GLOBAL FORUM ON TRANSPARENCY AND EXCHANGE OF INFORMATION FOR TAX PURPOSES

Peer Review Report Phase 1 Legal and Regulatory Framework

RUSSIAN FEDERATION

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Global Forum on Transparency and Exchange of Information for Tax Purposes Peer Reviews: Russian Federation 2012

PHASE 1

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About the Global Forum

The Global Forum on Transparency and Exchange of Information for Tax Purposes is the multilateral framework within which work in the area of tax transparency and exchange of information is carried out by over 100 jurisdictions, which participate in the Global Forum on an equal footing.

The Global Forum is charged with in-depth monitoring and peer review of the implementation of the international standards of transparency and exchange of information for tax purposes. These standards are primarily reflected in the 2002 OECD *Model Agreement on Exchange of Information on Tax Matters* and its commentary, and in Article 26 of the OECD *Model Tax Convention on Income and on Capital* and its commentary as updated in 2004. The standards have also been incorporated into the UN *Model Tax Convention.*

The standards provide for international exchange on request of foreseeably relevant information for the administration or enforcement of the domestic tax laws of a requesting party. Fishing expeditions are not authorised but 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 standard.

All members of the Global Forum, as well as jurisdictions identified by the Global Forum as relevant to its work, are being reviewed. This process is undertaken in two phases. Phase 1 reviews assess the quality of a jurisdictions' legal and regulatory framework for the exchange of information, while Phase 2 reviews look at the practical implementation of that framework. Some Global Forum members are undergoing combined – Phase 1 plus Phase 2 – reviews. The Global Forum has also put in place a process for supplementary reports to follow-up on recommendations, as well as for the ongoing monitoring of jurisdictions following the conclusion of a review. The ultimate goal is to help jurisdictions to effectively implement the international standards of transparency and exchange of information for tax purposes.

All review reports are published once approved by the Global Forum and they thus represent agreed Global Forum reports.

For more information on the work of the Global Forum on Transparency and Exchange of Information for Tax Purposes, and for copies of the published review reports, please refer to *www.oecd.org/tax/transparency* and *www.eoi-tax.org.*

Executive Summary

1. This report summarises the legal and regulatory framework for transparency and exchange of information in the Russian Federation (Russia).

2. Russia has a broad network of exchange of information (EOI) agreements which consists predominantly of double tax conventions (DTCs) dating from the 1990s. More recently, Russia has made a significant commitment to enhancing its capacity to exchange information for tax purposes through the signing, in November 2011 of the Multilateral Convention on Mutual Administrative Assistance (Multilateral Convention).

3. Obligations to protect the availability of relevant ownership, identity and accounting information are founded predominantly in the Civil Code, the Law on State Registration, the Tax Code and the Law on Accounting. For the maintenance of bank information, reliance is placed on Russia's anti-money laundering regime as well as the rules established by the Central Bank of Russia. Some concerns are noted with respect to the availability of information under Russia's legal and regulatory framework, such as ownership information regarding foreign entities carrying on business in Russia, information on the identity of partners in simple partnerships, and information on the identity of beneficiaries, settlors and trustees of foreign trusts for which a trustee is resident in Russia. With regard to the availability of accounting information, there are generally obligations in place to ensure all relevant accounting records, including underlying documentation will be maintained for a minimum 5 year period. Bank information is also required to be kept, although some bearer savings book accounts may remain for which the identity of the account holder will not be known until the books are presented.

4. The Federal Tax Service has a variety of powers to access information for tax purposes; and there is also a special regime for accessing bank information. These domestic powers can be employed for EOI purposes due to the provisions to give effect to Russia's international agreements, which are found in the Constitution, Civil Code and Tax Code. Secrecy in respect to information held by auditors is however protected by a professional secrecy regime. There are no exceptions to that secrecy obligation where that information is sought for EOI purposes, and this could affect Russia's ability to access relevant

information. Certain rights and safeguards exist under Russian tax law, namely with respect to the ability to appeal the decision of a tax official, however these do not unduly impact on effective access to relevant information.

5. Russia's main exchange of information mechanisms are based on DTCs that generally follow the terms of the OECD Model Tax Convention. In respect of the Multilateral Convention as well as a few of its signed DTCs, Russia has not yet taken all steps necessary for its part to bring those agreements into force. In addition, Russia's interpretation of the provisions in 25 of its DTCs will limit the exchange to information relevant to persons covered by the Convention. With a further two DTCs currently limited to exchange of information relevant to the provisions of the Convention, 50 of Russia's 86 signed agreements are in force and in line with the standard. On confidentiality, obligations to protect the confidentiality of information exchanged exist in Russia's EOI agreements, however it is not clear that the enforcement measures in domestic law will support the duty where the information concerns persons who are not Russian taxpayers. The protection of audit secrets under Russia's domestic law will also affect its ability to give full effect to its commitments to exchange information under its EOI agreements, and this has the potential to hinder effective exchange of information.

6. Overall, Russia has a legal and regulatory framework in place that generally supports the availability, access and exchange of all relevant information for tax purposes in accordance with the international standard. A few issues are highlighted in the report, and Russia's progress in the areas where recommendations have been made as well as its actual practice in exchange information with its EOI partners, will be considered in its Phase 2 review which is scheduled to commence in the second half of 2013. In the interim, a detailed written report on the steps undertaken to implement the recommendations made in this report should be provided by Russia to the PRG within 12 months from the adoption of this report.

Introduction

Information and methodology used for the peer review of the Russian Federation

7. The assessment of the legal and regulatory framework of the Russian Federation (Russia) was based on the international standards for transparency and exchange of information as described in the Global Forum's *Terms of Reference to Monitor and Review Progress Towards Transparency and Exchange of Information For Tax Purposes*, and was prepared using the Global Forum's *Methodology for Peer Reviews and Non-Member Reviews*. The assessment was based on the laws, regulations, and exchange of information mechanisms in force or effect as at July 2012, other materials supplied by Russia, and information supplied by partner jurisdictions.

8. The *Terms of Reference* breaks down the standards of transparency and exchange of information into 10 essential elements and 31 enumerated aspects under three broad categories: (A) availability of information; (B) access to information; and (C) exchange of information. This review assesses Russia's legal and regulatory framework against these elements and each of the enumerated aspects. In respect of each essential element a determination is made that either: (i) the element is in place; (ii) the element is in place but certain aspects of the legal implementation of the element need improvement; or (iii) the element is not in place. These determinations are accompanied by recommendations for improvement where relevant.

9. The assessment was conducted by a team which consisted of two assessors and a representative of the Global Forum Secretariat: Guillaume Drano, Senior Advisor on European and International Affairs, Tax Policy Directorate of the Ministry of Economy, Finance and Foreign Trade of France; Richard Thomas, Attorney Advisor, Office of Associate Chief Counsel, Internal Revenue Service of the United States; and Caroline Malcolm from the Global Forum Secretariat.

Overview of Russia

Political and legal system

10. The Russian Federation (Russia) is a country in northern Eurasia and covering 17 million square kilometres, it is the largest country in the world measured by land mass. With 143 million inhabitants,[1] it is also the world's eighth most populous country. The capital of Russia is Moscow and it shares borders to the north with Norway and Finland, to the west with Estonia, Latvia, Lithuania, Poland, Belarus, Ukraine, and Georgia, to the south with Azerbaijan, Kazakhstan, China and Mongolia, and to the southeast with North Korea. To the east, Russia faces the Pacific Ocean.

11. Russia is a semi-presidential federal republic, with a President as Head of State and Prime Minister as leader of the government. The cabinet consists of the Prime Minister, his deputies and the appointed ministers. The parliament is bi-cameral, with the Federation Council as the upper house, consisting of 166 members; and the State Duma, the lower house, with 450 members. In Russia the federal state is broken into 83 administrative divisions known as provinces, republics, autonomous okrugs, krays, federal cities or autonomous oblast. The official language is Russian and the currency is the Russian rouble (RUB).[2] It is a member of many international organisations, including the United Nations (UN) and the G8.

12. Russia has a civil law system, and the legal framework is governed by the Constitution of the Russian Federation (the Constitution) which was adopted on 12 December 1993. The hierarchy of laws is the Constitution of the Russian Federation, followed by international treaties, and then domestic legislation. The Constitution and federal laws apply to the whole territory of Russia (article 4(2), Constitution). The Constitution has supremacy over other laws, and other laws adopted in the Russian Federation shall not contradict the Constitution (article 15(1) of the Constitution). Further, article 15(4) of the Constitution provides that "the commonly recognised principles and norms of the international law and the international treaties of the Russian Federation shall be a component part of its legal system. If an international treaty of the Russian Federation stipulates other rules than those stipulated by the law, the rules of the international treaty shall apply". This is further supported by specific provisions in the Civil Code and the Tax Code that provide for the provisions of an international agreement to prevail. In case domestic legislation is silent, the international treaty will apply directly.

1. Russian Federation Federal State Statistics Service (*www.gks.ru*)
2. RUB 1 = USD 0.0317675, and USD 1 = RUB 31.4787 as at 9 August 2012 (*www.xe.com).*

13. The domestic legal framework consists of laws made at the federal, regional and municipal level with federal laws having supremacy (article 15(4), Constitution). The Civil Code is the principal legislation governing legal entities and arrangements. Other civil laws must be made in accordance with the Civil Code (article 3, Civil Code).

14. Russia's judicial system has 3 streams, with constitutional courts (headed by the Constitutional Court), courts of commercial jurisdiction (headed by the Supreme Arbitration Court), and courts of general jurisdiction (headed by the Supreme Court). The streams are distinct and matters on appeal are not ultimately decided by a single principal court. Broadly speaking, general jurisdiction courts adjudicate criminal matters and civil disputes between private individuals and the Commercial Courts are charged with handling disputes between commercial entities (which includes individual entrepreneurs). The constitutional court deals with any matters arising from the Constitution, including disputes between citizens and the State.

15. The interpretation of law by a superior court will as a matter of fact generally be binding on inferior courts because of the power of superior courts to cancel and modify judicial acts.[3]

16. For appeals relating to the imposition of a sanction for a tax offence, appeal must first be made to a higher tax official, although an appeal to a court remains possible at a later stage. Appeals on other matters relating to the application of the Tax Code may be made in the first instance to either a higher tax official or to a court. For entities or individual entrepreneurs, appeals are made through the commercial courts system, whilst individuals' appeals are made through the general jurisdiction courts. Arbitration Courts in the regions are the courts of first instance. The Arbitration Courts of Appeal are the courts of second instance, and decisions of those courts may in turn be appealed to the Federal Arbitration Courts in the Districts. The Supreme Arbitration Court of Russia is the final appeal court. Further, the Supreme Arbitration Court has an important role as in respect of tax disputes as it may interpret legal provisions both in respect of particular cases, and also general interpretation in respect of all cases having a similar factual matrix. The purpose of such interpretations by the Supreme Arbitration Court is to ensure uniform understanding and application of legal provisions by commercial courts.

3. Resolution of the Constitutional Court of the Russian Federation dated 21 January 2010 No. 1-P.

Commercial and economic framework

17. Russia has undergone significant changes since the transition from the Soviet Union moving to a more market-based and globally-integrated economy. The chief sectors of the Russian economy are natural resources, industry, and agriculture. The natural resources sector includes petroleum, natural gas, timber, furs, and precious and nonferrous metals. In 2011, Russia became the world's leading oil producer, surpassing Saudi Arabia. Furthermore, Russia is the second-largest producer of natural gas and holds the world's largest natural gas reserves, the second-largest coal reserves, and the eighth-largest crude oil reserves. Russia is the third-largest exporter of both steel and primary aluminium. Manufacturing and industry includes a complete range of manufactures, notably automobiles, trucks, trains, agricultural and construction equipment. The agriculture sector includes grain, sugar beets, sunflower seeds, meat, and dairy products.

18. In 2011 the GDP of Russia was estimated to be in the region of USD 2.38 trillion. Russia's main commodities trading partners (import and export) are, in order: China, Germany, the Netherlands, Ukraine, Italy, Belarus, Turkey and the United States. Russia's main investment partners are, in order: Cyprus,[4,5] the Netherlands, Luxembourg, the United Kingdom, Germany, China, the British Virgin Islands, Ireland, Japan and France.

Financial sector and relevant professions

19. The financial services sector is supervised by the Federal Financial Markets Service (FFMS) and the Central Bank of Russia. The FFMS is a Russian federal executive body which regulates and supervises the financial market including securities issuance, trading professional market participants and the self-regulatory organisations (for lawyers and notaries). The Central Bank of Russia is independent from other government bodies and amongst other responsibilities, is the regulator and supervisor for financial institutions.

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

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

20. The legal framework that regulates Russia's financial sector is made up predominantly of:

- the Civil Code;
- Federal Law No.395-1 on Banks and Banking Activities dated 2 December 1990;
- Federal Law No.39-FZ on the Securities Market dated 22 April 1996 (Law on the Securities Market); and
- Regulations made by the Bank of Russia and the Federal Financial Market Service.

21. In respect of anti-money laundering and countering the financing of terrorism, the key regulatory authority is Rosfinmonitoring (Russia's financial investigation unit), also known as the Federal Financial Monitoring Service (FFMS). The Federal Law No.115-FZ on countering the legalisation of illegal earnings (money laundering) and the financing of terrorism of 7 August, 2001 (AML Law) forms the basis of Russia's anti-money laundering/Counter-financing of terrorism regime. It applies to entities accomplishing transactions in amounts of money or other property" which includes (article 5):

- credit entities;
- professional securities market-makers (including brokers, dealers, and depositories)
- insurance entities and financial leasing companies;
- the organisation of the federal postal service;
- the entities managing investment funds or non-governmental pension funds;
- operators engaged in payments' acceptance;
- the entities which provide broker's services in the accomplishment of transactions of the purchase or sale of immovable assets;
- credit consumer cooperatives; and
- micro-finance entities.

22. Further, the AML Law extends to the branches and representative offices and also to affiliates of the entities which carry out transactions in amounts of money or other property and which are located outside the Russian Federation. The obligations in the AML Law are further supplemented by regulations, orders and letters, in particular the AML Regulations (Regulations of the Central Bank of Russia No. 262-P on the identification by credit institutions of clients and beneficiaries for the purposes of

counteraction to the legalisation or laundering of incomes derived illegally and to financing terrorism, of 19 August 2004), and the AML Letter (Letter of the Central Bank of Russia No. 99-T on the methodological recommendations for credit entities on elaborating internal control rules for the purpose of countering the legalisation of income received through crime (money laundering) and the financing of terrorism, of 24 July 2005).

Tax System

23. The Federal Tax Service (FTS) is the federal executive authority responsible for controlling and supervising compliance with Russia's legislation on taxes and dues. It also has a number of other responsibilities, including the state registration of legal entities and individual entrepreneurs.

24. Russia's Tax Code provides in article 1 that Russian tax legislation is comprised of the Tax Code, as well as secondary legislation on taxes and fees which is made in accordance with the Tax Code. Tax legislation may also be made at a regional or municipal level (and which applies only in that region or municipality), and must also be made in accordance with the Tax Code.

25. Secondary legislation, such as orders and regulations, may be made by the federal, regional or municipal executive bodies which are authorised to discharge the functions of elaborating state policy and regulating legal acts on taxes and fees. At the federal level, the Ministry of Finance is the only agency which can issue official interpretations or clarifications of the Tax Code, which the FTS are required to follow.

26. Article 19 of the Tax Code defines taxpayers and payers of fees, as "entities and individuals who are under an obligation, under this Code, to pay taxes and/or fees, respectively". Further, Article 24 of the Tax Code defines a tax agent as a person who is required 'to calculate, withhold from the taxpayer and remit taxes to the budget system of the Russian Federation.'

27. At the federal level, the principal tax on entities is the profits tax which has a maximum rate of 20% (article 284, Tax Code). Entities formed in Russia are liable to tax on their worldwide income, and foreign entities with a permanent establishment in Russia (defined in article 306, Tax Code) are liable on their Russian source income (article 246, Tax Code). Withholding taxes are also applied on certain other Russian source income paid to a foreign entity, regardless of a connection to a permanent establishment – mainly passive income such as royalties, interest, dividend income, and rental income, ranging from 10-20% (subject to an applicable DTC) (articles 246 and 309, Tax Code).

28. A company will be tax-resident in Russia only if it is formed under the laws of Russia, and it will be subject to tax on its worldwide income. There is

no deemed residency rule, for example for companies which have their "effective management and control" in Russia. The standard rate of corporate tax is 20% (article 284, Tax Code). Companies, formed outside of Russia, as well as other foreign entities, will be taxed on their Russian source income when they have a "permanent establishment" in Russia. A permanent establishment exists when entrepreneurial activities begin to be carried out in Russia on a regular basis. At minimum, a permanent establishment is a "Representative Office" but can also include a branch, division, bureau, office, agency or any other economically autonomous subdivision. Russian source income is income from whatever source that is received by the permanent establishment in Russia.

29. In its double tax conventions, Russia follows the definition of permanent establishment in Article 5 of the OECD Model Tax Convention and its commentary, and Russia's national model tax agreement includes a provision on "service PEs" described in paragraph 42.23 of the OECD Commentary to article 5.

30. Partnerships themselves are subject to the profits tax, although for some types of partnerships the duty to pay the tax due falls on the individual partners even though the amount of the liability is determined at the partnership level. General, Business and Limited partnerships are separate legal entities from their partners and are taxed and liable at the partnership level. The profits tax liability for Simple partnerships and Investment partnerships, which are not recognised as separate legal entities, is calculated on the profits of the partnership but liable to the partners.

31. The income of trusts created under foreign law or administered in Russia will only be taxable, to the extent that the trustee or beneficiaries are subject to tax in Russia. Any property or income held in trust will be attributed to the legal owner. Where the trustee is resident in Russia, the income received by the trust is considered to be earned by the trustee and will be subject to personal or profit tax, depending on the nature of the trustee. This will also be the case with respect to investment unit trusts which can be formed under Russian law, which requires the trustee to be a company formed in Russia.

32. All foreign persons (being entities, or individuals) exercising commercial activities in the territory of Russia are required to register with the FTS, regardless of whether those activities give rise to any tax obligations (article 83, Tax Code; and Order No. 117N on the specifics of tax registration of foreign entities, of 30 September 2010).

33. There is also a special type of taxation regime applicable to certain activities and categories of taxpayer, termed a 'Simplified Taxation System' (STS). This regime has the status of a federal tax and provides exemptions from certain federal, regional and local taxes, and also applies separate record-keeping requirements (chapter 26.2 of the Tax Code). Taxpayers under this regime are subject to a tax rate of 5% to 15%. Whilst the criteria for being a

STS taxpayer are complex (articles 346.11-346.13, Tax Code), in brief the STS will apply if in the 9 months prior to the entity's application, their turnover has not exceeded RUB 45 million (approx USD 1.5million). There are some exceptions to this rule however, with entities carrying out certain types of activities required to follow the "normal" tax system, even if their turnover is less than RUB 45million (article 346.12(3), Tax Code). This includes persons who are banks, investment funds, professional securities market makers, solicitors and notaries. In 2011, there were 2.3 million STS taxpayers.

