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Summary

This policy brief makes the following key points:

- Exchange of tax information assists domestic tax authorities to combat tax evasion and avoidance. The [Global Forum on Transparency and Exchange of Information for Tax Purposes](#) was established by the OECD in 2000 to facilitate tax information exchange between OECD member states and tax havens and was restructured in 2009 to expand its membership.
- The Global Forum today has 163 members, the majority of countries around the world. The Global Forum is responsible for two tax information exchange standards about Automatic Exchange of Information (**AEOI**) and Exchange of Information on Request (**EOIR**).
- Jurisdictions that are members of the Global Forum commit to adopting laws, tax treaties, and administrative changes for exchange of tax information. Since its establishment, 122 countries have abolished bank secrecy, so that tax authorities can access financial information. Members also contribute to Forum operations supported by a Secretariat at the OECD.
- The G20/OECD Base Erosion and Profit Shifting (**BEPS**) Project is an international initiative intended to strengthen the international tax system through the adoption of a 15 point plan and the 2021 Pillar One and Pillar Two consensus proposals. The work of the Global Forum provides one of the foundations of tax cooperation in the BEPS project. The AEOI standard is essential for implementation of country-by-country reporting (Policy Brief 10/2021).
- The Global Forum aims to promote global cooperation by operating with a level playing field. Improvements to the AEOI and EOIR standards are made by consensus and implementation in the law and practice of each member state is monitored through peer review.
- Australia is an active member of the Global Forum and has implemented systems for AEOI and EOIR. Peer review has identified that Australia is generally compliant with the standards but it was required to address deficiencies following its second peer review (2017) and will need to address further deficiencies identified in its third peer review (2020).
- In 2020, more than 100 countries automatically exchanged tax information on nearly 100 million bank accounts. The OECD estimates that the work of the Global Forum has led to €10 trillion worth of assets being covered by the AEOI standard and at least €107 billion in extra tax revenues being raised from 2009-2019.
- Most tax information exchange and revenues raised have benefited developed countries. Few developing countries have fully implemented the onerous technological and legal requirements of the AEOI and EOIR standards or benefited from receipt of information from developed countries. The Global Forum aims to improve capabilities to transmit and use tax information by developing country tax authorities and is extending capacity building and technical assistance programs in Africa, Latin America, and the Pacific.

Introduction

This Policy Brief discusses the Global Forum on Transparency and Exchange of Information for Tax Purposes (Global Forum) and explains its role in the G20/OECD Base Erosion and Profit Shifting (BEPS) Project. By promoting transparency through taxpayer information exchange, the Global Forum provides a foundation for international cooperation among tax authorities, including country-by-country reporting of multinational enterprise (MNE) profits under BEPS Action 13 (Policy Brief 9/2021). It plays a complementary role to the transparency framework of exchange of relevant information on taxpayer-specific rulings established under BEPS Action 5 (Policy Brief 10/2021).

The Global Forum designs and assists with the domestic implementation of two information exchange standards for Automatic Exchange of Information (AEOI) and Exchange of Information on Request (EOIR). The exchange of information, for example about private bank accounts or corporate profits, assists tax authorities to counter tax avoidance and evasion and helps to ensure that taxpayers are accurately declaring their international financial affairs.

This Policy Brief outlines the Global Forum's history and the designing and implementation of the AEOI and EOIR standards. It assesses global participation in the Global Forum and implementation of the standards around the world and in Australia, and discusses the impact of the standards to date, before considering the future direction of the Global Forum.

1 What is BEPS?

The G20 declared the era of bank secrecy over in 2009 and later called for action to strengthen international taxation standards. The OECD responded with a 15-point Action Plan to address taxation issues with digitalisation (Action 1); and reform the international tax system to bring cohesion (Actions 2-5), restore substance (Actions 6-10), improve transparency (Actions 11-14), and develop a multilateral instrument (Action 15). This launched the international project to prevent Base Erosion and Profit Shifting (BEPS) from jurisdictions where profitable activities take place: the BEPS Project.

OECD working groups developed technical policy proposals (released October 2015), recommending updates to the model tax convention, OECD-issued guidance, and domestic policy. From November 2016, the Multilateral Instrument would update more than half of the world's bilateral tax agreements.

OECD/G20 BEPS project participation is now almost global with the launch of multiple global forums and the Inclusive Framework (now 141 jurisdictions), membership of which requires commitment to the BEPS four 'minimum standards'. Having broadly addressed its mandate to implement the proposed package, the Inclusive Framework delivered in October 2021 Pillar-One (on a new nexus approach) and Pillar-Two (on a minimum global tax) as consensus proposals to tackle the digitalising global economy.

2 The Global Forum on Transparency and Exchange of Information for Tax Purposes

What is the issue?

