O'Leary from the Secretariat of the Global Forum	1 July 2010 to 30 June 2013	May 2014	August 2014

Review	Assessment team	Period under review	Legal framework as of	Date of adoption by Global Forum
Round 1 Supplementary to Phase 2	Ms Maria Graça Pires, from the International Relations Department, Ministry of Finance of Portugal; Ms Nicola Guffogg, the Head of the Income Tax Division for the Isle of Man; Ms Mary O'Leary and Ms Kathleen Kao from the Secretariat of the Global Forum	1 July 2013 to 30 June 2015	13 May 2016	22 July 2016
Round 2 combined Phase 1 and Phase 2	Ms Charlotte Kristensen, Norway Directorate of Taxes; Ms Jackie Manasterli, Internal Revenue Service of United States; Ms Severine Baranger and Ms Sathi Meyer-Nandi from the Secretariat of the Global Forum	1 July 2018-30 June 2021	24 November 2022	27 March 2023

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

Saint Lucia would like to thank the Global Forum Secretariat, Peer Review Group, exchange of information partners and especially the assessment team for working with our jurisdiction of the past eighteen (18) months. As a small island developing state, allocating resources to meet international requirements remains challenging especially as we continue to grapple the effects of COVID-19 pandemic and the Russia/Ukraine war. Notwithstanding, Saint Lucia remains committed to transparency and the exchange of information for tax purposes.

Saint Lucia continues to make legislative and procedural amendments to ensure that information is available to our exchange partners. We look forward to continued collaboration with other jurisdictions and welcome feedback which will assist us in improving our operations.

51. 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 SAINT LUCIA 2023 (Second Round)

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

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

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

This publication presents the results of the Second Round Peer Review on the Exchange of Information on Request for Saint Lucia.

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