

# OECD SECRETARY-GENERAL REPORT TO G20 FINANCE MINISTERS

Ankara, Turkey  
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# G20





# **OECD SECRETARY-GENERAL REPORT TO THE G20 FINANCE MINISTERS AND CENTRAL BANK GOVERNORS**

**ANKARA, TURKEY**

**SEPTEMBER 2015**

This report consists of two parts. Part I is a report by the OECD Secretary-General regarding (A) the OECD/G20 Base Erosion and Profit Shifting (BEPS) Project; (B) Tax transparency through information exchange; and (C) Tax Policy. Part II is a Progress Report to the G20 by the Global Forum on Transparency and Exchange of Information for Tax Purposes.

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

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

## Introduction

We are now only a few weeks away from delivery of the outcomes under the **OECD-G20 Base Erosion and Profit Shifting (BEPS) Project**. The BEPS Action Plan, endorsed by G20 Finance Ministers in July 2013, called for a realignment of taxation and substance,

*needed to restore the intended effects and benefits of international standards, which may not have kept pace with changing business models and technological developments.*

By doing so, as well as ensuring coherence between national tax systems and promoting enhanced transparency, the BEPS Project has offered an opportunity to restore trust in governments during an era when the fairness and integrity of our tax systems has been called into question.

The comprehensive package of measures to counter BEPS will be delivered at your meeting in Lima. OECD and G20 members have worked together to develop a package of practical measures ready to be implemented by governments. Developing countries have been extensively consulted and more than a dozen directly participated in the work to revise the rules. In line with one of the key themes of the Turkish Presidency, countries are also conscious that supporting and ensuring effective implementation will be critical. In addition to requiring the engagement of tax administrations, implementation should be supported by a tailored monitoring framework which is inclusive and establishes a level playing field for all relevant jurisdictions.

Countries are also focusing intently on the implementation phase of the global Common Reporting Standard for the **automatic exchange of financial account information (AEOI)**, produced by the OECD in 2014. There are now 94 jurisdictions committed to undertaking the first automatic exchanges by 2017 and 2018. The OECD is working with G20 countries and the Global Forum on Transparency and Exchange of Information for Tax Purposes to support jurisdictions with the tools and practical guidance necessary for globally consistent implementation. By doing so, they are working to minimise the compliance burdens for both governments and financial institutions.

The imminent commencement of information exchange under the AEOI Standard has also resulted in an increase in voluntary compliance initiatives and other similar programmes, aimed at encouraging taxpayers to regularise income and wealth previously hidden from their tax authorities. In 2014 we reported that two dozen countries had already identified 37 billion euros in additional revenue from such initiatives put in place since 2009 and we expect to report further gains to Leaders in November.

The **Global Forum on Transparency and Exchange of Information for Tax Purposes** continues to grow, with Papua New Guinea having joined in July bringing the total number of members to 127. With all members committed to the Exchange of Information on Request Standard, this experience reflects the importance of an inclusive monitoring framework to encourage a level-playing field on tax transparency – critical for fighting tax evasion.

The support of the G20 Finance Ministers has been essential to the progress that has been made on the international tax agenda over the past 6 years which continues to result in historic progress. As we move to delivery of the BEPS Project next month, I look forward to your continued support.



Angel Gurría  
OECD Secretary-General



## **PART II**

# **Global Forum on Transparency and Exchange of Information for Tax Purposes**

## **Progress Report to the G20 Finance Ministers and Central Bank Governors: Update on Effectiveness and On-Going Monitoring**

# Global Forum On Transparency and Exchange of Information for Tax Purposes

## *Overview*

The core mandate of the Global Forum on Transparency and Exchange of Information for Tax Purposes (the Global Forum) has been to ensure the rapid implementation of the standard for exchange of information on request (EOI on Request) through a comprehensive peer review process. The Global Forum has, throughout its history, sustained a very high level of output to ensure that the standard for EOI on Request is rapidly implemented across the globe. Comprehensive reviews of more than 100 jurisdictions have been completed in just 5 years.

By the end of 2015, reviews for all member jurisdictions and relevant non-members will have been launched, and will be completed in 2016. A second round of reviews will begin in 2016 to follow up on the first round of reviews. This second round of reviews will be based on enhanced requirements to ensure transparency, including the maintenance of beneficial ownership information in line with the G20's priorities.

In addition to its work on EOI on Request, the Global Forum is now putting in place a system to monitor and review the implementation of automatic exchange of information. At their Brisbane meeting in November 2014, the G20 Leaders endorsed the global Common Reporting Standard for the automatic exchange of tax information (the AEOI Standard) on a reciprocal basis, and agreed to begin exchanging information automatically with each other and with other countries by 2017 or end-2018, subject to completing necessary legislative procedures. The leaders welcomed financial centres' commitments to do the same and called on all other jurisdictions to join G20 countries in implementing the necessary measures.

The previous Global Forum report to the G20 Finance Ministers and Central Bank Governors in April 2015 provided an update on the continuing work on the ongoing peer reviews for EOI on Request and the work being undertaken for monitoring and implementation of the new AEOI Standard, as well as the progress on assisting developing countries to participate fully in the benefits of tax transparency and international cooperation.