Tax avoidance and evasion are global issues. International financial liberalisation has enabled cross-border capital flows and facilitated both individual and corporate taxpayers holding assets and earning income outside their country of residence. By the end of the 20th century, it became increasingly easy to hold income through financial institutions or in entities in tax havens. Most of these jurisdictions enacted strict bank secrecy laws which prevented tax authorities from gaining access to information from financial institutions. Many of these jurisdictions also had legal or administrative barriers that prevented cross-border information exchange and other cooperation between tax authorities. Taxpayers could take advantage of secrecy combined with increasingly secure global banking and financial systems to hide assets and income, evading taxes in their home jurisdiction.

The Global Forum designs, reviews, and assists countries to implement an exchange of tax information regime which assists domestic tax authorities to assess the taxpayer's global financial affairs and combat tax evasion. Without international exchange of information, tax authorities would remain confined to the information disclosed by the taxpayer to their country of residence.

Tax avoidance and evasion is not a problem confined to capital-rich countries. The OECD estimates that Africa loses an estimated US\$80 billion each year to illicit financial flows offshore (compared with US\$52.8 billion of official development assistance received in 2017). Information exchange at the start of the 21st century left the developing world behind. The network of countries exchanging information excluded developing countries which were party to just 6% of tax information exchange treaties by February 2010.

History and governance of the Global Forum

The Global Forum grew out of OECD efforts against tax havens and harmful tax competition in the late 20th century. The OECD Harmful Tax Competition report (1998) identified, among other things, a lack of transparency and effective information exchange by tax havens, hampering tax collection efforts by OECD member states. The 1998 report recommended that the OECD facilitate a multilateral approach to tackle the 'poaching' of tax revenues by countries. The Harmful Tax Competition project did not succeed in stopping tax havens or low-rate tax regimes (and was followed, two decades later, by the BEPS project). The attention of OECD member states turned towards tax administrative cooperation and information exchange to counter tax evasion.

In 2000, the OECD founded the Global Forum on Taxation, which initially aimed to facilitate dialogue between OECD member states and non-member tax havens. The Global Forum on Taxation developed a model bilateral Agreement on Exchange of Information for Tax Matters (2002) responding to a recommendation from the 1998 Harmful Tax Competition report. The Model supported information exchanges on request. In 2006, the Global Forum on Taxation developed a minimum standard of information quality and availability to make the exchange of tax information more effective.

Bilateral Tax Information Exchange Agreements (**TIEAs**) based on this model were gradually negotiated between some governments. A total of 518 bilateral TIEAs were signed between 2000 and 2012. However, these did not allow for the automatic exchange of information between tax authorities and the bilateral approach was cumbersome. However, progress was slow until the Global

Financial Crisis of 2008, after which the Global Forum on Taxation was restructured into its current form in September 2009 and the G20 declared ‘the era of bank secrecy is over’.

After 2009, the Global Forum aimed to establish and monitor a new international framework for tax transparency and information exchange. The new focus was accompanied by a shift in messaging away from ‘poaching’ tax revenues to a transparency framework based on inclusivity and a level playing field. The restructure established the Global Forum Plenary as the sole decision-making body of the Global Forum, supported by a Secretariat at the OECD in Paris.

The Global Forum Plenary fosters global cooperation by operating on a basis of inclusivity. Each member holds one vote and resolutions are passed by consensus. The only exception is the adoption of peer review reports, which require consensus minus one to stop a single jurisdiction preventing adoption of the report. Three subsidiary groups focus on different aspects of the Global Forum’s work and bring resolutions to the Plenary:

1. The Steering Group, made up of of 20 representatives, guides the work of the Plenary.
2. The Peer Review Group, with 30 rotating members, oversees the EOIR peer review process.
3. The AEOI Peer Review Group, with 37 members, oversees the AEOI peer review process.

The approach of a consensus-based forum that extends beyond OECD member states has been adopted in several other areas of policy work by the OECD since 2008; there are 16 other OECD Global Forums on topics ranging from agriculture to competition, education, the environment and trade. The Global Forum on Value-Added Tax is the only other tax forum. However, the Global Forum on Transparency and Exchange of Information for Tax Purposes is a Programme of the OECD that is unique in its membership and governance.

The Global Forum does separate but complementary work to the Forum on Harmful Tax Practices (**FHTP**), which focuses on the peer review and monitoring of compulsory spontaneous exchange of taxpayer-specific rulings by tax authorities (BEPS Action 5). With respect to such peer reviews, the FHTP defers to the Global Forum’s conclusions concerning each country’s confidentiality and data safeguards. The Global Forum is also distinct from the Forum on Tax Administration established in 2002, whose work includes sharing knowledge between tax authorities on how to most effectively use information received under the AEOI standard.