34. The Ministry for Finance is the named competent authority for international exchange of information for tax purposes under Russia's exchange of information (EOI) agreements. This power is delegated to the FTS where the Tax Audit Directorate manages EOI requests made by all countries. Two other units, which report to the Tax Audit Directorate, deal with requests with the Commonwealth of Independent States (CIS) and Georgia (Interregional Inspectorate for centralised data processing) and with Belarus and Kazakhstan (Regional Directorate).

35. For automatic information exchange, competent authority is delegated to the Deputy Commissioner of the FTS and the Head of the Information Technologies Directorate (which is the FTS directorate which manages Russia's automatic information exchange). Russia has signed 86 conventions for the avoidance of double taxation with respect to taxes on income and capital.

Recent developments

36. Two new types of partnerships were recently introduced in Russia:

- The Federal Law No. 335-FZ on Investment Partnerships entered into force in November 2011, and has effect from 1 January 2012.
- The Federal Law No. 380-FZ on Business Partnerships entered into force in December 2011, and has effect from 1 July 2012.

37. The new Federal Law No.402-FZ on Accounting was passed in December 2011, and takes effect from 1 January 2013. It will replace Federal Law No. 129-FZ on Accounting of 21 November 1996. The new Law No.402-FZ on Accounting is wide-ranging, and relevant changes include expanding the group of persons subject to the Law on Accounting, but also provides that certain of those persons (in particular individual entrepreneurs, and branches and representative offices of foreign entities) will be subject to simplified accounting record requirements, similar to those established for simplified tax system (STS) taxpayers (described in section A.2 of this report). It also amends the current accounting requirements to, for example, adjust the statutory reporting period to annual rather than quarterly reports. The existing accounting record requirements established by the Tax Code are not affected by this new law.

38. Federal Law No. 97-FZ on amendments to Part One and Part Two of the Russian Tax Code, of 29 July 2012 and Article 26 of the Federal Law on banks and banking activity, introduced amendments to expressly provide for access to private bank account information, including the lifting of the bank secrecy obligations, where a request for such information is made by the competent authority of a foreign state as provided for in the international tax treaties of the Russian Federation. The law has entered into force, and these changes come into effect from 1 January 2013.

Compliance with the Standards

A. Availability of Information

Overview

39. Effective exchange of information requires the availability of reliable information. In particular, it requires information on the identity of owners and other stakeholders as well as information on the transactions carried out by entities and other organisational structures. Such information may be kept for tax, regulatory, commercial or other reasons. If the information is not kept or it is not maintained for a reasonable period of time, a jurisdiction's competent authority may not be able to obtain and provide it when requested. This section of the report assesses the adequacy of Russia's legal and regulatory framework on the availability of information.

40. The most common types of legal entities which can be formed under Russian law are joint stock companies and limited liability companies. For all companies formed under Russian law, obligations are in place to ensure that ownership and identity information is kept on their members. For partnerships formed under Russian law, such obligations are generally also in place. However, there is no express obligation to keep identity information in respect of the partners in a simple partnership, or ownership and identity information relating to foreign companies with a sufficient nexus with Russia and foreign partnerships carrying on business, or with income, deductions or credits for tax purposes, in Russia.

41. Investment unit trusts formed under Russian law are regulated by the Federal Financial Market Service and there are obligations to keep identity information relating to those trusts. Trusts cannot otherwise be formed under

Russian law, however it is recognised that trusts formed under the laws of foreign jurisdictions may be administered from Russia, or have a trustee resident in Russia. Although some requirements to keep identity information on beneficiaries, settlors and trustees for these types of trusts may apply, these measures will not ensure that the information is available in all relevant cases and a recommendation is made in this regard. Enforcement measures, in particular administrative fines, support the existing obligations to maintain relevant ownership and identity information. Overall, three recommendations are made for element A.1, which is found to be in place, but needing improvement.

42. The Law on Accounting and the Tax Code establish requirements to keep accounting records, including underlying documentation, for all persons liable to tax in Russia. The obligation to keep these records for a minimum 5-year period is generally established in most cases, and for the class of persons subject to the simplified tax system, an obligation to keep accounting records for 4 years is clearly established. The element A.2 is found to be in place.

43. Finally, obligations to keep bank information are established by the rules of the Central Bank of Russia as well as Russia's anti-money laundering regime. Client identity information obligations are generally sufficient and the law also establishes clear obligations to keep financial and transactional information relating to accounts. However a recommendation is made with respect to bearer savings book accounts which may remain in existence from before client identity requirements were put in place. The identity of holders of those accounts will not be known until the books are presented, and a recommendation is made in this regard. Element A.3 is found to be in place, but needing improvement.

A.1. Ownership and identity information

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

Companies (ToR A.1.1)

44. Russia's corporate law framework, found primarily in the Civil Code, distinguishes between commercial and non-commercial legal entities. Under article 66 of the Civil Code, commercial entities in the form of companies may be created as open joint stock companies (OJSCs), closed joint stock companies (CJSCs), limited liability companies (LLCs) or additional liability companies (ALCs).

45. Companies are formed and managed in accordance with the Civil Code as well as either the Law on LLCs or the Federal Law 208-FZ on Joint Stock Companies of 26 December 1995 (Law on JSCs). For Joint Stock companies (open or closed), authorised capital is divided into a definite number

of shares which must be nominal. A closed JSC (CJSC) may only distribute stock to its founders or another pre-determined range of persons and may not exceed 50 shareholders (article 7, Law on JSCs). An open JSC (OJSC) has more than 50 shareholders and the participants have the right to dispose of their interest in the shares without the consent of the other shareholders.

46. Limited liability companies (LLCs) and additional liability companies (ALCs) are companies whose authorised capital is divided into shares (art. 87, Civil Code), with a minimum share capital of 50 000 roubles (article 14, Law on LLCs) and which may not have more than 50 members (art. 7, Law on LLCs). The liability of an LLC member is limited to their capital contribution. An ALC is governed by the same provisions of the Civil Code as an LLC, as well as by the Law on Limited Liability Company (Law on LLCs), except to the extent specified in Article 95 of the Civil Code. In particular, article 95 notes that for ALCs, all investors are severally (but not jointly) responsible for the ALC's liabilities.

47. The two most common types of legal entities formed under Russian law for carrying out commercial activities are joint stock companies and limited liability companies. As of June 2012, the number of companies registered in Russia was as follows:

- 177 568 joint stock companies, of which 144 206 are closed joint stock companies;
- 3 599 063 limited liability companies;
- 1 421 additional liability companies; and
- 28 288 foreign entities, which includes foreign companies.

48. In addition, there are other types of commercial entities such as partnerships, individual entrepreneurs which may also engage in commercial activities. Further information on these other commercial entities and arrangements are discussed elsewhere in Part A.1. Finally there are non-commercial entities and arrangements such as cooperatives, which are discussed briefly in Part A.1.5.

Ownership information required to be provided to government authorities

49. All entities which engage in commercial activities (commercial entities) are required to register with the Federal Tax Service under the Federal Law no. 129-FZ on State Registration of Legal Entities and Individual Entrepreneurs" of 8 August 2011 (Law on State Registration). Companies do not gain legal personality until registration and the FTS maintains the Common State Register of Legal Entities (article 2, Law on State Registration). There is a separate state register maintained by the FTS in respect of Individual Entrepreneurs (article 5(2), Law on State Registration). Information held in the Common State Register must be maintained for 15 years from the date of cessation of business

(article 3, Rules for Storage in Uniform State Registers of Legal Entities and of Individual Businessmen of the Documents (Information) and for Handing Them Over for Permanent Storage to the State Archives (approved by Decision of the Government of the Russian Federation No. 630 of October 16, 2003).

50. Upon registration, each commercial entity obtains a unique identifying number, and certain information is entered in the Common State Register (article 5(1), Law on State Registration), including:

- Full name and organisational legal form;
- Address of the permanent executive body of the legal entity, or other person authorised to act in their name (including identifying details and taxpayer identification number)
- Identity information on the participants (members) in the entity, including their names, personal identification number, passport information (for individuals) and the share proportion held by the participant;
- For joint stock companies, identification of the persons responsible for holding the register of shareholders; and
- For LLCs and ALCs, information on the nominal values of shares, and information on the person engaged to manage any shares transferred by way of succession.

51. Any changes to the information provided under article 5(1), must be notified to the FTS within 3 working days (article 5(5), Law on State Registration). The earlier, out-dated information must also be preserved by the government under article 5(3) of the Law on State Registration.

Ownership information required to be held by companies

52. For all JSCs (open or closed), a register of all members which includes the number of each type of shares held must be maintained (article 44(1), Law on JSCs). The register may be maintained by the company itself, or by a registrar, and where there are more than 50 members, the register must be kept by a registrar (*i.e.* not by the company itself, article 44(3), Law on JSCs). The engagement of a registrar does not relinquish the responsibility of the company to ensure the register is kept (art. 44(4), Law on JSCs). The registrar must update the register of securities upon receipt of an order on the transfer of securities which is completed in the proper form (article 8(3), Law on Securities Market).[6] There is an obligation to update the register of members

6. The Law on Securities Market regulates relations arising during the issue and circulation of securities, regardless of the type of the issuer, for example, whether the entity is publicly traded or otherwise (article 1).

within 3 days of the relevant documents (such as share transfers) being filed with the entity (article 45(1), Law on JSCs).

53. For LLCs and ALCs, the founding members must conclude a written agreement which includes information on the size and allocation of share capital for each founding member (article 11(5), Law on LLCs). It is the responsibility of the relevant participants to notify the company of any changes in the details recorded (article 31.1, Law on LLCs). Pursuant to article 31.1, of the LLC law the LLC or ALC must keep up to date a register of participants including information on their identity, the number of shares held, and the dates of transfer or acquisition of shares.

54. Where an entity has more than 500 participants, the register must be kept by a professional securities market-maker[7] pursuant to article 8 of the Law on Securities Market.

Tax law and Companies

55. In addition to the information filed with the FTS as the authority responsible for State Registration of Legal Entities and Individual Entrepreneurs, companies must also provide information to the FTS pursuant to the Tax Code, which include tax returns. Tax returns typically do not include ownership information in respect of companies, although when a dividend is paid, the shareholders to whom such a dividend has been paid must be identified in the tax return, providing the recipient's name, taxpayer identification number and the amount of the income.

AML regime

56. Federal Law No.115-FZ of August 7 2001 (AML Law) forms the basis of Russia's anti-money laundering/Counter-financing of terrorism regime. It applies to organisations (entities and individuals) (AML Service Providers) carrying out transactions in amounts of money or other property" (articles 5 and 7.1, AML Law) including:

- credit organisations;
- professional securities market-makers (including brokers, dealers and depositories)
- insurance organisations and financial leasing companies;
- the organisation of the federal postal service;

7. The obligations of a professional securities market-maker (PSMM) are regulated by the Law on Securities Markets. PSMMs include brokers, dealers, clearing houses, depositaries and persons responsible for keeping share registers.

- the organisations managing investment funds or non-governmental pension funds;
- organisations engaged in the acceptance of payments;
- barristers, solicitors, notaries and persons pursuing entrepreneurial activities in the area of provision of legal or accountancy services, where the persons named are carry out certain activities, including the management of funds or bank accounts on behalf of a client or the formation, maintenance or management of legal entities.

57. Trust service providers are not subject to Russia's AML regime.

58. Generally, the AML regime obligations divides AML Service Providers into two groups, namely financial institutions ("Financial AML Service Providers": as well as financial institutions, this group includes the gaming industry, real estate sector and dealers in precious metals and stones), and other service providers ("Non-Financial AML Service Providers": this group includes all other AML Service Providers, which is predominantly lawyers, accountants and notaries).

59. All AML Service Providers must establish client identity information except where the value of the operation is less than RUB 15 000 (approx. USD 390), pursuant to articles 7(1)(1), 7(1.1), and 7.1 of the AML Law. This information will include:

- For natural persons: surname, name, citizenship, data on identification document (or migration card, or residence permit), address (residence or temporary), and their taxpayer identification number.
- For legal persons: name, taxpayer identification number (or a code of a foreign organisation), state registration number, the place of state registration and the legal address.

60. For Financial AML Service Providers, more detailed regulations on the scope of these obligations is provided in the AML Regulations and AML Letter, described in more detail in Part A.3 of this report. They do not however require the Financial AML Service Provider to keep information regarding ownership of legal persons: for instance, the owners of the company or the partners (including limited partners) in a partnership. There is an obligation for Financial AML Service Providers to regularly update client identity information (art. 7 (2) AML Law).

61. For Financial AML Service Providers, there is also an obligation to take measures to identify beneficiaries (based on information "substantiated and as available in the circumstances"), although there is no obligation to obtain beneficiary information where the client is another AML Service

Provider (reg.1.3, AML Regulations). Pursuant to article 3 of the AML Law, a beneficiary is defined as:

> a person for whose benefit a client is acting, for instance under a contract of agency service and contracts of agency, commission and trust in the course of transactions in amounts of money and other property

62. Pursuant to article 7(5.4), Financial AML Service Providers are specifically empowered to "demand and receive from the client, or the representative of the client, personal identification documents, constitutive documents and documents on the state registration of the legal entity or individual entrepreneur". For Financial AML Service Providers, there are also more specific requirements to know client identity information, and are set out in Part A.3 below. The obligations to keep transaction records are described in Part A.2.

63. Information obtained under the AML Law must be kept by all AML Service Providers for a minimum period of 5 years, counted from the date of the termination of the relationship with the client (art. 7(4), AML Law).

64. As a result, with the exception of obligations on AML Financial Service Providers which are discussed below, the AML obligations will not by themselves ensure that all relevant ownership and identity information is maintained by an AML Service Provider in line with the standard.

Foreign companies

65. All foreign persons exercising commercial activities in the territory of Russia are required to register with the FTS, regardless of whether those activities give rise to any tax obligations (article 83(2), Tax Code). An Order describes the specific registration requirements for foreign entities (Order No. 117N on the specifics of tax registration of foreign entities which are not investors under a production sharing agreement or agreement operators of 30 September 2010) Item 4 of the Annex to the Order sets out the documents to be filed, including the constituent documents of the entities however these requirements do not include information on the owners of the organisation.

66. Tax returns must be filed by foreign entities who have a permanent establishment in Russia and which have at least one source of income subject to tax in Russia. Non-residents receiving Russian source passive income only, are not required to file tax returns. Tax returns typically do not include ownership information in respect of foreign companies, although when a dividend is paid, the shareholders to whom such a dividend has been paid must be identified in the tax return, providing the recipient's name, taxpayer identification number and the amount of the income.

67. The AML Law also applies to branches and representative offices of foreign companies which are regularly carrying on activities in Russia. It is also applicable to affiliates of Russian entities which are located outside the Russian Federation and carry out transactions in amounts of money or other property.

Nominees

68. There is no concept of nominee ownership under Russian law that relies on the separation of legal and beneficial ownership. Nominee holders of shares are referred to in Russia's law, but in these cases, the law is explicit that the "nominee" is acting as an agent, and does not assume legal ownership of the relevant property.

69. The Law on Securities Market describes a nominal holder of securities as "a person registered in the system of keeping the register, and is also a depositor of the depositary concerned, but not the owner of these securities" (article 8(2), Law on Securities Market). A nominal holder can be a professional securities market maker (PSMM, who is subject to the AML regime as a Financial AML Service Provider) (article 8, Law on Securities Markets). A PSMM can include a broker, dealer or depositary. In any event it appears that the nominal holder will have a relationship with the depositary concerned. Further, the depositary itself also falls within the definition of a PSMM.

70. A person who engages in depositary activity (a depositary) must be established as a legal entity (article 7, Law on Securities Market). Pursuant to article 7 of the Law on Securities Markets, the depositary relationship must be established by written contract where the depository provides services which can include the holding of share certificates, or registering the transfer of share ownership. As with other nominal holders of securities, there is no transfer of the legal ownership of the shares. Depositaries can be engaged with respect to any types of entities, for example to hold shares relating to either private or public companies. If there is a chain of depositors holding a share certificate, the contract between the depositaries must make provision in the contractual agreement for the management of the identity information concerning the securities owner. The depositor has the right to be named as the nominal holder of the shares, in the register of shares. A nominal holder of shares will be indicated as such to the person responsible for maintaining the share register (article 8(3), Law on Securities Market).

71. The nominal holder or in any event the depositary will be subject to Russia's AML regime to keep client identity information described in detail above. It will include (for operations with a value greater than RUB 15 000 (approx. USD 390)):

- For natural persons: surname, name, citizenship, data on identification document (or migration card, or residence permit), address (residence or temporary), and their taxpayer identification number.
- For legal persons: name, taxpayer identification number (or a code of a foreign organisation), state registration number, the place of state registration and the legal address.

72. They will also be subject to the enforcement measures of the AML regime for non-compliance with those obligations, as described in Part A1.6 of this report. Therefore where securities are held nominally by a person acting in a professional capacity, Russia's AML regime will apply, under which there are clear obligations in place to know the identity of the person for whom they act.

Conclusion on the availability of ownership information on companies

73. Ownership information for all companies formed under Russian law is required to be kept by the companies themselves (JSCs, LLCs and ALCs) and also in the Common State Register maintained by the FTS. Although Russian law does not recognise the concept of nominee ownership, persons who act as the nominal holders of securities are subject to the AML regime and required to keep client identity information. There are no requirements under Russian law to ensure that ownership information is kept for foreign companies that have a sufficient nexus with Russia.

Bearer shares *(ToR A.1.2)*

74. Bearer shares cannot be issued under Russian Law. The Law on Securities Markets applies "during the issue and circulation of securities, regardless of the type of the issuer", that is, regardless of whether the securities (including shares) relate to publicly traded entities or otherwise. Article 2 of the Law on Securities Market, defines a share as an "inscribed security" which in turn are defined as securities where the ownership information of the shareholder shall be accessible to the issuer in the form of a register of the owners of securities. Further, the transfer of the rights to the securities and the exercise of the rights recorded by them require the identification of the owner. In addition, some legislation includes specific provisions on issuing shares in nominal form, such as article 25 of the Law on Joint Stock Companies.

Partnerships *(ToR A.1.3)*

75. There are 5 types of partnerships that can be formed under Russian law: simple, general, limited, business and investment. As at June 2012, the number of partnerships registered in Russia was:

- 373 General partnerships; and
- 551 Limited partnerships;

76. No Business or Investment Partnerships have yet been formed in Russia (the relevant legislation only entered into force in 2012). The number of Simple Partnerships established in Russia is not known, as they are not required to register as an entity.

77. The Civil Code provides under article 66 for the formation of General Partnerships and Limited Partnerships and both of these entities have a separate legal personality from their constituent partners. In General Partnerships all partners are general partners who take part in the business activities of the partnership and accept joint and several responsibility for its debts to the extent of all their assets (art. 75, Civil Code). Limited Partnerships (LPs) have their partnership shares divided into general partners and limited partners, where general partners are liable to the extent of all of their assets; while the limited partners have liability limited to their capital contributions (article 85, Civil Code). Under Russian law, a person cannot be a general partner in more than one General Partnership or more than one LP (articles 69 and 82, Civil Code).

