

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

# Establishing and Running an Effective Exchange of Information Function

A joint Global Forum and ATAF Toolkit



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## Abbreviations and acronyms

**AEOI** Automatic Exchange of Information

**ATAF** African Tax Administration Forum

**BEPS** Base Erosion and Profit Shifting

**CA** Competent Authority

**CAA** Competent Authority Agreement

**CbCR** Country-by-country reporting

**DTC** Double Taxation Convention

**EOI** Exchange of Information

**EOIR** Exchange of Information on Request

**FATCA** Foreign Account Tax Compliance Act

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

**JITSIC** Joint International Taskforce on Shared Intelligence and Collaboration

**OECD** Organisation for Economic Co-operation and Development

**SEOI** Spontaneous Exchange of Information

**TIEA** Tax Information Exchange Agreement

**VAT** Value Added Tax

## Preface



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Over the past decade, the tax transparency and exchange of information (EOI) global landscape has dramatically changed, making tax evasion more difficult than ever before. Better transparency and effective information exchange for tax purposes have strengthened tax administrations' ability to track cross-border businesses and ensure that corporate and individual taxpayers have no place to hide their income and assets and that they pay the right amount of tax. This unprecedented progress is in large part due to the work done since 2009 by the Global Forum on Transparency and Exchange of Information for Tax Purposes (Global Forum). The Global Forum ensures the implementation of the internationally agreed standards through an in-depth monitoring and peer review process and a comprehensive capacity building programme. A wide range of partners and donors countries and organisations support the work of the Global Forum, including the African Tax Administration Forum (ATAF).

ATAF and the Global Forum have a longstanding relationship. ATAF is an observer to the Global Forum and its key technical partner in Africa. ATAF also participates in the Africa Initiative<sup>1</sup> since its inception. ATAF has increased its role in the promotion of tax transparency and EOI in Africa by putting in place an extensive programme to support its members across the continent in this area. As part of this programme, ATAF and the Global Forum collaborate including through joint work on various aspects of the implementation of the tax transparency and EOI standards since 2016. This includes helping African countries identify the gaps with respect to the standards in their legal frameworks and practice of tax transparency, find the appropriate solutions to close those gaps and assist them in building up the infrastructure needed to use EOI.

<sup>1</sup> The Africa Initiative is a regional programme launched by the Global Forum and some partners in 2014 to unlock the potential of tax transparency in Africa and ensure that African countries can implement and benefit from the standards in the fight against tax evasion and other illicit financial flows and the mobilisation of their domestic resources.

One vital component of the EOI infrastructure is the EOI unit. The EOI unit is the office in charge of running the EOI business on a daily basis. It is one of the starting points to consider when building an EOI system. One important lesson learnt by the Global Forum and ATAF in providing assistance to African countries is that jurisdictions with a limited experience in EOI need detailed guidance in establishing an effective EOI unit, as this is a new office with specific activities and requirements. This is one of the first requests often put to the Global Forum by almost all new members. The Global Forum peer reviews on EOI upon request (EOIR) have also highlighted the need for improving the functioning of the EOI units in many experienced jurisdictions. In fact, the EOI business is not static. It needs to adapt to the increasing number and the complexity of EOI requests and data processed and to the evolving requirements of the tax transparency standards. The current COVID-19 pandemic context has also highlighted the need for tax administrations to have a business continuity strategy in place, to maintain their operations, including the EOI activities, to the extent possible during a crisis.

In view of the above, ATAF and the Global Forum have worked together on a toolkit intended to provide guidance to jurisdictions when considering the establishment or improvement of their EOI function. It is expected that this toolkit will help ministries of finance and tax administrations put in place and run well-functioning EOI offices.

The ultimate goal of this joint Global Forum/ATAF toolkit is to assist competent authorities to align their organisation and practices to the requirements of the international standards by processing quality EOI in a timely manner, for their partners and for their own purposes. The policy considerations, the practical guidance and the best practices provided by the toolkit make it a unique document which can be used by both developing and developed countries all over the world.

**This toolkit was prepared by the Secretariat of the Global Forum on Transparency and Exchange of Information for Tax Purposes, in collaboration with the African Tax Administration Forum (ATAF).**

The EOI unit plays a central role in the operation of EOI and more broadly in international tax co-operation. The purpose of this toolkit is to provide jurisdictions with practical guidance in establishing and running an EOI Function. It is based on best practices identified, especially during the Global Forum peer reviews. It is therefore not prescriptive, but rather provides indications on the possible approaches, based on the best practices internationally accepted. The toolkit will be updated as appropriate to reflect the evolution of the EOI landscape, which is fast changing.

The toolkit is not an end in itself. The ATAF and the Global Forum secretariats are available to complement the guidance contained in the toolkit by delivering tailored assistance to jurisdictions that need help in setting up or improving their EOI unit.

For more information on support capabilities, please contact the Global Forum Secretariat at: [gftaxcooperation@oecd.org](mailto:gftaxcooperation@oecd.org) or the ATAF Secretariat at [info@ataftax.org](mailto:info@ataftax.org).

# Introduction



To understand the structure and function of the Exchange of Information (EOI) unit and its contribution to the tax system in a jurisdiction, it is necessary to appreciate the overall ecosystem in which EOI for tax purposes operates.

## IMPORTANCE OF THE EXCHANGE OF INFORMATION FUNCTION

The globalisation of economies with its direct and indirect effects such as an increase in cross-border flows of capital contributes to wealth creation and offers new opportunities to tax administrations. However, it also exacerbates the tax risks associated with cross-border transactions. In fact, taxpayers, their capital and assets are essentially mobile, unlike tax administrations which do not have the power to investigate their taxpayers' affairs beyond their national borders.

In these conditions, EOI is the only effective way of enforcing domestic tax laws in the cases involving connections with a foreign jurisdiction. Therefore, EOI is a powerful tool available to fight tax evasion by supporting other tax administration functions such as audits, investigation, compliance, litigations, research and planning.

EOI is an effective way for countries to maintain sovereignty over their own tax bases. It supports the tax administration's work by providing the information needed to:

- Apply their Double Taxation Conventions (DTCs) by clarifying the circumstances and facts under which the taxing rights should be allocated.
- Administer and enforce their domestic tax laws by ascertaining the position of their taxpayer's affairs in relation to their cross-border connections.

## KEY CONCEPTS OF EXCHANGE OF INFORMATION

International tax co-operation otherwise known as mutual administrative assistance in tax matters brings together tax administrations to provide each other assistance in enforcing their respective tax legislations and DTCs, where there are cross-border transactions or relationships.

**Box 1. Impact of EOI: Some figures**

Over the past decade, EOI has increasingly become a key driver of tax compliance and revenue collection:

- Over 8 000 bilateral EOI relationships have been created.
- Over 250 000 requests for information have been received by Global Forum members and 99% of them satisfied.
- EOI facilitated the identification of EUR 107 billion non-reported tax revenues<sup>2</sup> globally, through voluntary disclosure programmes and investigations.
- Over 100 jurisdictions have commenced automatic exchanges of financial account information.
- Nearly 100 countries carried out automatic exchange of information in 2019, enabling their tax authorities to obtain data on 84 million financial accounts held offshore by their residents, covering total assets of EUR 10 trillion.
- Between 2014 and 2019, African countries have broadened their EOI networks from just 900 to over 3 000 bilateral relationships and multiplied the number of EOI requests sent by eight. Consequently, eight African countries have identified USD 189 million of additional revenue from EOI on request.
- Globally EOI on request has enabled the collection of about EUR 10 billion.

Source: Reports available at the Global Forum website: [www.oecd.org/tax/transparency/](http://www.oecd.org/tax/transparency/)

However, EOI is based on key principles:

- EOI is always based on an EOI instrument (i.e. an international agreement providing for EOI in tax matters) which should be in force and has taken effect between the supplying and receiving jurisdictions.
- Different forms of EOI exist with one common requirement, the exchange of foreseeably relevant information for the application of the provisions of the related EOI agreement or for administering or enforcing the requesting jurisdiction's tax law.

- EOI is always carried out through the Competent Authorities (CAs) for EOI for tax purposes. In practice, the day to day work of the CA is assumed by the EOI unit.

**An EOI agreement**

EOI is essentially based on mutual assistance in tax matters provisions of DTCs, Tax Information Exchange Agreements (TIEAs) and regional or multilateral conventions such as the Convention on Mutual Administrative Assistance in Tax Matters (MAAC)<sup>3</sup> developed by the Organisation for Economic Co-operation and Development (OECD) and the Council of Europe and the Agreement on Mutual Assistance in Tax Matters (AMATM),<sup>4</sup> developed by the African Tax Administration Forum (ATAF).

The EOI agreement provides for the scope of the administrative co-operation. Among others, it determines:

- The taxes covered;
- The persons covered;
- The periods covered;
- The forms of EOI covered;
- The confidentiality or secrecy provisions;
- Entry into force.

The EOI agreement should be in force between the supplying and receiving jurisdictions. Indeed, the EOI instrument contains a provision determining its date of entry into force. This date determines when the EOI instrument will become applicable as a whole for the concerned jurisdictions.

Some EOI instruments may provide for a delayed entry into effect of certain of its provisions (i.e. certain provisions have effect at a later date than the date of entry into force).

Therefore, attention must be paid to the provisions of the EOI agreement where an EOI is contemplated.

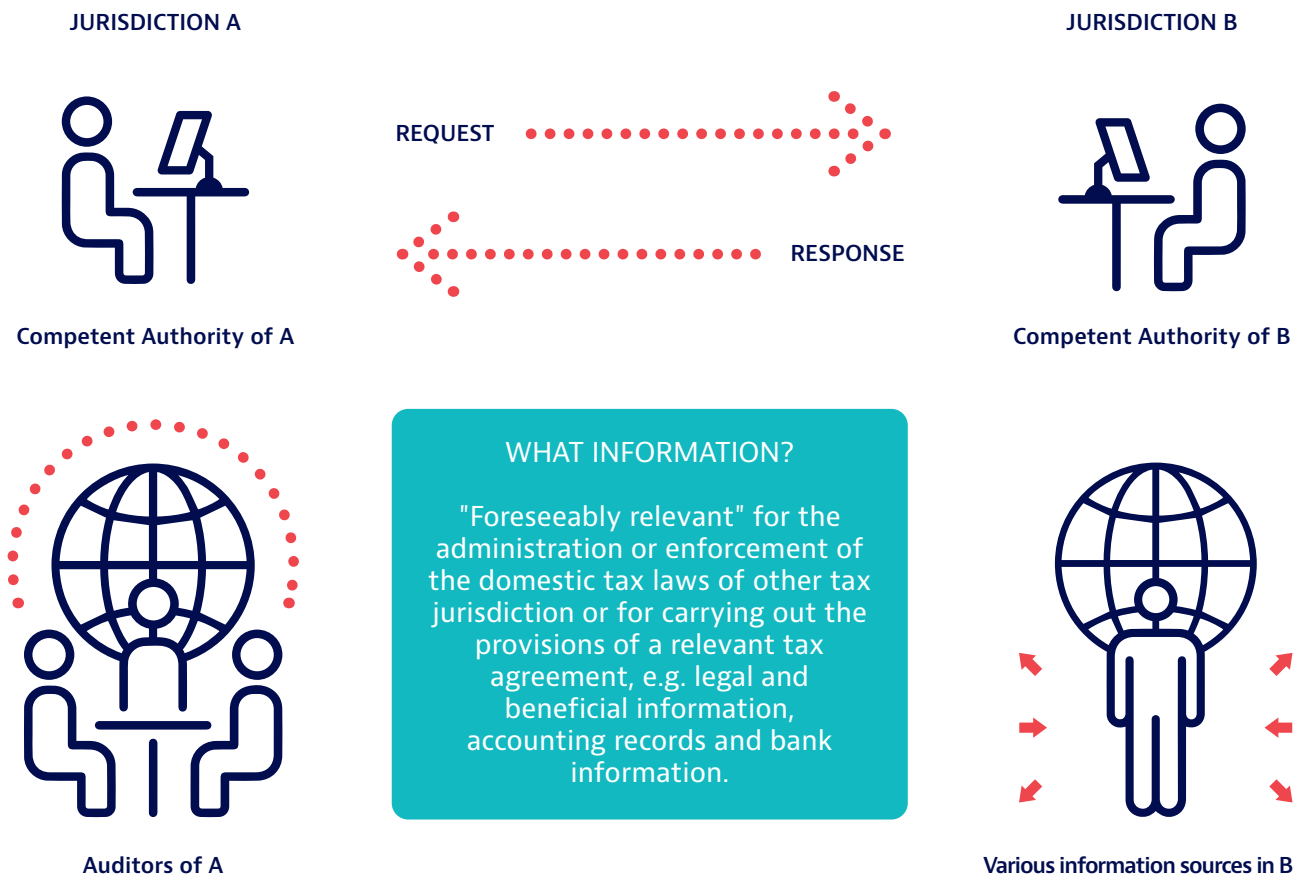
3. The MAAC is available at [www.oecd.org/tax/exchange-of-tax-information/convention-on-mutual-administrative-assistance-in-tax-matters.htm](http://www.oecd.org/tax/exchange-of-tax-information/convention-on-mutual-administrative-assistance-in-tax-matters.htm).

4. The AMATM is available at <https://irp-cdn.multiscreensite.com/a521d626/files/uploaded/AMATM-EOI%20%281%29.pdf>.

2. Which includes taxes, penalties and interests.

## Introduction

FIGURE 1. Exchange of information on request



### The different forms of EOI and the foreseeable relevance requirement

EOI allows tax administrations to share any foreseeably relevant information needed for applying the provisions of the related agreement or for administering or enforcing the requesting jurisdiction's tax law. It allows tax administrations to clarify the position of their taxpayers having connections with foreign jurisdictions.

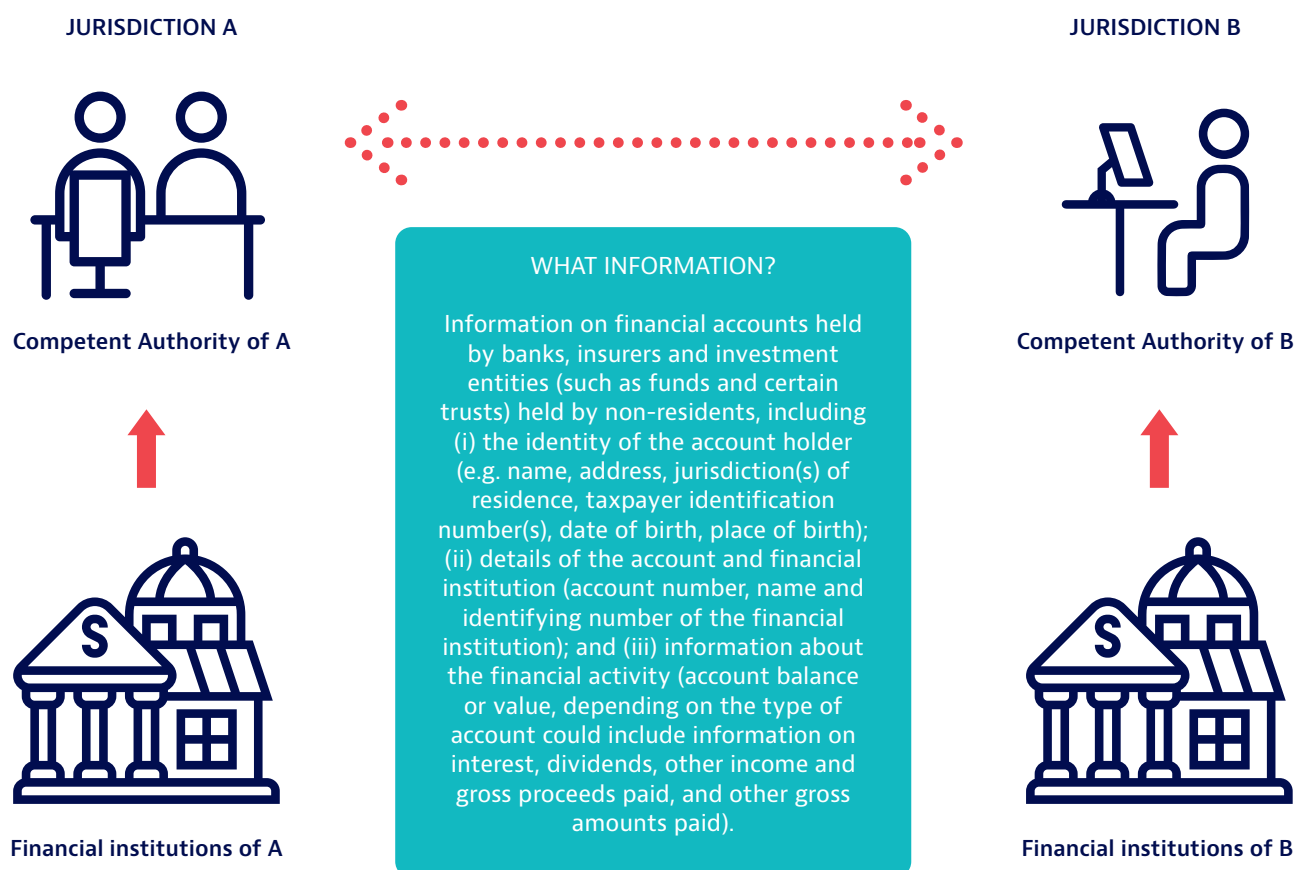
There are various forms of EOI.<sup>5</sup> Figures 1, 2 and 3 illustrate the main forms of EOI (on request, automatic and spontaneous), while Box 2 details the other forms of EOI.

- **Exchange of information on request (EOIR):** It refers to a situation where the CA of one country asks for particular information from the CA of another country on the basis of an international agreement.

5. The definitions of the forms of EOI used here are provided by the OECD Manual on the implementation of exchange of information provisions for tax purposes available at [www.oecd.org/tax/exchange-of-tax-information/36647823.pdf](http://www.oecd.org/tax/exchange-of-tax-information/36647823.pdf).



FIGURE 2. Automatic exchange of information

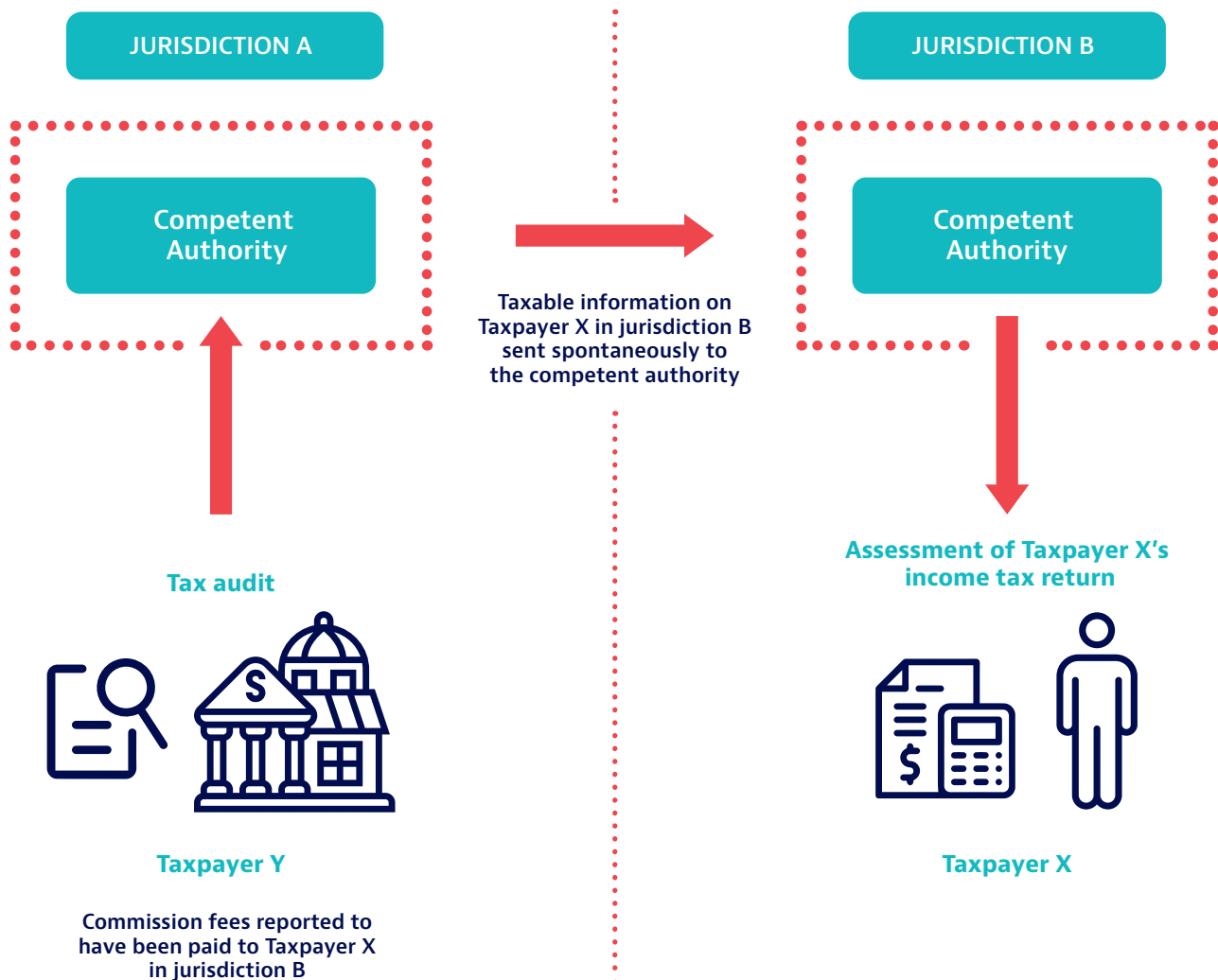


- **Automatic exchange of information (AEOI):** It refers to a situation where the CAs of two or more countries exchange, without prior request and on a periodic basis, predefined information in accordance with an international agreement. Information which is exchanged automatically is typically information comprising many individual cases of the same type, usually consisting of details of income arising from sources in the source

country, e.g. interest, dividends, royalties, pensions etc. This information is obtained on a routine basis (generally through reporting of the payments by the payer) by the sending country and is thus available for transmission to its treaty partners. CAs interested in automatic exchange shall agree in advance, as to what type of information they wish to exchange on this basis and when the exchanges will happen.

## Introduction

FIGURE 3. Spontaneous exchange of information



- Spontaneous exchange of information (SEOI):** It refers to a situation where the CA of a country having obtained information in the course of administering its own tax laws which it believes will be of interest to one of its treaty partners for tax purposes passes on this information without the latter having asked for it. The effectiveness of this form of EOI largely depends on the ability of tax inspectors to identify, in the course of an investigation, information that may be relevant for a foreign tax administration. The CA of the contracting party that provides information spontaneously should request feedback from the recipient tax administration as it may result in a tax adjustment for the sending contracting party. For instance, a foreign tax administration informed on a spontaneous basis that commission fees were reported to have been paid to one of its residents,

may find out that no commission fees were actually paid and it may report this fact to its counterpart who supplied the information. As a result, the deduction of the commission fees will be denied and the taxable income adjusted accordingly.

Among all the forms of EOI, EOIR and AEOI have emerged as the two internationally agreed standards of tax transparency and EOI. The Global Forum is in charge of monitoring and peer reviewing the implementation of these two standards. The EOIR standard<sup>6</sup> is primarily reflected in the 2002 OECD Model TIEA and its commentary, in Article 26 of the OECD Model Tax Convention on Income and on Capital and

6. The EOIR standard is available at [www.oecd.org/tax/transparency/documents/terms-of-reference.pdf](http://www.oecd.org/tax/transparency/documents/terms-of-reference.pdf).