3 The Standards of Tax Information Exchange

The Global Forum aims to implement an international regime of tax information exchange that is lawful, timely, provides effective and reliable information, and protects confidentiality. Membership of the Global Forum entails a commitment to implement both the EOIR and AEOI standards for exchange of tax information. The Forum has three core roles in facilitating and monitoring information exchange: designing the EOIR and AEOI standards, assisting member states to implement the standards, and conducting peer reviews on implementation of the standards in practice by member states.

Exchange of Information on Request (EOIR)

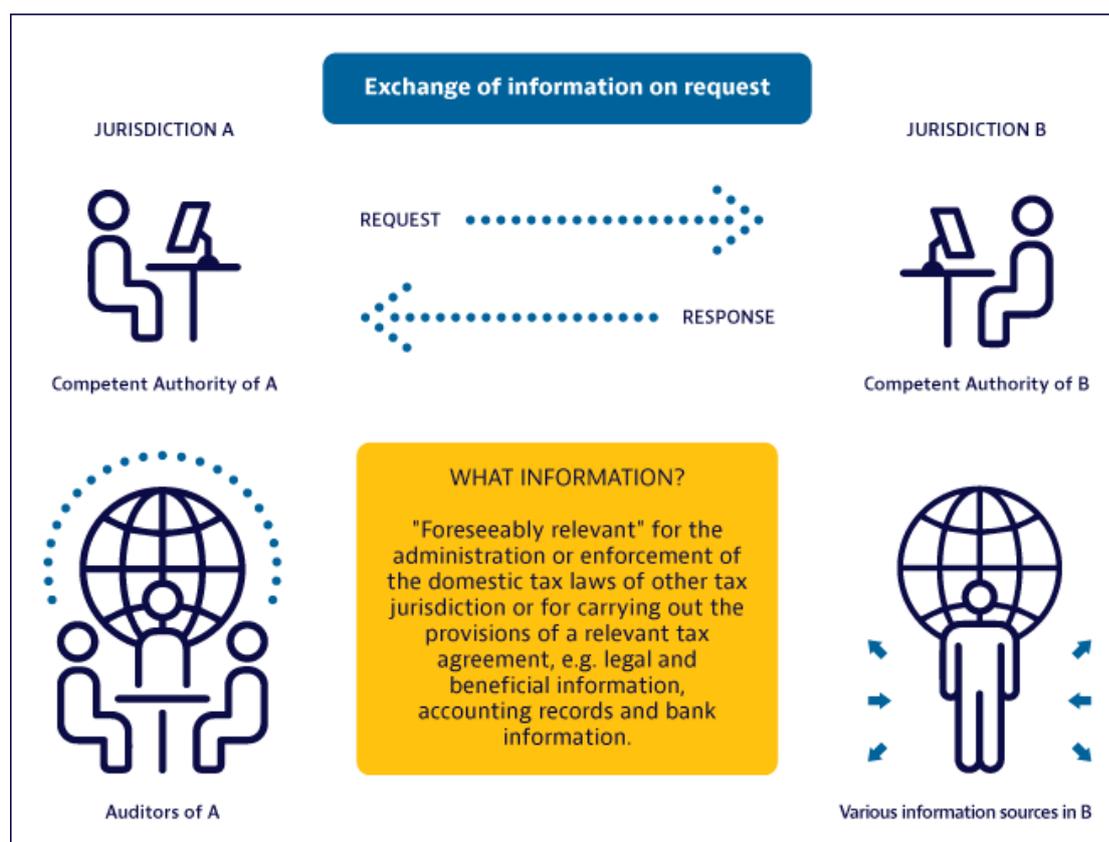
The EOIR standard allows the tax authority of one jurisdiction to request a foreign tax authority for information that is “foreseeably relevant” to tax affairs of a taxpayer in the requesting jurisdiction. The test of “foreseeable relevance” denies the requesting authority to conduct a “fishing expedition” for tax information. The EOIR standard ensures that information exchange is effective with a tripartite

focus on (1) the availability of information, (2) access to that information, and (3) exchange of that information between tax authorities. The peer review process is structured around these principles.

The requirements for information to be supplied by EOIR is established according to its outcome. The information should be able to explain transactions, legal and beneficial ownership of entities, financial position, and allow tax authorities to reproduce financial statements. Internal and external best practice guidance helps determine which information to provide. Guidance includes the FHTP's Guidance Notes (2004), the Joint Ad Hoc Group on Accounts' guidance on accounting transparency (2005), the Financial Action Task Force's recommendations on beneficial ownership (2012), and the Global Forum's own Manual on Exchange of Information.

The EOIR standard can be implemented through domestic legislation or international instruments, such as TIEAs, bilateral tax treaties or the multilateral Convention on Mutual Administrative Assistance in Tax Matters (the Tax Administrative Convention). As of November 2021, 144 states have signed the Tax Administrative Convention including 17 jurisdictions covered by territorial extension; it has gradually overtaken bilateral tax treaties as the main legal basis for tax information exchange and other administrative cooperation between tax authorities.