This report provides a short update of the developments occurring in the Global Forum since April 2015. Work on preparing for the second round of reviews of the EOI on Request standard, including incorporating requirements on beneficial ownership information, is almost complete. A process has begun to monitor the implementation of the new AEOI Standard, and assessments are being undertaken on confidentiality and data safeguards for jurisdictions that have committed to the new AEOI standard. Developing countries are being encouraged and supported to be able to fully benefit from the new transparent international tax environment.



## Exchange of Information on Request

The Global Forum’s peer review process evaluates jurisdictions’ compliance with the standard for EOI on Request. Reviews take place in two phases: Phase 1 reviews examine the legal and regulatory framework; Phase 2 reviews look into the implementation of this framework in practice. Following a Phase 2 review, ratings are assigned which indicate a jurisdiction’s compliance with the EOIR standard, including an overall rating.

The Global Forum is quickly coming to the completion of the first round of reviews for all of its member jurisdictions and those relevant non-members. Reviews for all jurisdictions will have been launched by the end of 2015, with the remaining reports to be completed by 2016.

Since April, the Global Forum has completed a further 16 peer reviews. These are comprised of Phase 1 reports for Albania, Burkina Faso, Cameroon, Dominican Republic, Kazakhstan, Lesotho, Morocco, Pakistan, and Uganda; Phase 2 reports for Czech Republic, Lithuania, Poland and Sint Maarten; and a Supplementary Phase 1 report for Marshall Islands. The Supplementary phase 2 reports for British Virgin Islands (which had been rated Non-compliant overall) and Austria (which had been rated Partially Compliant overall) conclude that both jurisdictions are now Largely Compliant overall. The progress made by these jurisdictions is emblematic of the trend toward global implementation of the standard for EOI on Request.

As of August 2015, the Global Forum has finalised Phase 1 reviews of 116 jurisdictions and assigned ratings for a total of 81 jurisdictions after completion of their Phase 2 reviews. The overall ratings show that 21 jurisdictions are rated “Compliant”, 47 jurisdictions “Largely Compliant”, 10 jurisdictions “Partially Compliant” and 3 jurisdictions “Non-Compliant”. Table 1 below shows the allocation of overall ratings for jurisdictions for which Phase 2 reviews have been completed. Supplementary Phase 2 reviews for the 3 jurisdictions rated Non-Compliant (Cyprus, Luxembourg and the Seychelles) are on-going and will be finalised in October.

**Table 1: Overall ratings for jurisdictions for which Phase 2 has been completed**

TABLE OF JURISDICTION RATINGS	
Australia, Belgium, Canada, China, Denmark, Finland, France, Iceland, India, Ireland, Isle of Man, Japan, Korea, Lithuania, Mexico, New Zealand, Norway, Slovenia, South Africa, Spain, Sweden.	Compliant
Argentina, Aruba, Austria, The Bahamas, Bahrain, Belize, Bermuda, Brazil, British Virgin Islands, Cayman Islands, Chile, Czech Republic, Cook Islands, Estonia, Former Yugoslav Republic of Macedonia (FYROM), Germany, Ghana, Gibraltar, Greece, Grenada, Guernsey, Hong Kong (China), Hungary, Italy, Jamaica, Jersey, Macao (China), Malaysia, Malta, Mauritius, Monaco, Montserrat, Netherlands, Philippines, Poland, Portugal, Qatar, Russia, San Marino, Singapore, Slovak Republic, Saint Kitts and Nevis, Saint Vincent and the Grenadines, Turks and Caicos Islands, United Kingdom, United States, Uruguay.	Largely compliant
Andorra, Anguilla, Antigua and Barbuda, Barbados, Curaçao, Indonesia, Israel, Saint Lucia, Sint Maarten, Turkey.	Partially compliant
Cyprus*, Luxembourg*, Seychelles*.	Non-compliant
<b>Jurisdictions that cannot be rated because they cannot move to Phase 2</b>	
Brunei Darussalam*, Dominica*, Federated States of Micronesia, Guatemala*, Kazakhstan, Lebanon, Liberia, Panama*, Nauru, Trinidad and Tobago, Vanuatu.	

\* The jurisdiction is undergoing a Supplementary review.

It can be noted that some jurisdictions have not been assigned ratings because their Phase 2 reviews could not take place. As noted in our previous report, the Global Forum has commenced a process designed to swiftly encourage the remaining jurisdictions to respond to the recommendations so that a Phase 2 review can be carried out, failing which an overall rating of Non-Compliant will be assigned.

At the time of the previous report, there were 11 such jurisdictions that remained blocked from moving to Phase 2 – the 10 jurisdictions listed in Table 1 as well as the Marshall Islands. In August, the Supplementary review of the Marshall Islands was completed and published, concluding that the Marshall Islands qualifies for a Phase 2 review, which will be launched in the second half of 2015.