### Box 2. Other forms of EOI

The other forms of EOI allowed under the EOI provisions of international agreements in tax matters are simultaneous tax examinations, tax examination abroad and industry-wide exchange of information.

- **Simultaneous tax examinations:** A simultaneous tax examination is an arrangement by two or more jurisdictions to examine simultaneously and independently, each on its territory, the tax affairs of (a) taxpayer(s) in which they have a common or related interest with a view to exchanging any relevant information which they so obtain. The existing differences in statutes of limitations of jurisdictions are a major practical consideration in the selection of cases. Such examinations are particularly useful in the area of transfer pricing and in identifying tax evasion schemes involving low tax jurisdictions.
- **Tax examination abroad:** Travel to a foreign jurisdiction for purposes of gathering information for a particular case may be useful in certain circumstances. However, this visit has to be authorised by the foreign jurisdiction (and be permitted by the laws of the sending jurisdiction), otherwise it would represent a breach of sovereignty. Thus, the decisions on whether or not to authorise such visits, and if so, whether

the presence of foreign tax officials should require the consent of the taxpayer (as well as any other terms and conditions for such visits) fall within the sole discretion of individual jurisdictions. The tax officials must be authorised representatives of the CAs. This presence abroad may occur in different instances. It may be at the request of the jurisdiction seeking information if it is felt it will facilitate the understanding of the request and the gathering of information. It may be at the initiative of the requested CA to reduce the cost and burden of gathering information. In a number of jurisdictions, authorised representatives of the CAs of the other jurisdiction may participate in a tax examination and this is often of great value to ascertain a clear picture of business and other relations a resident of a country may have with his foreign associates.

- **Industry-wide EOI:** An industry-wide exchange of information does not concern a specific taxpayer but an economic sector as a whole, for instance, the pharmaceutical industry or the oil industry. An industry-wide exchange involves representatives of the partner jurisdictions meeting to discuss the way in which a particular economic sector operates, the financing schemes, the way prices are determined, the tax evasion trends identified, etc.

its commentary, as updated in 2012 and in Article 26 of the United Nations Model Double Taxation Convention between Developed and Developing Countries. The AEOI standard is reflected in the Common Reporting Standard (CRS)<sup>7</sup> developed in response to the G20 request and approved by the OECD Council on 15 July 2014.

### A competent authority and an EOI unit

The CAs are the government officials charged by the applicable EOI agreement with the responsibility of handling the EOI matters for tax purposes. They are generally the ministers in charge of finance or their duly authorised representatives, which, depending on

the specific organisation of each jurisdictions, may be the officials of the ministry of finance or the tax administration. In some instances, the CA notified by a jurisdiction is the head of the tax administration (Commissioner General / Commissioner / Director General) and his authorised representatives.<sup>8</sup> The role of the CAs is central in the operation of EOI, as they are the only officials empowered to send, receive and respond to EOI requests from and to foreign jurisdictions.

However, the day-to-day EOI functions are usually carried out by an EOI unit, the size and the competence of which vary from one jurisdiction to another. The EOI

7. The AEOI standard is available at [www.oecd.org/tax/exchange-of-tax-information/standard-for-automatic-exchange-of-financial-account-information-in-tax-matters-second-edition-9789264267992-en.htm](http://www.oecd.org/tax/exchange-of-tax-information/standard-for-automatic-exchange-of-financial-account-information-in-tax-matters-second-edition-9789264267992-en.htm).

8. For instance, the CAs designated by the jurisdictions participating to the Convention on Mutual Administrative Assistance in Tax Matters are available at [www.coe.int/en/web/conventions/search-on-treaties/-/conventions/treaty/127/declarations](http://www.coe.int/en/web/conventions/search-on-treaties/-/conventions/treaty/127/declarations).

### Box 3. The standard of foreseeable relevance

#### Principle

The standard of foreseeable relevance is at the core of all forms of EOI. The CAs of the supplying and receiving jurisdictions shall exchange such information as is foreseeably relevant to secure the correct application of the provisions of the international agreement between them or of their domestic laws. This standard is intended to provide for EOI in tax matters to the widest possible extent and, at the same time, to clarify that jurisdictions are not at liberty to engage in “fishing expeditions” or to request information that is unlikely to be relevant to the tax affairs of a given taxpayer.

#### In the context of EOI upon request

All foreseeably relevant information must be provided, including bank information and information held by fiduciaries, regardless of the existence of a domestic tax interest or the application of a dual criminality principle.

The standard requires that at the time a request is made there is a reasonable possibility that the requested information will be relevant; whether the information, once provided, actually proves to be relevant is immaterial. A request may therefore not be declined in cases where a definite assessment of the pertinence of

the information to an ongoing investigation can only be made following the receipt of the information.

The CAs should consult in situations in which the foreseeable relevance of requested information are not clear to the requested jurisdiction.

However, the requested jurisdiction is not obligated to provide information in response to requests that are “fishing expeditions”, i.e. speculative requests that have no apparent nexus to an open inquiry or investigation.

The 2012 revision to Article 26 of the OECD Model Tax Convention on Income and on Capital further developed the interpretation of the standard of “foreseeable relevance”, notably spelling out the circumstances in which “group requests” meet the standard of “foreseeable relevance” and when they do not, and adding new examples regarding foreseeable relevance. The group requests are EOI requests in relation to a group of taxpayers not individually identified but having common features and behaviours suspected of non-compliance with the requesting jurisdictions’ tax laws.

Source: Paragraphs 5, 5.1, 5.2 and 5.3 of the commentary to Article 26 of the OECD model of Tax Convention on Income and on Capital.

unit is usually headed by the CA. As such, its position is unique acting as a bridge between the domestic functions of the tax administration and the foreign tax administrations. The EOI unit is an essential structure to ensure the effectiveness of EOI. For this purpose, jurisdictions should have appropriate organisational processes and resources in place to ensure quality and timeliness of the exchanges.

The EOI unit is always in charge of handling EOIR and SEOI. Depending on the jurisdictions, the EOI unit may also handle the other forms of EOI in which the jurisdiction is engaged. For instance, jurisdictions may consider assigning to the EOI unit the role of receiving, processing and sending the AEOI data.

The rest of this toolkit is focused on the establishment and the management of an effective EOI function.

Further information on EOI concepts and the requirements of the international standards can be found in the useful resources provided in annex F. This includes the OECD Manual on the Implementation of Exchange of Information Provisions for Tax Purposes, the Global Forum EOI Working Manual, the ATAF Practical Guide on EOI for Developing Countries, the Global Forum EOIR Handbook for Peer Reviews and the Standard for Automatic Exchange of Financial Account Information in Tax Matters.



# 1. Establishing the exchange of information function

The EOI unit is a key component of an effective EOI system, as it carries out the EOI function in a jurisdiction. Establishing an effective EOI unit requires some building blocks to be in place: (i) the mission of the EOI unit should be clarified; (ii) a decision should also be taken as to whether to position the EOI unit in the ministry of finance or in the tax administration; and finally, (iii) adequate resources should be allocated to the EOI unit to enable it to achieve its mission in an effective way.

## MISSION OF THE EXCHANGE OF INFORMATION UNIT

The main role of the EOI unit is to ensure an effective EOI with treaty partners. Its functions can be divided into two categories: the core functions and the additional functions.

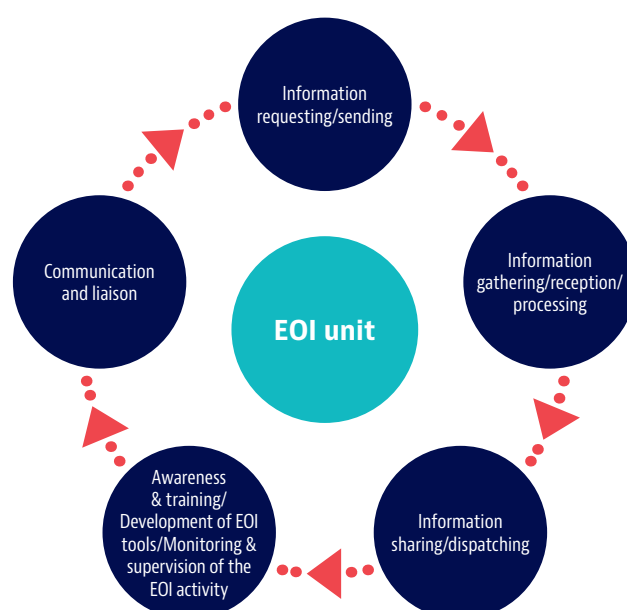
### The core functions of the exchange of information unit

The EOI unit usually assumes operational, policy and communication functions.

#### Operational function

The EOI unit primarily plays an operational role. EOI is always undertaken between CAs and processed through the EOI unit. The EOI unit therefore takes care of the

FIGURE 4. The EOI circle: Simplified description of the operational activities of the EOI unit



## Establishing the exchange of information function

liaison and communications both domestically (with the domestic tax offices) and internationally (with the requesting and requested jurisdictions).

Figure 4 summarises the different activities of the EOI unit at the operational level, covering the main forms of EOI which are EOIR, SEOI and AEOI.

The functions of the EOI unit vary according to the forms of EOI covered by its activities.

### Spontaneous and on request exchanges

Traditionally, the EOI unit is tasked to handle EOIR and SEOI. As such, its activities are:

- the reception of requests from treaty partners (i.e. foreign CAs) or from the other functions of the tax administration (e.g. audits, investigations);
- the processing of requests;
- the information gathering (directly or through other offices);
- the validation of requests initiated by other functions and preparation of responses;
- the sending of responses or outgoing requests to treaty partners;
- the reception of information from the treaty partners and dispatching of the same to other functions of the tax administration;
- the monitoring of the EOI activities, including the generation of statistics (see Monitoring the EOI unit's activities).

Figure 5 and Figure 6 illustrate the function of the EOI unit where requests are made to foreign partners (outbound requests) and requests are received from foreign partners (inbound requests).

Over the world, many jurisdictions are automatically exchanging information for tax purposes based on bilateral or regional agreements. AEOI has recently emerged as a global EOI standard. Over 100 jurisdictions are effectively exchanging information on an automated manner, either under the CRS or the Country-by-Country Reporting (CbCR) standards.

AEOI has therefore become another essential component of the EOI activities, which needs to be taken into account when establishing an EOI unit. This should be the case even if the jurisdiction is not yet exchanging AEOI data, as it is likely to happen at a certain point. In some jurisdictions, the functions of the EOI unit have been expanded to cover AEOI. This includes the reception of AEOI data from domestic suppliers (e.g. financial institutions or multinational enterprises located in the jurisdiction) and/or from AEOI exchange partners (foreign jurisdictions), the processing of the AEOI data and the sending of the AEOI data to treaty partners, and the use or dispatching of the AEOI data for use by relevant departments of the tax administration.

### Other forms of exchanges

The implementation of simultaneous examinations, tax examinations abroad and industry-wide EOI directly involves other functions of the tax administration such as audit and investigation. However, the EOI unit plays an important role in those processes. The EOI unit ensures that these forms of EOI are covered by legal instruments that are in force in respect of the jurisdiction, establishes the preliminary contact, facilitates the work with the foreign CAs, conducts the actual exchanges of information in accordance with the applicable rules and concludes the process of co-operation on the relevant case.

### Policy function

At a policy level, the EOI unit also has some responsibilities. Either it takes care of the policy work in relation to EOI or it supports the policy functions undertaken by another office, generally part of the tax policy department in the ministry of finance. The policy work in EOI includes the following:

- Negotiation, signing and ratification processes of the EOI agreements (Article 26 of DTCs, TIEAs, regional or multilateral EOI instruments), as well as drafting guidance on the interpretation of such agreements;
- Drafting, passing and explaining legislations and regulations in relation to EOI (e.g. information gathering powers and ensuring availability of information under domestic legislations for tax or commercial/banking law);

## Establishing the exchange of information function

- Drafting and signing of memoranda of understanding(s) (MoUs) between the ministry of finance/tax administration and other government institutions or third parties maintaining relevant information.

### Communication function

The EOI unit ensures the dissemination of the knowledge

on EOI within the organisation and coordinates liaison with various stakeholders in the jurisdiction.

Understanding the EOI principles and procedures is critical for its utilisation in the processes of the tax administration. The EOI unit is critical to enable the other functions to better use EOI and help disseminate a culture of EOI within the whole organisation. It is the responsibility of the EOI unit to:

FIGURE 5. **Processing outbound requests**

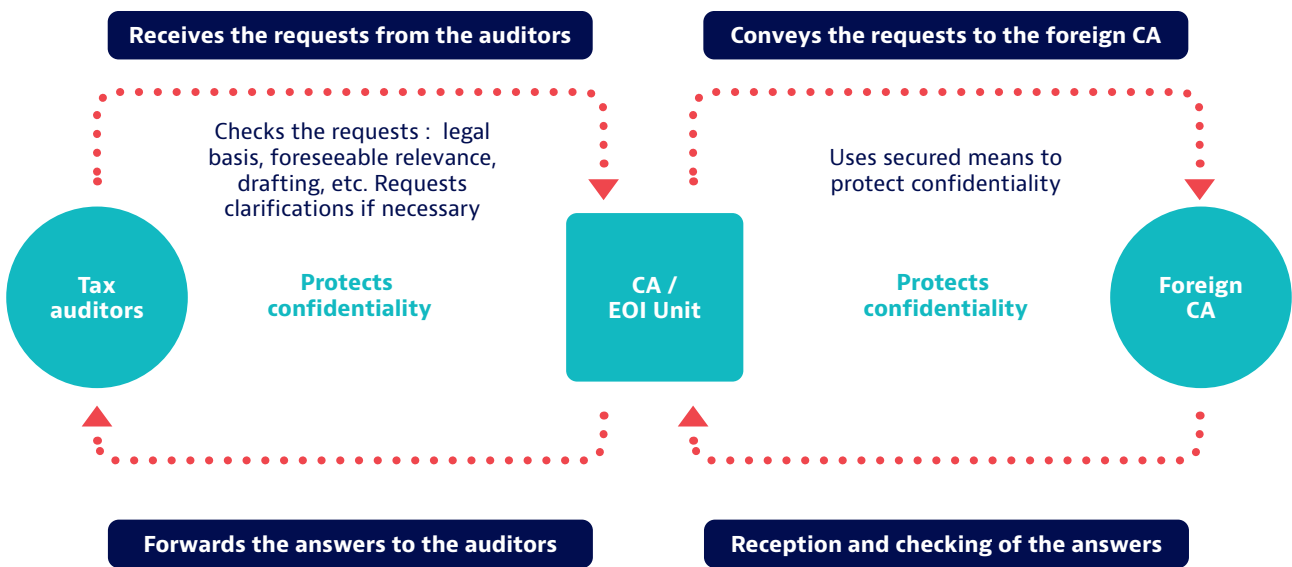
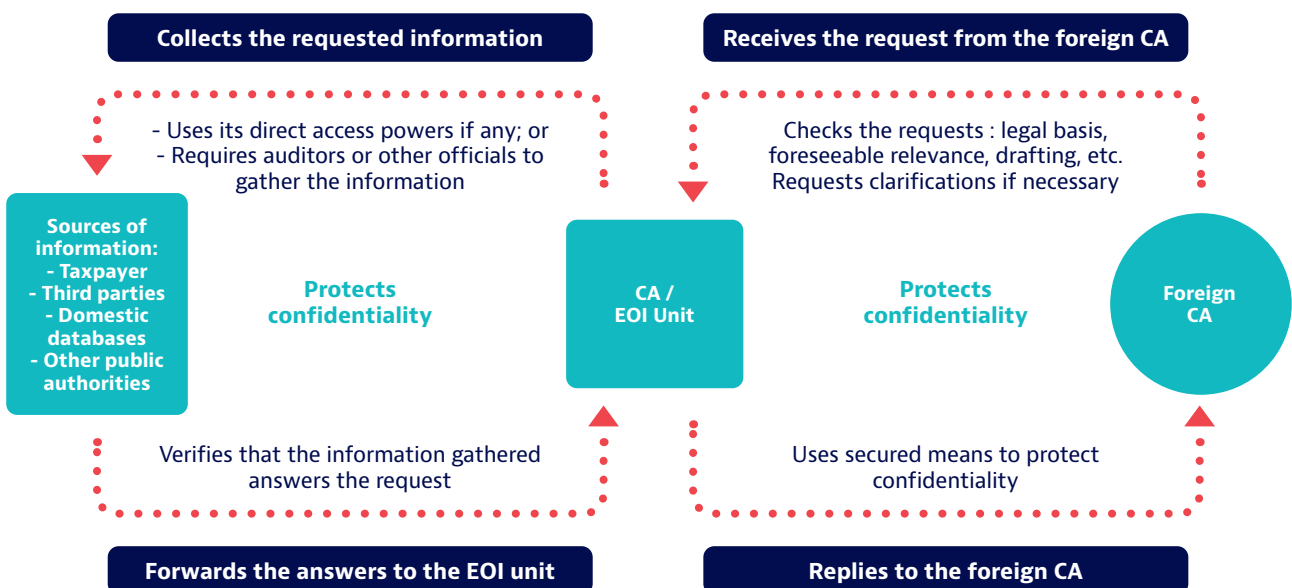


FIGURE 6. **Processing inbound requests**



## Establishing the exchange of information function

- deliver appropriate trainings to other officials of the tax administration in EOI. EOI trainings should be regularly delivered to tax auditors and investigators, and other relevant tax officials (tax assessment and recovery functions);
- facilitate the work of those officials by providing them with guides, forms and other tools to enable the use of the EOI instruments; and
- collect information on the impact of the use of EOI.

With regard to the liaison with domestic stakeholders (other government agencies or authorities, representative bodies for relevant professions, etc.), the EOI unit is in charge of:

- Ensuring the communication and organising engagements with stakeholders on the EOI agenda;
- Raising awareness on the requirements of the EOI standards and the role of each stakeholder;
- Putting in place collaboration frameworks with stakeholders.

### The additional functions of the exchange of information unit

#### **Participation in the transparency and exchange of information work globally**

The EOI unit usually coordinates or supports the involvement of the jurisdiction in various areas of the tax transparency work, especially where it is a member of the Global Forum and/or any regional tax organisations, such as ATAF. It includes for instance:

- The collaboration with the Global Forum Secretariat as the central point of contact for Global Forum matters;

9. The Punta del Este Declaration Initiative is a similar programme to the Africa Initiative for Latin America countries. Further information on the Punta del Este Declaration Initiative is available at [www.oecd.org/tax/transparency/what-we-do/technical-assistance/punta-del-este-declaration.htm](http://www.oecd.org/tax/transparency/what-we-do/technical-assistance/punta-del-este-declaration.htm).

10. Further information on TIWB can be found at [www.tiwb.org/](http://www.tiwb.org/).

11. Further information on JITSIC can be found at [www.oecd.org/tax/forum-on-tax-administration/jitsic/](http://www.oecd.org/tax/forum-on-tax-administration/jitsic/).

#### Box 4. Capacity building opportunities in EOI

The Global Forum and other partners have developed comprehensive capacity building programmes to support countries in EOI, including trainings for EOI officials and tax auditors on the effective use of EOI instruments.

For instance, technical support and training are available to Global Forum and ATAF members in implementing the international standards. This includes tailored assistance to meet the specific needs of a jurisdiction, peer-to-peer learning between members, regional and national trainings. The capacity building programmes cover a wide range of topics on EOI including auditors' sensitisation, assistance in building effective EOI systems and training on the international standards.

Regional or international CA meetings such as the Global Forum and ATAF CA meetings are also useful platforms for peer learning, experience sharing and bilateral discussion with EOI partners on specific cases.

Regional EOI programmes offer another opportunity for capacity building and experience sharing within the same region. For example, the Africa Initiative and the Punta del Este Declaration Initiative<sup>9</sup> which are aimed at promoting EOI in Africa and Latin America respectively by ensuring that African and Latin American countries are politically and technically supported to make use of the international tax transparency standards in the fight against tax evasion and other illicit financial flows;

There are several other initiatives and programmes which can enhance a jurisdiction's ability to use EOI in its domestic resource mobilisation efforts. For example:

- Tax Inspectors without Borders (TIWB)<sup>10</sup>, a joint initiative by the United Nations Development Programme and the OECD, enables sharing of knowledge and skills on tax audits with developing countries' tax administrations through a targeted, real time "learning by doing" approach.
- The OECD's Forum on Tax Administration Joint International Taskforce on Shared Intelligence and Collaboration (JITSIC)<sup>11</sup> also brings together members of the national tax administrations to develop joint projects, including those related to EOI.



- The contribution to the Global Forum peer reviews: by providing peer inputs on the experience with EOI partners, providing answers to the questionnaire for the assessed jurisdiction, providing expert assessors, participating in the Peer Review Group meetings and reviewing and approving peer review reports;
- The submission of annual follow-up reports to the Global Forum on the level of implementation of the recommendations of previous peer reviews;
- The contribution to the governance, policy and technical work of the Global Forum, by attending and participating in plenary meetings and other governance and technical bodies;
- The co-operation and experience sharing with peers at both regional and global levels, including by attending international meetings such as the annual CAs conference of the Global Forum, or regional meetings such as the ATAF CAs meetings and the Africa Initiative<sup>12</sup> meetings.

The global tax transparency and EOI landscape offers capacity building opportunities to countries to enhance their EOI operations. Box 4 highlights some of these opportunities.

### Other functions

In some small jurisdictions with limited resources, including limited human resources, the same office may manage the EOI function and other functions, such as other international tax matters functions (e.g. DTC negotiation) or information gathering function for domestic purposes. However, irrespective of the organisational choices made, each jurisdiction should ensure that adequate resources are allocated to the EOI unit to enable it to carry out its missions in an effective manner.

Box 5 and Table 1 illustrate of the functions performed by the EOI unit in selected jurisdictions.

12. The Africa Initiative is the Global Forum's regional capacity building programme focused on Africa. It was created in 2014 by the Global Forum, its African members and key partners such as ATAF to unlock the potential of tax transparency and EOI for Africa by ensuring that African countries are equipped to exploit the improvements in global transparency to better tackle tax evasion. More information on the Africa Initiative is available at [www.oecd.org/tax/transparency/what-we-do/technical-assistance/africa-initiative.htm](http://www.oecd.org/tax/transparency/what-we-do/technical-assistance/africa-initiative.htm).

### Box 5. Examples of EOI units competent for EOIR, SEOI and AEOI:

#### Cayman Islands



Pursuant to section 4 of the Tax Information Authority Law, the Minister of Financial Services is the Cayman Islands Tax Information Authority (i.e. the CA) who delegates all functions of the CA to the Director of the Department for International Tax Cooperation (DITC). The mission of the DITC is to carry out the lawful and effective implementation of all of Cayman's international co-operation arrangements in tax matters, and perform all the functions of the CA. This covers all forms of international tax co-operation, including EOIR, AEOI, and spontaneous exchanges.

#### Australia



In Australia, the EOI unit is under the International relations section, part of the International and Large Business Directorate. The EOI unit team is responsible for:

- Administering Australia's CA arrangements;
- Managing the workflow of on request, spontaneous and automatic EOI;
- Co-ordinating the Australian Tax Administration (Australian Tax Office – ATO)'s overall participation in the international EOI environment;
- Negotiating TIEAs with other countries; and
- Managing participation in the Global Forum's Peer Review process.