78. Since July 2012, Business Partnerships (BP) can also be created as a separate legal entity from its partners, pursuant to Federal Law No. 380FZ on Business Partnership. These types of partnerships are designed mainly to attract investors implementing high-risk innovative projects. Each partner in a BP has limited liability (article 2, Law on BPs); although by consensus the partners in a BP can elect to satisfy the debts of the partnership by recourse to the partners own assets (article 3(4), Law on BPs).

79. Russian law also recognises Simple Partnerships (SPs) and since January 2012, Investment Partnerships (IPs). Neither an SP nor an IP is a separate legal entity from its partners.

80. Simple Partnerships are formed merely as a contractual relationship, governed by articles 1041-1054 of the Civil Code. All partners are entitled to act on behalf of the partnership and are jointly and severally liable for the debts and obligations of the partnership both during the existence of the partnership and also after its dissolution (articles 1047 and 1050, Civil Code). It is possible to create a "silent" SP, where the existence of the contractual relationships is not disclosed to third parties (article 1054, Civil Code) however in other regards a silent SP is subject to the same obligations as an SP.

81. IPs are a form of partnership similar to a joint venture and in addition to the Civil Code obligations on SPs, they are regulated by Federal Law No. 335FZ on Investment Partnership (Law on IP). In an IP, only managing partners may run the business of the partnership (article 9, Law on IP). Liability is determined in accordance with article 14 of the Law on IP: for liability arising from contracts with other commercial entities, each partner (other than a managing partner) has limited liability; for liability arising from non-contractual obligations or where the other contracting party is not a business entity, then all partners have joint, unlimited liability; and for tax liabilities, the managing partner is required to calculate the profits tax liability of the IP and allocate it across the partners with each partner responsible for meeting their own tax law obligations including the filing of separate tax returns (article 24.1, Tax Code).

Ownership and identity information required to be provided to government authorities

82. As they are considered commercial entities, General Partnerships, BPs and LPs are required to register with the Federal Tax Service pursuant to the Law on State Registration. These partnerships do not gain legal personality until registration. Upon registration, the partnership is entered in the Common State Register and must provide certain specified information including information on the participants (article 5(1)(e), Law on State Registration) including their names, personal identification number, passport information (for individuals) and the partnership share held by the participant. Information provided to the Common State Register must be kept up to date with notification required within 3 days of any changes (article 5(5), Law on State Registration).

83. As neither an IP nor an SP is considered a legal entity, there is no requirement for them to register with the FTS pursuant to the Law on State Registration.

84. All foreign persons, including foreign partnerships, exercising commercial activities in the territory of Russia are required to register with the FTS, regardless of whether those activities give rise to any tax obligations (article 83(2), Tax Code). An Order describes the specific registration requirements for foreign entities (Order No. 117N on the specifics of tax registration of foreign entities which are not investors under a production sharing agreement or agreement operators of 30 September 2010). Item 4 of the Annex to the Order sets out the documents to be filed, including the constituent documents of the entities however these requirements do not include information on the owners of the foreign organisation.

Ownership and identity information required to be held by partnerships

85. General Partnerships and LPs are formed by written agreements. For General Partnerships, the agreement is signed by all partners (article 7(1), Civil Code). The agreement shall contain the name of the entity and its address, as well as the contribution and partnership share of each partner (article 70(2), Civil Code). All partners must be informed when a partner leaves or transfers his partnership share (articles 76-79, Civil Code), and the partnership is required to update the identity information on its partners in the Common State Register within 3 days of any changes (art. 5(5), Law on State Registration).

86. For LPs, the partnership agreement is signed by all of the general partners (article 83(1), Civil Code), and shall contain the name of the entity and its address, as well as the contribution and partnership share of each general partner (article 83(2), Civil Code). Information on the general partners would need to be maintained in order to meet the obligation to update such information with the Common State Register (article 5(5), Law on State Registration). The partnership shall issue to each limited partner a participation certificate recording their investment in the partnership (article 85(1), Civil Code). There is no express obligation for the partnership itself to keep a register with identity information on the limited partners. However the transfers of parts will be governed by the rules applicable to transfers of shares for limited liability companies (article 85(4), Civil Code). Accordingly, all transfers of shares must be notified to the partnership (article 21(15), Law on LLCs) and to the Common State Register (article 21(16), Law on LLCs).

87. A BP must keep a register of its members, including their capital contribution, and dates of transfer to and from the partnership (articles 10, 21, and 23, Law on BPs). BPs are required to have partnership "rules", which must be signed by all of the founding partners and contain information on the total size and composition of its capital (article 8, Law on BPs). The information on the composition of the members (but not their partnership share) must be registered in the State Register (article 10, Law on BPs). Any amendments to the partnership rules must be made unanimously, and are required to be registered with the FTS in accordance with the Law on State Registration.

88. For SPs, there is no express obligation for the contract of formation to include identity information for each of the partners. A partner wishing to leave a Simple Partnership must notify the partnership in writing three months prior to the proposed date of withdrawal (article 1051, Civil Code). Although there is no express obligation to keep an up to date list of partners in a SP, the obligations to establish the partnership by written contract, the written notification of withdrawal of a partner, the joint and several liability of the partners as well as the ability of any partner to bind the other partners

as regards a third party, will generally ensure that up to date information on the identity of the partners is held by the partnership.

89. IPs are formed by an Agreement of Investment Partnership. Article 11 of the Law on IP, specifies that the agreement must contain terms including the total amount of contributions from each partner, and any changes to these terms are to be made by mutual agreement of the partners. The agreement, as well as any amendments to it including agreement on the full or partial transfer of partners' rights, must be attested by a notary in the number of copies equivalent to the number of partners, plus one; and a copy is to be kept by the notary (article 8(1), Law on IPs). All partners have a right to receive a notarised copy of the Agreement (article 4(2), Law on IPs). The Law on IPs provides that information in the Agreement of Investment Partnership is confidential; falling with the law on Commercial Secrecy (article 12, Law on IPs) and Russia has advised that this will include partner identity and partnership share information. The notary who attests the partnership agreement shall disclose the existence of the agreement, the date of the agreement, and information on the managing partner (article 12(3), Law on IPs). However, there is an exception to commercial secrecy to allow the FTS access to the partner identity information (discussed in Part B.1 of this report).

90. For foreign partnerships, there is no express obligation under Russian Law for them to keep a register of the identity of their partners.

Tax law and partnerships

91. Partnerships themselves are subject to the profits tax, although for some types of partnerships the duty to pay the tax due falls on the individual partners even though the amount of the liability is determined at the partnership level. General, Business and Limited partnerships are separate legal entities from their partners and are taxed and liable at the partnership level. The profits tax liability for Simple Partnerships and Investment Partnerships, which are not recognised as separate legal entities, is calculated on the profits of the partnership but liable to the partners.

92. General Partnerships, BPs and LPs file a single tax return, and for foreign partnerships, tax returns must be filed where they have a permanent establishment in Russia which has at least one source of income subject to tax in Russia. Partnership tax returns will only be required to include information on the identity of the partners where there is a distribution of income or losses to the partners. For Simple and Investment Partnerships, the partnership itself does not file a tax return and tax will be levied at partner level.

93. However, pursuant to the Tax Code, IPs are required to register with the FTS including providing a copy of the partnership agreement (article 24.1(4)(1), Tax Code). The partnership agreement will include information

on the total contribution of the partners (article 11, Law on IP), however there is no express obligation for any changes to the IP partnership agreement (other than a change of the managing partner) to be notified to the FTS. These obligations under the Tax Code do not apply to SPs.

AML regime and partnerships

94. Persons involved in providing services to a partnership such as the formation, registration or management of partnerships as a legal entity are subject to the AML regime as Service Providers.[8] In addition, where a partnership carries out an operation or transaction with an AML Service Provider (such as an investment manager or credit institution), the AML client identity obligations will also apply. These obligations under article 7 of the AML Law and described above in the section on *Companies*, will include

- For natural persons: surname, name, citizenship, data on identification document (or migration card, or residence permit), address (residence or temporary), and their taxpayer identification number.
- For legal persons: name, taxpayer identification number (or a code of a foreign organisation), state registration number, the place of state registration and the legal address.

95. Where a partnership forms a separate legal entity (General Partnerships, BPs and LPs) AML obligations apply in respect of the partnership as a whole. Where there is no separate legal entity (SPs and IPs), it is only identity information on the managing partner which is required to be kept by an AML Service Provider. Information obtained under the AML Law must be kept by AML Service Providers for a minimum period of 5 years, counted from the date of the termination of the relationship with the client (art. 7(4), AML Law).

96. As concluded in Part A.1 on *Companies*, the AML obligations will not, by themselves, ensure that all relevant ownership and identity information is maintained in line with the standard.

Conclusion on the availability of ownership and identity information for Partnerships

97. Therefore, for all partners of a General, Limited, Investment and Business Partnerships, there is a clear obligation for partner identity information to be available and maintained by the partnership itself. In addition, except

8. Where that person is a barrister, solicitor, notary or other person carrying on commercial activities in the area of legal or accountancy services (article 7.1, AML Law)

for information on the partners in an Investment Partnership, that information must also be maintained in the Common State Register. However, there is no express obligation to keep up to date information on the identity of the partners in a Simple Partnership. This may impact on the availability of relevant information and a recommendation is made in this regard.

Trusts (ToR A.1.4)

98. With the exception of regulated investment unit trusts (IUTs), it is not possible to establish trusts under Russian law, however there are no restrictions on persons in Russia acting as a trustee or providing other services to trusts created under foreign law. Indeed, the 2008 FATF report on Russia notes at paragraph 43 that:

> According to the authorities, trust service providers do not exist in Russia, although nothing would prohibit any natural or legal person from providing any of the activities listed in the FATF Recommendations (and such services are advertised).

99. Russia is not a signatory to the Hague Convention of 1 July 1985 on the Law Applicable to Trusts and on their Recognition. Generally speaking, as the concept of a trust does not exist, a trustee resident in Russia and holding Russian property in trust would be considered as the ultimate owner of such property and the property would be held in their name. To some extent, Russian tax law does recognise that trusts formed abroad may have effects in Russia, and this aspect is considered further below.

Investment Unit Trusts

100. IUTs are the only type of trusts which can be created under Russian law. The Federal Law No. 156-FZ on Investment Funds of 29 November 2001 (Investment Funds Law) governs the establishment of collective investment vehicles which can be formed as joint stock companies (Chapter II of the Investment Funds Law), or as IUTs (Chapter III). Pursuant to article 12(6), IUTs may be "open" (quoted on the stock exchange, and investors may redeem units at any time), "interval" (may redeem units within a fixed time period) or "closed" (may not redeem units until the expiration of the term of the trust deed).

101. A management company must be appointed as the trustee (article 10) and an up to date register of unit holders (who are the settlors and beneficiaries of the trust) must be kept (article 14(5)). The units themselves are registered securities and are issued only in electronic form (article 14). Where units are held by a nominal holder, the nominee is obliged to provide the data required to compile a list of unit holders within 2 days of receiving a

request for information from the person responsible for keeping the register (article 14(6)).

102. An IUT must have trust administration rules which include the information described in the Investment Funds Law, including the full name of the management company and person responsible for keeping the register (Article 17). The trust administration rules must be registered with the Federal Financial Markets Service (FFMS) and changes to the information contained therein do not take effect until the amendments are also registered (article 19). The management company must be a JSC, an LC or an ALC formed under Russian law, and are subject to the AML regime as well as being licensed and regulated by the FFMS (article 38). The person responsible for keeping the register must also be licensed by the FFMS (article 47) and is personally liable for any failures in exercising those responsibilities (Article 48).

Tax Law and Trusts

103. The income of trusts created under foreign law which have a trustee resident in Russia or are administered in Russia will only be taxable to the extent that the trustee or beneficiaries are subject to tax in Russia. Where the trustee is resident in Russia, the income received by the trust, is considered to be earned by the trustee, and any property of the trust will be attributed to the legal owner (often the trustee). The Russian resident trustee will be subject to personal or profit tax, depending on their legal status.

104. A Russian resident trustee will be required to be registered with the FTS. Furthermore, they will be subject to the Tax Code's record keeping obligations for the determination of their own taxes on their worldwide income; however those obligations do not expressly require identity information about beneficiaries and the settlor of a trust to be kept. Thus, in the case of a trust with a trustee resident in Russia, all records that are necessary for determining whether the trust income is taxable in the hands of the trustee must be kept by the trustee. It is also possible that the deed establishing the trust or the law under which the trust is established, may require identity information on the settlor and beneficiaries to be stated in the trust deed or otherwise maintained by the trustee. In each of these cases, this identity information could be requested from the trustee in Russia.

105. All foreign persons, including trustees, carrying on commercial activities are required to be registered with the FTS under the Tax Code, and they will be subject to its record keeping obligations. An order issued by the Ministry of Taxes and Contributions "on the approval of the Regulations on the particularities of registration of foreign organisations with tax authorities" dated 7 April 2000, specifically recognised the possibility of trusts being considered as an

activity of a "foreign organisation" which could be a separate taxable entity (Annex 2 of the Order of Ministry of Taxes and Contributions, 7 April 2000). Accordingly, in addition to situations where the trustee is resident in Russia, a foreign entity acting as a trustee could be taxable in Russia either because they operated through a permanent establishment in Russia (as defined under the Russian Tax Code, this would require a fixed place of business), or on a withholding basis with respect to certain types of Russian source income.

106. More generally, if trust information is considered relevant for EOI purposes, the access powers of the FTS will allow them to seek information in the possession or control of a person in Russia, such as an administrator or trustee who would be subject to the record-keeping obligations established by the law governing the trust, in accordance with the choice of law for that particular trust.

AML regime and trusts

107. Trust Service Providers are not themselves regulated by Russia's AML regime, and therefore no information regarding the parties to a trust (namely, the settlor, beneficiary or trustee) is required to be kept under the AML Law by a trustee or trust administrator for instance, even where that person is resident in Russia.

108. However, although there is no guidance available on its scope with respect to trusts, the definition of "beneficiary" in the AML Law appears to be sufficiently broad such that if a trustee was a client of a Financial AML Service Provider (for example a person engaged to establish or manage a legal entity, or act as a share depositary), then the Financial AML Service Provider would be required to keep client identity information (art 7 item 1, AML Law) and take measures ("substantiated and as available in the circumstances") to identify the trust's beneficiaries (art. 7 item 2, AML Law). Non-Financial AML Service Providers (predominantly, barristers, solicitors, lawyers and notaries) are not required to "take measures" to identify beneficiaries, but they are subject to the more general client identity requirements under article 7 item 1 of the AML Law.

Conclusion on availability of trust information

109. Information with respect to the trustee (management company) and unit holders (who are the settlors and beneficiaries of the trust) in an IUT are required to be maintained under the Investment Funds Law. In addition, pursuant to the Tax Code, where a trustee is resident in Russia, some trust information may be available, which could include information on the identity of the settlor or beneficiaries of the trust. In addition under the Tax Code, for cases where the trustee is not resident in Russia but a foreign trust carries on activities through a permanent establishment in Russia or receives

Russian-source income which is subject to withholding tax in Russia, certain trust information may also be available. Further, although trustees and trust service providers are not themselves specifically covered by the AML regime, where an AML Service Provider is engaged with respect to a trust's activities, the AML regime may in some circumstances ensure that identity information relevant to a trust is required to be kept, including information on beneficiaries.

110. Overall, the measures established under Russian law will not ensure that identity information on the settlor, trustee and beneficiaries will be known in all cases for trusts which are administered in Russia or which have a Russian resident trustee. In some instances, the obligations of the Tax Code and AML regime may mean that this information is available. Trusts formed in Russia pursuant to the Investment Funds Law are required to maintain information on the identity of the trustee, settlors, and beneficiaries.

Foundations (ToR A.1.5)

111. There is no legislation that permits the establishment of foundations in Russia.

Other types of legal entities and arrangements

112. The Civil Code also provides for the establishment of Production Cooperatives, including for commercial purposes (article 107(1), Civil Code). The formation and management of Production Cooperatives is also regulated by the provisions of the Federal Law No. 41-FZ on Production Cooperatives, of 8 May 1996 (Law on Productive Cooperatives). As at June 2012, there were 18 748 Production Cooperatives registered in Russia.

113. Production Cooperatives have a separate legal personality from their members and must contain at least 5 members (article 1 & 4, Federal Law on Production Cooperatives). They are mainly established for the purpose of joint production or other form of economic activity (such as farming or other type of service) and are based on the personal labour of its participants.

Ownership and identity information required to be provided to government authorities

114. Similar to other legal entities such as companies, Production Cooperatives are required to register and provide information to the Common State Register maintained by the FTS pursuant to the Law on State Registration. At the time of registration, Production Cooperatives are required to supply identity information on its members, and all changes in the information entered in the Common State Register are required to be registered (article 5, Law on State Registration).

Ownership and identity information required to be retained by the Production Cooperative

115. The Charter, being the constituent document of the Production Cooperative, will stipulate amongst other things, the internal information keeping requirements. The Charter is approved by general meeting of members of the Production Cooperative and must contain all information on the Production Cooperative and its members such as (articles 52, 108(2), 110(4), Civil Code; article 5 Federal Law on Production Cooperatives):

- Cooperative name and registered address;
- Share structure and order of distribution of profits and losses;
- Identity information of members; and
- Annual reports, accounting balance sheets and distribution of the Cooperatives profits and losses.

116. Transfer of the membership shares or withdrawal of membership in the Production Cooperative is governed by article 111 of the Civil Code. Withdrawals shall result in the members being able to recover their contribution and certain other payments, whilst transfers of shares to third parties shall be admitted only with the consent of the other members.

117. Production Cooperatives, as a legal entity, are taxable pursuant to the Tax Code and will therefore be subject to the same tax obligations as described for other legal entities such as companies.

118. Finally, Production Cooperatives must elect an Auditing Commission or Inspector, who shall act as an independent observer of the activities of the Cooperative (article 18, Federal Law on Production Cooperatives). The duties of the Inspector shall include, amongst other things, a right to demand that the officials of the Cooperative present any documents necessary for inspection (article 18(3), Federal Law on Production Cooperatives). The results of any audits conducted by the inspector are then presented to the general meeting of the Cooperative and the Supervisory Council. The cooperative may also bring in external auditors from time to time to inspect that all necessary documents that are required to be kept by the Cooperative are being maintained as required (article 18(5) Federal law on Productive Cooperatives).

119. As a result of these obligations in the Civil Code, the Law on Production Cooperatives and the Law on State Registration, there are obligations in place to ensure that information on the identity of the members and accounting information in respect of the activities of the Cooperative will be maintained.

Enforcement provisions to ensure availability of information (ToR A.1.6)

120. The existence of effective measures for the supervision and enforcement of obligations to retain identity and ownership information are an important part of an effective legal and regulatory framework.

121. Commercial entities, including companies general, limited and business partnerships, and production cooperatives that fail to submit or do not submit within the prescribed time limits, the required information to the Common State Register, will be liable for a warning or an administrative fine imposed on the entity's officers of up to RUB 5 000 (approx. USD 165) pursuant to the Law on State Registration (article 14.25, Code on Administrative Offences).