Supplementary Phase 1 reviews have now been launched for Brunei Darussalam, Dominica, Guatemala, and Panama. These reviews will be completed by October. Three other jurisdictions that are blocked from Phase 2 – Liberia, Lebanon and Vanuatu – requested deferrals of the application of this procedure due to political or social concerns. The situations in each of these jurisdictions will be re-evaluated in September. Trinidad & Tobago has not requested a Supplementary review. Finally, the deadlines for launching Supplementary reviews of Nauru and the Federated States of Micronesia have not yet elapsed. Since the previous report, the Phase 1 review of Kazakhstan completed this year concludes that it cannot proceed to Phase 2 until improvements are made in its legal and regulatory framework and it is therefore blocked from moving to Phase 2.

### *Preparation of the second round of reviews*

In October 2014, the Global Forum agreed the parameters for a second round of reviews commencing in 2016, including enhancing the requirements regarding the availability of beneficial ownership information of legal entities and arrangements. The key documents including the schedule for this second round of reviews are in a very advanced state and will be finalised at the Global Forum's plenary meeting scheduled for 29-30 October in Barbados. The first reviews in the second round of reviews will be launched in mid-2016.

### *Automatic Exchange of Information*

Rapid progress has been made on getting widespread support for the implementation of the common global standard for automatic exchange of financial account information (AEOI). 91 Global Forum members<sup>7</sup> have committed themselves to implementing AEOI in either 2017 or 2018 while 5 jurisdictions have not yet committed (see Table 2 below) and the Global Forum is actively encouraging and working with these jurisdictions to facilitate them making the necessary commitment. The remaining members are developing countries where the Global Forum is providing technical assistance to help them implement the AEOI Standard.

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<sup>7</sup> The United States has indicated that it will be undertaking automatic information exchanges pursuant to FATCA from 2015 and has entered into intergovernmental agreements (IGAs) with other jurisdictions to do so. The Model 1A IGAs entered into by the United States acknowledge the need for the United States to achieve equivalent levels of reciprocal automatic information exchange with partner jurisdictions. They also include a political commitment to pursue the adoption of regulations and to advocate and support relevant legislation to achieve such equivalent levels of reciprocal automatic exchange.

**Table 2: GF member jurisdictions committed to implementing the AEOI Standard**

JURISDICTIONS UNDERTAKING FIRST EXCHANGES BY 2017 <sup>8</sup>
Anguilla, Argentina, Barbados, Belgium, Bermuda, British Virgin Islands, Cayman Islands, Colombia, Croatia, Curaçao, Cyprus, Czech Republic, Denmark, Dominica, Estonia, Finland, France, Germany, Gibraltar, Greece, Guernsey, Hungary, Iceland, India, Ireland, Isle of Man, Italy, Jersey, Korea, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Mauritius, Mexico, Montserrat, Netherlands, Niue, Norway, Poland, Portugal, Romania, San Marino, Seychelles, Slovak Republic, Slovenia, South Africa, Spain, Sweden, Trinidad and Tobago, Turks and Caicos Islands, United Kingdom
JURISDICTIONS UNDERTAKING FIRST EXCHANGES BY 2018
Albania, Andorra, Antigua and Barbuda, Aruba, Australia, Austria, The Bahamas, Belize, Brazil, Brunei Darussalam, Canada, Chile, China, Costa Rica, Ghana, Grenada, Hong Kong (China), Indonesia, Israel, Japan, Marshall Islands, Macao (China), Malaysia, Monaco, New Zealand, Qatar, Russia, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, Saudi Arabia, Singapore, Sint Maarten, Switzerland, Turkey, United Arab Emirates, Uruguay
JURISDICTIONS THAT THAT HAVE NOT YET COMMITTED
Bahrain, Cook Islands, Nauru, Panama, Vanuatu

The implementation of CRS around the world represents a fundamental change in the architecture of international tax cooperation. It will mean a massive increase in the international supply of information for tax purposes and decisively change the arithmetic of international tax evasion. If taxpayers know that their home authorities will have automatic access to information on their foreign financial accounts they will be less likely to hide money offshore using foreign financial institutions. The scale of work involved in implementing the CRS in member jurisdictions is enormous however, given the tight implementation targets.

The immediate focus of the Global Forum is therefore to provide implementation guidance and assistance to members to ensure that the agreed timelines for implementation of AEOI Standard are met. To this end it has launched a process for monitoring of AEOI implementation to ascertain the level of readiness of members and identify the impediments they face in implementing AEOI under the CRS. The first results of this monitoring exercise will be presented at the Global Forum plenary meeting in October. Alongside this an intense series of training programmes has been organised in cooperation with the OECD. Training events have been delivered in Turkey, San Marino, the Philippines, British Virgin Islands, Seychelles, Colombia and Malaysia. More tailored advice on implementation issues such as drafting new legislation is also being provided to members when requested. In addition the Global Forum's website has been upgraded to provide a help desk facility where members can ask questions about the AEOI Standard.

Critically the Global Forum has also moved quickly to address one of the most important requirements of AEOI, which is to ensure that information that is exchanged can be kept confidential and protected from improper disclosure. Without an assurance that treaty partners meet the required confidentiality criteria, jurisdictions are unlikely to agree to exchange sensitive data comprising, potentially, millions of pieces of information. Since it would be very difficult for every committed jurisdiction to bilaterally review the confidentiality measures in every other potential partner jurisdiction, a process which could involve thousands of reviews, the Global Forum has launched a multilateral process to undertake this task and complete it over the next 12 months.