Source: Cayman Islands' EOIR peer review report, 2017 (second round) available at [www.oecd-ilibrary.org/taxation/global-forum-on-transparency-and-exchange-of-information-for-tax-purposes-cayman-islands-2017-second-round\\_9789264280168-en](http://www.oecd-ilibrary.org/taxation/global-forum-on-transparency-and-exchange-of-information-for-tax-purposes-cayman-islands-2017-second-round_9789264280168-en) and the Cayman Islands Department for International Tax Cooperation website: [www.ditc.ky](http://www.ditc.ky).

Australia's EOIR peer review report, 2017 (second round) available at: [www.oecd-ilibrary.org/taxation/global-forum-on-transparency-and-exchange-of-information-for-tax-purposes-australia-2017-second-round\\_9789264280069-en](http://www.oecd-ilibrary.org/taxation/global-forum-on-transparency-and-exchange-of-information-for-tax-purposes-australia-2017-second-round_9789264280069-en).

## Establishing the exchange of information function

Table 1. **Functions of the EOI unit in selected jurisdictions**

Jurisdiction	Delegated CA/EOI unit	Function of the EOI unit				
		EOIR	SEOI	AEOI	Other forms of EOI	Other functions
Australia	EOI unit, International Relations Section, International and Large Business Directorate, Australia Tax Office	Yes	Yes	Yes	Yes	Other functions
Cayman Islands	Director of the Department for International Tax Cooperation	Yes	Yes	Yes	Yes	Negotiation of TIEAs and CAAs
Chile	Department of Selective Analysis for Tax Compliance, Internal Revenue Service	Yes	Yes	Yes	-	Country-by-country reporting (CbCR), Foreign Account Tax Compliance Act (FATCA)
China (People's Republic of)	Global Co-operation and Compliance Division, International Tax Department, State Taxation Administration	Yes	Yes	Yes	-	-
France	Office of International Affairs	Yes	Yes	No	Yes	-
Gibraltar	Director Finance Centre and Commissioner Income Tax	Yes	Yes	Yes	Yes	JITSIC, AEOI on tax arrangements (MDR), International co-operation for VAT
Greece	Directorate of International Economic Relations, Independent Authority for Public Revenue	Yes	Yes	Yes	-	Negotiating new EOI instruments and amendments to old ones, FATCA, BEPS (including CbCR)
India	EOI unit, Central Board of Direct Taxes	Yes	Yes	Yes	Yes	-
Korea	Offshore Compliance Division, National Tax Service	Yes	Yes	Yes	Yes	Negotiating CAAs, new EOI instruments and amendments to old ones
Liberia	EOI unit, Department for Domestic Tax, Liberia Revenue Authority	Yes	Yes	Yes	Yes	-
Malta	Director General (Legal and International), Commissioner for Revenues	Yes	Yes	Yes	Yes	Negotiating new EOI instruments and amendments to old ones, with other departments
Papua New Guinea	EOI unit, Case Selection and Intelligence Division	Yes	-	Yes	-	Negotiating new EOI instruments and amendments to old ones
Peru	Office of Mutual Administrative Assistance in Tax Matters	Yes	Yes	Yes	-	-
Singapore	EOI Branch, International Tax and Relations	Yes	Yes	Yes	-	-
Switzerland	Service for EOI in Tax Matters, Federal Tax Administration	Yes	No	No	-	-
Tunisia	Unit for International EOI, Cross-checking, International EOI, Programming and Risk Management Unit	Yes	Yes	Yes	-	The EOIR function includes the notification process
United Arab Emirates	Exchange of Tax Information Unit, International Financial Relation Department, Ministry of Finance	Yes	Yes	Yes	-	-
United Kingdom	Customer Compliance Directorate (Risk and Intelligence Service Group), Her Majesty's Revenue and Customs	Yes	Yes	No	-	-
Uruguay	International Taxation Department (ITD), Large Taxpayers Division	Yes	Yes	Yes	-	-

Note: In some jurisdictions, not all forms of EOI are currently in place, but they are included in the missions of the EOI unit.

Source: EOIR peer review reports and other publicly available information. EOIR peer review reports are available at: [www.oecd-ilibrary.org/taxation/global-forum-on-transparency-and-exchange-of-information-for-tax-purposes-peer-reviews\\_2219469x](http://www.oecd-ilibrary.org/taxation/global-forum-on-transparency-and-exchange-of-information-for-tax-purposes-peer-reviews_2219469x).

### POSITIONING THE EXCHANGE OF INFORMATION UNIT

The existence of an effective and efficient EOI unit greatly influences the ability of a jurisdiction to effectively exchange information with its treaty partners. A jurisdiction without a fully-fledged EOI unit is likely to struggle to honour its obligations under the relevant international agreements, whereas jurisdictions with formalised business processes are more often than not able to meet their obligations.

Any jurisdiction, which enters into an international agreement which provides for EOI with another or other jurisdictions is required to exchange information. Such a jurisdiction therefore cannot use the lack of resources as a reason for not exchanging information, rather, it is its responsibility to establish effective processes and systems that allow for effective EOI.

In order to establish a sustainable EOI unit, a jurisdiction may among others think through aspects such as who the CA for EOI is; what existing organisational structures for EOI are in place; the business process requirements for the establishment of the EOI unit; and the relevant resource requirements suitable for an effective EOI unit. All these factors play a crucial role in where the EOI Unit should be placed within the organisation.

#### Where to position the EOI unit: Ministry of finance or tax administration?

The positioning of the EOI unit is a strategic decision as it may have a significant impact on the ability of a jurisdiction to effectively respond to information requests of its EOI partners but also to request information from them. The positioning of the unit depends on different factors such as which authority is the CA, whether the CA function has been delegated to another authority, the size of the jurisdiction, its administrative organisation and tax system.

Although there is no “one size fits all” approach for placing the EOI unit, there are two main models used by the jurisdictions. In general, the EOI unit is placed in the ministry of finance (model 1) or in the tax administration (model 2). Both models can ensure an effective EOI in practice provided that some critical factors and their impact on the EOI requirements are considered. Wherever the EOI unit is placed, what should

determine the decision in favour of one model or the other is the effectiveness of the EOI in practice. Although the following section will present the two models, the rest of this toolkit will focus on the second model as the EOI unit is in most of the cases located within the tax administration. However, most of the comments made with respect to the model 2 are relevant, *mutatis mutandis*, for the model 1.

#### Model 1: The EOI unit is placed within the ministry of finance

The decision to place the EOI unit within the ministry of finance can be driven by different factors, such as:

- the size of the jurisdiction: in small jurisdictions, the tax function is not always carried out by a full-fledged tax administration but rather by a department or office within the ministry of finance;
- the tax system and the functions of the tax administration: in low tax jurisdictions and many international financial centres, the tax function is more focused on indirect taxes than direct taxes. In some other jurisdictions, international tax related issues are handled at the ministry of finance level.

Positioning the EOI unit within the ministry of finance may be efficient. In low tax jurisdictions and many international financial centres, this placing may facilitate the centralisation of the EOI operations and ensure effectiveness as the EOI unit activities are not necessarily connected to the activities of the tax administration (e.g. indirect taxation or domestic taxation only). In jurisdictions where the tax administration is responsible for carrying out tax related activities, the positioning of the CA function in the ministry of finance can also lead to an effective EOI system provided that some factors are carefully considered.

In any case, the efficiency of the EOI unit and the effectiveness of EOI usually requires that the following factors are fully considered and in place:

- The ministry of finance should understand the importance of EOI and give it a priority;
- There are knowledgeable staff and appropriate resources in the EOI unit. The EOI unit should also be clearly identified in the organigram of the

## Establishing the exchange of information function

ministry of finance and its functions and roles should be clearly stated;

- The EOI unit should have effective access powers allowing it to gather requested information whether directly or indirectly.
- A good collaboration framework and communication should exist between the EOI unit and the tax administration (if any), including on the level of priority of the EOI activity for the tax administration;
- The EOI unit should also fulfil its other functions. In particular the EOI unit should facilitate the effective use of the EOI instruments. Providing useful services to the tax administration, the EOI unit should benefit from a better level of communication and co-operation.
- There are sustainable and documented EOI processes in place in the EOI unit. They should encompass the processes between the EOI unit and the tax administration (if any), where the EOI unit relies partly or fully on the tax administration for the collection of the requested information. They should be implemented in the tax administration. To that end, a documented standard operating procedure should set out the process flow, the accountable and responsible roles and agreed performance measures

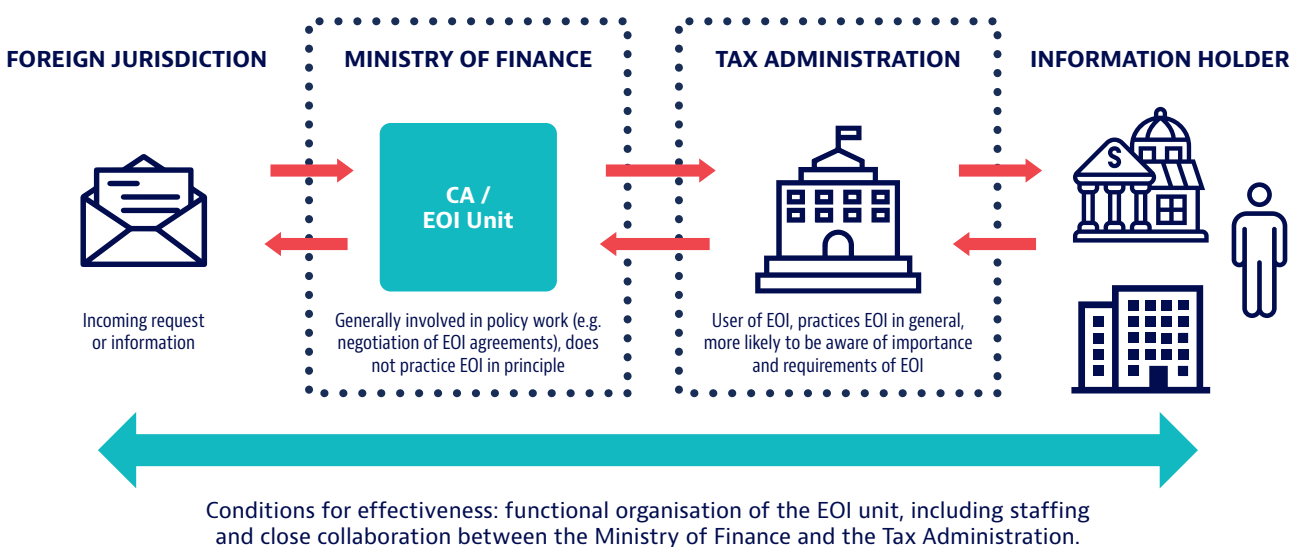
should be in place.

- Confidentiality of information is preserved throughout the process of exchange (including where the tax administration is in charge of collecting information).

The absence of the above factors can lead to ineffective EOI. The EOIR peer reviews conducted by the Global Forum showed cases where EOI requests received by an EOI unit within the ministry of finance were not treated because the EOI process was based on an ad hoc basis, the EOI unit was not appropriately staffed or the EOI unit was lacking of access powers. One of the main risks identified when the access powers sit with the tax administration is the priority the latter gives to EOI. For instance it may happen that the ministry of finance receives an EOI request from another jurisdiction, but may not act on the request because it may not clearly identify the process for gathering the requested information. It may also act on the request but the level of co-operation with tax administration results in delays in the collection. As a result of those inefficiencies, the exchange does not reach its logical conclusion and leaves the requested state frustrated due to a non-response or a late response.

Figure 7 provides an example of effective co-operation between the EOI unit established in the ministry of finance and the tax administration.

FIGURE 7. **EOI unit placed within the ministry of finance**





### Model 2: The EOI unit is placed within the tax administration

The decision to place the EOI unit within the tax administration can be driven by different considerations such as the size of the jurisdiction, the tax system and the functions of the tax administration.

In particular, the existence of a full-fledged tax administration with competencies in international taxation may facilitate the performance of all the EOI unit functions in an efficient manner. Indeed, EOI is relevant for effective implementation of tax laws throughout a taxpayer's life span. As a result of this, the tax administration is more likely to understand its importance and requirements than other government administrations. The role of the EOI unit entails, among others, the receipt, interpretation, collection, validation and exchanging of information that will be used for tax purposes in line with the international agreement. Moreover, the EOI information is destined to a foreign jurisdiction's tax administration. It is therefore easier for the tax administration to deal with EOI requests as it understands its rationale and mechanisms, in particular the foreseeable relevance requirement. Where the EOI unit sits in the ministry of finance it will eventually have to contact or liaise with the tax administration to collect the requested information. For instance, where it is needed to establish information on whether a person (natural or legal) is tax resident or to verify taxpayer

information, such as tax returns or financial statements, which is available with the tax administration.

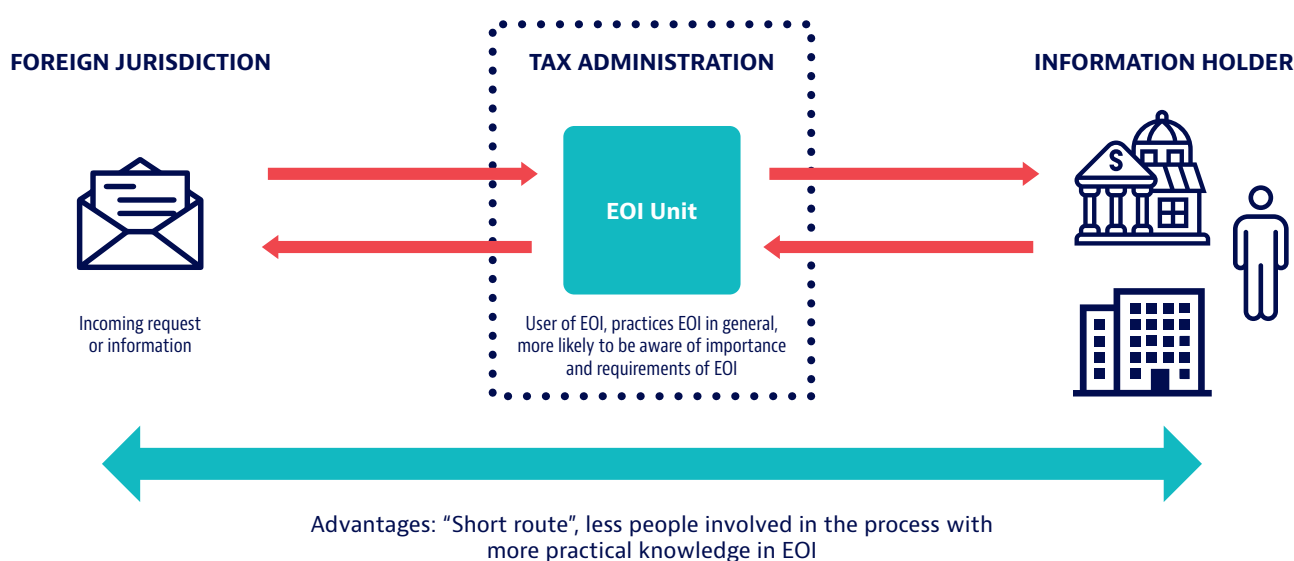
Placing the EOI unit in the tax administration usually implies that the CA function has been delegated by the minister of finance to the head of the tax administration or that the head of the tax administration is designated as primary CA in the international agreement (see Delegation of Competent Authority Status). Such a delegation usually ensures efficiency such as reducing the turnaround time for managing requests and enhancing confidentiality.

The EOIR peer reviews conducted by the Global Forum showed that an EOI unit within the tax administration is usually best suited both in capacity and capability so as to effectively manage the end-to-end EOI process. In fact, this model is used by the majority of the jurisdictions peer reviewed by the Global Forum. Figure 8 illustrates an EOI unit in the tax administration.

However, within the tax administration, attention should also be paid to the positioning of the EOI unit (see Structure of the EOI unit). Wherever the unit is placed, some factors should be considered:

- Appropriate resources and knowledgeable staff should be appointed in the EOI unit. The EOI unit should also be clearly identified in the organigram of the tax administration and its functions and roles should be clearly stated.

FIGURE 8. EOI unit placed within the tax administration



## Establishing the exchange of information function

- The EOI unit should have effective access powers allowing it to gather requested information whether directly or indirectly.
- A good collaboration framework and communication should exist between the EOI unit and the other functions of the tax administration, including on the level of priority of the EOI activity for the tax administration;
- The EOI unit should also fulfil its other functions. In particular the EOI unit should facilitate the effective use of the EOI instruments. Providing useful services to the tax administration, the EOI unit should benefit from a better level of communication and co-operation.
- There are sustainable and documented EOI processes in place in the EOI unit. They should encompass the processes between the EOI unit and the other functions of the tax administration. To that end, a documented standard operating procedure should set out the process flow, the accountable and responsible roles and agreed performance measures should be in place.
- Confidentiality of information is preserved throughout the process of exchange (including where other functions of the tax administration is in charge of collecting information).

### Delegation of competent authority status

EOI requests are addressed to the CA who is responsible to exchange information as required by the international agreement and is mandated to set up high standards of international co-operation in tax matters. However, where the primary CA (i.e. the CA authority designated in an international agreement) is the minister of finance or the head of the tax administration, a delegation of the CA function to one or more operational persons should be considered. The same should be considered where the minister of finance delegates the EOI function to the head of the tax administration. Indeed, EOI requests must be dealt with efficiently and effectively. Practically, both the minister of finance and the head of the tax administration (as primary or delegated CA) will face challenges in managing the EOI process, whether on a full time basis or on a part time basis. The added responsibility of managing practical EOI may just exacerbate inefficiencies in the EOI process.

This is because the minister of finance and the head of the tax administration deal with strategic matters and hence may not be in position to handle the technical and practical aspects involved in analysing requests, collecting information and monitoring the EOI process. This is corroborated by the Global Forum's peer reviews which found for instance that in jurisdictions where the ministry of finance holds the CA function without delegation, the EOI process generally does not function in an effective manner.

Therefore, whether the CA is the minister of finance or the head of the tax administration, it is vital that they appoint a more operational Delegated CA who is practically involved with day to day information exchange.

A delegation of powers is a legal act by which an authority (the delegator) divests itself of a fraction of the powers conferred on it and transfers them to a subordinate authority (the delegated authority). The delegated authority then assumes the obligations and responsibilities associated with the powers delegated to it.

Delegation legally provided is subject to very precise conditions. In the first place, the right to exercise delegation cannot be presumed. The delegation must therefore be clearly stipulated in writing. For instance, the minister of finance can issue a decision to delegate the CA function to the head of the tax administration and then the head of the tax administration could delegate the CA function to one or more operational persons (see Figure 6).

However, the constitutional or administrative law of some jurisdictions may not allow for the delegation of a delegated power (sub-delegation). Where such legal framework exists, the CA (as defined) can delegate its status to more than one person or function (including a predetermined number of authorised signatories for EOI purposes). For instance, where the minister of finance is the primary CA, a delegation could be made not only to the head of the tax administration but also to another delegated authority (ies) (e.g. the head of the EOI unit).

The Delegated CA on EOI takes accountability and responsibility for the EOI process. Where written delegation has been done, the EOI requests are then addressed to the Delegated CA who should ensure timely and diligent management of the EOI process.

## Establishing the exchange of information function

Table 2. **EOI elements explained in organisational structure examples**

	Functional structure	Divisional structure	Matrix structure	Process structure
<b>Tax administration elements in terms of structure</b>	<p>Organisation based on the functions, e.g.:</p> <ul style="list-style-type: none"> <li>● Taxpayer service</li> <li>● Taxpayer registration</li> <li>● Compliance processes</li> <li>● Enforcement processes</li> <li>● Support processes e.g. legal; human resources; finance</li> </ul>	<p>Segmentation according to homogenous elements e.g.:</p> <ul style="list-style-type: none"> <li>● Small medium taxpayers;</li> <li>● Large Taxpayers;</li> <li>● International Taxation;</li> <li>● Customs Division;</li> <li>● Legal Division</li> </ul>	<p>Hybrid of functional and divisional approaches) e.g.:</p> <ul style="list-style-type: none"> <li>● Large taxpayer division responsible for taxpayer services, registration, compliance and enforcement actions and legal</li> </ul>	<p>Structured according to three to five key processes that define the work of the organisation e.g.:</p> <ul style="list-style-type: none"> <li>● Policy and legislation;</li> <li>● Registration and return processing;</li> <li>● Audit and investigations</li> <li>● Collection;</li> <li>● Appeals;</li> </ul>
<b>Risks of placing EOI in a main structure</b>	<p>If EOI function is placed in one specific function (e.g. Enforcement), the risk lies in reducing co-operation and communication with other functions</p>	<p>If EOI function is placed in a specialised office (e.g. Large Taxpayer Division), the risk lies in using EOI only for the Large Taxpayer Department operations as opposed to other departments</p>	<p>The structure requires a mature organisation and can be difficult to introduce without a supportive management climate. EOI function could report to two different managers</p>	<p>The EOI function can be ineffective if placed in the process where the use of EOI is less frequent (e.g. registration and return processing) as opposed to other processes such as audit and investigations</p>

### Structure of the EOI unit

Within a tax administration, the placement of an EOI unit is affected by its organisational structure. Many modern tax administrations are often times organised along functional lines. The understanding by each tax administration of its organisational structure is critical and must be complemented by gaining an understanding of the purpose of EOI – and only then can the tax administration make an informed decision where the function should be placed within its organisational structure. Most critical though, is that the CA role should be properly functioning and have clear synergies throughout all the tax administration's functions that require information in line with the standard. Therefore EOI as a support and job function, and management of the confidentiality of information will guide the decision on where EOI should be housed within the tax administration.

### Exchange of information as a support function

Organisation structure describes how the overall work of the organisation is divided into subunits and how these subunits are coordinated to complete given tasks. There are different types of organisational structures that exist and tax administrations normally have one of four typical organisational structures:

- **Functional structure:** In the functional structure, the organisation adopts a structure according to the functions it performs, including support functions.
- **Divisional structure:** In the divisional structure, the organisation groups its activities based on products, services or geographic arrangement. The resources to achieve the objective of the structure or execute the functions are set up as a division.

## Establishing the exchange of information function

- **Matrix structure:** The matrix structure is a hybrid of the functional structure and divisional structure. The lateral structure of a divisional structure is superimposed on a vertical functional structure to achieve the Matrix Structure.
- **Process structure:** With the process structure, the organisational structure is designed around the core business processes of an organisation – therefore all functions necessary to produce an outcome are placed in a common unit and managed by a process owner.

A tax administration should understand the purpose of EOI as it makes the critical decision about where to place the EOI function. The purpose of EOI is *inter alia*:

- To ascertain the facts in relation to which the rules of a DTC are to be applied; and
- To assist one of the contracting parties in administering or enforcing its domestic tax law.

Therefore, EOI is a support function to the whole tax administration and does not serve the purpose of any one particular function in the tax administration. Any interpretation of EOI other than a support function can lead to lack of co-operation and communication within a tax administration (see Table 2).

EOI supports the tax administration in administering and enforcing the tax law. This includes various processes and functions such as compliance, audit and investigations, collection, enforcement and appeals. EOI does not belong solely to a specific process or function. Hence, the structure of the tax administration should guide where the EOI function should be best placed, taking into account two other critical factors: the management of confidentiality and the job function.