122. In addition, article 25 of the Law on State Registration provides alternative measures concerning legal entities and individual entrepreneurs who do not meet their obligations to provide information to the FTS under the Law on State Registration. Failure to meet such obligations grants the FTS the power to file a petition in Court for the liquidation of such entities, or in the case of an individual entrepreneur termination of his activities, in the case of repeated or gross violations, or other violations of an irreparable nature. These sanctions will apply to the obligation to provide ownership and identity information upon the formation of commercial entities such as companies and partnerships, as well as the obligation to keep such information up to date.

123. Simple partnerships are not subject to any express obligations to keep partner identity information, and accordingly there are no enforcement measures. For Investment Partnerships which are also not separate legal entities and not required to register as commercial entities in the Common State Register, there are no express enforcement measures with regards to the obligation under the partnership agreement authorised by a notary, to keep information on the identity of the partners.

124. Contractual obligations, including contracts establishing Simple and Investment Partnerships, are protected by the provisions of the Civil Code. This will include civil liability of the entity or its representative persons for any damages caused by the violation of the contract's terms (see generally, Civil Code articles 9, 11 and 12; specifically in respect of Simple Partnerships, Civil Code article 1047).

125. In addition, for some entities there are specific obligations pursuant to the laws under which they are formed. A JSC which does not ensure a register of members is properly maintained, can trigger the joint liability of the company and any registrar on which the company has relied, for any loss or damage caused to shareholders as a result (art. 44(4), Law on JSCs). For LLCS and ALCs, article 44(1) of the Law on LLCs imposes liability on the

company for any losses caused by a failure to properly maintain a register of members. These offences are established pursuant to article 13.25 of the Code on Administrative Offences which provides for fines from RUB 2 500 – 5 000 for individuals, and between RUB 200 000 – 300 000 for legal entities. These fines will also apply with respect to failures to meet the other obligations imposed by legislation on JSCs, LLCs or ALCs.

126. An AML Service Provider who does not comply with the obligations to keep information established by the AML Law, including obligations to keep client identity information is liable to a penalty pursuant to article 15.27 of the Code on Administrative Offences. These administrative fines range from RUB 10 000 to RUB 30 000 for individuals, and for legal entities from RUB 50 000 to RUB 100 000. The amount of the fines will be greater where they concern other AML obligations such as suspicious transaction reporting.

127. Nominal holders of securities must provide within seven days identity information on the persons for whom they act if requested by the registrar (being the person responsible for keeping the registrar of members in an entity) (art. 7(2), Law on Securities Market). Article 8(3) of the Law on Securities Markets imposes liability for any damages arising due to an ability to exercise the rights under the securities, on any person who "improperly carries out the procedure for supporting the system of keeping and compiling the register, and who has breached the forms of reporting (to the issuer, registrar, depositary, and owner)".

128. Chapter 16 of the Tax Code establishes the offences and liability for non-compliance with the Code's obligations. This includes: a fine of RUB 10 000 for carrying on commercial activities without registration with the FTS as required, and failing to submit a tax declaration as required, entailing a fine of 5-30% of the unpaid tax, and a minimum of RUB 10 000.

129. Enforcement measures, in particular administrative fines, are generally in place to support the existing obligations in Russia's law to keep ownership and identity information. In addition, contractual or statutory liability for losses or damages caused by violation of obligations may apply.

Determination and factors underlying recommendations

Determination	
The element in place, but certain aspects of the legal implementation of the element need improvement.	
Factors underlying recommendations	**Recommendations**
There is no clear obligation for ownership and identity information to be kept on foreign entities, including foreign companies which have a sufficient nexus with Russia and foreign partnerships which are carrying on business in Russia, or have income, credits or deductions for tax purposes in Russia.	Russia should ensure that an obligation is established to ensure that up to date ownership and identity information is kept for relevant foreign entities, including companies and partnerships.
There is no express obligation for information to be kept on the identity of partners in a simple partnership.	Russia should ensure that up to date information is required to be kept on the identity of the partners in a simple partnership.
Russian law does not ensure that information is available to identify the settlors, trustees and beneficiaries of foreign trusts with a Russian trustee or where the trust is administered in Russia. Certain AML Service Providers may in some cases be required to keep information on trust beneficiaries where they are engaged in respect to a trust's activities.	Russia should ensure that information identifying the settlors, trustees and beneficiaries of foreign trusts, which are administered in Russia or in respect of which a trustee is resident in Russia, is available to its competent authority in all cases.

A.2. Accounting records

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

General requirements (ToR A.2.1); Underlying Documentation (ToR A.2.2); and Document retention (ToR A.2.3)

130. Requirements to keep accounting records arise predominantly from Russia's Tax and Civil Codes, as well as the Federal Law No. 129-FZ on Accounting of 21 November 1996 (Law on Accounting).

Law on Accounting

131. The Law on Accounting applies to all legal entities established under Russian law (all companies, General, Business and Limited Partnerships, and Production Cooperatives), and to branches and representative offices of foreign legal entities. For commercial entities which do not have a separate legal personality (such as Investment and Simple Partnerships), or entities which are subject to the STS, the obligations of the Law on Accounting generally do not apply. However under the Law on Accounting, STS taxpayers shall keep records of fixed assets and intangible assets (article 4(3), Law on Accounting).

132. Under article 8 of the Law on Accounting, legal entities are required to ensure that records of liabilities and economic transactions shall be kept by means of double entry on interrelated accounts. All transactions should be supported by vouchers which are the primary account source documents and which must contain certain information including the name and date of the document, a description of the economic transaction, and the name of the person responsible for the transaction and their signature. Further details on the required contents and completion of vouchers are set out in articles 12-18 of the Ministerial Decree No. 34н on adoption of Regulations on accounting and accounting statements in the Russian federation" of 29 July 1998 (Regulation on Accounting).

133. Under article 17 of the Law on Accounting, legal entities are required to keep primary (original) documents for accounting purposes, as well as accounting records and financial statements for not less than 5 years.

134. Further, on a monthly, quarterly and annual basis, legal entities are required to prepare accounting reports which include a balance sheet, profit and loss report as well as explanatory note and in some cases, certified audit reports (articles 29-30, Regulation on Accounting). These accounting reports shall be such as to allow a true and complete picture of the entity's assets and financial condition, any changes in its status, and also its financial results (article 32, Regulation on Accounting).

Tax law

135. Article 19 of the Tax Code defines a taxpayer as entities and individuals subject to an obligation to pay taxes, and notes that branches and other separate subdivisions of Russian entities shall pay tax in the location of those branches or other separate subdivision**.** Taxpayers will not include trusts, except to the extent that the trustee or beneficiaries are subject to tax in Russia.

136. Taxpayers, which encompasses persons (entities or individuals) resident in Russia, including trustees, as well as foreign entities with a permanent establishment in Russia, will be subject to the account record-keeping obligations described in the Tax Code. Taxpayers must (article 23, Tax Code):

> 3) keep records of their income (expenses) and taxable items in accordance with the established procedure, if the legislation on taxes and fees provides for such an obligation;
>
> (5) present to the tax authority at the place of residence of an individual businessman, private notary or solicitor/barrister who has founded solicitor's studies the registers of receipts, expenditures and economic transactions by request of the tax authorities; to present to the tax authority at the location of an organisation accounting report documents in compliance with the requirements established by the Federal Law on Accounting, except for the cases when entities under the said Federal Law are not obliged to keep accounts or are relieved of keeping account.
>
> (6) submit to the tax authorities and to their officials in the cases and in the procedure provided for by this Code, the documents required to calculate and pay taxes.

137. In addition, the simplified tax system regime exists which has the status of a federal tax and provides exemptions from certain federal, regional and local taxes, and also applies separate record-keeping requirements (chapter 26.2 of the Tax Code).

138. Whilst the criteria for falling within the STS are complex (articles 346.11-346.13, Tax Code), in brief the STS will apply if in the 9 months prior to the entity's application to join the STS system, their turnover has not exceeded RUB 45 million. There are some exceptions to this rule however, and entities carrying out certain types of activities are required to follow the "common" tax system, even if their turnover is less than RUB 45 million. The list of excepted persons includes banks, investment funds, professional securities market makers, solicitors and notaries. In 2011, there were 2.3 million STS taxpayers, which make up less than 1.5% from more than 140 million taxpayers in Russia. In terms of revenue, in 2011 STS taxpayers contributed 0.76% of the total tax revenue assessed.

139. An STS taxpayer may elect for the tax base to be determined either on an "income only" basis which will be taxed at 6%, or on "income minus outlays" basis, which will be taxed at between 5-15% (articles 346.14 and 346.18, Tax Code). Permissible outlays are set out in article 346.16 of the Tax Code.

140. For STS taxpayers,[9] article 346.24 of the Tax Code requires (for profit tax purposes):

> Taxpayers are obligated to keep record of incomes and expenses for the purpose of tax base calculation in the book of incomes and expenses of entities and individual entrepreneurs that practice the simplified taxation system, with the form and fill-in procedure for it being approved by the Ministry of Finance of the Russian Federation.

141. For STS taxpayers who elect to apply the "income only" basis to determine their tax base, there is only a clear requirement to keep tax records in respect of income. Only those STS taxpayers who elect not to deduct expenses would fall within this group. Furthermore, it is only the records on expenses which they are not under a requirement to keep. It appears that the exception is narrow and the extent to which this will impact the effective exchange of information in practice will be reviewed in Russia's Phase 2 review.

Underlying documentation requirements under the Tax Code

142. The Tax Code obligations in respect of underlying documentation apply to both "common" and STS taxpayers. Article 313 is the general provision on tax records which describes comprehensively the necessary recording system. The opening paragraph of article 313 states that

> The taxpayers shall calculate the tax base by the results of every reporting (tax) period on the grounds of the data of the tax records.
>
> Tax recording shall be seen as the system for summing up information for defining the tax base for tax on the grounds of the data from the basic documents grouped in accordance with the procedure stipulated by the present Code.

143. In addition, there are also specific provisions which deal for example with how income and expenses are to be determined which also refer to the

9. From 1 January 2013, in accordance with the recently passed Law on Accounting, Federal Law No.402-), the group of persons subject to the Law on Accounting will be expanded (article 2). At the same time however, the new Law will apply reduced accounting record-keeping obligations to a broader group of people, including STS taxpayers, as well as branches or representative offices of foreign entities or individual entrepreneurs provided that they keep accounting in accordance with Tax Code (article 6(2)). These changes do not affect the obligations on persons under the Tax Code.

documentation obligation. For example, article 248 of the Tax Code states *inter alia*:

> The incomes shall be defined on the basis of the initial documents and other documents confirming that the taxpayer has received incomes, and of tax recording documents.

144. All expenses must be justified and documented as described in article 252(1) of the Tax Code. Articles 248, 252 and 313 are applicable to STS taxpayers by virtue of articles 346.12(2.1) and 346.16(2) of the Tax Code.

Five year minimum retention requirement under the Tax Code

145. With respect to the length of time for which tax records must be kept, article 23(8) of the Tax Code which applies to both common and STS taxpayers states:

> (8) ensure safekeeping, over the course of four years, of bookkeeping and tax records, as well as of other documents required for the calculation and payment of taxes and fees, including the documents confirming income earned and expenses incurred (for entities and individual businessmen) and paid (withheld) taxes.

146. In addition, article 23(5) of the Tax Code which applies to "common" taxpayers (but not to STS taxpayers) incorporates the obligations of the Law on Accounting which establishes a 5 year retention requirement.

147. In addition, Russia has advised that pursuant to Federal Law No. 125 FZ on Archive Activity of 22 October 2004 which applies to all persons in Russia, and an Order issued under article 6(3) of that Law, [10] the maintenance of all business correspondence for a minimum period of 5 years from their date of creation, as well as the maintenance of accounting records for not less than 10 years, is recommended.

148. Therefore, for STS taxpayers, the minimum 4 year retention period is established and in addition, accounting records may also be covered by the obligations in the Federal Law on Archive Activity. As only a very limited proportion of taxpayers are STS taxpayers (about 1.5% of all Russian

10. Pursuant to article 6(3) of the Federal Law on Archive Activity, the Ministry of Culture issued Order No. 558 of 25 August 2010 on Endorsing a List of the Model Managerial Archival Documents Produced in the Course of Operation of State Bodies, Local Self-Government Bodies and Organisations with an Indication of Storage Periods. That Order was not provided to the assessment team, however Russia advised that it states the most common time period for the maintenance of accounting records is not less than 10 years, and 5 years for business correspondence.

taxpayers, contributing less than 0.76% of total tax revenue), and the potential "gap" is narrow (relating only to the 5th year), the practical application of these provisions (including the Federal Law on Archive Activity) and its impact on the exchange of information should be reviewed during Russia's Phase 2 review.

Enforcement measures under the Tax Code

149. Penalties for non-compliance with the Tax Code obligations arise under the Tax Code and the Code on Administrative Offences. Article 120 of the Tax Code describes the penalties for gross violations of its record-keeping obligations. Penalties range between RUB 10 000-30 000, or are calculated as a percentage of the tax due if the violation has resulted in an underpayment of tax. A gross violation means:

> absence of primary [detailed] documents, or absence of invoices, or absence of book-keeping or tax registers, repeated (twice and more times during a calendar year) untimely or incorrect coverage of business transactions, monetary funds, tangible assets, intangible assets and financial investments of the taxpayer in the balance sheet accounts, in tax registers and in reporting.

150. Article 15.11 of the Code on Administrative Offences (which also applies to the accounting record obligations in the Law on Accounting and the Civil Code), provide for a administrative fine of RUB 2 000-3 000 where there is a gross violation of the "rules of bookkeeping and of submitting statements of accounts, as well as of a procedure and terms of keeping accounting documents". In this context, "gross violation" means:

> distorting amounts of charged taxes and fees at least 10 per cent; or distorting any item (line) of an accounting form by at least 10 per cent.

151. In summary, the Tax Code establishes requirements to keep all relevant accounting records, including underlying documentation for all taxpayers in line with the international standard. A minimum 5-year retention period of those accounting records is clearly established for most taxpayers. Russia has advised that for STS taxpayers the 5 year retention period will also apply, but that obligation is not clearly established in the law and compliance with that obligation should be monitored in the course of Russia's Phase 2 Peer Review.

Civil Code

152. In addition to the application of the Tax Code and Law on Accounting, members and partners in commercial entities formed under Russian law have a right to be informed on the activity of the partnership or company and to be acquainted with its accounting books and other documentation in conformity with the procedure laid down by the constituent documents (article 67(1), Civil Code). There are no express obligations under the Civil Code for entities formed under Russian Law to keep such accounting books, or other accounting information, and the obligation under article 67 would not meet the international standard concerning accounting information.

Anti-money laundering regime

153. The AML regime creates obligations for all AML Service Providers to keep certain accounting records in respect of their clients. The monetary value at which the record-keeping obligations commence, are higher than the threshold for client identity information under the AML regime. Account record keeping information must be maintained if the operation is subject to "compulsory control" as described in article 6 of the AML Law (broadly, for operations involving money or movable property, where the operation value meets or exceeds a specified monetary value – in most cases RUB 600 000; or for immovable property, where the operation value exceeds RUB 3 000 000), or those subject to "obligatory control" (where money laundering or financing of terrorism is suspected) pursuant to article 6(1) and (1.1) of the AML Law.

154. The accounting records which must be kept by all AML Service Providers are described in article 7(1)(4) of the AML Law, with the AML Service Provider to "keep documentary records" on matters including:

- the type of the transaction and the grounds for the accomplishment of the transaction;
- the date of the transaction in amounts of money or other assets and the amount of the transaction;

155. Further, under article 7(5) of the AML Law, the AML Service Provider must provide Rosfinmonitoring with any additional information which is available to it about the clients' transactions, if required to by written request. Rosfinmonitoring is not entitled to demand information relating to transactions concluded prior to the AML Law entering into force, except where such documents and information are required to be provided by Russia under one of its international treaties.

156. In sum, where an entity is carrying out an operation through an AML Service Provider, accounting records relating to that operation will be required to be kept where the monetary value thresholds for the operations

are met. Those records will be required to be kept for a 5 year minimum period. However, these obligations will only be complementary to other account record-keeping obligations under Russian law as they do not by themselves ensure that all the required records, including underlying documentation, are maintained in line with the international standard. This is particularly the case as trust service providers as such are not covered by the AML regime, and where there is no obligation for any particular type of entity to engage or carry out operations through an AML Service Provider.

Investment and Business Partnerships

157. There are also specific accounting requirements relating to Investment Partnerships and Business Partnerships.

158. Article 24(1)(5) of the Tax Code provides that the managing partner of an IP must:

> present to the agreement's participants a copy of an estimate of the financial result of the investment partnership and data on the share of profit (loss) of the investment partnership falling on each of them in the procedure and at the time which are established by the agreement of investment partnership but at latest fifteen days before the end time of filing with the tax authority tax declarations (estimates) for tax on entities' profits fixed by this Code.

159. Under article 4(4) of the Law on IPs, the managing partner must provide certain information to each partner, such as the amount of the outlays or current rate of the share of the partnership which falls to that partner. At the time of entering into any contract on behalf of the IP, the managing partner must be in a position to include in the contract, the following information (article 14):

> (1) data on the total cost of the partners' common property as of the time of concluding the cited agreement and on the rate of paid shares in the common property of the partners which are not managing partners;
>
> (2) the condition as to the limitation of the liability of the partners which are not managing partners in proportion to the cost of the paid shares in the partners' common property possessed by them as of the time of raising claims for the discharge of obligations;

160. For BPs, article 5 of the Law on BPs provides that:

> (1) Partnership members have the right: …

> 2. to receive information on the partnership's activity and to get acquainted with its accountancy reports and other documentation in accordance with the procedure, laid down in the present Federal Law and in an agreement on the partnership's management;
>
> (4) Every participant in a partnership has the right to get acquainted with its entire documentation. The refusal from this right or its restriction, including by an agreement with the partnership's management, is nil and void.

161. These requirements for IPs and BPs will be complementary to other account record-keeping obligations under Russian law, and do not by themselves ensure that all the required accounting information, including underlying documentation, are maintained in line with the international standard.

Investment Funds

162. Funds formed under the Investment Funds Law can take the form of a JSC or an IUT and have specific accounting requirements. Investment funds must engage an external auditor, to perform an annual audit which must cover at minimum the items described in article 50(2) of the Investment Funds Law, which include: the bookkeeping system, accounting and reporting relating to the property owned by the fund, and the transactions with such property, the composition and structure of assets, a calculation of the net assets, ad an appraisal of their value. The audit report must be filed annually by the fund with the FSMM. The fund is also obliged to provide at the request of any "persons concerned" the information described in article 52, including the balance sheet and profit and loss account of the fund, and a statement of the change in the value of the fund since the last audit. The JSC and the management company which is the trustee of an IUT, will also be subject to the record keeping requirements under the Law on Accounting and the Tax Code.

Conclusion on availability of accounting information

163. The Tax Code establishes requirements to keep all relevant accounting records, including underlying documentation in line with the international standard. These obligations will apply to all persons subject to tax in Russia, which encompasses persons resident in Russia, including trustees, as well as foreign entities with a permanent establishment in Russia. A minimum 5-year retention period of those accounting records is clearly established for "common" taxpayers. A 4-year minimum retention period is clearly established for accounting records of STS taxpayers who may elect to keep accounting records relating to income and expenses, or income only. The impact of this limited gap as well as Russia's explanations about the

application of the Federal Law on Archive Activity, on the exchange of information will be reviewed during Russia's Phase 2 review. Obligations under other laws, including the AML regime, the Civil Code and specific laws on investment funds, IPs and BPs provide additional obligations but will not ensure that all relevant accounting records are maintained.