<sup>8</sup> Bulgaria, Faroe Islands and Greenland have also committed to implementing the AEOI Standard in 2017 and 2018, but they are not Global Forum members.

This Global Forum assessment process will significantly facilitate the work of committed jurisdictions. The advantages of this approach are process simplification, lower costs for members and quick results. The process is peer driven and a Panel of 12 experts from France, Germany, India, Italy, Liechtenstein, Luxembourg, Mexico, Netherlands, Singapore, South Africa, United Kingdom and United States, has been put in place to carry out these assessments. These experts, with the assistance of the Secretariat of the Global Forum, will prepare draft reports for each jurisdiction, with the first set of reports to be discussed at the Global Forum Plenary in Barbados in October. The complete programme of 95 assessments will be completed by mid-2016 prior to the expected dates for commencement of information exchanges in 2017.

All of these measures are being taken to support members in their implementation of the standard. While this is the immediate priority work is also underway on developing a comprehensive process to monitor and review the implementation of the AEOI Standard, on an ongoing basis.

### *Developing countries*

The Global Forum engages in a range of initiatives to support its developing country member jurisdictions in effectively implementing the international standards, and ensuring that exchanges between members' tax authorities are efficient and of high quality. Throughout 2015, significant emphasis has been placed upon assisting in implementation of the new AEOI Standard, in particular through the engagement of developing countries in pilot projects and the schedule of AEOI training events. To date more than 200 delegates from many developing countries have attended these training programmes. In addition, the Global Forum continues to progress the Africa Initiative which aims at increasing engagement with African countries generally.

In its response to the 2014 Roadmap on AEOI for Developing Countries, the G20 leaders indicated their support for pilot projects to be undertaken between developing and G20/developed country partners, which would be facilitated by the Global Forum, working with the World Bank Group and other international and regional organisations. To date, seven developing countries (Albania, Colombia, Ghana, Morocco, Pakistan, the Philippines, and Uganda) have indicated interest in participating in pilot projects. Work has advanced significantly on the pilot projects with Albania, Colombia and the Philippines, collaborating with Italy, Spain and Australia respectively as pilot partners. Initial planning has also commenced with respect to the pilot projects for Morocco (partnering with France) and Ghana (partnering with the United Kingdom). Ghana signed the Multilateral Competent Authority Agreement (MCAA) in May indicating increased engagement and interest from developing countries to participate in AEOI.

The Global Forum continues to progress the Africa Initiative, a three-year programme designed to unlock the potential for transparency and exchange of information in Africa. The programme is a joint effort of individual African members of the Global Forum, ATAF, CREDAF, France (Ministry of Foreign Affairs), the OECD, the UK's Department for International Development (DfID) and the World Bank Group.

In May 2015 Cameroon became the fourth country to join the "First Movers" group within the initiative along with Burkina Faso, Ghana and Kenya. Each of these countries has committed to meeting certain concrete targets to ensure effective exchange of information by December 2015. In addition, each First Mover country will be provided with training to help its tax auditors to better exploit the potential of their information exchange network. To this end training seminars were held in Ghana and Kenya in May and in Cameroon in July. An NGO Roundtable was also held in Kenya in conjunction with the seminar.

One of the main aims of the Africa Initiative to raise awareness of the benefits of EOI at a political level. In June, a two-day meeting took place in London, United Kingdom in partnership with the Commonwealth Parliamentary Association which brought together Parliamentarians from a variety of countries across

Africa to discuss EOI and BEPS actions. In July, a ministerial-level side-event was held as part of the Third International Conference on Financing for Development in Addis Ababa, Ethiopia. Moving forward, one of the aims of the Africa Initiative is to engage a high-profile leader as Patron to increase visibility and maintain momentum over the next two years of the programme.

### *Looking Ahead*

The Global Forum will launch the remaining first round reviews of the implementation of the EOI on Request standard before the end of 2015. In addition, Supplementary reviews are on-going for 7 jurisdictions that have been blocked from Phase 2 or rated Non-compliant overall.

The key documents for the second round of reviews of the implementation of the EOI on Request standard are in a very advanced state and will be finalised at the Global Forum's plenary meeting scheduled for 29-30 October in Barbados. The first reviews in the second round of reviews will be launched in mid-2016.

Major progress has already been made on AEOI over the last few months. The priority now is maintain this effort over the next 12 to 18 months to monitor progress made towards implementing AEOI, to ensure that the building blocks, in particular confidentiality and data safeguards, are in place around the world and to assist the effective implementation of the standard. Work will also continue on developing an effective and comprehensive peer review mechanism for monitoring the implementation of the AEOI Standard.

Enhanced engagement with developing countries will ensure that they can fully participate in and benefit from an enhanced transparent tax environment. An ambitious technical assistance plan is in place comprising one-on-one assistance, pilot projects, and training seminars across the world. The Africa Initiative will give a major boost to African jurisdictions in their efforts to enhance transparency and information exchange in the region.