### **Confidentiality of information as a determining factor to consider when organising the EOI function**

A jurisdiction shall treat information exchanged under an international agreement as secret or confidential, in the same manner as information collected under its domestic laws. The use of exchanged information must be governed according to the principles of the international agreement. One of the biggest concerns in an EOI unit is therefore to ensure information remains confidential, is used for the purposes intended and is

disclosed only to authorised persons as provided for in the international agreement.

This requires that the span of access to information exchanged is strictly limited. The EOI function must control the access to information exchanged and must keep track of the distribution of such information. It should therefore be able to coordinate with other functions of the tax administration. The confidentiality requirement makes difficult to envisage positioning an EOI unit in many functions, divisions or processes in the tax administration as it would not allow an appropriate confidentiality risk management and coordination with the other relevant functions. For instance, placing the EOI function in an operational process (e.g. Large Taxpayer Division) or in a division which does not have the ability to coordinate with the rest of the tax administration may increase confidentiality risks as the information would flow to other operational functions (e.g. Collection Division) with which the coordination, the access control and the tracking may be more difficult to ensure as required by international agreement (see also the risks explained in Table 2). A jurisdiction should take into account these considerations when it envisions to position the EOI function in an operational division or function and make the necessary adjustment to mitigate the risks or concerns raised.

In general, to better manage confidentiality requirements (see Confidentiality below), the EOI function would be better placed within the organisational structure according to its nature – a support to the tax administration as a whole.

### **Exchange of information as a job function**

The EOI function is not only a support function but also a job function. It has its own activities which is primarily to manage the EOI processes. The volume of this activity should be considered in the positioning of the EOI unit in the tax administration. The decision to have EOI as a full-time or part-time function may be a direct consequence of the number of exchanges a jurisdiction makes which may be linked to the number of agreements in place.

The experience from the Global Forum peer reviews shows that:

- in many jurisdictions the EOI function has developed into a full-time function due to the increasing number

Table 3. **Examples from some jurisdictions where EOI functions are located in the tax administration**

Jurisdiction	Location of the EOI unit	Jurisdiction	Location of the EOI unit
<b>Australia</b>	International Relations Section, International and Large Business Directorate	<b>Japan</b>	International Operations Division
<b>Brazil</b>	Exchange of Tax and Customs Information Division, International Relations Advisory	<b>Lesotho</b>	International Treaty Development Division
<b>Burkina Faso</b>	Directorate for Investigations and Research	<b>Mauritius</b>	Large Taxpayer Department
<b>Cameroon</b>	Division for Legislation and International Fiscal Relations	<b>Morocco</b>	Directorate for Legislation, Studies and International Cooperation
<b>Canada</b>	International and Large Business Directorate	<b>Senegal</b>	Directorate for Legislation and International Cooperation
<b>Colombia</b>	International Affairs Office	<b>South Africa</b>	Strategy, Enablement and Support Division
<b>Eswatini</b>	International Relations and Executive Support Division	<b>Spain</b>	Directorate General of Inspection
<b>France</b>	Office of International Affairs, Department for Tax Audits	<b>Tanzania</b>	Large Taxpayer Division
<b>Gabon</b>	International Relations Department, Directorate for Legislation and Litigations	<b>Uganda</b>	Tax Investigations Department
<b>India</b>	Joint Secretaries of Foreign Tax and Tax Research Division I and II, Central Board of Direct Taxes		

Source: Global Forum EOIR peer reviews and other publicly available data. Global Forum EOIR peer review reports are available at: [www.oecd-ilibrary.org/taxation/global-forum-on-transparency-and-exchange-of-information-for-tax-purposes-peer-reviews\\_2219469x](http://www.oecd-ilibrary.org/taxation/global-forum-on-transparency-and-exchange-of-information-for-tax-purposes-peer-reviews_2219469x).

of EOI relationships and number of EOI requests made and received resulting from it.

- in some jurisdictions, the EOI function is rather a part-time job as the level of EOI activity is modest for different reasons (e.g. small EOI network, low use of EOI).

Jurisdictions with low volumes of EOI may likely need a tax official to fulfil the role of Delegated CA on a part-time basis while where the volumes are high, there may be more officials on part-time or dedicated officials handling EOI in full-time. Whether the EOI function is a full-time or part-time job, it has grown into a specialised function.

It is therefore important, in the context of the organisation's structure, to find a place where EOI will serve the purpose of the organisation the best, depending on how many exchange relationships a jurisdiction intends to build, the number of actual exchange requests a jurisdiction expects to make at the present and in the future as well as the support provided to other tax administration functions. Consequently, if an organisation has a misconception of the purpose and the nature of the EOI process, does not accompany its choice with appropriate adjustment or misestimate the level of EOI activities, it may have detrimental effects on the goal to establish a sustainable EOI unit. For instance, the risk in placing the EOI function in a mainstream division (e.g. Large Taxpayer Division) would be that it would only serve the purposes (knowingly or



## Establishing the exchange of information function

unknowingly) of that division (e.g. favour outgoing requests from this division). The tax administration should take these risks into account in order to mitigate their effects.

In conclusion, the function of EOI must be placed within that part of the tax administration where it will serve the whole organisation best which requires the proper allocation of resource, an appropriate level of expertise and a good coordination with all relevant tax administration functions to cope with the present and future volume of inbound and outbound exchanges.

### Organisation chart of the EOI unit

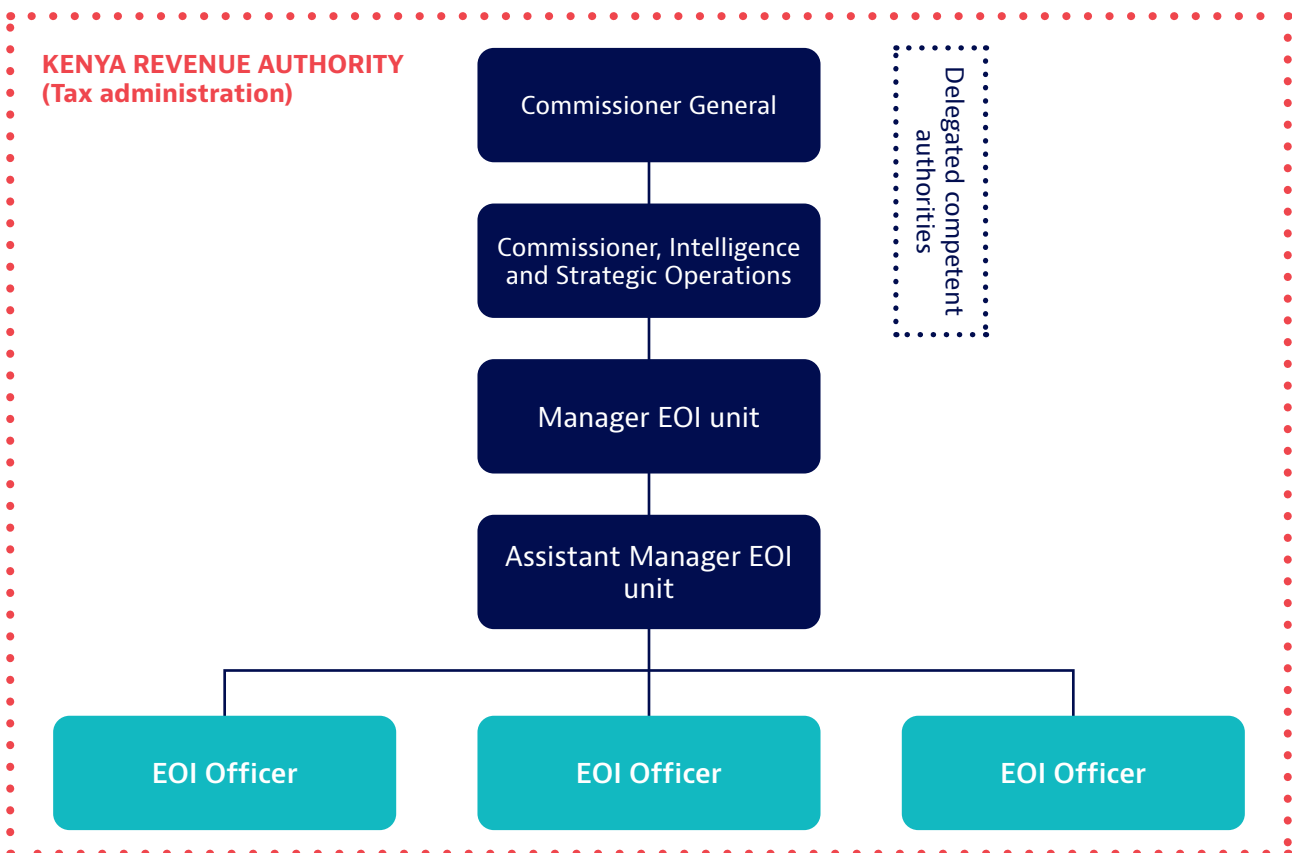
Global Forum's peer reviews show that jurisdictions have not taken a unique approach in positioning their EOI unit within the tax administration (See Table 3).

Although the approach taken may be different, the

efficiency of the EOI unit implies that it is positioned in a suitable business area of the tax administration which will allow it to perform its support and job functions while ensuring compliance with the confidentiality requirements. Most important consideration therefore must be that there are mechanisms in place to ensure the EOI function is practically able to effectively:

- Coordinate with all functions within the tax administration that require EOI;
- Coordinate and collect information from within the tax administrations systems;
- Coordinate and collect information from the third parties with ease; and
- Live up to the confidentiality principles as expected by the international standards.

FIGURE 9. Simple organigram of the EOI unit: Kenya



Source: Kenya Revenue Authority.

## Establishing the exchange of information function

A decision based on the above criteria would allow for the placement of the EOI unit where it serves its purpose and is exploited for the benefit of the jurisdiction. Only then will a tax administration be able to implement a sustainable EOI process.

In terms of internal organisation, the structure of the EOI unit depends on the scope of its activities, e.g. whether it covers EOIR, SEOI and/or AEOI. Figure 9 shows a simplified organigram of an EOI unit with basic functions and Figure 10 a more complex organigram.

### RESOURCES OF THE EXCHANGE OF INFORMATION UNIT

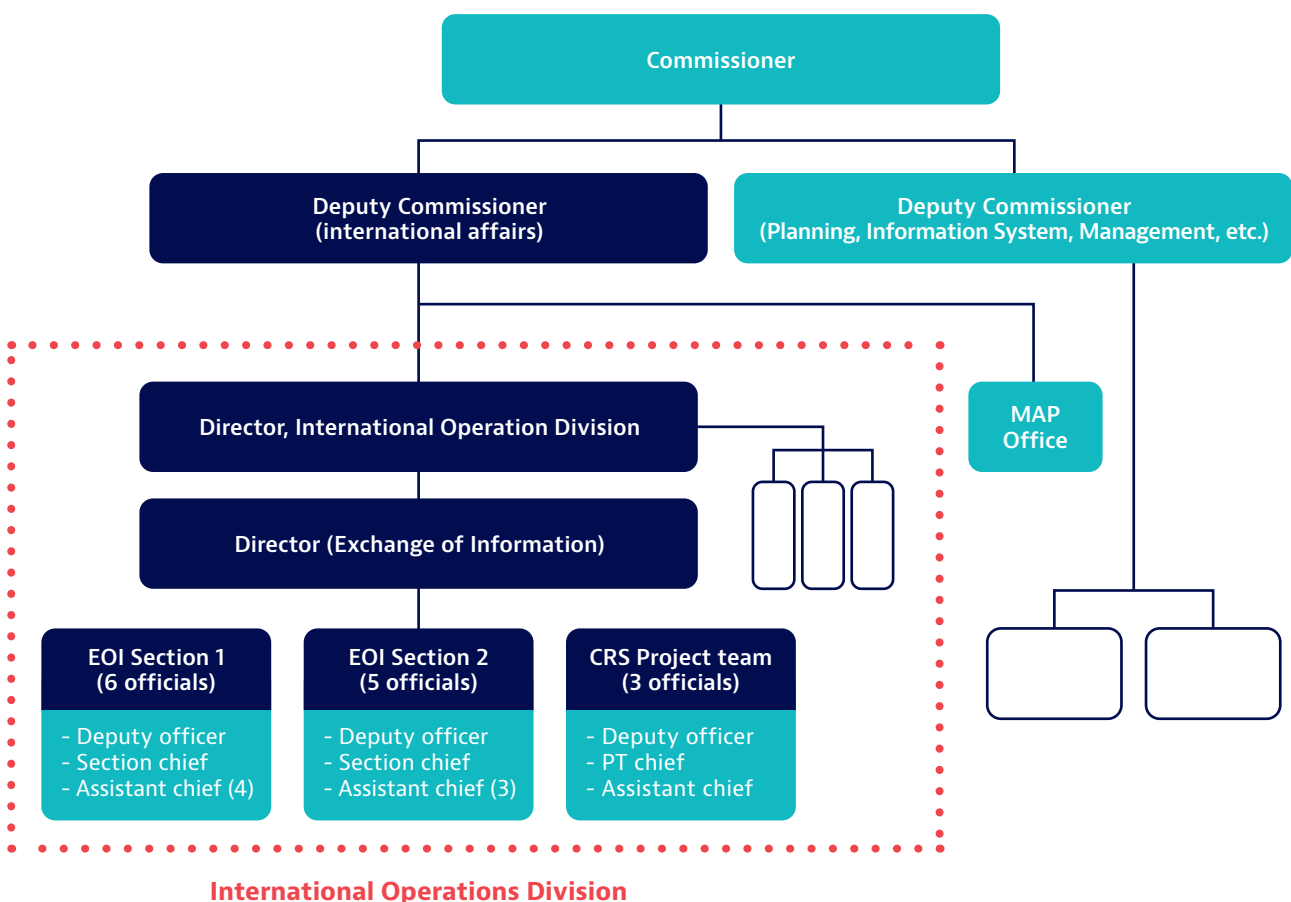
A jurisdiction must have a sustainable and fully resourced EOI process to assist tax officials in their quest to ascertain the facts in relation to the application of their DTCs or their domestic tax law, or to assist other jurisdictions who make information requests

accordingly. This implies that the linkage between the resources attributable for EOI in a jurisdiction and the effectiveness of the EOI unit in undertaking its work is an area that needs to be given due attention and support by senior management officials including the head of the tax administration and the management board.

Similarly, the resources allocated to the EOI unit draws attention on how the senior management officials are informed about the importance and the benefits of mutual assistance through EOI for tax purposes in counteracting international tax evasion. For this purpose, it is essential for the EOI unit to closely monitor the EOI activities as well as to maintain reliable statistics on these activities.

Therefore, the ability to obtain buy-in of the senior management team is very critical to implement and maintain a well-resourced EOI function which operates

FIGURE 10. More complex EOI unit organigram: Japan



Source: Japan's EOIR peer review report, 2018 (second round): available at: [www.oecd-ilibrary.org/taxation/global-forum-on-transparency-and-exchange-of-information-for-tax-purposes-japan-2018-second-round\\_9789264302778-en](http://www.oecd-ilibrary.org/taxation/global-forum-on-transparency-and-exchange-of-information-for-tax-purposes-japan-2018-second-round_9789264302778-en).

## Establishing the exchange of information function

in an efficient manner. As a result it should be given such priority as a first step in the start of the EOI implementation in any jurisdiction. The resources that may be involved for consideration relate to the organisational, technical, human and financial resources.

### Organisational resources

The setting up of an EOI unit requires appropriate facilities. Senior management needs to ensure the EOI unit has adequate office space related to the level of EOI activities:

- Where the requests are few, the CA functionality may be a role within another division. However, all the EOI aspects should be separately managed and stored and access must be cordoned off from the other divisional activities.
- Where the volume of requests is high, the EOI function may require that a separate office be put in place to house its operations.

In all cases, access to the EOI premises must be restricted to authorised persons only and EOI files must be screened and filed away or disseminated in line with internationally approved standards as documented in the jurisdictions guidelines and procedures, and separated from day to day official taxpayer documents. Depending on the level of the EOI unit, this may be in form of protection by restricted card reader and or biometric readers, including CCTV and alarm monitoring devices. In addition, the EOI premises may be classified as a high security zone whose access require prior approval (see Confidentiality below for further details).

With the secluded office space identified, the CA then has the responsibility to set up structures, processes and procedures by documenting the business process and developing standard operating procedures as well as manuals, guidelines for EOI in line with the internationally acceptable standards for EOI. In undertaking this role, the CA must ensure that the EOI process must be known throughout the tax administration. This requires that the CA devises innovative methods to create EOI awareness and ensure avenues of continuous awareness for organisational knowledge of EOI is maintained. Further to guaranteeing the CA is known throughout the jurisdiction, it is equally important that the CA should be clearly identifiable to the treaty partners and their details indicated in a visible

place (see Relevant tools for sharing the competent authority's basic information below).

In addition, the business process dedicated to EOI should be put in place and set up in such a way that there should be no disruption in case of change of staff or leave. Jurisdictions generally have a step by step manual for their EOI case workers on how to process information. The manual should include the process to be followed for incoming and outgoing requests and especially the following:

- 1) Registration of incoming and outgoing requests;
- 2) Acknowledgement of receipt of the incoming request
- 3) Translation of the request and attachments if needed
- 4) Review of the request for validity and completeness
- 5) Security classification
- 6) Allocation of the case/gathering information requested
- 7) Quality controls
- 8) Acknowledging receipt of the information and providing feedback

### Technical resources

The EOI unit should have the technical resources including the requisite software and hardware, such as EOI database, computers, printer/copier, paper shredder and storage facilities among others.

It is important that an EOI monitoring system is in place to register and monitor incoming requests, outgoing requests and any other types of requests. When the volume of EOI is limited, the system can be kept quite simple with a basic database used (e.g. an Excel spreadsheet), which can then be developed over time into a more sophisticated EOI database as the volume of EOI increases.

In addition, the emails of the officials under the EOI unit may be protected and a separate server accessible to only the EOI staff provided. Many jurisdictions have a

dedicated generic and governmental email address for the EOI personnel and for communication with treaty partners which allows any information coming into the EOI office accessible to all relevant EOI personnel. The EOI unit should also have the necessary tools and training to encrypt and decrypt information whenever information is exchanged electronically, hence protect and enhance the confidentiality of the information exchanged with other treaty partners. As the EOI unit operates essentially with foreign jurisdictions, an international phone line and remote conferencing or virtual meetings facilities are key assets to its effectiveness.

### Financial resources

It is imperative that the EOI unit has sufficient financial resources to cover the various costs involved in the management of EOI. In particular, financial resources should allow for:

- The creation and maintenance of an EOI database when needed;
- The gathering of information and court costs if required;
- Postal, phone and internet costs;
- Access to potentially relevant commercial websites;
- Translation services, if the translation function cannot be performed within the EOI unit;
- Training in EOI and other relevant skills;
- Travel for face to face meetings with counterparts and for attending regional or international events;
- IT resources;
- Annual subscription fees to regional and international tax bodies and initiatives on transparency and EOI.

The senior management of the tax administration should therefore ensure that a specific budget for EOI is provided for. The EOI unit needs to constantly monitor the requests being sent and those coming into the jurisdiction in line with the needs of the compliance officials in the tax administration such that when the volume of EOI requests increases, additional funding is

requested and availed to adequately accommodate all the requests in the EOI unit.

### Human resources

The EOI unit should have sufficient human resources in order to have an effective EOI programme. As previously explained, EOI is both a support function and a job function. As such, the human resources assigned to handle EOI are critical for its relevance. The tax administration therefore must take great care in appointing the staff with the relevant traits and skills as the Delegated CA as well as the personnel who will be responsible for EOI affairs on a day to day basis. EOI unit specific competencies could be integrated into the whole tax administration's competency framework document to guide in recruitment of EOI staff (see Annex B).

Given the importance of confidentiality for EOI, staff to work in the EOI unit should be scrutinised for their previous jobs to make sure that they had not been involved in any breach of confidentiality or secrecy in the past. They should also be interviewed to assess their level of understanding of the risks associated with the work in an EOI unit, including confidentiality, and their readiness to adapt themselves in this environment.

After staff with the relevant competences have been identified and placements done, specialised training on EOI should follow to equip EOI officials with the necessary skill sets. This will ensure the right people are attending to EOI matters on behalf of the CA.

It is also very important that the personnel who are tasked to operate the EOI function are able to obtain information requirements based on their job roles and hence handle requests for information efficiently. As a result, it is essential that the staff charged to manage the EOI unit can access resources such as the taxpayers' database, any online public registries, relevant commercial websites and electronic international phone books among others.

An analysis of experience of some jurisdictions in terms of number of requests as at a given period, the location of the EOI unit in the jurisdiction and the respective resources allocated to the EOI unit are detailed in Annex E.

Business strategy and performance indicators to monitor the EOI tasks should be set out at the beginning of

## Establishing the exchange of information function

every financial year. These annual measures must be in line with the guidelines as documented in the EOI Manual and should be captured as part of the annual performance considerations with targets for the staff managing EOI. The targets allocated to the EOI team may relate to:

- Training and engagements with stakeholders on EOI related aspects;
- Numbers of requests and answers sent and turnaround time;
- Process improvements put in place;
- Quality of requests made and responses provided to treaty partners;
- Impact of EOI in the key performance of the tax administration (e.g. voluntary compliance, audits and investigations, additional revenue).

The set targets to be undertaken for the year should then be measured against actual performance to determine the progress made for the EOI personnel at the end of the year through performance reviews. Performance reviews for the EOI personnel should be carried out on an annual and bi-annual basis.

Results of performance reviews may guide senior management about the workload of the EOI unit in relation to the requests received and processed so as to guide that the appropriate number of staff is attributed to the unit.



## 2. Managing the exchange of information function

As each function of the tax administration, EOI should be adequately managed on a daily basis to ensure that it adds value to the main mission of the tax administration which is to mobilise tax revenue by applying and enforcing the tax laws with effectiveness. Running the EOI business requires (i) monitoring, tracking and keeping of records, (ii) gathering of information, (iii) interactions with other offices and stakeholders, (iv) ensuring confidentiality and (v) establishing good communication. It is also crucial (v) to continuously build the capacity of the unit as well as (vi) to ensure the continuity of the business operations in the context of a crisis.

### MONITORING THE EOI UNIT'S ACTIVITIES

An effective EOI system requires EOI activities to be adequately recorded and tracked. Performances of the unit as a whole should also be measured through evaluation reports and statistics.

#### Tracking and keeping records

EOI activities should be closely monitored by the EOI unit for the main following reasons:

- Incoming requests should be processed and responded to in a timely manner. Under the EOIR standard, the responses to requests should be provided within 90 days of receipt beyond which the requested jurisdictions should update the requesting jurisdiction's CA on the status of the request.<sup>13</sup> Therefore, the monitoring is critical to manage the timelines efficiently and ultimately meet the expectation of the EOIR standard;
- Outgoing requests should be processed in a timely manner by the EOI unit, which also need to follow-up on their treatment by the requested jurisdictions or any request for clarification;
- The operations of the EOI unit should ensure that the quality of any outgoing request, is in line with the requirement of the EOIR standard;

13. As a general rule, where the information requested is already held by the tax administration or another government agency, a reply should be provided within 90 days. Otherwise, the information should be provided within six months of receipt of the request. Certain circumstances may lead to reply to the request beyond this timeline (e.g. the volume of information to collect is important, the request is of a complex nature). The requested jurisdiction should also consider providing partial replies pending a complete reply.

## Managing the exchange of information function

- The monitoring and tracking of the EOI activities are critical to ensure confidentiality and in case of unlawfully disclosure to support investigations.