Determination and factors underlying recommendations

Phase 1 determination
The element is in place.

A.3. Banking information

Banking information should be available for all account-holders.

Record-keeping requirements (ToR A.3.1)

164. Banking information should include all records pertaining to the accounts as well as to related financial and transactional information. The obligations to keep this information are imposed on financial institutions under Russia's AML regime.

165. Financial AML Service Providers must keep identity information on "a client, a representative of a client and/or a beneficiary", except where the transaction involves the receipt by the financial institution of RUB 15 000 or less (approx. USD 390), or a foreign exchange transaction of an equivalent value (article 7(1), AML Law). Also, where operations are carried out without a bank account being established, including operations involving the settlement or remittance of funds, client identity information with respect to the payer or beneficiary as relevant, must be kept for operations with a value exceeding RUB 15 000 (art. 7.2, AML Law). There is an obligation to update identity information on clients and beneficiaries on a regular basis (article 7(1)(3), AML Law).

166. For Financial AML Service Providers, the precise client identification obligation is further specified in the AML Regulations as well as in the AML Instructions (Instructions of the Central Bank of Russia No. 28-I of 14 September 2006, on opening and closing bank accounts and accounts for deposits). This includes the requirement to maintain the following information (reg. 2.3, AML Regulations):

- for natural persons: surname, name, date of birth, citizenship, passport details, residential address, migration card number and other such visa information where applicable.

- for legal entities: the full name, organisational structure and status, taxpayer identification number, residential address, bank's identification code, information about the registered and paid share capital, contact telephone number, information received for the purpose of identification of businessmen.

167. There is an obligation for Financial AML Service Providers to regularly update client identity information (art. 7 (2), AML Law), and all information obtained under the AML regime must be maintained by the AML Service Provider for a minimum 5 year period (art. 7(4), AML Law).

168. For Financial AML Service Providers, there is also an obligation in take measures to identify beneficiaries (based on information "substantiated and as available in the circumstances"), although there is no obligation to obtain beneficiary information where the client is another AML Service Provider (reg.1.3, AML Regulations). Pursuant to article 3 of the AML Law, a beneficiary is defined as:

> a person for whose benefit a client is acting, for instance under a contract of agency service and contracts of agency, commission and trust in the course of transactions in amounts of money and other property

169. Further, under article 7(5.4), a Financial AML Service Provider is specifically empowered to "demand and receive from the client, or the representative of the client, personal identification documents, constitutive documents and documents on the state registration of the legal entity or individual entrepreneur".

170. Financial AML Service Providers are also specifically prohibited from (article 7(5), AML Law):

> opening an account (deposit) for anonymous holders, *i.e.* without presentation by the natural or juridical person which opens the account (deposit) of the documents required to identify the person;
>
> opening an account (deposit) for natural persons without the attendance in person of the person which opens the account (deposit) or his representative;
>
> establishing and maintaining relations with non-resident banks which do not have permanent managerial bodies in the territories of the states where they are registered;
>
> concluding a bank account contract (deposit) with a client if the client or a representative of the client has defaulted on the provision of the documents required to identify the client or the representative thereof in the cases established by the present Federal Law.

171. Prior to the introduction of the client identity information requirements under Russia's AML regime which entered into effect in February 2002, it was possible for Russian financial institutions to issue savings books to bearer (bearer savings books) for which the identity of the holder would not be known. As at June 2012, Russia advised that 23 700 bearer savings accounts remained in existence, holding a total of RUB594 000 (approx. USD18 800). The existing bearer savings books are not subject to any express phase-out mechanism, but will be subject to the ongoing obligations on customer identification. At minimum, the customer identity information requirements would be required to be carried out upon production to the financial institution of the bearer savings book.

172. With respect to the financial and transaction information pertaining to accounts, the Central Bank Rules (Regulations of the Central Bank No.302-P on the rules for bookkeeping at credit institutions located on the territory of the Russian Federation of 26 March 2007) establish clear requirements to keep all relevant transaction and financial records. These are complemented by the obligations of the AML regime on all Financial AML Service Providers.

173. Rule 4.28 of the Central Bank Rules describes the information to be recorded in respect of accounts held by a commercial entity. In particular:

> On second-order balance-sheet accounts "profit-making entities" shall open accounts for entities whose activities are mainly aimed at making profits…
>
> On the credit side of the accounts shall be entered the amounts received by the said entities in correspondence with correspondent accounts, accounts of entities, accounts for registration of budget and intrabank operations, for registration of credits and other accounts.
>
> On the debit side of the accounts shall be shown the amounts written off them in correspondence with the accounts cited in the credit side thereof.
>
> Analytical accounting shall provide for keeping accounts in respect of every organisation.

174. The rules for accounts held by individuals carrying on business, as well as non-residents are described in rule 4.30 and following, and establish requirements similar to those found in rule 4.28.

175. Under the AML regime, there are requirements to keep transaction records where the operation is subject to "compulsory control" (being, in general transactions which exceed a monetary value of RUB 600 000 (approx. USD 19 500), as defined in article 6(1), AML Law) or those subject

to "obligatory control" (where money laundering or financing of terrorism is suspected).The transaction records which are to be kept by all AML Service Providers include (Article 7(4), AML Law):

- the type of the transaction and the grounds for the accomplishment of the transaction; and
- the date of the transaction in amounts of money or other assets and the amount of the transaction.

176. For Financial AML Service Providers, these transaction information requirements are further detailed in the binding 2005 Letter issued by the Central Bank of the Russian Federation on the Methodological Recommendations for Credit entities on Elaborating Internal Control Rules for the Purposes of carrying out the AML laws (AML Letter):

> 2.5. A programme of documentary recording of the information specified in Article 7 of the Federal Law on Countering the Legalisation of Incomes Received through Crime (Money Laundering) and the Financing of Terrorism.
>
> 2.5.1. The credit organisation shall record information on transactions or deals of a client so that when necessary the details of the transactions or deals (such as the amount of transaction or deal, the currency of transaction, information on the client's partner under a contract) can be retrieved.
>
> 2.5.2. The credit organisation shall record information and gather documents for the purpose of countering the legalisation of income received through crime or money laundering and the financing of terrorism so that they can be used as evidence in a criminal, civil or arbitration action.

177. All information recorded pursuant to AML regime obligations is to be maintained for a minimum 5 year period (article 5(4), AML Law).

178. An AML Service Provider who does not comply with the obligations to keep information established by the AML Law, including obligations to keep client identity information is liable to a penalty pursuant to article 15.27 of the Code on Administrative Offences. These administrative fines range from RUB 10 000 to RUB 30 000 for individuals, and for legal entities from RUB 50 000 to RUB 100 000. The amount of the fines will be greater where they concern other AML obligations such as suspicious transaction reporting.

Conclusion

179. The requirements imposed on financial institutions to know the identity of a customer are sufficient to meet the international standard. Although client identification obligations apply to all accounts since February 2002, bearer savings book accounts in existence before these obligations were introduced may still exist and the identity of their holders will not be known until such time as the books are presented to the bank. For transaction and financial records, the obligations of the Central Bank Rules and the AML regime establish the obligations in line with the standard for all financial institutions.

Determination and factors underlying recommendations

Phase 1 determination	
The element is in place, but certain aspects of the legal implementation of the element need improvement.	
Factors underlying recommendations	**Recommendations**
Some bearer savings books may have been opened before the client identification obligations were introduced with Russia's anti-money laundering regime in 2002, and the identity of the holders of those books will not be known until they are presented to the financial institution.	Russia should ensure that there are measures to identify the owners of any bearer savings books.

B. Access to Information

Overview

180. A variety of information may be needed in a tax enquiry and jurisdictions should have the authority to obtain all such information. This includes information held by banks and other financial institutions as well as information concerning the ownership of companies or the identity of interest holders in other persons or entities, such as partnerships and trusts, as well as accounting information in respect of all such entities. This section of the report examines whether Russia's legal and regulatory framework gives the authorities access powers that cover all relevant persons and information and whether rights and safeguards are compatible with effective exchange of information.

181. The Minister of Finance is the named competent authority under Russia's Exchange of Information (EOI) agreements, and with respect to information exchange on request, this authority is delegated to the Deputy Commissioner of the Federal Tax Service (FTS) and the Head of the Tax Audit Directorate.

182. The FTS are empowered by the domestic Tax Code to carry out tax controls, which include powers to conduct audits, attend premises and seize documents, and summons persons to give evidence. Noting the provisions of the Constitution, Civil Code and Tax Code on the relationship between international treaty obligations and domestic law, these domestic access powers can also be used for EOI purposes. There is a separate power providing access to bank information which will also allow access to information relating to private individual's bank accounts pursuant to recent legislative amendments. Russian domestic law also provides protection from disclosure for "audit secrets" which are broadly defined. There is no general exception to this secrecy obligation for EOI purposes, and its scope is not consistent with the international standard. As a result of these conclusions, two recommendations are made and element B.1 concerning access to all relevant information is found to be in place, but needing improvement.

183. Concerning the rights and safeguards that apply to persons in Russia, the FTS is not subject to any obligation to notify any person regarding the access and exchange of information pursuant to its EOI agreements. Persons affected by a decision of a tax official, which may include a decision relating to an EOI request, do have the right of appeal to a higher authority in the tax administration. The legal framework in place in respect of appeal rights is in line with the standard and element B.2 is found to be in place.

B.1. Competent Authority's ability to obtain and provide information

Competent authorities should have the power to obtain and provide information that is the subject of a request under an exchange of information arrangement from any person within their territorial jurisdiction who is in possession or control of such information (irrespective of any legal obligation on such person to maintain the secrecy of the information).

184. The Minister for Finance is the competent authority for international exchange of information for tax purposes under Russia's exchange of information (EOI) agreements). This power is delegated to the Deputy Commissioner of the FTS and the Head of the Tax Audit Directorate for the purposes of EOI on request. The Tax Audit Directorate is the main unit in the FTS with respect to the management of EOI on request under Russia's EOI agreements.

Bank, ownership, and identity information (ToR B.1.1) and accounting records (ToR B.1.2)

185. Under Russian law, the FTS has powers to access information for tax control purposes, pursuant to the general power under article 82 of the Tax Code, with individual procedures described in articles 87-94. Article 99 sets out the general procedural aspects for the conduct of tax controls. Those powers include the power to undertake a tax inspection (which may be desk-based or on-site), obtain information from taxpayers, examine premises, seize documents and summon persons to give evidence. These powers permit the FTS to access relevant information, including ownership, identity and accounting information.

186. Access to bank information relies on the specific power found in article 86 of the Tax Code. On 1 July 2012, amendments to article 86 entered into force which will take effect from 1 January 2013. In particular, previously, the FTS could only request bank information which relates to business accounts (including those used by individual entrepreneurs), and may not access information relating to private individual bank accounts. This limitation has now been removed, and all bank information can be accessed for EOI purposes, as discussed further below

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

187. The concept of "domestic tax interest" describes a situation where a contracting party can only provide information to another contracting party if it has an interest in the requested information for its own tax purposes. The international standard requires a jurisdiction to be able to use its information gathering measures, notwithstanding that it may not need the information for its own tax purposes.

188. In Russia, the FTS' domestic compulsory access powers are applied in the context of a tax control, the rules in respect of which are described in chapter 14 of the Tax Code. Under Article 82(1) of the Tax Code, a tax control may be made for the "observance by taxpayers, tax agents and payers of fees of the legislation on taxes and fees in the procedure established by this Code". Article 19 of the Tax Code defines taxpayers and payers of fees, as "entities and individuals who are under an obligation, under this Code, to pay taxes and/or fees, respectively". Tax agents are persons who are "required under this Code to calculate, withhold from the taxpayer and remit taxes to the budget system of the Russian Federation" (article 24, Tax Code).

189. Typically, all persons with a sufficient nexus with Russia will fall within the definition of a Russian taxpayer or payer of fees. There may be a very small group of persons who do not fall within this definition. For example persons opening a bank account in Russia who are not otherwise carrying on any other activity in Russia (although their identity and bank account details are required to be notified to the FTS, and all bank information would be accessible under the amendments to article 86 of the Tax Code) or persons in receipt of Russian source passive income only.

190. These domestic powers are expanded for use for EOI purposes by the Constitution, Civil Code and Tax Code which all include specific provisions on the integration of Russia's international treaty obligations into domestic law. In particular, article 15(4) of the Constitution provides that:

> The universally-recognised norms of international law and international treaties and agreements of the Russian Federation shall be a component part of its legal system. If an international treaty or agreement of the Russian Federation fixes other rules than those envisaged by law, the rules of the international agreement shall be applied.

191. Article 7 of the Tax Code states:

> If a tax treaty of the Russian Federation, which contains provisions concerning taxation and fees, establishes rules and standards other than those provided by this Code or laws and other regulatory

> legal acts on taxes and/or fees adopted in accordance with it, the rules and standards of tax treaties of the Russian Federation shall prevail.

192. There is a similar provision in article 7 of the Civil Code. Russia interprets and applies these provisions such that the general access powers may be employed for EOI purposes, even where its EOI agreements do not contain a provision equivalent to article 26(4) of the OECD Model Tax Convention.

193. In addition, the Tax Code provides for the Minister for Finance (as the named competent authority for international exchange of information for tax purposes under Russia's exchange of information (EOI) agreements) to disclose information received by the Federal Tax Service (FTS) which would otherwise be confidential, where it is disclosed pursuant to an EOI agreement (article 102, Tax Code). This provision appears to permit the exchange of information with Russia's EOI's partners where that information is already within the possession of the FTS.

Compulsory powers *(ToR B.1.4)*

General access powers

194. The general powers of Russia's tax authorities to access information for EOI purposes are derived from the interaction of its DTCs with its Constitution, and articles 7 of the Tax Code and Civil Code establishing the hierarchy of laws, which is supported by the principles confirmed by the decisions of its courts. In the context of tax information exchange, Russia's DTCs provide the legal basis for the exercise of its access powers for EOI purposes.

195. In respect of accessing information for EOI purposes, the main power exercised by the FTS is described in article 93.1 of the Tax Code which makes clear that documents or information can be requested from a taxpayer "or from other persons" that have documents or information concerning the activity of the taxpayer under investigation.

196. The FTS has other compulsory powers to access information described under articles 82, 87-94 of the Tax Code, which can also be used for EOI purposes. Article 82(1) provides:

> Tax control shall be exercised by tax officials within their scope of competence by conducting tax audits, obtaining explanations from taxpayers, tax agents and payers of fees, verifying accounting and reporting data, examining premises and territories used

> for generating income (profit), as well as in other forms provided for in this Code.

197. The audit power is exercised through a tax inspection: either a desktop audit or an on-site inspection (article 87, Tax Code), in addition to which there is a power to summon persons to give evidence.

198. A desktop audit (article 88, Tax Code) can be conducted in the period up to three months after the date of submission by a taxpayer of the tax return. It is based on documents available to the tax authority and submitted by the taxpayer. During the desktop audit, the FTS is not entitled to obtain on demand from the taxpayer additional data and information, if not otherwise provided for or if the submission of such documents together with the tax return is not provided for by the Code (article 88(7), Tax Code).

199. In the course of an on-site inspection (article 89) tax officials have the right to examine the premises of a taxpayer, tax agent or payer of fees.

200. Article 92(1) describes the various powers that the FTS has when conducting an on-site inspection:

> In order to clarify circumstances that are of relevance for the comprehensiveness of the audit, officials of the tax authority conducting an on-site inspection shall have the right to examine grounds or premises of the taxpayer being audited, as well as documents and objects.

201. On-site audits will take place at premises which are used for generating income or at the residence of the taxpayer if permission is granted or a court order is obtained (article 91). The procedures for carrying out an on-site inspection are described in more detail in articles 92-94 of the Tax Code.

202. Onsite inspections may only relate to the period up to 3 years prior to the date of the decision to undertake the onsite tax inspection (article 89(4), Tax Code). The inspection may last only 2 months (period from the decision to undertake the inspection, to the date of rendering the report on the inspection), with an option to prolong the period to 4 or 6 months in exceptional cases (Article 89(6), Tax Code).

203. In general tax authorities are not entitled to conduct two or more on-site tax inspections in respect of the same taxes for the same period, and may not conduct more than one inspection per year except where approval is given by the head of the FTS (article 89(5), Tax Code). Where approval of the head of the FTS is granted (article 89(5), more than one inspection of a taxpayer may be conducted in any given year or for a tax period which has already been subject to control. This can include for the purposes of obtaining information relevant to an EOI request.

204. In addition to conducting tax inspections, the FTS also has the power when conducting a tax control to summon persons to give evidence (article 90). A person may be summonsed if they "may have knowledge of any facts that have significance for exercising a tax control", and there is no express time limit as to when such a summons may be issued in the context of the tax control.

205. Certain persons are exempt from being summonsed, including (article 90(2)):

> 1) persons who by reason of their young age, physical and psychological drawbacks are unable to correctly perceive circumstances of relevance to tax control;
>
> 2) persons who have received information needed to exercise tax control in connection with the discharge by them of their professional duties, and similar information shall refer to the professional secret of these persons, in particular a lawyer and an auditor.

206. Enforcement measures are provided for under the Tax Code where a person does not meet their obligations under the Code, including in respect of providing information. A taxpayer who fails to provide to the FTS the documents or information requested within the time period fixed by the FTS, shall be liable to a fine of RUB 200 for each document not presented (article 126(1), Tax Code). A legal entity which refuses or avoids providing documents or information regarding a taxpayer, or provides false information, shall be liable to a fine of RUB 10 000 (article 126(2)). A person who is summoned to give evidence and fails or refuses to appear is liable to a fine of between RUB 1 000–3 000 (article 128, Tax Code). There is a general penalty provision under article 129.1 of the Tax Code for other instances of the non-provision or untimely provision of information required by the FTS, including most notably pursuant to article 93.1, in the amount of RUB 5 000 or for the second offence within a calendar year, the amount of RUB 20 000.

Powers to access bank information

207. For accessing bank information, the FTS is empowered by article 86 of the Tax Code, which concerns the duties of banks with regard to taxpayer registration. Article 86 was amended by legislation which entered into force on 1 July 2012 to also permit access to bank information on private individual's bank accounts. That legislation will take effect from 1 January 2013 although EOI requests for such information that relate to a prior period will also be permitted from that date.

208. Previously, the powers to access bank information were equivalent under both domestic law and for EOI purposes. Access to bank information was limited to information with respect to bank accounts of legal entities and individual entrepreneurs. It was not possible to access information with respect to private individuals' bank accounts. Further, in order to access bank information the FTS needed to make a request to the Central Bank on the basis of a "motivated tax request". Russia interprets "motivated" to include cases where the information was sought in response to an EOI request.

209. The amended article 86 provides the FTS with powers to access bank information which are specific for EOI purposes:

> 86(2) … Tax authorities may request notices of bank accounts and deposits held and (or) balances of monetary resources in accounts and deposits, statements of operations on bank accounts and deposits of organisations, private entrepreneurs and individuals, who are not private entrepreneurs and of balances of electronic money and electronic money transfers of organisations, private entrepreneurs and individuals, who are not private entrepreneurs, by request of an authorised agency of a foreign country in the cases envisaged by international treaties of the Russian Federation.