# Annex 1

## Report on Possible Tougher Incentives for Failure to Respect the International Exchange of Information on Request Standards

1. At their meeting in September 2014, the G20 Finance Ministers asked the OECD to work with all G20 members:

*“... to propose possible tougher incentives and implementation processes, to deal with those countries which fail to respect Global Forum standards on exchange of tax information on request.”*

2. An interim report was delivered to G20 Finance Ministers at their meeting in February 2015. This final report builds on those preliminary findings and sets out proposals to deal with those jurisdictions which fail to respect Global Forum standards of exchange of information on request. It provides an important step towards putting in place such tougher incentives, which also have the potential to be further built upon over time.

### **I. Background and introduction**

3. The existence of a level playing field is critical to the effectiveness of international standards. Jurisdictions should not be able to benefit from their failure to implement international standards to the detriment of those that do. Global commitment to tax transparency, including by all financial centres, has therefore been central to previous G20 calls for all jurisdictions to adopt and implement the international standard of the exchange of information on request (EOIR). As early as 2009, the G20 has referred to countermeasures against those that do not adopt the EOIR standard.

4. In order to address concerns regarding a level playing field, maximise the effectiveness of the international community in tackling offshore tax evasion and ensure an inclusive process, in 2009 the Global Forum was restructured as a consensus based organisation, where all members participate on an equal footing and monitor and review the effectiveness of each jurisdiction’s implementation of exchange of information in accordance with the international standard on EOIR through a comprehensive and robust peer review process. Phase 1 of the peer review assesses whether an appropriate legal and regulatory framework for transparency and exchange of information exists within the jurisdiction, while Phase 2 looks into the implementation of the standard in practice. An overall rating of “compliant”, “largely compliant”, “partially compliant” or “non-compliant” is then assigned to each jurisdiction after completion of both phases of the review. Members also have access to capacity building, support and advice to prepare for their reviews as well as to address any recommendations made. The Global Forum now has 127 members. This process has been central to driving progress towards the effective global implementation of the international EOIR standard, as well as creating a level playing field.

5. The process has already delivered a step change in global tax transparency. A total of 198 reviews have been conducted since the peer review process commenced in 2010 (consisting of Phase 1, Phase 2 or Combined Phase 1 and Phase 2 reviews). 80 jurisdictions have received an overall rating, and 84% are rated either compliant or largely compliant. Most countries are making progress. The review framework provides for supplementary reviews once jurisdictions have addressed recommendations made

in the initial report, and so far, 96 jurisdictions have acted to implement around 520 of the recommendations made.

6. There are currently, 11 jurisdictions that could not even be provided with ratings because the Phase 1 reviews found such serious deficiencies in their legal and regulatory frameworks that they were blocked from going to Phase 2. There are 3 jurisdictions rated as non-compliant and therefore far from meeting the EOIR standard. There are also 10 jurisdictions rated as partially compliant meaning they have serious deficiencies in their framework for the exchange of information. Furthermore, to keep the necessary momentum, and following the commencement of this work on possible tougher incentives, the Global Forum decided to invite jurisdictions that remain blocked for more than 2 years to request a supplementary review to assess changes made to address the recommendations in their Phase 1 review or receive an overall rating of non-compliant. This has prompted many of those jurisdictions to move to address the recommendations and request a supplementary review. This process is ongoing and as the first round of reviews is completed more jurisdictions may enter this category and be blocked from a Phase 2 review.

7. We have also seen a number of international financial institutions incorporate the Global Forum ratings into their policies determining the routing of investments (e.g. the Council of Europe Development Bank, the European Bank of Reconstruction and Development, the European Investment Bank and the International Finance Corporation, a member of the World Bank Group).

8. All jurisdictions should of course strive for full compliance with the EOIR standard. However, notwithstanding the progress made, there will continue to be jurisdictions that fail to respect the EOIR standard, undermining the level playing field which is the foundation of the international EOIR standard. Action is therefore needed to ensure momentum is maintained by all. Otherwise there will continue to be opportunities for tax evasion and other illicit financial flows and the integrity and effectiveness of the EOIR standard will be undermined. This was recognised by the G20 Finance Ministers when making their request for possible tougher incentives and implementation processes to be proposed that deal with those countries which fail to respect Global Forum standards on exchange of tax information on request.

9. Following the request in September 2014, the OECD has been working with G20 countries and others to identify ways to strengthen the incentives for jurisdictions to comply with the international standard of EOIR. Proposals have been developed in relation to the following five areas, with each area discussed in greater depth below:

- vi. Further publicising the Global Forum ratings to amplify their reputational impact
- vii. Reviewing existing measures to include the Global Forum ratings as at least a factor in their application and publicising where they are linked to the ratings
- viii. Considering introducing new measures with the Global Forum ratings as at least a factor in their application
- ix. Calibrating the application of the measures to best incentivise jurisdictions to comply with the international standard of EOIR
- x. International organisations and national development agencies, where they do not already do so, reviewing their investment policies to consider incorporating restrictions in relation to the routing of investments through jurisdictions failing to respect the EOIR standard



## **II. Ways to further strengthen the incentives for jurisdictions to comply with the international standard of EOIR**

### ***1. Further publicising the Global Forum ratings to amplify their reputational impact***

10. The reputational impact of the Global Forum ratings should not be underestimated. The results of the Global Forum review process are already made publicly available, and for jurisdictions which do not demonstrate strong results, this publicity can have a negative reputational impact and vice versa for those with good ratings. The pressure to act that this reputational impact can have is at least in part demonstrated by the significant change that has occurred to date. EOIR is now the norm and most jurisdictions have been working hard to ensure their legal and operational frameworks facilitate its effectiveness as a tool to tackle offshore tax evasion. Furthermore, the impact of the move to invite the jurisdictions that were stuck at Phase 1 to request a supplementary report or receive a rating of non-compliant further demonstrates this, as most of these jurisdictions have acted and requested a supplementary review. A first logical step is therefore to ensure the reputational impact of the review outcomes is maximised.