The monitoring can be conducted manually or electronically. Manually, there should be a physical register and/or an Excel spreadsheet in which all EOI cases are entered with identification information and status. Electronically, a software can be built to track the EOI activity in a more automated manner, including automatic generation of status reports, letters and status updates. When an EOI function is set up, it usually starts with manual monitoring of its activity. Gaining experience and knowledge of its specific needs, it could consider moving to an automated EOI tracking system, which is recommended when the volume of outgoing and incoming EOI cases processed monthly by the EOI unit is significant.

Some of the information that should be contained in the EOI tracking register or system are:

- Reference numbers of both jurisdictions for the exchange;
- Status of the case (open/closed/reopened);
- Due date for response;
- Identity details for each person or entity including name, address, date of birth, and taxpayer identification number;
- Dates the requests are sent and received;
- Dates of any subsequent correspondence with the other jurisdiction (e.g. request for clarifications);
- Name of other jurisdiction;
- Details of contact in other jurisdiction (name, phone number and e-mail address);
- EOI officer assigned to the exchange;
- Summary of the information requested;
- Actions taken;
- Last action date;
- Actions due;
- Reminder for next action due;
- Summary of information provided;
- Date the final response is issued/received.

The EOI tracking system is usually linked to the procedures and deadlines prescribed in the EOI manual<sup>14</sup> for both outgoing requests and incoming requests. These procedures should include the following steps:

- reception of a request from a foreign competent authority or a draft request from a domestic tax office;
- verification of quality (outgoing) or validity (incoming) of the request;
- liaison with the tax office and other sources of information, including government agencies or authorities and third parties;
- despatching of information collected or received from foreign competent authority;
- monitoring for timely response/information gathering;
- record keeping.

Ideally, every EOI unit must have a dedicated official taking care of receipt/despatch which ensures reliable communication internally/externally as well as tracks the communication in transit.

An effective EOI tracking system is critical for the operations of EOI as it helps monitor progress in the handling of specific cases and measure the performances of the EOI unit through periodical and/or case-specific reports.

### Measuring performance

The EOI records document the activity of the EOI unit

14. Examples of EOI manuals are the Global Forum EOI Working Manual (available at: [www.oecd.org/tax/transparency/documents/EOI-manual.pdf](http://www.oecd.org/tax/transparency/documents/EOI-manual.pdf)), the ATAF Practical Guide on EOI for Developing Countries (available at [https://irp-cdn.multiscreensite.com/a521d626/files/uploaded/A\\_Practical\\_Guide\\_ENG\\_web\\_version.pdf](https://irp-cdn.multiscreensite.com/a521d626/files/uploaded/A_Practical_Guide_ENG_web_version.pdf)) and the OECD Manual on the implementation of exchange of information provisions for tax purposes (available at: [www.oecd.org/tax/exchange-of-tax-information/36647823.pdf](http://www.oecd.org/tax/exchange-of-tax-information/36647823.pdf)).

and serve as evidence of the processing of requests and performance measurement baseline. The EOI tracking system should allow statistics to be compiled periodically on the status of incoming and outgoing requests and incoming and outgoing spontaneous exchange, and facilitate the preparation of summary reports for managers or internal auditing departments. Depending on the type of system used to track EOI cases, the generation of statistics and reports should be done either manually or automatically. These summary reports can include statistics concerning:

- the number of requests received/sent and spontaneous exchange received/sent in total and by jurisdiction;
- the number and percentage of requests acknowledged within the specified time frames;
- the number of requests closed during a given year and average age of these requests;
- the number of requests still open and average age of these requests;
- the number of requests for each type of information requested (bank information, legal and beneficial ownership information, transfer pricing information, etc.);
- the percentage of requests declined;
- the amount of additional tax revenues gained during the financial year based on exchanged information.

In jurisdictions where the EOI unit is also in charge of sending and receiving the AEOI data, the statistic should cover this specific type of information. Even for jurisdiction where AEOI does not fall under the scope of the EOI unit, it may be involved in the follow up process after the AEOI data have been received. For example, the EOI unit may be responsible for providing feedback to the AEOI partners or to request or provide clarifications on the errors noted in the exchanged data.

One important aspect of the performance measurement is the assessment of the additional revenue gained through EOI. EOI assists the tax administration in the administration and enforcement of the tax law. It helps to protect the tax base by tackling cross-border tax evasion and ultimately securing the domestic revenue.

The relevance of EOI therefore depends not only on the assistance provided to treaty partners, but also on its effectiveness in driving additional revenue. It is the responsibility of the EOI unit to put in place appropriate tools to measure the impact of EOI on domestic revenue mobilisation. This can be done through a form to be filled out on a regular basis by officials or offices of the tax administration receiving an information from a foreign jurisdictions. An example of impact assessment form is provided in Annex C.

The statistics and evaluation reports generated periodically assist the manager of the EOI unit and the top management of the tax administration in measuring the performance of the EOI activities. This includes – but is not limited to - the responsiveness of the domestic tax offices, the completeness of the information gathered and the timeliness and quality of requests and responses sent to foreign competent authorities. These indicators serve to improve the operations of the EOI function and to align the functioning of the EOI unit to the requirements of the international standard. They are also critical to document the effectiveness of the EOI programme and the adequacy of the resources allocated to the unit, and ultimately inform top management and policy-decision makers.

### INFORMATION GATHERING

Information gathering is crucial to an effective EOI. It is the step in which the jurisdiction's CA, through the EOI unit, carries out searches for the information requested by a foreign CA. To perform its function, the EOI unit should have access to all available information. However, the role of the EOI unit regarding information gathering differs from one jurisdiction to another, depending on the model chosen. Indeed, the EOI unit can have direct and/or indirect access to this information. The three main models used by the jurisdictions are successively described below.

#### **The EOI unit does not carry out any information gathering function**

In this model, the EOI unit carries out all the EOI functions except the gathering of information (see Box 6). The EOI unit registers incoming requests, checks their validity and completeness and forwards them to the relevant domestic tax offices or other functions of the tax administration such as investigations and audit which will gather the information requested. The

## Managing the exchange of information function

### Box 6. Example of EOI unit with no information gathering function: India



In India, the EOI unit located in the Central Board of Direct Taxes (CBDT), New Delhi (apex body for tax administration and tax policy in India), and is headed by the Joint Secretaries (I & II) of the Foreign Tax & Tax Research Division of CBDT. Joint Secretary-I is the CA for EOI with all partners of India in Europe and North America while Joint Secretary-II is the CA for EOI with all partners of India in rest of the world.

The EOI unit receives the incoming requests from partners, validates them for their foreseeable relevance and completeness of the request with all the relevant background information, before sending a letter to the relevant local investigation unit(s) highlighting the information to be obtained.

Sometimes letters are sent by EOI unit to multiple investigation directorates spread across the country and/or to the Systems Directorate (central authority in charge of the tax administration database) based on the jurisdictional spread of the information holders or taxpayers concerned or based on the judgment as to which is the most efficient manner to obtain the information sought by the partner.

The local investigation directorates receiving the letter from EOI unit, are empowered to discover, call for information, without the pendency of any domestic income tax proceeding in respect of the taxpayer under investigation or the information holder, and if necessary may also conduct search and seizure operations to be able to gather the information sought in the EOI request.

The local investigation directorates are empowered to call for all types of information (legal and beneficial ownership, accounting, banking or any other relevant information) from any person in India (under their territorial jurisdictional limits), including from those who maintain the information for anti-money laundering purposes.

The local investigation directorates usually employ the powers to summon the responsible person or information holder and record a statement under oath, where necessary, to obtain all relevant information/documents/evidences in the manner desired by the requesting partner and fully respond to the EOI request on hand.

The information thus collected by the local investigation directorates is sent back to the EOI unit, within the specified timeframe (usually in less than one month). The EOI unit verifies the completeness and quality of the information gathered (from multiple investigation directorates in some cases) and issues further guidance letters to the local investigation directorates in the exceptional cases where any additional measures are to be taken to fully respond to the request from partner.

Upon the satisfaction of the EOI unit that all the information sought by the partner is obtained and is of good quality and/or in the specified manner and form requested by the partner, the EOI unit then sends the comprehensive response to the partner jurisdiction under the seal and authority of Indian CA.

Source: India's EOIR peer review report, 2017 (second round), available at: [www.oecd-ilibrary.org/taxation/global-forum-on-transparency-and-exchange-of-information-for-tax-purposes-India-2017-second-round\\_9789264283756-en](http://www.oecd-ilibrary.org/taxation/global-forum-on-transparency-and-exchange-of-information-for-tax-purposes-India-2017-second-round_9789264283756-en).

information is sent back to the EOI unit to forward the information to the EOI partner.

The success of this model of indirect access to information is closely linked to how fast the information required is passed on to the EOI unit. It implies a strong monitoring of the EOI activities as well as the commitment of the offices or functions that are requested to gather the information. In implementing such a model, a jurisdiction should also pay attention to the confidentiality requirement in designing the procedures.

### **The EOI unit gathers only information directly available in the tax administration's systems (and other government databases)**

This model provides the EOI unit with both direct and indirect access powers (see Box 7):

- The EOI unit can directly access any information kept in the tax administration's databases;
- Depending on the jurisdiction, the EOI unit has a

direct or indirect (i.e. the EOI unit can require another government agency or public authority to provide the requested information) access to information held in other government agencies or authorities databases.

- For any other type of information, including information held in taxpayers' files maintained by the local tax offices or third-party information, the EOI unit should contact the relevant local tax offices or other functions of the tax administration such as investigations and audit. Those offices will collect the information and forward it to the EOI unit.

As in the first model, the EOI unit does not need human resources and specific competencies for the purposes of gathering the information from third parties or taxpayers. The confidentiality requirement as well as the communication with and the collaboration of the local offices and other functions of the tax administration should also be taken into account in the information gathering process.

### **The EOI unit gathers all the information, including those not directly available in the tax administration's systems**

This model provides the EOI unit with extensive information gathering powers, comparable to those of the audit and investigation offices (see Box 8). The unit accesses all the systems of the tax administration, as well as the systems of other government agencies or authorities. It is empowered to exercise all the access powers of the tax administration to obtain the information held by other government agencies or authorities, taxpayers and third parties such as financial institutions.

The consequences of this model are that the EOI unit controls all the process of information gathering, which in turn reduces the timeliness of handling the requests. However, it requires more staff in the EOI unit, with adequate skills. It also implies that the EOI officers can easily perform their access powers on-site.

### **INTERACTIONS BETWEEN THE EOI UNIT AND (OTHER DEPARTMENTS OF) THE TAX ADMINISTRATION AND OTHER GOVERNMENT AGENCIES OR AUTHORITIES**

The EOI unit processes incoming and outgoing requests. These requests are allocated to an EOI Officer, who is responsible for researching, obtaining and collating

#### **Box 7. Example of EOI unit with information gathering powers limited to the information available in the tax administration (and other government databases): France**



EOI requests made to France are received either by the EOI unit, which is either the International Affairs Office under the Department of Tax Examination of the Directorate General of Public Finance (DGFIP - the Tax administration), or by the other delegated CAs (a Tax Attaché in a foreign country or a local tax office (for neighbouring jurisdictions which have a cross-border CA agreement in force with France)). When the EOI unit receives requests from France's partners, the CA firstly looks for information in the databases to which it has direct access. These can be Government agencies or authorities databases or databases kept internally by the tax administration. For example, the EOI unit has direct access to *Infogreffe* which lists all the information held by the Commercial and Companies Registers in France, including legal and beneficial ownership information on companies. It also has direct access to the register of *fiducies* and the register of trusts maintained by the tax administration. Both registers keep the ownership and beneficial ownership information in respect of legal arrangements in France.

When an EOI request received cannot be answered using the tax administration's internal databases or other Government databases, i.e. the information sought is held by other third parties or the taxpayer, the CA usually relies on local tax offices to collect the information.

Source: France's EOIR peer review report, 2018 (second round), available at: [www.oecd-ilibrary.org/taxation/global-forum-on-transparency-and-exchange-of-information-for-tax-purposes-France-2018-second-round\\_9789264291058-en](http://www.oecd-ilibrary.org/taxation/global-forum-on-transparency-and-exchange-of-information-for-tax-purposes-France-2018-second-round_9789264291058-en).

the information requested, as appropriate. When information is not available in its internal systems, it may be necessary to involve other offices within the tax administration, other government agencies or authorities or other information holders. The effectiveness of EOI relies on obtaining the information necessary to respond to the request. Dialogue with other departments of the tax administration and other government agencies or authorities must be straightforward so co-operation



## Managing the exchange of information function

### Box 8. Example of EOI unit with extensive information gathering powers: Cameroon



In Cameroon, the EOI unit (the International Information Exchange Unit - UEIR) is part of the Legislation and International Tax Relations Division of the Directorate General of Taxes (the tax administration). It is in charge of managing EOI activities in general, including the gathering of information to respond to incoming requests. The UEIR has unlimited access to internal databases of the tax administration, as well as the tax files of taxpayers. This includes access to information held by the centralised departments (e.g. the Division for Investigation, Programming and Monitoring of Tax Audits and the Large Taxpayer Division) and the decentralised departments (e.g. Medium-sized Business Tax Centres and Divisional Tax Centres) of the tax administration. Specific provisions in the General Tax Code allow the staff of the UEIR to exercise the "right to information" which is the main information gathering power of the tax administration for third-party information. For example, the UEIR directly exercises the right to information in order to collect banking or accounting information.

When the information sought is not directly available in the systems of the tax administration but is maintained by a local tax office, the UEIR either sends a letter to the relevant local tax office with deadline to provide the information or sends one of its staff on mission to go and collect the information on the field.

Source: Cameroon's EOIR peer review report, 2016 (first round), available at: [www.oecd-ilibrary.org/taxation/global-forum-on-transparency-and-exchange-of-information-for-tax-purposes-peer-reviews-cameroon-2016\\_9789264258754-en](http://www.oecd-ilibrary.org/taxation/global-forum-on-transparency-and-exchange-of-information-for-tax-purposes-peer-reviews-cameroon-2016_9789264258754-en).

allows the response to requests to be performed in a timely manner.

### Collaboration with other governmental agencies or authorities

Jurisdictions should consider having in place a system of collaboration agreements for the access to information between government agencies or authorities and the tax administration. For example, a Memorandum of Understanding (MoU) may be set out as an agreement

between the tax administration and different government agencies or authorities in order to detail the method of access to information, principles and conditions for sending information, if a request should be made in a prescribed format as well as the agreed response times. These agreements ensure that whenever the EOI unit needs information from one of the agencies or authorities, the agency or authority will provide it in a timely manner. Where MoUs are in place, the EOI Manual should detail the government agencies or authorities concerned. Examples of MoUs are provided in Annex D.

In case there is no established MoU, the EOI unit should have established procedures to contact other government agencies or authorities. This could be done via a standardised letter to be issued by the EOI unit manager or the CA. The letter would formalise the request for the assistance in obtaining the information required, setting a deadline. The legal basis should be mentioned and only the minimum information strictly required for the collection of the requested information should be disclosed in this letter (i.e. usually the legal basis, the identification of the person and the questions).

### Collaboration with other offices of the tax administration

There should be a well-functioning collaboration framework between the EOI unit and other offices of the tax administration. This mainly covers the gathering of information for incoming requests received from foreign jurisdictions and outgoing requests initiated by local tax offices.

In one case or another, it is important to have in place simplified communication mechanisms to contact relevant tax offices and interact with them. For example, a system in which all the communications between the EOI unit and other tax offices are made through official letters signed by the head of the tax administration can be more engaging for the officials concerned. However, the rigidity of such a system may lead to delays and inefficiency in the handling of EOI cases. The EOI officers, acting as delegated CA or not, should be the direct interface between the EOI unit and the tax offices for the purposes of EOI. Intranet, email and telephone should be the preferred channels of communication. One way of facilitating the communication between the EOI unit and other tax offices is to appoint EOI contact persons in the local tax offices and hold regular consultation with them.

### Box 9. An example of collaboration between the EOI unit and the local tax offices: Chile



In Chile, the Commissioner of the *Servicio de Impuestos Internos* (SII) (Internal Revenue Service – tax administration) is the delegated CA for EOI. The EOI unit is the Department of Selective Analysis for Tax Compliance (DASCT) which also takes care of other matters. When it receives an EOI requests from a treaty partner, the DASCT requests other departments to gather information, depending on their area of competence. The

competent regional offices gather information from taxpayers or third parties depending on their territorial competence, the Large Taxpayer Audit Unit gathers information from large taxpayers, and the Special Cases Office gathers information from banks. The process for gathering information and sharing of responsibilities in EOI cases is detailed in a SII Circular 18/2013 of September 2013 (Oficio Circular).

Source: Chile's EOIR peer review report, 2020 (second round), available at: [www.oecd-ilibrary.org/taxation/global-forum-on-transparency-and-exchange-of-information-for-tax-purposes-Chile-2020-second-round\\_ec2b5c7b-en](http://www.oecd-ilibrary.org/taxation/global-forum-on-transparency-and-exchange-of-information-for-tax-purposes-Chile-2020-second-round_ec2b5c7b-en).

The guidelines on confidentiality must be followed in any case where it is necessary to contact another unit of the tax administration or another government agency or authority to gather information. In addition, the EOI unit will limit the use of the information for the purposes stated on this form.

The communication between the EOI unit and other stakeholders at national and international level is further developed under a specific section on Communication.

#### CONFIDENTIALITY

Confidentiality is of utmost importance to tax administrations and taxpayers, and a cornerstone of tax systems. Taxpayers need to have confidence that the often sensitive financial information is not disclosed inappropriately, whether intentionally or by accident.

Confidentiality is also a critical component of EOI and, more generally, administrative assistance in tax matters. Citizens and their governments will only have confidence in EOI if the information exchanged is used and disclosed only in accordance with the EOI agreement on the basis of which it is exchanged.

As in the domestic context, this is a matter of both the legal framework and the organisation as there should be systems and procedures in place to ensure that the legal framework is respected in practice and that there is no unauthorised disclosure of information. The development below highlights some key elements to be considered in establishing an EOI unit. Box 10

provides some useful additional resources to meet the confidentiality requirements.

#### International standards

Under the EOI standards, the information received in connection with an EOI agreement is confidential. Tax confidentiality provisions in EOI agreement contain in principle the following key principles:

- Information exchange may only be used for specified purposes;
- Information exchanged may only be disclosed to certain specified persons;
- Confidentiality extends to all related documents, communications and background information contained in a request, information received in response to a request, and other correspondence between competent authorities; and
- Treaty provisions and domestic laws both apply to ensure confidentiality.

Confidentiality provisions in EOI agreements require that exchanged information must be used only in tax proceedings. However, the information obtained through EOI may be used for non-tax purposes provided that it meets the conditions set out in the applicable EOI agreement. For instance, the 2012 update to Article 26(2) of the OECD Model Tax Convention provides for the use for non-tax purposes if it is allowed under the laws of both States and the CA of the supplying State authorises such use.

## Managing the exchange of information function

### Confidentiality requirements

A sound legal and regulatory framework is necessary to ensure confidentiality. Both treaty provisions and domestic laws may apply simultaneously to protect confidentiality. Such legal framework should include severe penalties for unauthorised disclosure of information.

A review of domestic laws may be required to ensure that the treaty obligations are met, in particular to ensure that domestic laws do not require or allow the disclosure of information obtained under an EOI agreement in circumstances inconsistent with such agreement.

In addition to the legal framework, tax administrations and EOI units should effectively implement systems and procedures in practice, through the establishment of a “culture of care”, with confidentiality policies and measures incorporated into all of the operations of the tax administration.

Different tax administrations may have different approaches to achieve an adequate level required for the effective protection of confidentiality. Some administrations may choose to extend policies and practices developed for domestic tax purposes to EOI purposes to ensure confidentiality while other may choose to develop policies and practices specifically for protecting the confidentiality of information exchanged under EOI agreements.

In both cases, common principles and requirements should be observed. To ensure a proper implementation of confidentiality requirements within the tax administration, a comprehensive EOI confidentiality policy should be endorsed at the top level. A person might be designated to monitor the implementation of this policy. The EOI confidentiality policy includes transmission of information, security and encryption, confidentiality stamps, storage, access to premises, information disposal policies for electronic and physical records, and preventing and managing unauthorised disclosures.

### Transmission of information

Prior to accepting a request and sending information in the context of an incoming request, procedures and processes must be in place to ensure that

the information sent will be kept confidential.

This includes confirming that the person who has requested the information was authorised to make the request and to receive the information. The receiving jurisdiction should take steps to confirm that the CA name and address are correct before sending any information (see Identifying and sharing the contact details of the competent authority and preferred means of communication). The EOI unit staff is responsible for ensuring that it forwards only the specific information needed by the requesting jurisdiction and does not simply retransmit bulk information.

From 2021, jurisdictions will also be able to make use of the Common Transmission System (CTS) to carry out EOI on request and spontaneous EOI. The CTS is a highly secure system which has been used by around 100 jurisdictions to exchange encrypted files under the AEOI Standard, Country-by-Country Reporting and Exchange of Tax Rulings. The extension to other forms of EOI means that jurisdictions can rely on a simple, quick and secure method of exchange, helping the sending jurisdiction to meet its confidentiality and data safeguarding obligations.

### Security and encryption

Information should be transmitted securely, regardless of the means of transmission:

- Physical mail should only be sent via an international registration system with a mail tracking, to ensure that no request or answer to a request is lost;
- Mail received from a foreign CA should be delivered directly to the EOI unit: this can be ensured by indicating specifically the address and name of the CA in the Global Forum CA database (see The Global Forum Competent Authorities secure database)
- Electronic transmission must be secured with an appropriate level of encryption, e.g. through “Pretty Good Privacy” (PGP). PGP is a method that is used for encrypting emails through public and private key encryption, and ensure that data and email messages are transmitted securely;
- Only persons authorised to receive information exchanged under an EOI agreement should be able to access the CA mailbox with password protection.

### Confidentiality stamp or watermark

In practice, an important challenge faced by CAs is to ensure that information sent and received is used only for the agreed purposes once it is dispatched throughout the relevant services of the tax administration. CAs should clearly label the cover letter and all enclosures (background information, copies of contracts, accounting records, etc.). A warning should be stamped to all paper records or watermarked in case of digital formats.

The stamp or watermark would generally state that the information is governed by an international agreement, as in the following example:<sup>15</sup>



THIS INFORMATION IS PROVIDED UNDER THE PROVISIONS OF AN INTERNATIONAL TAX AGREEMENT AND ITS USE AND DISCLOSURE ARE GOVERNED BY THE PROVISIONS OF SUCH TAX AGREEMENT.

### Storage

Information and incoming requests must be appropriately classified and securely stored. The CA should take steps to ensure that its use and disclosure comply with the applicable EOI agreement.

Physical records must be stored inside of locked storage units, safe deposits, or rooms to which only the EOI unit staff should have access. Electronic files and databases must be kept on secured servers protected by firewalls and passwords. In the same way, only EOI unit staff should be able to access such files and databases.

Policies for use of portable equipment including laptops, memory sticks, smart phones and cell phones should be designed with a security level which may vary depending on the level of confidentiality.

### Access

Access to buildings and premises of the tax administration and the EOI unit must be restricted to authorised persons. Security measures may include the presence of security guards, policies against unaccompanied visitors, security passes or coded entry

systems for employees and video surveillance. Access by employees to areas where sensitive information is located should be limited. Access to passwords, combinations and keys must be restricted to officers working in the EOI unit. The security measures should be taken into account in case the EOI unit is restructured or moved to a different location or building of the tax administration.