210. The exchange of bank information is generally contemplated under EOI agreements, regardless of whether a specific provision similar to article 26(5) of the OECD Model Tax Convention is included. Further, Russia has confirmed that "cases envisaged by international treaties" will include all of its EOI agreements, regardless of whether they contain a provision equivalent to article 26(5) of the Model Tax Convention. The provision permits access to all relevant bank information for EOI purposes, including information on the identity of the account holder (Order of the Federal Tax Service No. MM-3-06/178 of 30 March 2007).

211. This amendment has entered into force, and will take effect from 1 January 2013. It will permit access to all bank information, including on private individual's bank accounts when an EOI request is made after that day including where such information relates to an earlier period.

212. Information from a bank is obtained by a request from the field officers of the tax authority directly to the relevant bank. In addition, banks are required to notify the FTS of certain information including "the opening or closure of an account or of changes to the details of an account" of a legal entities or individual entrepreneurs, within 3 days of the relevant event (article 86(1), Tax Code).

213. Banks which fail to submit information requested to the FTS, or which submit information late or information that is unreliable, are liable to a fine in the amount of RUB 20 000, under article 135.1 of the Tax Code.

Secrecy provisions (ToR B.1.5)

214. Russian law provides for a number of secrecy provisions, which cover information held by banks as well as professional secrecy obligations which apply to lawyers, accountants and notaries

Bank secrecy

215. In general, banks are subject to an obligation of secrecy under article 857 of the Civil Code which defines the scope of the obligation:

> 1. The bank shall guarantee the secrecy of a bank account and a bank deposit, operations with the account and information about clients.
>
> 2. Information constituting a banking secret can be provided only to the clients themselves or their representatives, and also provided to credit bureaus on the grounds and in the procedure provided for by a law. Such information can be provided to State bodies and their officials only in cases and in the procedure provided for by a law.
>
> 3. In case the bank divulges information subject to bank secrecy, the client whose rights have been infringed shall have the right to demand compensation for the losses caused.

216. As article 86 of the Tax Code grants the FTS with a right of access to information held by a bank, this falls within the exception to bank secrecy for a "procedure provided for by a law" (article 857(2), Civil Code).

217. There is also a separate obligation of confidentiality in section 26 of the Federal Law on Banks and Banking Activity, However this section also includes a specific exception for disclosure of bank information relating to individuals "in the cases envisaged by international treaties of the Russian Federation" and for disclosure of bank information relating to entities and individual entrepreneurs "in the cases envisaged in legislative acts on their activities".

218. Therefore, the bank secrecy obligations in Russia's law are consistent with the international standard as they permit access to bank information when requested pursuant to one of Russia's EOI agreements.

Professional secrecy

219. All of Russia's DTCs as well as the Multilateral Convention permit Russia to decline a request if responding to it would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy. This follows the international standard as described in article 26(3) of the OECD Model Tax Convention. Among the situations in which Russia is not obliged to supply information in response to a request is when the requested information would disclose communications protected by attorney-client privilege.

220. The access powers of the FTS as described in the general provision on exercising tax controls, article 82 of the Tax Code, includes the protection of professional secrets:

> (4) In the exercise of tax control no allowance shall be made for the collection, storage, use and spread of information about a taxpayer (payer of fees or tax agent), received in violation of the provisions of the Constitution of the Russian Federation, the present Code, the federal laws, and also in contravention of the principle of preserving information that constitutes a professional secret of other persons, in particular a legal secret or an audit secret.

221. Further, in respect of the power to summon a person to give evidence in article 90(2) of the Tax Code, there is a restriction on calling persons who have obtained information in the course of their professional duties which is subject to professional secrecy obligations:

> The following persons may not be interrogated as witnesses:
>
> … (2) persons who have received information needed to exercise tax control in connection with the discharge by them of their professional duties, and similar information shall refer to the professional secret of these persons, in particular a lawyer and an auditor.

222. That is, where information is protected by professional secrecy, including attorney-client privilege or audit secrets, the FTS may not access or rely upon such information when performing a tax control.

Legal professionals

223. The scope of legal secrecy is defined in the Federal Law on Solicitors and Barristers Activity No. 63-FZ of 31 May 2002 (Solicitors Law), under article 8.

> (1) Any information relating to the provision of legal assistance by a solicitor/barrister to his/her client shall be deemed a solicitor's/barrister's secret.
>
> (2) The solicitor/barrister shall not be summoned and interrogated as a witness about the circumstances that have come to his/her knowledge in connection with his/her being approached and asked for legal assistance or in connection with the provision thereof.

224. The activities of a solicitor or barrister are defined in article 1 of the Solicitors Law, being "for the purpose of protecting their rights, liberties and interests and also ensuring access to justice", and does not include notarial functions, Article 2(2) describes the activities a solicitor or barrister shall carry out when providing legal assistance, such as the provision of legal advice in written or oral form, and the representation of a client in criminal or civil proceedings. The scope of legal privilege in Russia is consistent with the international standard.

Audit Secrecy

225. Audit secrecy is defined in article 9 of the Federal Law No.307FZ on Auditing Activity, and must be protected by the audit firm, its employees, as well as any individual auditors and employees with whom employment contracts have been concluded. The secrecy obligation covers:

> Any information and documents received and/or prepared by an audit organisation or its employees and also by an individual auditor and the employees which whom he/she has concluded labour contracts while they provide the services envisaged by the present Federal Law.

226. The scope of "auditing services" and "audit associated services" is described in Article 1 of the Law on Auditing Services, and includes:

- independent verification of the bookkeeping, financial statements and reports of an person, and expressing an opinion on the reliability of such statements reports;
- establishment, restoration and keeping of accounts, preparation of financial statements, accounting consulting;
- providing tax consultations, setting up and keeping tax records, tax calculations and returns;
- analyzing the financial and economic operations of organisations and individual entrepreneurs;

- rendering legal assistance in areas related to auditing, including consulting on legal issues, representation of the interests of the trustee in civil and administrative court proceedings, in tax and customs legal relations, before the state executive authorities and local government authorities; and
- development and analysis of investment projects, and the preparation of business plans.

227. There are three important exceptions to the scope of information covered by the obligation of audit secrecy, as defined in article 9(1):

> (1) information disclosed by the person proper to which the services envisaged by the present Federal Law have been provided or on the consent of the person;
>
> (2) information on the conclusion of a compulsory audit contract with the audited person; and
>
> (3) information on the amount of payment for audit services.

228. However, there is no general exception to permit access to audit information for EOI purposes. Although Russia has advised that such information could be obtained from other sources (such as the taxpayer themselves), it is not clear that this will always be the case. Source records and underlying documentation would generally be accessed from the taxpayer as the legal owner of these documents, however certain other documents may only be in possession of the auditor, and over which the taxpayer has no claim. These could include working papers and drafts prepared in the course of performing the audit or audit related activities which might be relevant for example to establishing the purpose for which a corporate restructure is carried out. The scope of the confidentiality duty for audit information is broad, may hinder the ability of the FTS to access information necessary for the effective exchange of such information in accordance with the standard.

Commercial Secrets

229. Commercial secrets are protected in Russian law, under the Federal Law on Commercial Secrecy No.98-FZ of 29 July 2004 (Law on Commercial Secrecy). There is an exception which permits the confidentiality to be lifted where information subject to the Law on Commercial Secrecy is sought by government authorities on the basis of a motivated request (article 6, Law on Commercial Secrecy). This includes the FTS, and Russia has confirmed that a "motivated request" would include a request made for the purposes of responding to an EOI request. In addition, when commercial or technological secrets are obtained by the FTS, there is a specific provision of the Tax Code (article 102(2)), which confirms that tax officials must keep that information

confidential. Whilst the Tax Code does not permit the disclosure of such secrets if required by Russia's international agreements (article 102(1), under the international standard, Russia is not obliged to disclose commercial secrets.

230. In summary, the scope of audit secrecy under Russia's domestic law is inconsistent with access to information for EOI purposes under the international standard and in some cases could potentially hinder the ability of the competent authority to access all relevant information for EOI purposes. A recommendation is made for Russia to address this issue.

Determination and factors underlying recommendations

Phase 1 determination	
The element is in place, but with certain aspects of the legal implementation of the element needing improvement.	
Factors underlying recommendations	**Recommendations**
The scope of information protected by Russia's domestic law confidentiality duty for "audit secrets" is broad, and there is no exception which would permit access to such information for EOI purposes.	Russia should ensure that access for EOI purposes is possible for all relevant information which would otherwise be protected by the domestic law on "audit secrets".

B.2. Notification requirements and rights and safeguards

The rights and safeguards (*e.g.* notification, appeal rights) that apply to persons in the requested jurisdiction should be compatible with effective exchange of information.

Not unduly prevent or delay exchange of information *(ToR B.2.1)*

231. The *Terms of Reference* provides that rights and safeguards should not unduly prevent or delay effective exchange of information. For instance, notification rules should permit exceptions from prior notification (*e.g.* in cases in which the information request is of a very urgent nature or the notification is likely to undermine the chance of success of the investigation conducted by the requesting jurisdiction).

232. The FTS is not obliged to inform persons that are the subjects of EOI requests of the existence of the request or to notify them prior to contacting third parties to obtain information, or to notify them prior to exchanging the information.

233. Articles 32 and 33 of the Tax Code sets out duties of tax officials including in respect of taxpayer's rights, including to act in strict compliance with the Tax Code and "treat duly and courteously taxpayers, their representatives and other participants of the relations regulated by the legislation on taxes and fees; respect their honour and dignity".

234. "Every person" has the right to appeal an action or inaction of a tax official which they believe is of a "non-normative nature" and which impinges upon their rights (art. 137, Tax Code). This would include a decision of a tax official which related to the exercise of access powers for EOI purposes or other acts of tax officials which pertain to EOI matters. Since 2009, an appeal concerning a decision in respect of the imposition of sanctions for the commission of a tax offence must in the first instance be made to a higher tax official in the FTS, although an appeal to a court remains possible at a later stage (articles 101.2 and 138, Tax Code).

235. Appeals on other matters relating to the application of the Tax Code may be made in first instance to either a higher tax official or to a court (article 138(1), Tax Code)

236. Appeals to a higher tax official must be determined within one month of receipt by the FTS, and with special authorisation that period may be extended by a maximum of 15 days (article 140(3), Tax Code). Appeals do not have suspensive effect (article 141(1), Tax Code) except in cases where there are "ample grounds" to believe that the action appealed again is not consistent with the legislation.

237. Appeals to a court, shall be made to an arbitration court when brought by an entity or individual entrepreneur, or to a court of general jurisdiction when brought by an individual (who is not a private entrepreneur), pursuant to article 183(2) of the Tax Code. These appeals are determined in accordance with the general federal laws on civil and arbitral procedure (article 142, Tax Code). Arbitration Courts in the regions are the courts of first instance for tax appeals by entities or individual entrepreneurs. The Arbitration Courts of Appeal are the courts of second instance, and decisions of that court may in turn be appealed to the Federal Arbitration Courts in the Circuits. The Supreme Arbitration Court of Russia is the final appeal court. For individuals, it is the general court to which tax appeals are made, rather than the arbitration court system. Generally, the Supreme Arbitration Court has an important role as in respect of tax disputes it may interpret legal provisions both in respect of particular cases, and also general interpretation in respect of all cases having a similar factual matrix. The purpose of such interpretations by the Supreme Arbitration Court is to ensure uniform understanding and application of legal provisions by commercial courts.

238. Russia's appeal procedures are consistent with the international standard.

Determination and factors underlying recommendations

Phase 1 determination
The element is in place.

C. Exchanging Information

Overview

239. Jurisdictions generally cannot exchange information for tax purposes unless they have a legal basis or mechanism for doing so. In Russia, the legal authority to exchange information is derived from the double taxation conventions (DTCs) as well as from domestic law. This section of the report examines whether Russia has a network of information exchange that would allow it to achieve effective exchange of information in practice.

240. Russia has signed 86 DTCs and of these, 78 agreements are currently in force. Further, on 3 November 2011, Russia became a signatory to the Multilateral Convention on Mutual Administrative Assistance in Tax Matters which Russia is committed to bringing into force. Under 25 of their DTCs, Russia will only exchange information on persons who are residents of one of the Contracting States. Two of the DTCs are also limited to information necessary for carrying out the provisions of the Convention, although in respect of one of those partners an amending protocol has recently been signed. As a result, elements C.1 and C.2 are found to be in place, but needing improvement.

241. Concerning confidentiality, each of Russia's EOI agreements include a provision which creates an obligation for the parties to protect the confidentiality of information exchanged. There is also a duty of confidentiality under domestic legislation which is supported by enforcement measures although this domestic law confidentiality obligation would appear to be limited to information relating to Russian taxpayers. As a result, there may be some information covered by a duty of confidentiality under the EOI agreement which is not supported by an appropriate means for enforcement. This may in some cases affect Russia's ability to effectively enforce its obligation of confidentiality to its EOI partners, and element C.3 is found to be in place but needing improvement.

242. In Russian domestic law there is also a protection from the obligation to disclose "audit secrets", which are broadly defined, and which may prevent the exchange of information in a manner not consistent with Russia's EOI agreements. Two recommendations have been made to address these issues, and element C.4 is found to be in place but needing improvement.

C.1. Exchange-of-information mechanisms

Exchange of information mechanisms should allow for effective exchange of information.

Foreseeably relevant standard (ToR C.1.1)

243. The international standard for exchange of information envisages information exchange upon request to the widest possible extent. Nevertheless it does not allow "fishing expeditions," *i.e.* speculative requests for information that have no apparent nexus to an open inquiry or investigation. The balance between these two competing considerations is captured in the standard of "foreseeable relevance" which is included in Article 26(1) of the OECD Model Tax Convention:

> *The competent authorities of the contracting states shall exchange such information as is foreseeably relevant to the carrying out the provisions of this Convention or to the administration or enforcement of the domestic laws concerning taxes of every kind and description imposed on behalf of the contracting states or their political subdivisions or local authorities in so far as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by Articles 1 and 2.*

244. Russia has signed 86 double tax conventions (DTCs),[11] and these agreements are generally based on the OECD Model Tax Convention and its commentary as regards the scope of information which can be exchanged. Prior to 2005, the OECD Model Tax Convention referred to the obligation to exchange information "as is necessary" rather than "as is foreseeably relevant". The commentary to Article 26 of the OECD Model Taxation Convention recognises that "necessary" should be considered interchangeable with "foreseeably relevant" in this context, and Russia agrees with this interpretation. The majority of Russia's DTCs, whether signed prior or after 2005, refer to information "as is necessary".

245. Two of Russia's DTCs, with Austria and Switzerland, limit the EOI provision to information which is necessary for the carrying out of the Convention, rather than also including information foreseeably relevant to the administration or enforcement of the domestic tax laws of the parties. Russia has signed an amending protocol with Switzerland, which provides for information exchange relevant to the domestic laws of the parties. The Russian-Swiss protocol was approved by the Swiss parliament in June 2012, and it is under current consideration by the committees of the Russian Duma.

11. Russia seceded to the double tax conventions which had been signed by the former Union of Soviet Socialist Republics, upon its dissolution in December 1991.

246. In addition to its network of DTCs, on 3 November 2011 Russia signed the Multilateral Convention on Mutual Administrative Assistance in Tax Matters (Multilateral Convention). The Multilateral Convention, which was updated in 2010 to incorporate the internationally agreed standard for exchange of information in tax matters, is the most comprehensive multilateral instrument available for tax co-operation. As at July 2012, there were 38 signatories (including Russia) to the Multilateral Convention, with 14 countries having brought the updated Multilateral Convention into force. Russia has not yet ratified and brought into force the Multilateral Convention. Once the Multilateral Convention is brought into force by Russia, it will have EOI agreements with each of the other parties to it.

247. When two or more arrangements for the exchange of information for tax purposes exist between Russia and an EOI partner, the parties may choose the most appropriate agreement under which to exchange the information.

In respect of all persons (ToR C.1.2)

248. For exchange of information to be effective it is necessary that a jurisdiction's obligation to provide information is not restricted by the residence or nationality of the person to whom the information relates or by the residence or nationality of the person in possession or control of the information requested. For this reason, the international standard for exchange of information envisages that exchange of information mechanisms will provide for exchange of information in respect of all persons.

249. Twenty-five of Russia's DTCs do not specifically provide that information exchange under the convention is not limited by article 1 ("persons covered"). Russia has advised that it interprets the absence of those words to mean that these conventions only provide for exchange of information with respect to persons who are residents of one or both Contracting States. The 25 DTCs are Russia's agreements with:

Azerbaijan	Bulgaria	India	Ireland	Japan
Korea	Kuwait	Macedonia	Malaysia	Moldova
Mongolia	Poland	Qatar	Romania	Singapore
Slovenia	South Africa	Syria	Thailand	Turkey
Turkmenistan	UK	Ukraine	Uzbekistan	Vietnam

250. Russia's interpretation that these agreements will only cover information exchange with respect to persons who are resident of one or both Contracting States means that these 25 agreements are not in line with the international standard. It is recommended that Russia take steps to bring

these 25 agreements in line with the standard, for example by reviewing its interpretation or conclusion of protocols with its partners as necessary, in order to permit information to be exchanged in respect of all persons and not just those who are resident of one or both of the Contracting States.

251. The remaining 61 DTCs as well as the Multilateral Convention provide for the exchange of information with respect to all persons.

Obligation to exchange all types of information (ToR C.1.3)

252. Jurisdictions cannot engage in effective exchange of information if they cannot exchange information held by financial institutions, nominees or persons acting in an agency or a fiduciary capacity. The OECD Model Taxation Convention, which is an authoritative source of the standards, stipulates in article 26(5) that bank secrecy cannot form the basis for declining a request to provide information and that a request for information cannot be declined solely because the information is held by nominees or persons acting in an agency or fiduciary capacity or because the information relates to an ownership interest.

253. As noted in section B.1.4 of this report, Russia has recently amended its powers to access bank information for EOI purposes. Russia has confirmed that those new powers will allow access to bank information for all of its EOI agreements, and that such information can also be exchanged, regardless of whether they contain a provision equivalent to article 26(5) of the Model Tax Convention. Further, three of Russia's DTCs in force (with the Czech Republic, Germany, and Italy) as well as the amending protocols signed with Cyprus and Switzerland, include provisions equivalent to Article 26(5) of the OECD Model Tax Convention. In addition, the Multilateral Convention which Russia has signed includes such a provision.

Absence of domestic tax interest (ToR C.1.4)

254. The concept of "domestic tax interest" describes a situation where a contracting party can only provide information to another contracting party if it has an interest in the requested information for its own tax purposes. An inability to provide information based on a domestic tax interest requirement is not consistent with the international standard. Contracting parties must use their information gathering measures even though invoked solely to obtain and provide information to the other contracting party, and this obligation is set out in article 26(4) of the OECD Model Tax Convention.