11. At the international level and with the support of the G20, expanding awareness of the jurisdictions that fail to respect the EOIR standard, including amongst the media, non-governmental organisations and the general public, would increase this reputational impact and provide greater incentive for jurisdictions to move quickly to address the shortfalls identified in their legal framework and administrative processes. This could be through referring to the particular jurisdictions in question, including those jurisdictions that are blocked at their Phase 1 review, in G20 communiqués.

12. At a national level, jurisdictions could also look to support this amplification of the Global Forum ratings through relevant agencies publishing links to the Global Forum web pages along with a narrative on the impact of the jurisdictions not respecting the EOIR standard have in the collective fight against tax evasion and other illicit financial flows.

**Proposal 1:** The Global Forum ratings should be further publicised wherever possible to amplify their reputational impact.

### ***2. Reviewing existing measures to include the Global Forum ratings as at least a factor in their application and publicising where they are linked to the ratings***

13. Analysis covering 41 countries<sup>1</sup> shows that the vast majority, or almost 90%, of countries already have measures in place that in whole or in part are intended to address the lack of effective exchange of information on request. However, only 30% of countries have measures that link to the Global Forum ratings (See Table 1). This means that a unified approach to jurisdictions not respecting the international standard of EOIR is not being presented.

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<sup>1</sup> Argentina, Australia, Austria, Belgium, Brazil, Canada, Colombia, Costa Rica, Croatia, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, India, Indonesia, Ireland, Israel, Italy, Japan, Korea, Latvia, Lithuania, Luxembourg, Mexico, Netherlands, New Zealand, Norway, Poland, Portugal, Slovenia, Spain, Sweden, Switzerland, Turkey, the United Kingdom and the United States.

**Table 1:** The numbers of jurisdictions with measures linked to exchange of information on request

Type of measure	No. of jurisdictions
Jurisdictions with measures linked to the lack of effective exchange of information on request	35
Jurisdictions with measures linked to the Global Forum ratings	12

14. The analysis also shows that there are a wide range of measures that are being used in response to the lack of effective exchange of information on request. These include both legislative and administrative measures, ranging from special withholding tax rules to an increased audit risk for taxpayers who engage in transactions involving high risk jurisdictions. Table 2 below shows the range of measures already being applied, along with whether they are currently linked to the Global Forum ratings. Furthermore, the case studies below provide examples of countries with measures linked to the Global Forum ratings.

**Table 2:** The types of measures currently being applied in relation to exchange of information on request

Type of measure	No. of jurisdictions (Total = 41)	
	Link to effective EOI	Link to GF ratings
1. The current taxation of domestic shareholders on (certain) income of a controlled foreign company	14	4
2. The denial of benefits on income/capital gains associated with shares in certain companies	13	3
3. Disallowing deductions or credits with respect to certain transactions	17	6
4. Special withholding tax rules	19	6
5. Applying transfer pricing rules to transactions between unrelated parties/ increased transfer pricing documentation requirements	8	2
6. Increased information reporting requirements	13	4
7. Increased penalties for use of certain jurisdictions	2	0
8. Additional question(s) on tax returns as to the ownership of foreign assets	5	1
9. Increased audit risk for taxpayers who engage in transactions with certain “high risk” jurisdictions	18	7
10. Refusal to issue rulings in respect of transactions involving certain jurisdictions	4	1
11. Increased substantiation requirements in respect of transactions involving certain jurisdictions	9	4
12. Giving extra weight to an effective exchange relationship when designing bilateral aid programs	2	1
13. Other measures	4	2
<b>Total</b>	<b>128</b>	<b>41</b>

15. This shows not only the range of possible measures available, depending on the specific circumstances, but also that the vast majority are not currently linked to the Global Forum ratings. While the precise factor(s) behind the application of a particular measure will of course be driven by the local context and policy framework more generally, including any domestic, bilateral and international experiences, factors and constraints, there is scope to increase the use of the Global Forum ratings as at least a factor in their application.

**Proposal 2:** All jurisdictions should review their existing measures in relation to the lack of the effective exchange of information on request with a view to including the Global Forum ratings as at least a factor in their application.

16. There may also be instances where the Global Forum ratings are used more informally when considering the application of particular measures, for example whether to require increased reporting requirements or assessing risks for audit purposes. Where formal or informal links exist, or where new links are created, jurisdictions should consider publicising them to reinforce the international community's position that the international EOIR standard must be complied with.

**Proposal 3:** Where there is a link between the application of a measure and the Global Forum ratings, or where new links are created, jurisdictions should consider publicising them.