### Disposal

Tax administrations must have policies regarding secure disposal of confidential information, both for physical and electronic documents. Disposal procedures may vary depending on the level of confidentiality and sensitivity, and would normally be linked to the tax administration's information classification policy.

Appropriate steps must be taken to remove confidential information when computers and information storage devices are disposed of. Hard copies of incoming information should only be made available by the EOI unit if strictly necessary, for example when documents must be forwarded to other departments. Any hard copies should be disposed of in a secure manner when no longer necessary (e.g. by using a shredder, burn boxes or locked waste bins). The same security level should apply to the hard copies as to the original documents.

### Preventing and managing unauthorised disclosures

Preventing and managing unauthorised disclosures must be at the heart of confidentiality policies. On the preventative side, training should be provided to employees regarding reporting actual or potential breaches of confidentiality. Effective penalties for unauthorised disclosures of confidential information exchanged must be clear and severe enough to discourage breaches. Identified deficiencies in procedures and processes must be immediately addressed and rectified. If the breach is the result of an intentional action for personal gain, the matter may be referred to law enforcement officials for possible criminal charges.

If a breach in confidentiality occurs and is identified, this breach should be properly investigated, a report with recommendations should be prepared and sanctions should be applied if needed. The recommendations in the report should be implemented and prevent a similar breach to occur.

15. OECD (2012), Keeping It Safe: The OECD Guide on the Protection of Confidentiality of Information Exchanged for Tax Purposes, available at [www.oecd.org/ctp/exchange-of-tax-information/keeping-it-safe-report.pdf](http://www.oecd.org/ctp/exchange-of-tax-information/keeping-it-safe-report.pdf).

## Managing the exchange of information function

### Common issues on confidentiality

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The Global Forum already assessed the confidentiality framework and implementation of more than 100 jurisdictions during the first and second rounds of EOIR peer reviews. These peer review reports have revealed some trends where the confidentiality requirements in the EOIR context were found not in place or weak, to which special attention should be given.

#### **Disclosure to information holders and taxpayers**

The most common issue identified in Global Forum's peer review reports under element C.3 of the EOIR standard on confidentiality is the fact that jurisdictions give out too much information from the incoming letter of the request to the information holder.

The commentary for Article 26 of the OECD Model DTC explains that “it is understood that the requested State can disclose the minimum information contained in a competent authority letter (but not the letter itself) necessary for the requested State to be able to obtain or provide the requested information to the requesting State, without frustrating the efforts of the requesting State.” It further explains that “If, however, court proceedings or the like under the domestic laws of the requested State necessitate the disclosure of the competent authority letter itself, the competent authority of the requested State may disclose such a letter unless the requesting State otherwise specifies.”

This matter was examined in some detail in a number of reports and the legal framework or the practice of several jurisdictions was found not in line with the EOIR standard because information which was not necessary to collect the requested information was disclosed (e.g. a copy of the requesting letter, the name of the jurisdiction requesting the information or the identity of the person under investigation were disclosed when not necessary to collect the information).

In addition, some jurisdictions allow taxpayers a right to see their tax file which includes some or all details of the request, including the CAs' correspondence. In these cases, the Global Forum concluded that the request letter should never be provided, and in cases where some elements of the file are provided, it should not be done without the consent of the requesting jurisdiction.

#### **Disclosure to other government agencies or authorities**

In some EOIR peer review reports, the Global Forum has also highlighted problems with disclosure of information to authorities not concerned with the assessment or collection of taxes covered by the EOI agreements where the conditions of these agreements were not met (e.g. information disclosed to the Financial Intelligence Unit, the Central Bank, the Attorney General or to the Registrar). Indeed, treaty-exchanged information can only be used for non-tax purposes if the EOI agreement so permits and under the conditions provided for therein.

#### **Use of public e-mails for competent authority replies to requests**

Another aspect of confidentiality that arose in one report was the use by the CA of a public email account (non-government hosted server) to communicate responses to requests to its EOI partners. The fact that the CA sent the response also via the public email account when the partners indicated that they had not receive it through the official email was found not in line with the EOIR standard, as the EOI partner's agreement had not been sought and no encryption was used.

#### **Lost or misplaced requests**

Several reports identified situations where a request was sent by the CA of the requesting jurisdiction but did not reach the CA of the requested jurisdiction and was therefore not considered as received. These situations may include potential risk of confidentiality breach as requests can be handled by unauthorised persons. The reports highlighted that once the issue becomes known, the requested jurisdiction should take steps to remedy its impact and prevent it from happening again mainly through establishing secured communication channels with their partners.

#### **Absence of enforcement provisions concerning confidentiality of information**

Finally, the absence of enforcement measures in relation to confidentiality provisions was identified as an issue by the Global Forum. The enforcement measures in place to support the duty of confidentiality should apply to all the information exchanged under an EOI agreement whether the information relates to national taxpayers or not.



### Box 10. Resources on confidentiality, data safeguards and information security management

Additional resources are available to set up and apply the appropriate confidentiality policies.

- The “Keeping it safe” report sets out best practices related to confidentiality, provides general guidance on how tax administrations protect the confidentiality of taxpayer information both domestically and also specifically with regard to exchange of information under EOI instruments, and provides practical guidance. It is available at [www.oecd.org/ctp/exchange-of-tax-information/keeping-it-safe-report.pdf](http://www.oecd.org/ctp/exchange-of-tax-information/keeping-it-safe-report.pdf).
- The Global Forum and ATAF EOI manuals are additional resources which also include confidentiality policies to be applied when handling EOI requests. The Global Forum EOI working manual is available at: [www.oecd.org/tax/transparency/documents/EOI-manual.pdf](http://www.oecd.org/tax/transparency/documents/EOI-manual.pdf). The ATAF EOI manual is available at: [https://events.ataftax.org/index.php?page=documents&func=view&document\\_id=36](https://events.ataftax.org/index.php?page=documents&func=view&document_id=36).
- The Global Forum’s Confidentiality and Information Security Management Toolkit provides detailed guidance on implementing legal and information security management (ISM) frameworks that ensure the confidentiality of taxpayer information (including information exchanged under international agreements) in line with the AEOI Standard and international information security standards and best practices, as applied in the tax administration context. The toolkit is available at: [www.oecd.org/tax/transparency/documents/confidentiality-ism-toolkit\\_en.pdf](http://www.oecd.org/tax/transparency/documents/confidentiality-ism-toolkit_en.pdf).
- The Global Forum’s Toolkit for Becoming a Party to the Convention on Mutual Administrative Assistance in Tax Matters presents the confidentiality provisions of the MAAC and the elements relating to confidentiality that are key to be invited to sign MAAC. The toolkit is available at: [www.oecd.org/tax/transparency/documents/MAAC-toolkit\\_en.pdf](http://www.oecd.org/tax/transparency/documents/MAAC-toolkit_en.pdf).

## COMMUNICATION

The communication is central to the activities of the EOI unit. An efficient process of gathering and exchanging information requires a common agreement on the communication modalities and on the expectations from each side of the counterparts.

The requirements and modalities for an appropriate communication may be different depending on the type of communication: external communication (i.e. mainly the communication with the foreign partners), or internal communication (i.e. mainly the communication with domestic tax offices and other government agencies or authorities).

### Communication with EOI partners

The process of exchanging information requires a streamlined communication between the CAs involved in EOI. An efficient EOI with partners usually requires, at the minimum, the identification of the relevant contacts and of the preferred means of communication. This information can be complemented with an administrative agreement and regular feedbacks.

### Identifying and sharing the contact details of the competent authority and preferred means of communication

Any breach in the communication between the CAs may affect the efficiency and the effectiveness of EOI. For instance, sending the EOI requests or answers to the non-appropriate persons or service may unduly delay the process and pose confidentiality concerns.

In order to avoid these difficulties, the identification of the relevant contacts in the EOI unit is essential. The EOI unit must make the list of its CAs fully available for the foreign CAs (i.e. the list of all persons allowed to sign and to receive an EOI request). If relevant, this list should distinguish between the CAs depending on their respective role. For instance, the list should clearly mention if the contact details provided are for the CA in charge of EOIR or for the CA in charge of AEOI or both. It should also clarify who takes care of other forms of EOI, such as SEOI. The list of CAs is a working tool which enables foreign CAs to check if the EOI requests are signed by the authorised person. It should therefore cover all the authorised CAs of the jurisdiction, including delegated CAs, even with limited (geographical or material) delegation.

## Managing the exchange of information function

Moreover, foreign CAs should be informed of the jurisdiction's preferred means of communication. Depending on the domestic rules and the IT capacity of the jurisdiction, the privileged means of communication may differ. For instance, some jurisdictions might require receiving and sending the EOI correspondence through electronic channels in order to speed up the process of EOI. Conversely, some jurisdictions can be legally required to use only registered mails<sup>16</sup>.

The preferred mode of communication may also depend on the content of the communication itself. Some jurisdictions prefer registered mails for EOI requests and answers but can accept that follow up or clarification requests and status update be sent through encrypted electronic mails. The preference could also be on the regular mail service provider. The EOI unit may clarify that the correspondence should be sent through mail providers other than the national postal company due to its experience with this company.

For AEOI, the identification of the relevant contact and means of communication is less important as the Common Transmission System (CTS) is the common system for exchanging the AEOI data. As mentioned before, this system is due to evolve in order to allow the sending of EOI requests and of the answers to those requests, as from 2021. However, there is still a great interest to provide this information for all the correspondences apart from the actual exchanges of data.

Up to date communication details for EOI partners can be shared by the EOI unit through the following tools.

### **Relevant tools for sharing the competent authority's basic information**

#### **The Global Forum competent authorities secure database**

The Global Forum Competent Authorities secure database<sup>17</sup> allows easy access to the contact details of CAs for EOI purposes. This database, only accessible by the CAs of the Global Forum members, contains information on the contact details of CAs of all Global Forum members.

At the minimum, Global Forum members are encouraged to provide an updated list of contact details of their CAs for EOIR on direct taxes (taxes on income and capital). It is also recommended that the contact details of the CAs in charge of the following matters be provided by the jurisdictions for the database:

- Valued added taxes and other consumption taxes;
- Inheritance and gift taxes;
- Spontaneous and automatic exchanges;
- Collection of taxes;
- Simultaneous tax examination and tax examination abroad;
- Tax treaty negotiation; and
- Mutual agreement procedures.

The jurisdiction can also mention in the database its preferred means of communication, including the information on the tools (such as electronic platform) used to exchange electronically or on the use of encryption systems for electronic correspondence.

Furthermore, the database is a relevant tool to share useful information for EOI such as:

- the publicly available domestic database in which information could be found (in particular the link to the commercial registry, the beneficial owner register if publicly available, etc.);
- the list of the EOI instruments through which the jurisdiction can exchange information with its foreign partners; and
- the information on the domestic system of notification of the taxpayer for EOI purposes.

In order to ensure the consistency of the secure database, the EOI unit should use the relevant template for providing this information, which can be provided on request by the Global Forum Secretariat.

#### **Relevant page of the tax administration's website**

The EOI unit can also use its tax administration's website

16. This situation is however rare nowadays.

17. The database can be accessed by authorised competent authorities at [www.oecd.org/securesites/gfcompetentauthorities/](http://www.oecd.org/securesites/gfcompetentauthorities/).

to inform the foreign CAs about the contact details of its CAs and about the preferred means of communication for EOI. For instance, the page dedicated to international taxation or international co-operation could mention this information. It could also be linked with the page in which the EOI instruments are listed.

However, the disclosure on the tax administration website might have some limitations:

- As the information disclosed on the tax administration websites is publicly available, careful consideration should be given to the scope of information disclosed on the website, for confidentiality purposes, in particular in respect to the contact details of the CAs. Some jurisdictions disclose only the name and the address of the EOI unit or its generic e-mail address, without any personal contact details of the EOI unit staff. Similarly, the EOI unit may prefer not to communicate too broadly on the confidentiality requirements underlying the electronic communications with foreign countries, to avoid disclosing publicly sensitive information;
- Even though disclosing the information on the relevant contacts on the tax administration website make it available, it is not always easy for the foreign CAs to find the information on the website, in particular due to language differences.

In this perspective, the information shared on the Global Forum CAs secure database can be more comprehensive and more accessible as this central database is only accessible to the CAs of Global Forum members. Therefore, the approach to include the information on the contact details for EOI on the tax administration website should be regarded as complementary with the CAs secure database.

### **Bilateral letters or messages to EOI partners**

The EOI unit can also send bilateral letters or messages to the CAs of its EOI partners. This could also be a good opportunity to check if the EOI unit correctly identifies the CAs of all its EOI partners.

However, this process of sending bilateral letters could be burdensome, depending on the number of EOI relationships. For example, jurisdictions participating in the MAAC already have more than 140 EOI partners.

With this in mind, the EOI unit may prefer sending bilateral letters only to its main EOI partners or to partners for which a specific organisation in EOI exists or when specific communications arise. For instance, if specific modalities of EOI exist with another jurisdiction in a context of a specific cross-border arrangement, this approach of bilateral contact could be considered appropriate and complementary with the CAs secure database.

### **Updating the competent authority details in real time**

Independently of the tool used, it is necessary to update the information, either on the contact details of the CA or on the communication means, as soon as a change occurs.

Moreover, in order to avoid any communication issue after a change in the list of CAs, it is recommended to set up a permanent and generic e-mail address to which the EOI requests and related correspondences should always be sent or copied. Using such an email address would also ensure that EOI requests or correspondences are dealt with immediately, even in the absence of the CA or the EOI officer designated for the case.

### **Addressing practical issues in an administrative agreement**

Once the basics for exchanging information with foreign EOI partners are known, the EOI unit might consider to draft an administrative agreement, if it is relevant, with some of its key partners. The EOI unit may decide to enter into an administrative agreement before the beginning of the exchanges in practice, for instance following the signature of an EOI instrument by the jurisdiction, or at a later time, for instance if some practical issues arise in the practice of EOI.

The purpose of an administrative agreement is to agree on a common understanding on how EOI must be carried out in practice. This kind of agreement may be useful in particular with the CA of a jurisdiction with an EOI practice completely different from the practice of the EOI unit.

The administrative agreement usually contains similar basic information for exchanging (contact point and means of communication), but can also contain the following features of the communication between the CAs:

## Managing the exchange of information function

- Translation and to what extent this should be done (translation of the request and the answer, translation of all the supporting documents, etc.). It could be useful to agree on this matter in particular with jurisdictions with which issues in relation to translation can be expected, for instance with the jurisdictions using a different alphabet;
- Minimum information to be provided in the request to allow the requested CA to handle the request, in particular if the requested jurisdictions needs extensive information to correctly identify the relevant persons involved in its territory.

The administrative agreement can also be useful to set up the conditions and modalities for other administrative co-operation, such as specific cases for which spontaneous information is expected, modalities of simultaneous tax examinations and tax examinations abroad.

If there is a common understanding on the above aspects, an administrative agreement would not be necessary. However, if an administrative agreement is signed with an EOI partner, it is strongly recommended to make it available for all the staff of the EOI unit, who will have to carry out the exchange in practice and update it if needed, depending on the issues that could arise after its signature.

### **Addressing specific issues in feedback or bilateral meetings**

The feedback on the requests and the answers received can enhance the communication with the other CAs and improve the effectiveness of EOI.

For the outgoing requests, the feedback on the requests sent is usually provided in the requests for clarification that may be received from requested CAs. The requesting CA may use these requests for clarification to enhance the communication with its EOI partners, in particular by anticipating and addressing the level of clarification often requested by a specific EOI partner when sending EOI requests to this specific partner. Usually, using the common template for EOI request is also helpful to anticipate potential issues with the other CA on a specific EOI request.

For the answers received from a foreign CA, the feedback are usually provided by the field officials

who use the exchanged information in the context of a tax audit or investigation. Therefore, the EOI unit must often require feedback from the field to ensure that there is no latent issue with a foreign partner, in particular because the CA might not always have all the element to appreciate the quality of an answer. In any case, if a feedback is requested by a foreign CA, the EOI unit must collect it from the field official who sought the information. It is recommended to give time to the local tax office, to have a comprehensive view on the strength and weakness of the answer received. In the context of SEOI, the feedback is recommended as it is the only way to demonstrate the usefulness of the information spontaneously provided by an EOI partner. It also encourages the EOI partner to continue sending SEOI.

Specific issues can also be addressed during bilateral meetings including conference calls. These meetings can be held for complex EOI cases or when the partners have been experiencing specific and recurrent issues in their communication or in their EOI relationship more broadly. Opportunities for bilateral meetings are often given during international meetings where CAs presents can arrange side-meetings. An example is the Global Forum competent authorities conference during which CAs are encouraged to meet to discuss their bilateral issues. Even when there are no specific issues, such meetings could be held to commend the efforts of an EOI partner in a specific case or a good working relationship with a major EOI partner.

### **Communication with domestic tax offices and other government agencies or authorities**

A good communication between the EOI unit and the domestic tax offices on one hand and between the EOI unit and the other agencies or authorities involved in the EOI activity on the other hand can enhance the efficiency of EOI, including SEOI.

### **Communication with the domestic tax offices initiating outgoing requests or using incoming information**

The domestic tax offices which initiate outgoing requests, such as the tax audit services must be encouraged to make a request when it is relevant for a tax case. In order to ensure the efficiency of the process, some basic requirements are recommended in the transmission of the draft EOI request to the EOI unit:

- identification of the relevant point of contact in the EOI unit in charge of receiving the draft request and of the treatment of that request. This identification must be clear, even if it can be a generic e-mail address or the name of the head of the EOI unit for instance, and explicitly available on the intranet or in the EOI manual;
- identification of the essential information to provide by the tax auditor to the EOI unit. This information should be communicated through a template to facilitate the process. The template should be easily accessible by all the domestic tax offices which can potentially initiate a request. It could be available on the intranet and/or attached to the EOI manual, and the managers of the concerned offices should be reminded of the availability of this template during meetings with the EOI unit;
- identification of the level of review expected: the EOI unit should clearly mention (for instance, in the EOI Manual) whether the draft request must be reviewed by the manager of the domestic tax office or if it can be sent directly by the officials to the EOI unit.

The EOI unit must also often update the domestic tax office which has initiated the outgoing request on its status, in particular if the status of the request can affect an ongoing procedure (e.g. a tax audit or a tax investigation). To that purpose, the EOI unit should:

- inform the office of the date of sending of the request to the foreign CA;
- inform the office of any subsequent correspondence with the foreign CA (e.g. request for clarification, even if the CA can provide answer to the request without the help of the domestic tax office, status update, information about a possible delay in the response);
- forward the answer (including partial answers) as soon as possible to the office which has initiated the request by identifying the date of receiving;
- request feedback on the quality and usefulness of the answers provided by the partners. This will help identify any potential issue at an early stage.

A good communication between the EOI unit and other domestic tax offices should work on both directions.

For example, the tax offices should provide the EOI unit with any additional information which may be helpful to understand the foreseeable relevance of a request made or inform the EOI unit that the information requested is no longer needed for a specific reason. The tax offices should also provide the EOI unit with feedback on the quality of any information received through SEOI and the actions it has given rise to.

### Box 11. Communication in the context of AEOI

In the area of AEOI, the communication is still important with both the foreign EOI partners and the offices in charge of gathering and formatting relevant data. The tools and recommendation mentioned above are therefore relevant for AEOI.

However, further tools are available for AEOI, in particular the Common Transmission System that allows a proper exchange of data between CAs.

Moreover, another aspect of communication in the area of AEOI that falls into the competence of the EOI unit in some jurisdictions is the communication with the information holders (e.g. the financial institutions) and the taxpayers. Indeed, the taxpayers and the information holders should have a very clear view on their obligations in the context of AEOI. In particular, the definition and the format of the data that must be reported is key for allowing the CA to exchange quality data.

For the CRS, it will, for instance, require the tax administration:

- to clarify the legal and practical obligations of the reporting financial institutions, including by providing official guidelines (both on the legal and practical requirements) and holding meetings and seminars with representatives of the financial institutions on the requirements of the AEOI standard.
- to explain to the taxpayers the reasons why the information is exchanged and why they have to comply with specific legal requirements, such as providing a self-certification. This kind of communication could be made through internal website or guidance.



## Managing the exchange of information function

### **Communication with the domestic tax offices and other government agencies or authorities in charge of gathering or providing the information requested**

When the EOI unit is not directly involved in the collection of information, the communication with the offices and agencies or authorities in charge of gathering or providing the information is key to ensure a prompt and comprehensive answer to the EOI requests received.

The communication with these offices, both within or outside the tax administration, must focus on the following essential requirements of the EOIR standard:

- The timeliness of the reply: it is generally useful to state the timeline within which the information should be provided to the EOI unit. The timeline provided to the office or the agency or authority in charge of gathering or providing the information should allow the EOI unit to respond to the EOI request in accordance with the international standard, including when the requested jurisdiction has mentioned the urgency of its request. It is also important to get in touch with the office or the agency or authority for updating the requested jurisdiction on the status of its request;
- The quality of the answer: as the EOI unit is responsible for the quality and the comprehensiveness of the answers provided, it must make sure that the office in charge of gathering the information has used its appropriate access powers for obtaining it. If needed, this office should be reminded of the usual access powers of the tax administration.

These general requirements of EOI and the modalities of communication between the EOI unit and the other offices, agencies or authorities can be mentioned in the EOI manual, for the offices within the tax administration, and in MoUs, for the other government agencies or authorities.

### **BUSINESS CONTINUITY IN THE CONTEXT OF A CRISIS**

The tax administration including the EOI unit can be affected by a crisis, whatever it is, like any other government administration. The crisis resulting from the COVID-19 pandemic gives a good example of the impacts

of a crisis on the EOI unit. In this case, the containment measures have caused delays in the EOI activity and changes in the organisation of the day-to-day work in many jurisdictions. Some jurisdictions also previously experienced situations where the EOI activity was disturbed, for instance due to a natural disaster or an IT incident.

Although most of the tax administrations already have a general business continuity plan in case of a crisis, specific considerations should be given to the continuity of the EOI activity.

The domestic measures to implement at the EOI unit level will of course depend on the circumstances and particularities of each jurisdictions. They will also depend on the crisis scenario. For instance, it could depend on the general measures put in place at the national level, the expected length of the crisis, the scope of the persons affected by the crisis (i.e. only the tax administration, all the government administrations, all the economic sectors, etc.).

For the EOI unit facing a context of crisis, the essential considerations should be to maintain a communication with EOI partners, identify the critical activities and vulnerabilities and deal with the staff management. For example, in the context of the COVID-19 pandemic, many CAs communicated on their need to adapt, as most of their staff were working remotely, with no or limited access to their office premises. This situation affected the access to and the exchange of information, causing some delays in the answers to EOI requests or in the AEOI process.

### **Maintaining a minimum communication with the partners**

Most of the time, the EOI unit does not carry out the EOI activity alone. In many cases, it is in relation with other domestic tax offices initiating the EOI requests or gathering the requested information, foreign CAs or third parties information holders. Therefore, considering those multiple interactions, maintaining a good level of communication with partners during a crisis is key for the EOI unit.

A crisis implies a quick reaction from the EOI unit for making all the relevant stakeholders aware of the existence and/or of the reasons of the crisis. This communication should also target the impacts of the

crisis and the appropriate means of communication, including the identification of the relevant point of contact. It could also rely on more frequent status updates.