255. As noted in section B.1.3 of the report, Russia interprets and applies its general domestic access powers such that they may be employed for EOI purposes, and that all such information may be exchanged, even where its

EOI agreements do not contain a provision equivalent to article 26(4) of the OECD Model Tax Convention. Further, four of Russia's DTCs in force (with Algeria, the Czech Republic, Germany and Italy) as well as the amending protocols signed with Cyprus and Switzerland, include provisions equivalent to Article 26(4) of the OECD *Model Tax Convention*. In addition, the Multilateral Convention which Russia has signed includes such a provision.

Absence of dual criminality principles (ToR C.1.5)

256. The principle of dual criminality provides that assistance can only be provided if the conduct being investigated (and giving rise to an information request) would constitute a crime under the laws of the requested country if it had occurred in the requested country. In order to be effective, exchange of information should not be constrained by the application of the dual criminality principle.

257. There are no dual criminality requirements in Russia's DTCs or pursuant to the Multilateral Convention.

Exchange of information in both civil and criminal tax matters (ToR C.1.6)

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

259. All of Russia's DTCs, as well as the Multilateral Convention provide for exchange of information in both civil and criminal tax matters.

Provide information in specific form requested (ToR C.1.7)

260. There are no restrictions in the exchange of information provisions in Russia's DTCs or the Multilateral Convention that would prevent Russia from providing information in a specific form, as long as this is consistent with its own administrative practices.

In force (ToR C.1.8)

261. Exchange of information cannot take place unless a jurisdiction has exchange of information arrangements in force. Where exchange of information agreements have been signed, the international standard requires that jurisdictions must take all steps necessary to bring them into force expeditiously.

262. In Russia, after an EOI agreement is signed, there are a number of steps necessary to complete the process of ratification and entry into force. First, a draft law of ratification is prepared in consultation with the relevant ministries (in particular, the Ministry of Finance and the Ministry of Justice). The draft law must then be approved by the government, and is submitted to the State Duma. The law is adopted by the Duma, and submitted to the Council of the Russian Federation which must in turn adopt the law. After adoption, the law is signed by the President of Russia, and finally a diplomatic note is submitted to the treaty partner to notify that Russia's ratification procedures have been completed.

263. Seventy-eight of Russia's 86 DTCs have been brought into force. In addition, amending protocols have been signed with regards to two of the 78 DTCs which will meet the international standard once the protocols enter into force (with Cyprus (signed 2010, ratified by Cyprus), and Switzerland (signed 2011)). Russia also signed the Multilateral Convention in November 2011.

264. Finally, Russia has DTCs with eight jurisdictions which have been signed but not yet brought into force: Argentina (signed 2001, ratified by Argentina), Chile (2004, ratified by Chile), Ethiopia (1999), Estonia (2002, ratified by Estonia), Latvia (2010, ratified by Latvia), Malta (2000), Mauritius (1995), and Oman (2001).

265. Russia has 50 DTCs which are in force and to the standard. In order to further develop its network of in force agreements to the standard, Russia should ensure that all of its EOI agreements are brought in line with the standard and further, that it moves quickly to ratify its signed EOI agreements.

Be given effect through domestic law (ToR C.1.9)

266. For exchange of information to be effective, the contracting parties must enact any legislation necessary to comply with the terms of the agreement.

267. Russia has generally enacted all the legislation necessary to comply with the terms of its agreements. In particular, article 102(1) of the Tax Code expressly provides that the tax officials' obligations to maintain the confidentiality of tax information, is lifted to allow the disclosure of information necessary for the purposes of an EOI agreement.

Determination and factors underlying recommendations

Phase 1 determination	
The element is in place, but certain aspects of the legal implementation of this element need improvement.	
Factors underlying recommendations	**Recommendations**
Russia interprets the EOI provisions in 25 of its DTCs to limit information exchange to instances where the information relates to a person resident in one of the Contracting States. Under DTCs with two partners, information exchange is limited to information necessary for the carrying out the provisions of the Convention. In respect of one of these partners, an amending protocol which is not yet in force has already been signed which will remove this limitation.	Russia should ensure that all of its EOI agreements permit the exchange of information relevant to all persons and also permit exchange for the purposes of administration and enforcement of the parties' domestic laws, in line with the international standard.
Eight of Russia's signed DTCs as well as two signed amending protocols and the Multilateral Convention on Mutual Administrative Assistance have not been brought into force by Russia.	Russia should ensure that it takes all steps necessary for its part to bring its signed EOI agreements into force expeditiously.

C.2. Exchange-of-information mechanisms with all relevant partners

The jurisdictions' network of information exchange mechanisms should cover all relevant partners.

268. Ultimately, the international standard requires that jurisdictions exchange information with all relevant partners, meaning those partners who are interested in entering into an information exchange arrangement. Agreements cannot be concluded only with counterparties without economic significance. If it appears that a jurisdiction is refusing to enter into agreements or negotiations with partners, in particular ones that have a reasonable expectation of requiring information from that jurisdiction in order to properly administer and enforce its tax laws it may indicate a lack of commitment to implement the standards.

269. Russia has signed 86 double tax conventions, as well as the Multilateral Convention which each provide for exchange of information on request

for tax matters, with 78 of the DTCs having entered in force. For two of the DTCs, with Cyprus and Switzerland, amending protocols have been signed and those protocols have not yet entered into force.

270. The EOI agreements which are in force are with partners representing:

- Each of its 8 major commodities trading partners[12] (although 2 of these agreements are not to the international standard);
- 9 of its 10 major investment partners[13] (although 4 of these agreements are not to the international standard;
- 47of the 108 Global Forum member jurisdictions; and
- All 34 of the 34 OECD member economies.

271. At least two jurisdictions have approached Russia to indicate its interest in entering into a TIEA, although due to competing priorities, Russia has not been in a position to commence negotiations with these jurisdictions, which are not major trade or investment partners. Russia has advised that it is currently considering entering into TIEAs, including with those jurisdictions with which it has significant financial flows. The wording of Russia's domestic access powers would permit access to information for the purpose of TIEAs, to the same extent as they currently do for its DTCs and the Multilateral Convention.

272. Russia has also indicated that it intends to ratify and bring into force the Multilateral Convention before the end of 2012. This will ensure Russia has a network of EOI relationships to the standard with the 37 other signatories, some of whom it already has a DTC containing an EOI provision.

12. Russia's main commodities trading partners (import and export) are, in order, China, Germany, the Netherlands, Ukraine, Italy, Belarus, Turkey and the United States.
13. Russia's main investment partners are, in order, Cyprus, the Netherlands, Luxembourg, the United Kingdom, Germany, China, the British Virgin Islands, Ireland, Japan and France.

Determination and factors underlying recommendations

Phase 1 determination	
The element is in place, but certain aspects of the legal implementation of this element need improvement.	
Factors underlying recommendations	**Recommendations**
Russia has signed 86 double tax conventions which provide for the exchange of information, of which 78 are in force with 50 being in force and in line with the standard. It has also signed the Multilateral Convention on Mutual Administrative Assistance.	Russia should take steps to ensure that it is able to give full effect to its network of EOI agreements in line with the international standard.
Russia has been approached by at least two jurisdictions to negotiate a TIEA.	Russia should continue to develop its network of EOI mechanisms (regardless of their form) with all relevant partners, meaning those partners who are interested in entering into an information exchange arrangement with it.

C.3. Confidentiality

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

Information received: disclosure, use, and safeguards (ToR C.3.1)

273. Governments would not engage in information exchange without the assurance that the information provided would only be used for the purposes permitted under the exchange mechanism and that its confidentiality would be preserved. Information exchange instruments must therefore contain confidentiality provisions that spell out specifically to whom the information can be disclosed and the purposes for which the information can be used. In addition to the protections afforded by the confidentiality provisions of information exchange instruments, jurisdictions with tax systems generally impose strict confidentiality requirements on information collected for tax purposes.

274. Each of Russia's DTCs as well as the Multilateral Convention includes a provision equivalent to article 26(2) of the OECD Model Tax Convention, which covers the confidentiality of information exchanged. This establishes a duty of confidentiality which covers any information exchanged under Russia's EOI agreements, and is separate from the duty of confidentiality established by Russia's domestic law.

275. Under domestic law, article 32 of the Tax Code sets out the duties of tax officials, which includes an obligation to keep taxpayer records in accordance with established procedures, and that they observe and ensure tax confidentiality. These obligations are further described in Article 102, and cover any information regarding a taxpayer received by the tax authority. Article 102 also provides that confidential tax information shall be subject to special storage and access arrangements. Some exceptions to the confidentiality requirement are provided for in article 102(1) of the Tax Code, in particular for information provided to tax agencies of other nations in accordance with international treaties, or other cases specifically provided for under federal law, and these exceptions are consistent with the international standard.

276. Pursuant to Article 35(1) of the Tax Code, the tax authorities are responsible for damages inflicted to taxpayers, payers of fees and tax agents as a result of unlawful actions or decisions or omission of the authority, its officials or other employees in performing their office duties. These damages are reimbursed at the expense of federal budget. Article 35(3) of the Tax Code provides that the officials or other employees who are found guilty of unlawful actions or omissions "shall bear responsibility" as provided for in Federal Laws, however it is not clear what those enforcement measures are.

277. Furthermore, the confidentiality duty in articles 32 and 102 of the Tax Code is limited to information "regarding a taxpayer", where taxpayer is defined under article 19 of the Tax Code as a taxpayer under Russian tax legislation. Although in some instances the information would relate to a person who was a taxpayer under Russian law, in other cases if the information exchanged under Russia's EOI agreements did not relate to a Russian taxpayer, it is not covered by the domestic law confidentiality duty.

278. Russia's confidentiality obligations under its EOI agreements are brought into effect in domestic law by provisions in the Constitution, the Tax Code and Civil Code, as described in Part B.1 of this report. Russia interprets and applies these provisions so that the domestic enforcement measures under the Tax Code are available with respect to the broader confidentiality duty under the treaty.

279. The existence of adequate safeguards in the event of a breach of the confidentiality duty established by the EOI agreements is unclear. With regards to the confidentiality duty under domestic law, article 102(4) of the *Tax Code* provides:

> The loss of documents containing confidential tax information, or the disclosure of such information, entails liability for tax officials under federal laws pursuant to article 102(4) of the Tax Code.

280. Therefore, whilst the international law duty of confidentiality will cover all information exchanged under Russia's EOI agreements, it is not

clear that enforcement measures are in force in Russia to support the duty of confidentiality regarding all information which may be exchanged under an EOI agreement. Given the importance of ensuring that information exchanged under an EOI agreement is properly protected; a recommendation is made for Russia to ensure that the obligations to maintain confidentiality in respect of information relating to all persons who may be relevant to an EOI request, as well as penalties for non-compliance, are adequately reflected in domestic law.

All other information exchanged (ToR C.3.2)

281. As noted above, each of Russia's signed EOI agreements include a provision requiring the contracting parties to protect the confidentiality of information exchanged, equivalent to article 26(2) of the OECD Model Tax Convention. This duty of confidentiality is in addition to the obligations established by Russia's own domestic law.

282. The confidentiality provisions in Russia's domestic law which are also described above and which protect information provided in response to an exchange of information request, apply equally to protect the request for information itself and includes background documents provided by an applicant State, as well as any other information relating to the request such as communications between the exchange of information partners in respect of the requests. Subject to the limitation described above, that the confidentiality duty does not clearly cover information other than information "regarding a [Russian] taxpayer", the domestic law provisions support the obligation under its EOI agreements to protect all information exchanged.

Determination and factors underlying recommendations

Phase 1 determination	
The element is in place but certain aspects of the legal implementation of the element need improvement.	
Factors underlying recommendations	**Recommendations**
There is a duty of confidentiality established by Russia's EOI agreements. However it is not clear that enforcement measures are in place to support the duty where the information exchanged relates to persons who are not Russian taxpayers.	Russia should ensure that all information, including information relating to persons who are not Russian taxpayers, which may be exchanged pursuant to an EOI agreement is protected by a duty of confidentiality, with appropriate enforcement measures in the event of non-compliance.

C.4. Rights and safeguards of taxpayers and third parties

The exchange of information mechanisms should respect the rights and safeguards of taxpayers and third parties.

Exceptions to requirement to provide information (ToR C.4.1)

283. The international standard allows requested parties not to supply information in response to a request in certain identified situations where an issue of trade, business or other secret may arise. Among other reasons, an information request can be declined where the requested information would disclose confidential communications protected by the attorney-client privilege. Attorney-client privilege is a feature of the legal systems of many jurisdictions.

284. However, communications between a client and an attorney or another admitted legal representative are, generally, only privileged to the extent that the attorney or other legal representative acts in his or her capacity as an attorney or legal representative. Where attorney-client privilege is more broadly defined, it does not provide valid grounds on which information can be declined to be provided in response to a request.

285. Each of Russia's double tax conventions, as well as the Multilateral Convention, includes a provisions equivalent to equivalent to article 26(3)(c) of the OECD Model Tax Convention, which provides Parties with the right to decline to exchange information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy (ordre public). As described in Part B.1.5 of this report, the scope of legal privilege in Russia's domestic law is consistent with the international standard in this regard, as are the domestic law provisions on commercial secrets.

286. However, Russia's domestic law creates an obligation of confidentiality with respect to "audit secrets", which is described in Part B.1.5 of this report. The duty appears to cover most information prepared by or in the possession of auditors. The duty of confidentiality has only limited exceptions, and does not include a general exception for access to such information for EOI purposes. Therefore this confidentiality duty for audit secrets may in some cases create an inconsistency with Russia's obligations to exchange information under its EOI agreements.

Determination and factors underlying recommendations

Phase 1 determination	
The element is in place, but certain aspects of the legal implementation of the element need improvement.	
Factors underlying recommendations	**Recommendations**
The scope of information protected by Russia's domestic law confidentiality duty for "audit secrets" is broad, and there is no exception which would permit access for the purposes of exchange under Russia's EOI agreements.	Russia should ensure that information which would otherwise be protected by the domestic law on "audit secrecy" can be accessed and exchanged in accordance with its obligation to exchange information under its EOI agreements.

C.5. Timeliness of responses to requests for information

The jurisdiction should provide information under its network of agreements in a timely manner.

Responses within 90 days (ToR C.5.1)

287. In order for exchange of information to be effective it needs to be provided in a timeframe which allows tax authorities to apply the information to the relevant cases. If a response is provided but only after a significant lapse of time the information may no longer be of use to the requesting authorities. This is particularly important in the context of international co-operation as cases in this area must be of sufficient importance to warrant making a request.

288. There are no specific legal or regulatory requirements in place which would prevent Russia responding to a request for information by providing the information requested or providing a status update within 90 days of receipt of the request. However, as regards the timeliness of responses to requests for information the assessment team is not in a position to evaluate whether this element is in place, as it involves issues of practice that are dealt with in the Phase 2 review.

Organisational process and resources (ToR C.5.2)

289. Russia's legal and regulatory framework relevant to exchange of information for tax purposes is presided over by the Federal Tax Service and the Ministry of Finance. Administration of the exchange of information under

Russia's treaty network is the responsibility of Russia's competent authority, namely the Ministry of Finance and the Federal Tax Service.

290. A review of Russia's organisational process and resources will be conducted in the context of its Phase 2 review.

Absence of restrictive conditions on exchange of information (ToR C.5.3)

291. Exchange of information assistance should not be subject to unreasonable, disproportionate or unduly restrictive conditions. There are no aspects of Russia's legal framework which would appear to impose restrictive conditions on the exchange of information under Russia's DTCs or the Multilateral Convention.

Determination and factors underlying recommendations

Phase 1 determination
The assessment team is not in a position to evaluate whether this element is in place, as it involves issues of practice that are dealt with in the Phase 2 review.

Summary of Determinations and Factors Underlying Recommendations

Determination	Factors underlying recommendations	Recommendations
Jurisdictions should ensure that ownership and identity information for all relevant entities and arrangements is available to their competent authorities *(ToR A.1)*		
Phase 1 determination: The element is in place, but certain aspects of the legal implementation of the element need improvement.	There is no clear obligation for ownership and identity information to be kept on foreign entities, including foreign companies which have a sufficient nexus with Russia and foreign partnerships which are carrying on business in Russia, or have income, credits or deductions for tax purposes in Russia.	Russia should ensure that an obligation is established to ensure that up to date ownership and identity information is kept for relevant foreign entities, including companies and partnerships.
	There is no express obligation for information to be kept on the identity of partners in a simple partnership.	Russia should ensure that up to date information is required to be kept on the identity of the partners in a simple partnership.
	Russian law does not ensure that information is available to identify the settlors, trustees and beneficiaries of foreign trusts with a Russian trustee or where the trust is administered in Russia. Certain AML Service Providers may in some cases be required to keep information on trust beneficiaries where they are engaged in respect to a trust's activities.	Russia should ensure that information identifying the settlors, trustees and beneficiaries of foreign trusts, which are administered in Russia or in respect of which a trustee is resident in Russia, is available to its competent authority in all cases.

Determination	Factors underlying recommendations	Recommendations
Jurisdictions should ensure that reliable accounting records are kept for all relevant entities and arrangements *(ToR A.2)*		
Phase 1 determination: The element is in place.		
Banking information should be available for all account-holders *(ToR A.3)*		
Phase 1 determination: The element is in place, but certain aspects of the legal implementation of the element need improvement.	Some bearer savings books may have been opened before the client identification obligations were introduced with Russia's anti-money laundering regime in 2002, and the identity of the holders of those books will not be known until they are presented to the financial institution.	Russia should ensure that there are measures to identify the owners of any bearer savings books.
Competent authorities should have the power to obtain and provide information that is the subject of a request under an exchange of information arrangement from any person within their territorial jurisdiction who is in possession or control of such information (irrespective of any legal obligation on such person to maintain the secrecy of the information) *(ToR B.1)*		
Phase 1 determination: The element is in place, but certain aspects of the legal implementation of the element need improvement.	The scope of information protected by Russia's domestic law confidentiality duty for "audit secrets" is broad, and there is no exception which would permit access to such information for EOI purposes.	Russia should ensure that access for EOI purposes is possible for all relevant information which would otherwise be protected by the domestic law on "audit secrets".
The rights and safeguards (*e.g.* notification, appeal rights) that apply to persons in the requested jurisdiction should be compatible with effective exchange of information *(ToR B.2)*		
Phase 1 determination: The element is in place.		

Determination	Factors underlying recommendations	Recommendations
Exchange of information mechanisms should allow for effective exchange of information *(ToR C.1)*		
Phase 1 determination: The element is in place, but certain aspects of the legal implementation of the element need improvement.	Russia interprets the EOI provisions in 25 of its DTCs to limit information exchange to instances where the information relates to a person resident in one of the Contracting States. Under DTCs with two partners, information exchange is limited to information necessary for the carrying out the provisions of the Convention. In respect of one of these partners, an amending protocol which is not yet in force has already been signed which will remove this limitation.	Russia should ensure that all of its EOI agreements permit the exchange of information relevant to all persons and also permit exchange for the purposes of administration and enforcement of the parties' domestic laws, in line with the international standard.
	Eight of Russia's signed DTCs as well as two signed amending protocols and the Multilateral Convention on Mutual Administrative Assistance have not been brought into force by Russia.	Russia should ensure that it takes all steps necessary for its part to bring its signed EOI agreements into force expeditiously.