### ***3. Considering introducing new measures with the Global Forum ratings as at least a factor in their application***

17. The relevance of measures linked in whole or in part to addressing the lack of effective exchange of information on request is shown by the number of jurisdictions that already have them in place. Furthermore, the wide range of measures employed shows that the framework adopted can vary from jurisdiction to jurisdiction, tailored to specific contexts and circumstances.

18. This could therefore be an opportunity for jurisdictions to explore whether there could be scope to introduce new measures, including for example those as set out in the table above. This would of course depend on the domestic context and the domestic, bilateral and international constraints.

**Proposal 4:** All jurisdictions should explore the possibilities to introduce new measures to incentivise the effective exchange of information on request, with the Global Forum ratings as at least a factor in their application.

### ***4. Calibrating the application of the measures to best incentivise jurisdictions to comply with the international standard of EOIR***

19. Where new or existing measures are linked to the Global Forum ratings, thought should be given to how best to calibrate the measures and their application to incentive compliance with the EOIR standard. Areas to consider are: (i) the categories of jurisdictions to which measures should be applied; (ii) the timing of the application of measures; and (iii) the nature of the measure itself.

- i. **The categories of jurisdictions to which measures should be applied:** There will generally be a balance to be struck between bilateral experiences in relation to the effective exchange of information, and other factors, and the promotion of the international EOIR standard. Nevertheless, where a measure is linked to the Global Forum ratings, a jurisdiction could consider specifically linking the measure to particular overall ratings – which are all made publicly available via the Global Forum web pages. This would send a clear message to all jurisdictions that compliance with the EOIR standard is expected. Specifically, it could be collectively agreed to review whether links could be made between the application of the measures to jurisdictions with a

Global Forum rating of non-compliant or a determination that a jurisdiction is blocked at its Phase 1 review.

- ii. **The timing of the application of measures:** The most effective measures in this area are in fact those that are never applied because the jurisdictions instead move to effectively implement the EOIR standard, delivering the real objective which is greater transparency and a level playing field. When considering the application of measures a jurisdiction should therefore consider allowing for sufficient opportunity for recommendations made by the Global Forum to be addressed before the measures are activated. This should be calibrated in accordance with the timetable for the Global Forum's supplementary review process where jurisdictions have the opportunity to demonstrate that recommendations have been acted on (for example 18 – 24 months). This would increase the incentive for recommendations to be addressed in a timely way. Given the Global Forum ratings are a dynamic process and capable of recognising progress quickly, jurisdictions should also reconsider in a timely manner the application of measures in light of the progress made.
- iii. **The nature of the measure itself:** Once it is clear that jurisdictions are failing to address the recommendations made by the Global Forum then any applicable measure should be effective. The survey evidence showed that, of the measures currently being applied, respondents thought those with economic and financial impacts were most effective (such as withholding taxes or the denial of certain deductions). Furthermore, the economic and financial impacts are behind the approach taken by the international organisations.

**Proposal 5:** Where the application of measures are linked to Global Forum ratings jurisdictions should consider calibrating the measures to best incentivise jurisdictions to comply with the international standard of EOIR, including the categories of jurisdictions subject to those measures, the timing of the measures application and the nature of the measures themselves.

***5. International organisations and national development agencies, where they do not already do so, reviewing their investment policies to consider incorporating restrictions in relation to the routing of investments through jurisdictions failing to respect the EOIR standard***

20. Several international financial institutions have incorporated the outcomes of the Global Forum review process as factors in their investment policies, for example the Council of Europe Development Bank<sup>2</sup>, the European Bank of Reconstruction and Development<sup>3</sup>, the European Investment Bank<sup>4</sup> and the International Finance Corporation, a member of the World Bank Group<sup>5</sup>.

21. All of these international organisations restrict the routing of investments through jurisdictions that are prevented from proceeding to a Phase 2 Global Forum review (due to failing to pass Phase 1), or that have been found to be “non-compliant” or “partially compliant” with the EOIR standard.

22. Some national development agencies have also adopted similar approaches, such as *Agence Française de Développement* and *Swedfund International AB* (see the case studies below for further details).

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<sup>2</sup> [www.coebank.org/Upload/legal/en/ceb\\_policy\\_non\\_compliant\\_uncooperative\\_jurisdictions.pdf](http://www.coebank.org/Upload/legal/en/ceb_policy_non_compliant_uncooperative_jurisdictions.pdf)

<sup>3</sup> [www.ebrd.com/downloads/policies/sector/domiciliation-policy.pdf](http://www.ebrd.com/downloads/policies/sector/domiciliation-policy.pdf)

<sup>4</sup> [www.eib.org/attachments/documents/ncj\\_policy\\_addendum\\_en.pdf](http://www.eib.org/attachments/documents/ncj_policy_addendum_en.pdf)

<sup>5</sup> [www.gcgf.org/wps/wcm/connect/67e4480044930e24a2f7aec66d9c728b/OffshoreFinancialCenterPolicy\(June+26%2c+2014\).pdf?mod=ajperes](http://www.gcgf.org/wps/wcm/connect/67e4480044930e24a2f7aec66d9c728b/OffshoreFinancialCenterPolicy(June+26%2c+2014).pdf?mod=ajperes)

**Proposal 6:** All International organisations, including regional development banks, and national development agencies that do not already have such measures in place could be encouraged to review their investment policies and, where appropriate, consider incorporating restrictions similar to those currently in operation in relation to the routing of investments through jurisdictions failing to respect the EOIR standard.