### **Impact of a crisis**

The impact of a crisis may be, for instance:

- Limited availability of the EOI unit's staff;
- Difficulties to use the usual means of communications. For instance, in the case where the premises of the EOI unit are closed for a period of time, the EOI unit could encounter difficulties to retrieve hard copies of regular mails. On the other hand, in the case of a crisis due to IT incident, the EOI unit could have limitations in using the electronic communications;
- Delays in the answers of EOI requests or in the transmission of an outgoing request to a foreign partner;
- Loss of some documents, such as EOI requests or information already submitted by the information holders;
- Delays in fulfilling the reporting obligations (e.g. for AEOI).

### **With EOI partners**

When informing its partners, the EOI unit should also mention if all the areas of the EOI activity are affected by the crisis or only some areas, for instance in the case where only AEOI would be affected because of a significant IT issue.

A way of quickly reaching out to EOI partners in the context of a crisis is to request the Global Forum Secretariat to make a broad communication to all its members or to use the Competent Authorities secure database for conveying a general message to all the EOI partners of the jurisdiction.

The jurisdiction may also think about complementing the general communication with a more specific communication, targeting only EOI partners on which the crisis may have specific impact.

### **At the national level**

The communication with the information holders at the national level depends on the extent to which these operators are also affected by the crisis. For instance, the third-party information holders may also face difficulties, due to the crisis, to answer on time to the requests of the tax administration. Therefore, the EOI unit could consider giving them more flexibility, including the possibility to request for an extension of the deadline for providing the requested information. This flexibility can be given generally or on a case-by-case basis.

For AEOI, the EOI unit can also use the updates on dedicated webpages on AEOI with guidance documents and/or FAQs, including on the crisis, to give more visibility. It is also recommended that the EOI unit uses direct communications with the financial sector (including webinars or conference calls) to hear their concerns, communicate on mitigation measures in relation to reporting deadlines for instance, and respond to specific questions.

### **Appropriate means of communication during a crisis**

In order to make the communication the most efficient as possible, jurisdictions should identify the relevant point of contact in the EOI unit and the appropriate means of communication to use during a crisis. This will ensure that, even though the staff of the EOI unit and the usual means of communication are only partially available, the communication from the other stakeholders can reach the EOI unit.

The identification of the relevant points of contact implies, in anticipation of a potential crisis, to foresee clear delegations if needed, in particular the delegation of CA powers. The delegation may depend on the crisis scenario and take into account the constraints of each member of the EOI unit staff. If the crisis has already begun, the delegation can still be put in place or reviewed, in particular in case of the sudden absence of one of the member of the staff who was previously granted with a delegation.

If the identification of the relevant points of contact and the preferred means of communication requires an update of the information available on the Global Forum CA secure database, this information must be updated as soon as possible after the beginning of the crisis.

## Managing the exchange of information function

For AEOI, the EOI unit can face difficulties to access the CTS as normal (i.e. access may not be possible or may not be as frequent). To ensure that partner jurisdictions are aware of such constraints, the EOI unit can ask the CTS Secretariat to upload a message to the information page on CTS Readiness to Exchange. Communication on the impacts of a breach of exchanged data is also key, in particular with exchange partners to let them formulate appropriate responses under their domestic legal frameworks and treaties.

The EOI unit can also communicate on the actions being taken for remediating the impacts of the crisis.

### **Status updates on the EOI requests**

In time of a crisis, it could be understandable that the EOI unit does not run at the same pace and with the same efficiency than usual. In particular, delays in the EOI process, both on EOIR and AEOI could be expected. In those cases, the first step is the general communication on the impact of the crisis.

However, there may still be a pressing need from the EOI partners for obtaining status updates as regards ongoing EOI requests. For instance, in the case of a pending request in an urgent matter, it could be useful to inform the requesting CA on the potential difficulties, due to the crisis, in the treatment of its request. This will assist the EOI partner in better organising its open tax case taking into account its specific legal requirements such as timelines to close a tax audit or statute of limitation. Therefore, the EOI unit should keep in touch as much as possible with the relevant EOI partners by sending them frequent updates on the status of their requests, in so far as possible.

Moreover, even in the context of a crisis, the EOI unit should send partial answers to the EOI requests of their partners, if it is in position to do so. This could be the case in particular when the tax administration still has access to its own databases (for example, the database of the tax administration or Registrar of Company), which can facilitate the gathering of partial answers to EOI requests.

### **Identifying critical activities and vulnerabilities**

The identification of the critical activities in the EOI unit is necessary in the context of a crisis. Indeed, a crisis itself or the measures taken to remedy to a crisis may reduce the resources available for the EOI unit to carry out its core activity. Such a situation requires, more than

usual, a prioritisation of the work of the EOI unit in order to cope with its most essential tasks.

The core activity of an EOI unit is to exchange information with effectiveness. For EOIR, the essential tasks to be performed during the crisis could be among others, and depending on the severity of the crisis:

- to identify the most urgent pending requests, both incoming and outgoing, in order to prioritise their treatment;
- to properly register the new incoming and outgoing EOI requests and any other related correspondences. Even during the context of the crisis, the registration of the EOI requests is key for ensuring the relevant monitoring of the EOI activity. Any delay or negligence in this task could result in a disorganisation of the activity which could be difficult to remedy in the future;
- to provide status updates for the pending requests, in particular for the requests pending for more than ninety days;
- to send reminders for the oldest cases for which the EOI unit has been informed that the answer is becoming urgent.

Similarly, the EOI unit should identify the critical vulnerabilities in the context of crisis. The tax administrations usually have predefined risk maps for each of their activities. However, during a crisis, these risks could be different or, on the other way round, more relevant. By determining the relevant risks related to the crisis at an early stage, the EOI unit will be in a better position to mitigate them. This is particularly relevant for confidentiality issues in the area of AEOI.

The identification of the critical activities and vulnerabilities implies a coordination in the tax administration as a whole, in particular regarding potential reallocation of staff or other resources.

### **Relying on, and managing the staff of the EOI unit**

During a crisis, the coordination between the EOI unit staff members should be strengthened. Even though this coordination is necessary at all times, the specific working conditions in a context of a crisis can significantly change the organisation of the unit and

of the EOI activity. Moreover, the EOI unit staff itself can be affected by the crisis, due in particular to the unavailability of some members.

In those circumstances, the EOI unit staff members must be fully aware of the new changes and constraints due to the crisis in order to carry out their activity in accordance with these conditions. For instance, in the case of a delegation of an activity to a member of the staff, this person must know the scope and the essential requirements of this activity. Furthermore, if the EOI unit is not able to use a means of communication during the crisis, all the EOI unit staff must be aware of this constraint.

In order to ensure an appropriate coordination and awareness in the time of crisis, the head of the EOI unit could organise frequent meetings with all staff or, for specific issues, with only the relevant members of the staff. Those meetings would be probably frequent at the beginning of the crisis and their frequency would then decrease.

### Taking a crisis as an opportunity

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The crisis period is always very challenging for all the organisations and persons affected, even though the measures to mitigate and to remedy the impacts of the crisis can help to cope with it.

However, the crisis can also be a good opportunity to identify areas of improvement for the organisation or to the working methods of the EOI unit. The crisis can unveil risks not previously identified and can then help the EOI unit to fully integrate these risks in its daily operation.

The new working methods adopted during the crisis could also be relevant in the future. In particular, if the EOI unit made significant efforts to implement those methods, it should carefully consider if there is an interest and benefit to keep these methods once the crisis is over to avoid losing all the efforts made during the crisis.



# Annexes





## Annex A. Checklist for establishing an EOI unit

An effective EOI unit requires some building blocks to be in place. Jurisdictions establishing an EOI unit should give careful consideration to the following elements:

1. Adequate, up-to-date and appropriate information is availed to senior management to support decision making on requirements for the establishment of an EOI unit and its placement.
2. A centralised office is identified for positioning the EOI unit, taking into account the jurisdiction's specific context. In general, the EOI unit should be properly functioning and have clear synergies throughout all the organisation's compliance functions so as to positively support all functions that require information in line with the international standards of EOI.
3. Strict confidentiality and data safeguards measures are in place, including the following:
  - Secure premises in place to house the EOI unit and all EOI records;
  - Locks in place to keep records/documents with access restricted to the EOI unit staff;
  - The keys to the EOI premises/office are kept by only authorised staff;
  - EOI premises are not accessed by any non-EOI or non-authorised staff.
4. Delegation of the CA powers for EOI from the minister of finance to the head of the tax administration and to some of the officials handling actual EOI (e.g. the head of the EOI unit) is undertaken and is in writing.
5. An EOI manual/guide is in place to provide guidance on how EOI with partners is managed.
6. Staff matters such as leave and any out of office programmes are managed in such a manner to ensure some staff are available to manage EOI activities at any one time during the year. This includes using a single generic governmental email address accessible to all the EOI unit staff.
7. All information requests are separated from day to day official taxpayer documents, screened and filed away or disseminated in line with the confidentiality guidelines and procedures.
8. Relevant equipment such as computers, landline phones, printers, a scanner, a shredder etc. are available within the EOI office.
9. A case tracking database (may be as simple as an Excel spreadsheet or a more complex software, depending on the jurisdiction's volume of EOI requests) is in place for recording and tracking requests received and those made. The database helps in monitoring cases and keeping them in sight.
10. Business strategy and performance measures/indicators to monitor the EOI tasks are set out at the beginning of every financial year.
11. A business continuity plan is in place to maintain the EOI activity to the extent possible during crisis.

## Annex B. Ideal skills for an EOI unit



In respect to relevant expertise, the EOI unit generally includes tax officials with varied skills and among others, the following may be observed when selecting staff to manage the EOI office:

### 1) Tax skills

- Knowledge on domestic tax
- Knowledge on international tax (tax treaty, EOI, transfer pricing)
- Knowledge on tax procedures, especially the rules governing the gathering of information
- Knowledge on accounting, tax investigations and tax audit
- Knowledge on administrative procedures

### 2) Analytical thinking:

- Capable of methodically sorting through an issue and finding the right answer
- Intellectually curious--interested in being a knowledge resource for stakeholders
- Able to organise time and prioritise multiple initiatives in a fast-paced environment
- Able to interpret data on reports and make recommendations to improve performance
- Creative problem solving

### 3) Communication skills:

- Strong verbal and written communication skills
- Must be willing to be authority figure when necessary
- Must excel at explaining and simplifying complex concepts (in-person, by phone, and via e-mail)
- Must enjoy teaching numerous individuals at a time
- Multilingual if possible (English at minimum)

**4) Negotiation skills:**

- Must be positive and enjoy helping all stakeholders
- Must work with integrity and care for stakeholders
- Tenacity
- Must pick up technological concepts quickly
- Must be liaison between the jurisdiction and other jurisdictions
- Must have patience
- A winning attitude

**5) Leadership:**

- Commitment to professional excellence and ethics
- Ability to build collaborative relationships that leverage team dynamics
- Ability to see the big picture/ visioning/ capacity to think strategically
- Highly organised with attention to detail
- Self-driven

**6) Other skills**

- Excellent computer skills, including in Microsoft Word, Excel, Outlook, and PowerPoint.

## Annex C. Example of EOI impact assessment form

This model of EOI impact assessment form was discussed and approved by the participants to the Africa Initiative meeting in October 2020 and the participants to the Punta del Este Declaration Initiative in November 2020. The template, which includes drop-down lists, can be provided by the Global Forum Secretariat upon request.

### Model of EOI impact assessment form

Date: DD/MM/YYYY

- Result of the use of information obtained on request
- Result of the use of information obtained spontaneously
- Result of the use of information obtained automatically

Service: [Name of the service]

Officer: [Name of the officer]

<b>Reference case number of the providing jurisdiction</b>	[Number]	<b>Jurisdiction providing information</b>	[Name of the jurisdiction]
<b>Domestic/internal reference case number</b>	[Number]		
<b>Taxpayer investigated</b>		<b>Date of taxation</b>	
[identification of the taxpayer, whether an entity or an individual]		DD/MM/YYYY	
<b>Additional tax base identified (1):</b>	<b>Out of the amount in the left column, percentage and additional tax base attributable to information exchange (2):</b>	<b>Nature of the tax(es) and audited period(s) (3)</b>	
<b>Additional tax base (a):</b> [Amount in local currency]	<b>Percentage (b):</b> <u>Choose an item ▼</u>  <b>Additional tax base attributable to information exchange (c):</b> [Amount in local currency]	<b>Tax(es):</b> [Name of the tax(es)]  <b>Period(s):</b> From DD/MM/YYYY to DD/MM/YYYY  <b>Tax(es):</b> [Name of the tax(es)]  <b>Period(s):</b> From DD/MM/YYYY to DD/MM/YYYY	

<b>Additional revenue identified (4):</b>	<b>Out of the amount in the left column, percentage and additional revenue attributable to information exchange (5):</b>	
<b>Taxes:</b> <i>[Amount in local currency]</i>  <b>Penalties:</b> <i>[Amount in local currency]</i>  <b>Interests:</b> <i>[Amount in local currency]</i>  <b>Total additional revenue identified (d):</b> <i>[Amount in local currency]</i>	<b>Percentage (e):</b> <i>Choose an item</i> ▼.  <b>Total attributable to information exchange (f):</b> <i>[Amount in local currency]</i>	
<b>Outline of the case (6)</b>		
<b>Use for other purposes (7)</b>	<input type="checkbox"/> No <input type="checkbox"/> Yes, please specify:	



### Notes to the EOI assessment form

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This form shall be used in cases where information obtained through exchange of information, either on request, spontaneously or automatically, has been used.

- 1. Additional tax base identified:** it refers to the additional tax base identified in the case. This is the difference between the tax base known by the tax administration (for instance the tax base declared by the taxpayer) and the tax base identified after the controls or investigations carried out by the tax administration, irrespective of whether exchange of information has been used or not. It can be the consequence of the non-declaration or under-declaration of income, of the deduction of non-authorized or fictitious expenses, etc.
- 2. Percentage and additional tax base attributable to information exchange:** the official handling the case shall assess to which extent the information obtained through exchange of information has contributed to increase or secure the additional tax base identified. To facilitate the assessment, the official shall use the closest percentage proposed in the list.  
Then, the additional tax base attributable to information exchange can be calculated:  
 $[(a) \times (b)\% = (c)].$
- 3. Nature of the taxes and audited period:** the tax or taxes investigated and the related audited period(s).
- 4. Additional revenue identified:** it refers to the total amount of revenue identified in the case, including the penalties and interests.
- 5. Percentage and additional revenue attributable to information exchange:** the use of the information obtained on request, automatically or spontaneously may have directly or indirectly lead to the identification of additional revenues. To facilitate the assessment, the official shall use the closest percentage proposed in the list.  
Then, the additional revenue attributable to information exchange can be calculated:  
 $[(d) \times (e)\% = (f)].$
- 6. Outline of the case:** please provide a concise description of the case, the investigation, the information obtained, how it was used to achieve the final outcome.
- 7. Use for other purposes:** please indicate if the information has been used for other purposes than tax purposes. Information can also be used for the fight against other serious crimes (e.g. money-laundering, corruption) by allowing information received by a country to be used for non-tax purposes provided certain conditions are met (i.e. such use is allowed by the laws of both the requested and requesting Party and prior authorisation of the Requested Party is obtained).

## Annex D. Examples of memorandum of understanding between a tax administration and other government agencies for domestic sharing of information

### Example 1

#### PROTOCOL BETWEEN THE [TAX ADMINISTRATION] AND [THE AGENCY]

- The [tax administration], represented by [Name and Title]
  - [The Agency], represented by [Name and Title]
- agree on the following provisions:

#### Article 1 – Purpose

The purpose of this Protocol is to define the procedures for implementing the exchanges of information between the [tax administration] and [the Agency] provided for in [Domestic legal basis].

#### Article 2 – Legal framework

In accordance with the aforementioned legislative provisions, the [tax administration] and [the Agency] shall exchange any information likely to be useful for the fulfilment of their respective missions, including the fulfilment of commitments in the area of international administrative cooperation.

Exchanges take place spontaneously or on request.

#### Article 3 – Methods of transmission of information

##### 3.1. Form and content of transmission of information

The transmission of information between [the Agency] and the [tax administration] shall be made by means of a note specifying in particular:

- the names of the persons (individuals or legal entities) concerned;
- the particulars and any other relevant information maintained by [the agency] or [tax administration] in respect of the person concerned.

To facilitate the exploitation of the information transmitted, the persons concerned are identified, as far as possible:

- for natural persons: by name, date of birth, taxpayer identification number (TIN) and address
- for legal entities: by their company name, address of the registered office, the nature of the activity and the registration number in the Companies Register.

In the event that the same information is simultaneously sent to other authorities (e.g. judicial authorities), it is recommended to contact these authorities prior to any procedure in order to ensure coordination of the various investigations underway.

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### 3.2. The transmission circuit

Notes/Information are sent exclusively by e-mail with a password-protected attachment to:

- for the [tax administration], at the following generic address: [generic e-mail address]
- for [the Agency], at the following generic address : [generic e-mail address]

In the event of a request for transmission of information, this information is transmitted as quickly as possible and, as far as possible, within the deadline indicated by the requesting department.

### 3.3 Confidentiality of the information

The information contained in the notes may be freely used by the [tax administration] and [the Agency] in their investigative and research work. However, the note of transmission must remain an internal document and may not be disclosed without the express authorisation of the sending department.

Any information governed by an international agreement should be maintained and used strictly in accordance with the provisions of that agreement.

## Article 4 – Monitoring

The [tax administration] and [the Agency] jointly assess their information needs, learn how the information they share is being used, and evaluate the effectiveness of their exchanges.

Each year, a quantitative and qualitative assessment of the exchanges carried out is drawn up and includes:

- number and nature of the information transmitted;
- results of audits and investigations carried out following the transmission of the information (number of audits, total amount of tax adjustments, qualitative analysis of the results obtained, consequences at criminal level).

To facilitate the exchange of information, contact points are designated within the [tax administration] and [the Agency]:

- for the [tax administration], [contact details]
- for [the Agency], [contact details]

These contact points are in charge of

- ensuring the implementation of this protocol;
- establishing the annual review of the exchanges;
- evaluating the information needs of the [tax administration] and [the Agency] in order to improve the quality of exchanges;
- responding to ad hoc requests.

## Article 5 – Date of effect

This Protocol shall take effect from the date of signature by the Contracting Parties.

## Example 2

### MEMORANDUM OF UNDERSTANDING BETWEEN [TAX ADMINISTRATION] AND [THE AGENCY]

*The text below is based on the example of a memorandum of understanding between the tax administration and the National Social Security Agency. Some guidance are added in italic to highlight what could be indicated in the case of another Agency.*

This memorandum of understanding (hereinafter referred to as the "MOU") is made at [Place] this [Date].

BETWEEN

[The National Social Security Agency] and [tax administration] are hereinafter jointly referred to as "the parties".

Both parties witnessed as follows:

**Whereas** the parties formally agree to terms applicable to the relationship between [National Social Security Agency] and [tax administration] with regard to sharing information on incidences of suspected utterances of mis-declarations related to Tax / providence contributions, they will be a focal point for fast track guidance on tax matters, access to information on the [National Social Security Agency] Register of contributors, benchmark on investigation and prosecution of offenders and exchange of remuneration statistics in an effort to enhance compliance with laws administered by both parties in [Country] and any other matters of joint interest in the execution of the mandate of the parties.

*[The content of the previous paragraph will depend on the information exchanges required for the tax administration and the targeted Agency].*

**And whereas** the parties desire to enhance a framework for addressing tax related concerns of contributors affecting their eligibility for compliance, fulfilling the statutory responsibilities that each of the two parties hereto are required to discharge under their respective legislations and any other applicable laws, rules and regulations and have agreed to sign a MOU on the following terms:

**Now these presents witnessed as follows;**

#### Major Areas and Activities of Co-operation

*[The content of the table below will depend on the information exchanges required for the tax administration and the targeted Agency]*

ITEM	REQUIRED / TARGET
Exchange of Information between [tax administration] and [National Social Security Agency]	<ul style="list-style-type: none"> <li>● [National Social Security Agency] and [tax administration] agree to share information within their jurisdictions on any taxpayer / contributor related matters for their mutual benefit.</li> <li>● Any fraud identified in its normal course of business.</li> <li>● Information on businesses merged or wound up.</li> <li>● Information on whistle-blowers campaign.</li> </ul>

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ITEM	REQUIRED / TARGET
Addressing tax concerns of contributors through strengthening the existing framework.	Holding quarterly consultative meetings between the Parties; however ad hoc meetings and consultative electronic mail shall be used as and when the need arises.
Training, Benchmarking and sensitisation sessions.	<ul style="list-style-type: none"> <li>● Holding regular sensitization meetings between the Parties and the taxpayer / contributor.</li> <li>● Cooperation between the parties in as far as developing and sharing relevant databases and benchmarking in areas of mutual interest.</li> <li>● Jointly hold radio talk shows on matters of mutual concern.</li> </ul>
Identifying non-compliant contributors in the public domain to enable [the tax administration] track and enforce tax compliance.	[National Social Security Agency] and [tax administration] to identify taxpayers / contributors who are not duly registered with updated details for TIN and National Social Security number

### Information Delivery Method

The information above shall be in writing and may be provided in hard copy form, soft copy form, fax or e-mail to the offices of the Commissioner General of [tax administration] or Chief Executive Officer of [National Social Security Agency]. The Commissioner General and the Chief Executive Officer shall be responsible for communicating the requests and receiving the information mentioned above.

The information may be provided on written request or spontaneously.

### Confidentiality

The Parties undertake as follows:

- That the information provided by either party to the other shall be treated with utmost confidentiality pursuant to this MOU and any other matter arising during the operation of the MOU, and shall at least be accorded protection and confidentiality similar to that accorded to the same kind of information under the domestic law in force.
- That the information received from the other party during the performance of this MOU will be used solely for purposes of meeting their obligations under this MOU and that neither of the parties shall disclose non-public information without the prior written authorisation of the party that owns the non-public information.
- Any information governed by an international agreement shall be maintained and used strictly in accordance with the provisions of that agreement.

### Maintaining Existing Statutory Authority and Obligations

- Each party to this MOU retains all rights and obligations under existing statutes and regulations, and this MOU will not restrict the supervisory and functional prerogatives of either party.
- Nothing in this MOU shall be deemed to restrict, enlarge, or otherwise modify the respective jurisdictions of the parties. Neither this MOU, nor its termination, shall affect the rights and obligations of the parties under applicable statutes or be deemed an interpretation of such statutes or regulations.



### Monitoring Compliance

The parties hereto shall each appoint a person or persons in writing to be the principal point of contact between them to monitor compliance with the MOU and to ensure the efficiency and effectiveness of the coordination and exchange of information between the parties. Either party may change its principal points of contact by giving written notice to the other.

### Amendment

Any changes, modifications or amendments to this MOU shall be made only by mutual agreement in writing between the parties hereto and such changes, modifications or amendments shall become an integral part of this Agreement.

### Termination

Either party may request for termination of the MOU by giving written notice of its desire to terminate this Memorandum three months prior to the termination.

### Disputes

Any disputes arising from the interpretation or implementation of this MOU shall be resolved mutually among the parties or their designate representatives. In the event of failure to mutually agree, the dispute shall be referred to Arbitration in accordance with the provisions of the [\[Legal basis\]](#).

### Effective Date

This MOU shall come into effect on the date of its signing by the parties hereto.

### Notices

Any notice or request required or permitted to be given under this MOU shall be in writing and shall be given at each party's address set out below or as amended from time to time by notice to the other. Email or Fax communication shall be an acceptable mode of communication.