Determination	Factors underlying recommendations	Recommendations
The jurisdictions' network of information exchange mechanisms should cover all relevant partners *(ToR C.2)*		
Phase 1 determination: The element is in place, but certain aspects of the legal implementation of the element need improvement.	Russia has signed 86 double tax conventions which provide for the exchange of information, of which 78 are in force, with 50 being in force and in line with the standard. It has also signed the Multilateral Convention on Mutual Administrative Assistance.	Russia should take steps to ensure that it is able to give full effect to its network of EOI agreements in line with the international standard.
	Russia has been approached by at least two jurisdictions to negotiate a TIEA.	Russia should continue to develop its network of EOI mechanisms (regardless of their form) with all relevant partners, meaning those partners who are interested in entering into an information exchange arrangement with it.
The jurisdictions' mechanisms for exchange of information should have adequate provisions to ensure the confidentiality of information received*(ToR C.3)*		
Phase 1 determination: The element is in place but certain aspects of the legal implementation of the element need improvement.	There is a duty of confidentiality established by Russia's EOI agreements. However it is not clear that enforcement measures are in place to support the duty where the information exchanged relates to persons who are not Russian taxpayers.	Russia should ensure that all information, including information relating to persons who are not Russian taxpayers, which may be exchanged pursuant to an EOI agreement is protected by a duty of confidentiality, with appropriate enforcement measures in the event of non-compliance.
The exchange of information mechanisms should respect the rights and safeguards of taxpayers and third parties *(ToR C.4)*		
Phase 1 determination: The element is in place, but certain aspects of the legal implementation of the element need improvement.	The scope of information protected by Russia's domestic law confidentiality duty for "audit secrets" is broad, and there is no exception which would permit access for the purposes of exchange under Russia's EOI agreements.	Russia should ensure that information which would otherwise be protected by the domestic law on "audit secrecy" can be accessed and exchanged in accordance with its obligation to exchange information under its EOI agreements.

Determination	Factors underlying recommendations	Recommendations
The jurisdiction should provide information under its network of agreements in a timely manner *(ToR C.5)*		
The assessment team is not in a position to evaluate whether this element is in place, as it involves issues of practice that are dealt with in the Phase 2 review.		

Annex 1: Jurisdiction's Response to the Review Report[14]

The Report (concerning the A.1 criteria) contains a recommendation for Russia to ensure that up to date information is required to be kept on identity of the partners in a simple partnership so as PRG concludes that there is no express obligation for information to be kept on the identity of partners in a simple partnership.

Simple partnership in accordance with Russian legislation is not an entity, but a contract. Participants (partners) of such a contractual agreement can be entities of any forms or individual entrepreneurs, identity requirements for which are explicitly set forth in the legislation.

As correctly noted in item 88 "… Although there is no express obligation to keep an up to date list of partners in a SP, the obligations to establish the partnership by written contract, the written notification of withdrawal of a partner, the joint and several liability of the partners as well as the ability of any partner to bind the other partners as regards a third party, will generally ensure that up to date information on the identity of the partners is held by the partnership."

Besides, in accordance with article 432 of the Civil Code a contract is regarded as concluded, if an agreement has been achieved between the parties on all its essential terms, in the form proper for the similar kind of contracts. As essential shall be recognised the terms, dealing with the object of the contract, the terms, defined as essential or indispensable for the given kind of contracts in the law or in the other legal acts, and also all the terms, about which, by the statement of one of the parties, an accord shall be reached.

Article 1041 of the Civil Code determines the general terms for SP contract "1. Under the contract of simple partnership (contract on joint activity) two or several persons (partners) shall undertake to pool their contributions and to act jointly without forming a legal entity for the deriving of profit of for the attaining another goal not inconsistent with the law. 2. Only individual

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

entrepreneurs and/or profit-making organisations may be the parties to the contract of particular partnership."

So if there is no identification of parties of the contract on an ongoing basis (*i.e.* at any moment of time when the contract is valid) it is regarded as a void contract. Thus our opinion is that the up to date information is kept on the identity of the partners in a simple partnership.

Annex 2: List of All Exchange-of-Information Mechanisms

Bilateral agreements

No.	Jurisdiction	Type of EOI agreement	Date signed	Date In force
1	Albania	DTC	11/04/1995	09/12/1997
2	Algeria	DTC	10/03/2006	18/12/2008
3	Argentina	DTC	10/10/2001	
4	Armenia	DTC	28/12/1996	17/03/1998
5	Australia	DTC	07/09/2000	17/12/2003
6	Austria	DTC	13/04/2000	30/12/2002
7	Azerbaijan	DTC	03/07/1997	03/07/1998
8	Belarus	DTC	21/04/1995	20/01/1997
9	Belgium	DTC	16/06/1995	26/06/2000
10	Botswana	DTC	08/04/2003	23/12/2009
11	Brazil	DTC	22/11/2004	19/01/2009
12	Bulgaria	DTC	08/06/1993	08/12/1995
13	Canada	DTC	05/10/1995	05/05/1997
14	Chile	DTC	19/11/2004	
15	China	DTC	27/05/1994	10/04/1997
16	Croatia	DTC	02/10/1995	20/04/1997
17	Cuba	DTC	14/12/2000	15/11/2010
18	Cyprus	DTC	05/12/1998	17/08/1999
		Protocol to DTC	07/10/2010	
19	Czech Republic	DTC	17/11/1995	18/07/1997
		Protocol to DTC	27/04/2007	17/04/2009
20	Denmark	DTC	08/02/1996	28/04/1997
21	Egypt	DTC	23/09/1997	06/12/2000

No.	Jurisdiction	Type of EOI agreement	Date signed	Date In force
22	Estonia	DTC	05/11/2002	
23	Ethiopia	DTC	26/11/1999	
24	Finland	DTC	04/05/1996	14/12/2002
25	France	DTC	26/11/1996	09/02/1999
26	Germany	DTC	29/05/1996	30/12/1996
		Protocol to DTC	15/10/2007	15/05/2009
27	Greece	DTC	26/06/2000	20/12/2007
28	Hungary	DTC	01/04/1994	03/11/1997
29	Iceland	DTC	26/11/1999	21/07/2003
30	India	DTC	25/03/1997	11/04/1998
31	Indonesia	DTC	12/03/1999	17/12/2002
32	Iran	DTC	06/03/1998	05/04/2002
33	Ireland	DTC	29/04/1994	07/07/1995
34	Israel	DTC	25/04/1994	07/12/2000
35	Italy	DTC	09/04/1996	30/11/1998
		Protocol to DTC	13/06/2009	01/06/2012
36	Japan	DTC	31/07/1986	27/11/1986
37	Kazakhstan	DTC	18/10/1996	29/07/1997
38	Korea, Democratic People's Republic of	DTC	26/09/1997	30/05/2000
39	Korea, Republic of	DTC	19/11/1992	25/07/1995
40	Kuwait	DTC	09/02/1999	02/01/2003
41	Kyrgyzstan	DTC	13/01/1999	06/09/2000
42	Latvia	DTC	20/12/2010	
43	Lebanon	DTC	07/04/1997	16/06/2000
44	Lithuania	DTC	29/06/1999	29/04/2005
45	Luxembourg	DTC	28/06/1993	07/05/1997
46	Macedonia	DTC	21/10/1997	14/07/2000
47	Malaysia	DTC	31/07/1987	04/07/1988
48	Mali	DTC	25/06/1996	13/09/1999
49	Malta	DTC	15/12/2000	
50	Mauritius	DTC	24/08/1995	
51	Mexico	DTC	07/06/2004	02/04/2008
52	Moldova	DTC	12/04/1996	06/07/1997

No.	Jurisdiction	Type of EOI agreement	Date signed	Date In force
53	Mongolia	DTC	05/04/1995	22/05/1997
54	Montenegro	DTC (signed with Serbia and Montenegro, now applicable to both States)	12/10/1995	09/07/1997
55	Morocco	DTC	04/09/1997	31/08/1999
56	Namibia	DTC	31/03/1998	23/06/2000
57	Netherlands	DTC	16/12/1996	02/09/1998
58	New Zealand	DTC	05/09/2000	04/07/2003
59	Norway	DTC	26/03/1996	20/12/2002
60	Oman	DTC	26/11/2001	
61	Philippines	DTC	26/04/1995	12/09/1997
62	Poland	DTC	22/05/1992	22/02/1993
63	Portugal	DTC	29/05/2000	11/12/2002
64	Qatar	DTC	20/04/1998	05/09/2000
65	Romania	DTC	27/09/1993	11/08/1995
66	Saudi Arabia	DTC	11/02/2007	01/02/2010
67	Serbia	DTC (signed with Serbia and Montenegro, now applicable to both States)	12/10/1995	09/07/1997
68	Singapore	DTC	09/09/2002	16/01/2009
69	Slovakia	DTC	24/06/1994	01/05/1997
70	Slovenia	DTC	29/09/1995	20/04/1997
71	South Africa	DTC	27/11/1995	26/06/2000
72	Spain	DTC	16/12/1998	13/06/2000
73	Sri Lanka	DTC	02/03/1999	28/11/2002
74	Sweden	DTC	15/06/1993	03/08/1995
75	Switzerland	DTC	15/11/1995	18/04/1997
		Protocol to DTC	24/09/2011	
76	Syria	DTC	17/09/2000	23/06/2003
77	Tajikistan	DTC	31/03/1997	26/04/2003
78	Thailand	DTC	23/09/1999	15/01/2009
79	Turkey	DTC	15/12/1997	31/12/1999
80	Turkmenistan	DTC	14/01/1998	10/02/1999
81	Ukraine	DTC	08/02/1995	02/08/1999

No.	Jurisdiction	Type of EOI agreement	Date signed	Date In force
82	United Kingdom	DTC	15/02/1994	18/04/1997
83	United States of America	DTC	17/06/1992	16/12/1993
84	Uzbekistan	DTC	02/03/1994	27/07/1995
85	Venezuela	DTC	22/12/2003	19/01/2009
86	Vietnam	DTC	27/05/1993	21/03/1996

Multilateral agreements

Since 3 November 2011, Russia is a signatory to the Multilateral Convention on Mutual Administrative Assistance in Tax Matters (Convention). The status of the Convention including the 2010 protocol is set out in the below table. When two or more arrangements for the exchange of information for tax purposes exist between Russia and a treaty partner, the parties may choose the most appropriate agreement under which to exchange the information.

Country	Original Convention		Protocol (P)/Amended Convention (AC)	
	Signature (opened on 25-Jan-88)	Entry into force	Signature (opened on 27-May-10)	Entry into force
Argentina			03-11-2011 (AC)	
Australia			03-11-2011 (AC)	
Azerbaijan	26-03-2003	01-10-2004		
Belgium	07-02-1992	01-12-2000	04-04-2011 (P)	
Brazil			03-11-2011 (AC)	
Canada	28-04-2004		03-11-2011 (P)	
Colombia			23-05-2012 (AC)	
Costa Rica			01-03-2012 (AC)	
Denmark	16-07-1992	01-04-1995	27-05-2010 (P)	01-06-2011
Finland	11-12-1989	01-04-1995	27-05-2010 (P)	01-06-2011
France	17-09-2003	01-09-2005	27-05-2010 (P)	01-04-2012
Georgia	12-10-2010	01-06-2011	03-11-2010 (P)	01-06-2011
Germany	17-04-2008		03-11-2011 (P)	
Ghana			10-07-2012 (AC)	
Greece	21-02-2012		21-02-2012 (P)	

Country	Original Convention		Protocol (P)/Amended Convention (AC)	
	Signature (opened on 25-Jan-88)	Entry into force	Signature (opened on 27-May-10)	Entry into force
Iceland	22-07-1996	01-11-1996	27-05-2010 (P)	01-02-2012
India			26-01-2012 (AC)	01-06-2012
Indonesia			03-11-2011 (AC)	
Ireland			30-06-2011 (AC)	
Italy	31-01-2006	01-05-2006	27-05-2010 (P)	01-05-2012
Japan	03-11-2011		03-11-2011 (P)	
Korea	27-05-2010	01-07-2012	27-05-2010 (P)	01-07-2012
Mexico	27-05-2010		27-05-2010 (P)	
Moldova	27-01-2011		27-01-2011 (P)	01-03-2012
Netherlands	25-09-1990	01-02-1997	27-05-2010 (P)	
Norway	05-05-1989	01-04-1995	27-05-2010 (P)	01-06-2011
Poland	19-03-1996	01-10-1997	09-07-2010 (P)	01-10-2011
Portugal	27-05-2010		27-05-2010 (P)	
Russia			03-11-2011 (AC)	
Slovenia	27-05-2010	01-06-2011	27-05-2010 (P)	01-06-2011
South Africa			03-11-2011 (AC)	
Spain	12-11-2009	01-12-2010	18-02-2011 (P)	
Sweden	20-04-1989	01-04-1995	27-05-2010 (P)	01-09-2011
Turkey			03-11-2011 (AC)	
Tunisia			16-07-2012 (AC)	
Ukraine	30-12-2004	01-07-2009	27-05-2010 (P)	
United Kingdom	24-05-2007	01-05-2008	27-05-2010 (P)	01-10-2011
United States	28-06-1989	01-04-1995	27-05-2011 (P)	

Annex 3: List of All Laws, Regulations and Other Relevant Material

Commercial Laws

Civil Code of the Russian Federation Part One No. 51-FZ, of 30 November 1994 (Civil Code)

Civil Code of the Russian Federation Part Two No. 14-FZ, of 26 January 1996 (Civil Code)

Civil Code of the Russian Federation Part Three No. 146-FZ, of 26 November 2001 (Civil Code)

Civil Code of the Russian Federation Part Four No. 230-FZ, of 18 December 2006 (Civil Code)

Decision No. 630 on the Uniform State Register, of 16 October 2003

Federal Law No. 129 on Accounting, of November 21 1996 (Law on Accounting)

Federal Law No. 402-FZ on Accounting, of 6 December 2011 (Law on Accounting)

Federal Law No. 307-FZ on Auditing Activity (Law on Auditing Services)

Federal Law No. 380-FZ on Business Partnerships, of 3 December 2011 (Law on BPs)

Federal Law No. 98-FZ on Commercial Secrecy, of 29 July 2004 (Law on Commercial Secrecy)

Federal Law No.2383_1 on Commodity Exchanges, of 20 February 1992

Federal Law No. 5340_1 on Chambers of Commerce Industry, of 7 July 1993

Federal Law No. 156-FZ on Investment Funds, of 29 November 2001

Federal Law No. 335-FZ on Investment Partnerships, of 28 November 2011(Law on IPs)

Federal Law No. 208-FZ on Joint Stock Companies, of 26 December 1995 (Law on JSCs)

Federal Law No. 14-FZ on Limited Liability Companies 1998 (Law on LLCs)

Federal Law No. 7FZ on Non-Profit Organisations, of 12 January 1996

Federal Law No. 41-FZ on Production Cooperatives, of May 8 1996 (Law on Productive Cooperatives)

Federal Law No. 82FZ on Public Associations, of 19 May 1995

Federal Law No. 129-FZ on the State Registration of Legal Entities and Individual Businessmen, of 8 August 2001 (Law on State Registration)

Order of the Ministry of Finance of the Russian Federation No. 34N on the approval of the regulations for accounting and reporting in the Russian Federation, of 29 July 1998 (Regulation on Accounting)

Rules for Storage in Uniform State Registers of Legal Entities and if Individual Businessmen of the Documents (Information) and for Handing Them Over for Permanent Storage to the State Archives (approved by the decision of the Government of the Russian Federation No. 630, of October 16 2003)

Taxation Laws

Federal Law No. 97-FZ on amendments to Part one and Part Two of the Russian Tax Code, of 6 June 2012 (Tax Code)

Order on the Tax Registration No.117N of Foreign Entities, of 30 September 2010

Order of the Federal Tax Service No. MM-3-06/178 on Approval of the Procedure for Submission of Banking Information about available bank accounts, of 30 March 2007

Tax Code of the Russian Federation Part One No. 146-FZ, of 31 July 1998

Tax Code of the Russian Federation Part Two No. 117-FZ, of 5 August 2000

Banking Laws

Amendment to the Federal Law on Banks and Banking 2012, of 6 June 2012

Decision No.27 on the Securities Market on keeping register of state owners, of 2 October 1997

Federal Law No.395-1 on Banks and Banking Activities 1990

Federal Law on the Measures for enhancing the Stability of the Banking System in the period until December 31, 2011

Federal Law No. 175-FZ on the Stability of the Banking System, of October 27 2008

Federal Law No.39-FZ on the Securities Market, of 22 April 1996 (Law on the Securities Market)

Federal Law No. 161FZ on State and Municipal Unitary Enterprises, of 14 November 2002

Order No. 06_21_PZN on Financial Markets regarding the Registration of Securities, of 28 February 2006

Regulations of the Central Bank No. 302-P on the rules for bookkeeping at credit institutions located on the territory of the Russian Federation, of 26 March 2007 (Central Bank Rules)

Anti-Money Laundering Laws

Federal Law No. 115-FZ on the Countering the Legalisation of Illegal Earnings (Money Laundering) and the Financing of Terrorism, of August 7 2001(AML Law)

Instructions of the Central Bank of Russia No. 28-1 on opening and closing bank accounts and accounts for deposits, of 14 September 2006 (AML Instructions)

Letter of the Central Bank of Russia No. 99-T on the methodological recommendations for credit entities on elaborating internal control rules for the purpose of countering the legalisation of income received through crime (money laundering) and the financing of terrorism, of 24 July 2005 (AML Letter)

Regulations of the Central Bank of Russia No. 262-P on the identification by credit institutions of clients and beneficiaries for the purposes of counteraction to the legalisation or laundering of incomes derived illegally and to financing terrorism, of 19 August 2004 (AML Regulations)

Other Laws

Code No. 195FZ of Administrative Offences, of 30 December 2001

Federal Law No. 63-FZ on Solicitors and Barristers activity, of 31 May 2002 (Solicitors Law)

Federal Law No. 95FZ on Political Parties, of 11 July 2001

Federal Law No. 2124_1 on Mass Media, of 27 December 1991

Federal Law No.125_FZ on Freedom of Conscious and Religion, of 26 September 1997

Federal Law No.135FZ on Charitable Activities and Organisations, of 11 August 1995

The Constitution of the Russian Federation 1993

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Global Forum on Transparency and Exchange of Information for Tax Purposes

PEER REVIEWS, PHASE 1: RUSSIAN FEDERATION

The Global Forum on Transparency and Exchange of Information for Tax Purposes is the multilateral framework within which work in the area of tax transparency and exchange of information is carried out by over 100 jurisdictions which participate in the work of the Global Forum on an equal footing.

The Global Forum is charged with in-depth monitoring and peer review of the implementation of the standards of transparency and exchange of information for tax purposes. These standards are primarily reflected in the 2002 OECD *Model Agreement on Exchange of Information on Tax Matters* and its commentary, and in Article 26 of the OECD *Model Tax Convention on Income and on Capital* and its commentary as updated in 2004, which has been incorporated in the UN *Model Tax Convention*.

The standards provide for international exchange on request of foreseeably relevant information for the administration or enforcement of the domestic tax laws of a requesting party. "Fishing expeditions" are not authorised, but 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 standard.

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