### III. Case study examples of existing measures

#### Case study 1: Belgium

Belgium has both legislative and non-legislative measures that are explicitly linked to the Global Forum ratings.

The legislative measures are: disallowing deductions with respect to certain transactions; and increased information reporting requirements.

Taxpayers subject to Belgian corporate income tax, whether resident in Belgium or not, must report certain payments to persons established in jurisdictions which, during the entire taxable period in which the payment is made, are regarded by the Global Forum as jurisdictions that do not apply the standard for exchange of information “effectively or substantially”. This is determined after the conclusion of the peer review process (Phases 1 and 2). Failure to report relevant payments results in the non-deductibility of such payments. Furthermore, reported payments are only deductible if the taxpayer can prove that they are made in the context of “genuine and bona fide” transactions and outside the scope of artificial constructions.

Furthermore, taxpayers subject to Belgian corporate income tax, whether resident in Belgium or not, must report all direct or indirect payments to persons established in a tax haven if the total amount of payments made during the taxable period amounts to at least EUR 100,000. Payments that are not reported are non-deductible business expenses. Furthermore, reported payments are only deductible if the taxpayer can prove that they are made in the context of “genuine and bona fide” transactions and outside the context of artificial constructions.

Belgium also publicises the fact that activities in connection with jurisdictions found by the Global Forum to not apply the standard are a factor which increases the risk of a person’s tax affairs being subjected to audit procedures and possible increased substantiation requirements.

### **Case study 2: Colombia**

Colombia has a series of legislative measures that are linked to the Global Forum ratings.

The measures are: disallowing deductions or credits with respect to certain transactions; special withholding tax rules; the application of transfer pricing rules to transactions between unrelated parties; and increased transfer pricing documentation requirements.

All payments subject to withholding tax made by Colombian taxpayers to persons, enterprises, entities or companies located in a “tax haven” are subject to an increased rate of withholding tax.

Furthermore, any transaction entered into by Colombian taxpayers with persons, enterprises, entities or companies located in a tax haven jurisdiction, whether the parties are related or not, are subject to the transfer pricing regime, along with increased documentation and information disclosure requirements.

Colombian taxpayers carrying out transactions that result in payments to persons, enterprises, entities or companies located in a tax haven jurisdiction must document and demonstrate the details of the functions performed, assets used, risks assumed and all costs and expenses incurred by the parties located in the tax haven that were necessary to carry out the activities that generated the payments made by the Colombian taxpayers, otherwise the payments cannot be deducted for income tax purposes.

Colombian citizens who are tax residents in a tax haven are considered as Colombian tax residents, unless 50% or more of their income or assets are sourced in the tax haven jurisdiction.

A jurisdiction is included on Colombia’s list of tax havens where there is a lack of effective exchange of information or the existence of legal provisions or administrative practices limit such exchange of information. The Global Forum ratings are taken into account in this process.

### Case study 3: France

France has a series of both legislative and non-legislative measures that are explicitly linked to the Global Forum ratings.

The legislative measures are: the current taxation of domestic shareholders on (certain) income of a controlled foreign company; the denial of benefits on income/capital gains associated with shares in certain companies; disallowing deductions or credits with respect to certain transactions; special withholding tax rules; and increased information reporting requirements.

These measures are applied in relation to jurisdictions categorised by France as “non-cooperative jurisdictions” (NCJs). When establishing the list both bilateral factors, such as the existence or absence of an exchange of information agreement and the effectiveness of the administrative cooperation, and multilateral factors such as the Global Forum rating are taken into account.

The French tax administration also systematically audits financial flows to these NCJs, with the taxpayers involved being subject to a greater risk of being subjected to an audit.

The *Agence Française de Développement* (the development agency of the French government, or AFD) also takes into account the Global Forum ratings when routing development funding. Whilst the AFD is authorised to finance “on-shore” projects in NCJs, when it comes to off-shore projects, the general rule is that funding is not routed through vehicles in NCJs and that engage in no real business activity there (e.g., investment funds or special purpose acquisition companies). Also the AFD does not finance artificially structured projects, particularly those involving counterparties whose shareholders are controlled by entities registered in NCJs, unless that registration in those jurisdictions is warranted by sound business reasons (enhanced due diligence process). To date, NCJs has meant all those jurisdictions identified as such when applying the legislative measures above as well as jurisdictions prevented from moving to a Phase 2 Global Forum review.

### Case study 4: Sweden

Sweden has two non-legislative measures linked to the Global Forum ratings.

The Global Forum ratings play a significant role in the assessment of risk for audit purposes, used to help identify jurisdictions with banking secrecy and a lack of effective exchange of information.

*Swedfund International AB* (the development finance institution of the Swedish government) does not route investments through intermediate jurisdictions that are prevented from moving to Phase 2 of the Global Forum review process or that have been found to be “partially compliant” or “non-compliant” with the EOI standard. The guidelines for the *Swedish International Development Cooperation Agency* (SIDA) provide that SIDA should take the same approach.