- For [\[tax administration\]](#):  
The Commissioner General,  
[\[Contact details\]](#)
- For [\[National Social Security Agency\]](#)  
The Chief Executive Officer  
[\[Contact details\]](#)

In witness whereof the Parties have caused this Memorandum of Understanding to be executed in accordance with their respective laws the day, month and year first above written.

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[\[Name\]](#)  
COMMISSIONER GENERAL

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[\[Name\]](#)  
CHIEF EXECUTIVE OFFICER

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## Annex E. Positioning and resources of EOI units in selected jurisdictions

**Note:** The data below has been drawn from the Global Forum peer review reports of the jurisdictions rated "compliant" or "largely compliant" for element C.5, which deals with the organisation and operation of information exchange in practice and reflects the situation of each of these jurisdictions during or at the end of the review period.

Jurisdiction (review date)	EOI activity (Number of requests during the period under review)	Place of the EOI unit within the organisation	Resources of the EOI unit	Observations
South Africa (2013 report)	73/year (incoming) 2008-2010	The EOI unit is placed under the authority of the Division of Enforcement Risk Planning (DERP) within the South African Revenue Service	<ul style="list-style-type: none"> <li>• Number of staff = 6 (from 2011. Before 2011: 2)</li> <li>• DERP has its own budget (sufficient for the treatment of EOI requests?)</li> <li>• EOI Manual ensuring that the existing organisational process will be maintained in the future</li> <li>• 6 months induction period for new staff of the EOI unit, under the supervision of more experienced officers</li> <li>• Training : <ul style="list-style-type: none"> <li>• Internally: training in international taxation, in particular in EOI, for about 60 persons per year (including the EOI unit officers and staff of regional directorate)</li> <li>• At international level: participation of the EOI unit staff in trainings delivered by the Global Forum and ATAF. EOI unit officers are also sometimes involved as trainers in those trainings.</li> </ul> </li> <li>• Participation in the work of OECD on EOI and tax compliance.</li> </ul>	The EOI unit is in charge of international EOI (on request, spontaneous and automatic), as well as of the national EOI
Australia (2017 report)	198/year (incoming) 215/year (outgoing) (April 2013 - March 2016)	The EOI unit is within the International Relations Section of the "Large Business and International" business line of Australian Tax Office (ATO)	<ul style="list-style-type: none"> <li>• Number of staff = 10 (1 Director, 2 Deputy Directors, 7 officers)</li> <li>• Induction period with intensive training on EOI for new staff</li> <li>• EOI Manual based on OECD Manual (Australia contributed to this manual) complemented by the "Law Administration Practice Statements" (LAPS) that describes EOI procedures in practice</li> <li>• The EOI unit is responsible for: <ul style="list-style-type: none"> <li>• administering Australia's Competent Authority arrangements</li> <li>• managing the workflow of specific, spontaneous and automatic exchanges of information</li> <li>• co-ordinating the ATO's overall participation in the international information exchange environment</li> <li>• negotiating TIEAs with other countries and</li> <li>• managing participation in the Global Forum's Peer Review process.</li> </ul> </li> <li>• The EOI unit maintains a «ewiki» page on the ATO intranet with information on the unit, training documents and information on the process of treatment of incoming and outgoing requests</li> <li>• Dedicated EOI software : «SIEBEL»</li> </ul>	<ul style="list-style-type: none"> <li>• 75 to 80% of the incoming requests are directly treated by the EOI with the internal databases and a direct access to the external databases.</li> <li>• 20 to 25% of the incoming requests are treated by «gatekeeper» (contact points) in other ATO services</li> </ul>

Jurisdiction (review date)	EOI activity (Number of requests during the period under review)	Place of the EOI unit within the organisation	Resources of the EOI unit	Observations
<b>Belgium (2018 report)</b>	616/year (incoming) 381/year (outgoing)  (October 2013 - September 2016)	<p>The EOI unit is the International Exchange of Information-Direct Taxes (IEOI-DT) Service, part of the CLO (Direct Taxation Central Liaison Office) which is a specific service within the Service Public Fédéral Finances (Federal Public Service Finance, FPS Finance)</p> <p>The FPS Finance is divided into six general administrations: AGFisc - General Administration of Taxes; AGISI - General Administration of Special Tax Inspectorate; Tax and Tax Collection Administration; Treasury General Administration; Patrimonial General Administration; Customs and Excises General Administration</p> <p>In addition, central support services provide administrative services to these six administrations</p>	<ul style="list-style-type: none"> <li>• Number of staff= 11 (from 2012) and 3 officers of AGISI responsible for EOI for cases of tax fraud and evasion</li> <li>• EOI unit draft guidance to help local tax office to handle EOI</li> <li>• Training: since the restructuring of FPS Finances in 2009, all the CLO staff complete a dedicated EOI training. There are two steps in this training: (i) a general training on the process, the legal basis and the obligations for the timeliness and the confidentiality, and (ii) a practical training delivered by more experienced officers.</li> <li>• Trainings and team meetings are scheduled each time a new software or a new database is set up or each time a new legal provision in relation with EOI is enacted.</li> <li>• Participation in several international meetings related to EOI.</li> <li>• Information on EOI available on the AGFisc intranet (general information on international administrative cooperation, templates for EOI requests, training on those templates, etc.).</li> <li>• Dedicated EOI software: «STIR-INT». This software has been operational since January 2012. This software allows maintaining, for each case, all the correspondence sent and received and related documents. Each file also contains information on the identity of the person concerned (individual or entity) and of the national and international competent authorities, as well as a short analysis of the case. The software also allows monitoring the status of each request. It can also produce statistics and automatic reminders.</li> </ul> <p>STIR-Int is linked to another IT program (Task Manager) designed for monitoring all the task allocated to each tax officials.</p>	The EOI unit does not gather directly the information for answering to an EOI request
<b>Burkina Faso (2016 report)</b>	1/year (incoming)  (July 2012 - June 2015)	<p>The Director General of Taxes, who is the head of Burkina Faso's tax administration, has received a delegation of powers from the Finance Minister to act as competent authority</p> <p>The EOI unit, Tax Information Management Department (<i>Service de gestion du renseignement fiscal</i>) is under the authority of the Tax Investigation Directorate (<i>Direction des Enquêtes et des Recherches Fiscales - DERE</i>)</p>	<ul style="list-style-type: none"> <li>• Number of staff: 4 officials at part-time (total staff of DERE = 16)</li> <li>• Given the low EOI activity, the staff dedicate part of their working time to other EOI research work for internal purposes</li> <li>• All the DERE staff have completed a training on EOI delivered by the Global Forum Secretariat</li> <li>• The EOI unit has IT hardware and safes for storing the hard copy of the files, and all the software allocated to DERE</li> <li>• It does not have its own budget</li> </ul>	EOI unit organisation was very recent at the time of the 2016 review  The EOI Unit processes incoming and outgoing request. It gathers directly the requested information, including by implementing its specific access power (the right to information – <i>droit au renseignement</i> )

Jurisdiction (review date)	EOI activity (Number of requests during the period under review)	Place of the EOI unit within the organisation	Resources of the EOI unit	Observations
Cameroon (2016 report)	2/year (incoming) (July 2012 - June 2015)	<p>The CA is the Finance Minister who delegates its powers to the General Director of Taxation</p> <p>The EOI unit (<i>Unité d'échange international des renseignements (UEIR)</i>) is placed under the authority of the General Director for Taxation, in the Law and International Tax Relations Division</p>	<ul style="list-style-type: none"> <li>Number of staff = 4 part-time tax inspectors (1 head of unit and 3 tax inspectors)</li> <li>Given the low EOI activity, the staff dedicate part of their working time to other EOI research work for internal purposes</li> <li>The unit is responsible for coordinating activities related to EOI</li> <li>All the EOI staff have completed a training on information exchange delivered by the Global Forum Secretariat</li> <li>The unit has IT hardware and a request management folder called « tracking system » provided by the Global Forum</li> <li>In order to secure and ensure the confidentiality of information relating to its activity, the UEIR has a secure file room and cabinets with code</li> <li>The unit does not have its own financial resources, its operation are financed by the general budget of the Directorate General of Taxation</li> <li>The unit has access to all databases of the Directorate (tax filing declarations, controls, investigations etc.)</li> </ul>	<p>The organisation was new at the time of the review of Cameroon</p> <p>The unit deals with incoming and outgoing requests. It directly collects the information requested by exercising a specific search power (the right to information)</p>
Canada (2017 report)	286/year (incoming) 98/year (outgoing) July 2013 - June 2016	<p>The Competent Authority Services Division is located in the International and Large Business Directorate of the Compliance Programs Branch at the Headquarters of the Canada Revenue Agency (CRA)</p>	<ul style="list-style-type: none"> <li>Number of staff = 12</li> <li>The EOI manual describes step by step the processing of incoming and outgoing requests as well as the actions that each person must take. The EOI Services Reference Guide covers EOIR, AEOI and SEOI, and EOI in the framework to Canada's participation in JITSIC (<i>Joint International Taskforce on Shared Intelligence and Collaboration</i>)</li> <li>Officials from the unit and other staff involved in EOI are trained</li> <li>Dedicated software for EOI called «EITS» (<i>Electronic Information Tracking System</i>)</li> </ul>	<p>The unit processes the requests itself and in the majority of cases through the contact points (Tax Service Officers, TSO). 45 TSOs located across 5 regions manage EOI with the Unit</p>
France (2018 report)	790/year incoming 2705/year outgoing (October 2013 - September 2016)	<p>The EOI unit is located in the International Affairs Office, in the tax administration. It has authority over all the services that may be contacted to collect the requested information.</p> <p>The work of the EOI unit is supported by:</p> <ul style="list-style-type: none"> <li>5 Tax Attachés based in the capitals of France's main EOI partners</li> <li>national and regional tax audit services.</li> </ul>	<ul style="list-style-type: none"> <li>Number of staff = 7</li> <li>Regular training in international administrative assistance for all staff involved in EOI (from the Central unit and regional offices, about 50 staff)</li> <li>EOI internal manual</li> <li>Language courses (English and Spanish)</li> <li>National School of Public Finances devotes a week of training dedicated to international tax</li> <li>Dedicated EOI software: « AAI » (<i>assistance administrative internationale</i>) which allows the monitoring of incoming and outgoing requests (statistical data, service in charge of the collection of information, timeliness, reminders, etc.)</li> <li>The unit processes the request if the information is already in the possession of the tax authorities (e.g. in the tax administration databases). If the information is held by a third party or by a taxpayer, the collection of the information is carried out by the regional office which manages the file of the taxpayer concerned by the request.</li> </ul>	<p>The EOI unit processes all incoming requests, except the requests sent by a jurisdiction covered by a Tax Attaché or sent under a cross-border CA agreement.</p> <p>The EOI unit also processes the outgoing requests for which the processing is not decentralised to national or regional audit services (outgoing requests for sensitive partners are processed at central level), except for the requests sent to countries covered by a Tax Attaché or under a cross-border competent authority agreement.</p>

Jurisdiction (review date)	EOI activity (Number of requests during the period under review)	Place of the EOI unit within the organisation	Resources of the EOI unit	Observations
<b>Gabon (2016 report)</b>	0/year (incoming) (January 2012 - December 2014)	The unit ( <i>Cellule d'Echange de Renseignements</i> , CER) is under the authority of the General Director for Taxation ( <i>Directeur Général des Impôts</i> , DGI), and located in the International Relations service in the Legislation and Litigation Department	<ul style="list-style-type: none"> <li>• Number of staff = 4 (1 head of unit + 03 central inspectors)</li> <li>• The EOI Manual includes the processes to follow when a request is received</li> <li>• The CER has a software for processing EOI requests</li> <li>• The CER has a secure office within the DGI and material resources (computer, printer, scanner, telephone, safe, etc.)</li> <li>• The Gabonese authorities planned to increase the human and material resources allocated to the CER according to the evolution of the information exchange activity</li> </ul>	During the review period, the unit was recently established.  The CER processes incoming and outgoing requests. It directly collects the information by exercising in particular a specific search power (the right to information)
<b>Japan (2018 report)</b>	175/year (incoming) 460/year (outgoing) (April 2014 – March 2017)	The EOI unit is in the International Operations division in the National Tax Agency (NTA)	<ul style="list-style-type: none"> <li>• There are 16 officials in charge of EOI, who all have experience as field examiners and collectors. The EOI section 1 is in charge of CRS, CBC and FATCA since July 2017, whereas the EOI Section 2 composed of 5 officials deals with other types of EOI including EOI on requests. The CRS project team was established in July 2017 and is in charge of system development of CRS and Country-by-Country reporting</li> <li>• Regular trainings on international tax</li> <li>• EOI Manual based on the OECD template and administrative procedures published on the NTA website</li> <li>• Checklists and templates for the collection of information</li> </ul>	
<b>India (2017 report)</b>	99/year (incoming) 1 262 /year (outgoing)	The CA is the Finance Minister who delegates its powers to the <i>Joint Secretaries of Foreign Tax and Tax Research Division I and II</i>  The EOI Central Unit is located in the Foreign Tax and Tax Research Divisions I and II in the Central Board of Direct Taxes in the Ministry of finance	<ul style="list-style-type: none"> <li>• Number of staff in the EOI Central Unit = 19</li> <li>• Several EOI trainings were organized: for local services (management of incoming and outgoing requests), session at the National Academy for Direct Taxes – NADT on processing sensitive information, more than 30 similar trainings all over India, including in regional training institutes</li> <li>• A "train the trainer" program was also organized at NADT in May 2015 with the support of the Global Forum Secretariat. The participants of this program were officers of the Central Unit and senior managers from 18 local areas (the country is divided into 18 zones for income tax purposes) and subsequently these 18 senior officers conducted trainings of officers in their zones</li> <li>• EOI manual available and accessible on the website to all officers</li> <li>• The Unit also has a two-year action plan on EOI activity (e.g. provides for a quarterly report from local services to the central unit)</li> <li>• Software for processing requests</li> <li>• EOI is taken into account in the annual performance evaluation of the staff involved in EOI</li> </ul>	The EOI system is decentralised. The unit receives incoming requests and generally forwards them to the local tax authorities who collect the requested information

## Annexes

Jurisdiction (review date)	EOI activity (Number of requests during the period under review)	Place of the EOI unit within the organisation	Resources of the EOI unit	Observations
<b>Morocco (2016 report)</b>	60/year (incoming) (January 2012 - December 2014)	<p>The CA is the Minister of Finance who delegated the functions to the General Director of Taxes (DGI). The DGI has in turn authorised the Directorate for legislation, Studies and International Cooperation (<i>Direction de la Législation, des Études et de la Coopération Internationale</i>, DLECI)</p> <p>The Unit ("<i>Service des échanges de renseignements à l'international</i>", SERI) is placed in the Division for Tax and International Cooperation ("<i>Division de la Fiscalité et de la Coopération Internationales</i>") of the DLECI, within the General Directorate of Taxes</p>	<ul style="list-style-type: none"> <li>• Number of staff = 03 (01 HoU, 02 officials)</li> <li>• The unit stems from the new organizational chart of the DGI - March 2016 (simplification of the organization and of the exchange of information cycle involving in particular a significant reduction in the number of officials acting as competent authority)</li> <li>• The operational functions of the competent authority are centralised within the DLECI</li> <li>• The head of unit has a good experience with EOI (several trainings and experience as a peer review assessor). The two newly-appointed officials have attended several trainings on EOI delivered by the Global Forum Secretariat</li> </ul>	The unit was formally created and staffed after the review of Morocco
<b>Mauritius (2017 report)</b>	160/year (incoming) (April 2013 - March 2016)	The unit is placed in the International Taxation Division (" <i>Division de la fiscalité internationale</i> ") of the Large Taxpayers Department (" <i>Direction des Grandes Entreprises</i> ") within the Mauritius Revenue Authority (MRA)	<ul style="list-style-type: none"> <li>• Number of staff = 8 part-time officials (previously 02 full-time officials)</li> <li>• The staff involved in EOI works on a part-time basis (the time dedicated to EOI depends on the volume of incoming requests. During peak periods of incoming requests staff are fully dedicated to EOI whereas in lull periods staff work on other issues)</li> <li>• In 2015, the MRA expanded the EOI unit and revised the work assignment to accommodate the flow of requests received during each annual period.</li> <li>• Staff qualifications: accounting, economics and law</li> <li>• The MRA provides initial training, including a training on EOI, to all new hires</li> <li>• Unit officials are trained with the procedure manual on the exchange of information</li> </ul>	The unit is responsible for managing incoming requests as well as preparing outgoing requests
<b>Monaco (2018 report)</b>	110/year incoming 03/year outgoing (October 2013 - September 2016)	<p>Two units :</p> <ul style="list-style-type: none"> <li>• Tax Service Directorate ("<i>Direction des Services Fiscaux</i>", DSF) (for requests received from France)</li> <li>• Exchange of Information Division, placed under the Department of Finances and Economy of the ministry of finances (for requests received from other countries)</li> </ul>	<ul style="list-style-type: none"> <li>• Number of staff: <ul style="list-style-type: none"> <li>• DFS : 03 officials</li> <li>• EOI Division: 03 officials (also responsible for negotiating exchange of information agreements and participating in the works on exchange of information)</li> </ul> </li> </ul>	<p>The unit is responsible for managing incoming and outgoing requests</p> <p>It directly collects information (communication rights etc.)</p>



Jurisdiction (review date)	EOI activity (Number of requests during the period under review)	Place of the EOI unit within the organisation	Resources of the EOI unit	Observations
Senegal (2016 report)	03/year (incoming)  (July 2012 - June 2015)	The Exchange of Information Unit is placed under the authority of the Director General of Taxes within to the Directorate of Legislation, Studies and Litigation (" <i>Direction de la Législation, des Etudes et du Contentieux</i> ").	<ul style="list-style-type: none"> <li>• Number of staff = 02 full-time officials (01 qualified administrative agent and 01 tax inspector)</li> <li>• The unit is headed by the Head of International and Community Taxation</li> <li>• The unit is equipped with computer equipment, scanning equipment and safe cabinets</li> <li>• The exchange of information manual was being developed at the time of the review</li> <li>• All the unit staff have attended a training course on exchange of information hosted by the Global Forum Secretariat</li> <li>• The unit does not have own financial resources, its operations being provided by the general budget of the Directorate General of Taxes</li> <li>• The unit has access to all the databases (management of declarations, controls, investigations, etc.)</li> </ul>	<p>The Organization was new at the time of the Senegal review</p> <p>The unit is responsible for coordinating and monitoring the processing of EOI requests. The collection of information is the responsibility of operational services</p>
Spain (2019 report)	590/year (incoming) 670/year (outgoing)  2015-2017	The EOI competent authority function is delegated to the head of the Information Office (Equipo Central de Información, ECI), in the National Tax Agency ( <i>Agencia Estatal de Administración Tributaria, AEAT</i> )	<ul style="list-style-type: none"> <li>• Number of staff = 17 (one head, two tax inspectors, eight technical tax experts, three tax agents, two full-time administrative staff and one part-time administrative staff)</li> <li>• Staff members have belonged to ECI for three years on average</li> <li>• All staff have been trained in the Spanish Public School of Tax and received basic training on exchange of information. Every year they receive some training on audits and other relevant matters</li> <li>• The ECI relies on its dedicated IT application to deal with requests for information. It allows knowing in real time at which stage of the procedure an EOI request is. Statistics are prepared on a monthly basis to verify the degree of compliance on handling of requests. On an annual basis, this information is compiled and included in the ECI's report</li> </ul>	
Switzerland (2020 report)	1084/year (incoming) 22/year (outgoing)  (July 2015 – June 2018)	Switzerland's competent authority in respect of EOI is the Commissioner of the AFC (Federal Tax Administration - <i>Administration Fédérale des Contributions</i> ). The competence for matters related to EOIR has been delegated to the EOI Unit ( <i>Service d'échange d'informations - SEI</i> ) of the AFC.	<ul style="list-style-type: none"> <li>• Number of staff = 875 full time equivalent working in EOI on request.</li> <li>• The unit is staffed with 51 lawyers and 25 technical specialists, who are headed by 13 team heads, 3 section heads and the head of division, supported by 6 administrative assistants.</li> <li>• Several employees of the SEI took part in seminars organised by the Global Forum Secretariat. Internal workshops and trainings are organised twice a year to provide employees with further knowledge on specific topics and to bring them up to date on current issues relevant to their work. In addition, general SEI staff and team meetings take place on a regular basis to update everyone on current issues relevant to their work, visits, special requests or court decisions.</li> <li>• The AFC has developed its computer system, operational since 2016, to handle voluminous data concerning all (outgoing and incoming) requests. This new system allowed automating some steps of the procedure for group and bulk requests, and ensures a swifter process of the cases</li> </ul>	<ul style="list-style-type: none"> <li>• The EOI unit staff has almost doubled between the 2016 review and the 2020 review</li> <li>• The EOIR function includes the notification process</li> </ul>

## Annex F. Useful resources

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### Relevant information on the international standards on tax transparency and exchange of information

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- Standard for Exchange of Information on Request:  
<http://www.oecd.org/tax/transparency/documents/terms-of-reference.pdf>
- Standard for Automatic Exchange of Financial Account Information in Tax Matters:  
<https://www.oecd.org/tax/exchange-of-tax-information/standard-for-automatic-exchange-of-financial-account-information-in-tax-matters-second-edition-9789264267992-en.htm>
- Exchange of Information on Request:  
<https://www.oecd.org/tax/transparency/what-we-do/>

### Practical manuals and guidelines

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- OECD Manual on the implementation of exchange of information provisions for tax purposes:  
<https://www.oecd.org/tax/exchange-of-tax-information/36647823.pdf>
- Global Forum EOI working manual: <http://www.oecd.org/tax/transparency/documents/EOI-manual.pdf>
- ATAF practical guide on EOI for developing countries:  
[https://irp-cdn.multiscreensite.com/a521d626/files/uploaded/A\\_Practical\\_Guide\\_ENG\\_web\\_version.pdf](https://irp-cdn.multiscreensite.com/a521d626/files/uploaded/A_Practical_Guide_ENG_web_version.pdf)
- Keeping it safe: the OECD guide on the protection of confidentiality of information exchanged for tax purposes:  
<https://www.oecd.org/ctp/exchange-of-tax-information/keeping-it-safe-report.pdf>
- A Toolkit for Becoming a Party to the Convention on Mutual Administrative Assistance in Tax Matters:  
[https://www.oecd.org/tax/transparency/documents/MAAC-toolkit\\_en.pdf](https://www.oecd.org/tax/transparency/documents/MAAC-toolkit_en.pdf)
- Confidentiality and Information Security Management toolkit:  
[https://www.oecd.org/tax/transparency/documents/confidentiality-ism-toolkit\\_en.pdf](https://www.oecd.org/tax/transparency/documents/confidentiality-ism-toolkit_en.pdf)

### Relevant websites

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- Global Forum on Transparency and Exchange of Information for Tax Purposes:  
<http://www.oecd.org/tax/transparency/>
- Global Forum EOIR peer review reports:  
[https://www.oecd-ilibrary.org/taxation/global-forum-on-transparency-and-exchange-of-information-for-tax-purposes-peer-reviews\\_2219469x](https://www.oecd-ilibrary.org/taxation/global-forum-on-transparency-and-exchange-of-information-for-tax-purposes-peer-reviews_2219469x)
- African Tax Administration Forum:  
<https://www.ataftax.org/>





For more information:



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For more information:



[www.oecd.org/tax/transparency](http://www.oecd.org/tax/transparency)



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