Figure 1: Exchange of Information on Request Flowchart



Source: OECD, *What we do*.

Automatic Exchange of Information (AEOI)

The AEOI standard builds on technology to support mass exchange of taxpayer data across a range of entities and types of income. The AEOI standard addresses deficiencies in the EOIR standard, including the difficulty of investigating tax evasion in the absence of any starting information and the time lag

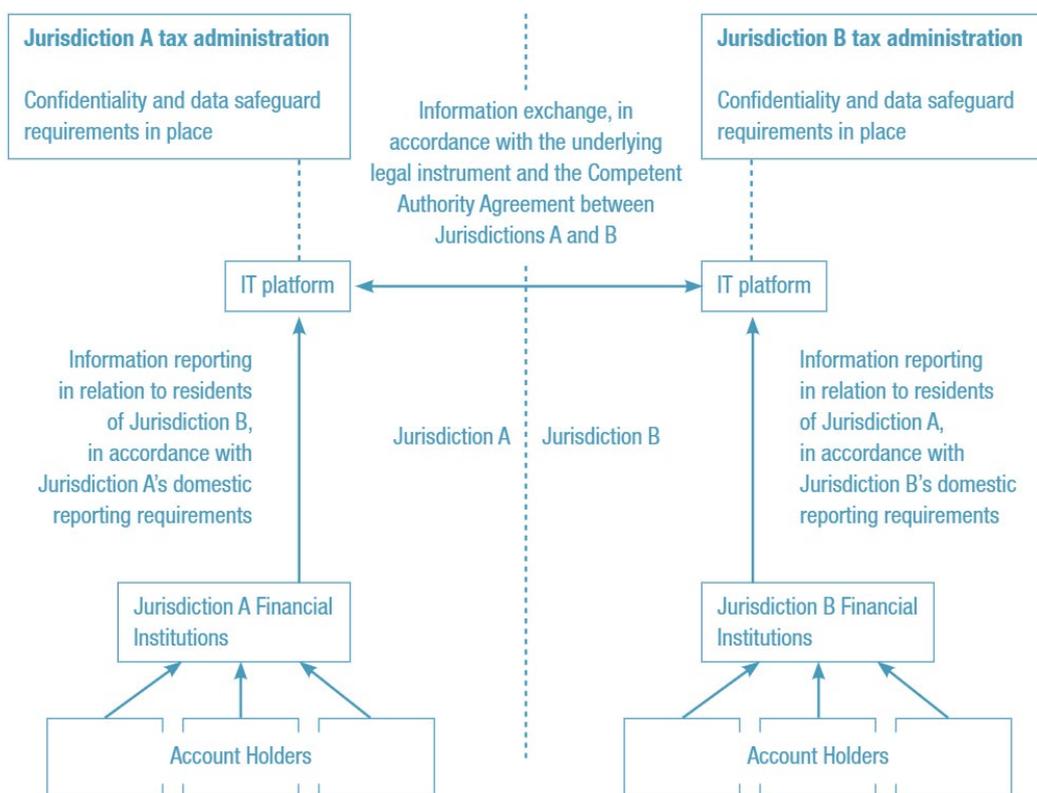
to fulfill requests under the EOIR standard (with 32% of requests taking more than six months to answer).

The design of AEOI seeks to limit opportunities for taxpayers to circumvent the regime by imposing a broad scope of which financial information must be reported, which financial institutions are required to report, and which account holders are subject to reporting. The AEOI standard is drafted with respect to financial account information but does not prevent countries exchanging more extensive taxpayer information including on change of residence, tax refunds, or the sale of real estate.

The Common Reporting Standard (CRS) establishes the technical base for implementation of the AEOI standard setting out the due diligence procedures of financial institutions and what financial and accounting information is required. Every member of the Global Forum must enact the CRS into domestic law. Under the Tax Administrative Convention Article 6, a separate agreement is required between the Competent Authorities of two jurisdictions for the AEOI standard to be operationalised. The Global Forum supplies a model CRS agreement that can be executed multilaterally or bilaterally.

The CRS applies the Common Transition System (CTS), which is an encrypted mode of transmitting tax information and data developed by the Forum on Tax Administration. This system also supports the transmission of information for the exchange of rulings between tax authorities (BEPS Action 5), and Country-by-Country Reporting (BEPS Action 13).

Figure 2: Automatic Exchange of Information Flowchart



Source: OECD Implementation Handbook: Standard for Automatic Exchange of Financial Information in Tax Matters (2nd ed).

Peer Review

Since 2006, the Global Forum has published annual assessments and progress reports of the implementation of tax information exchange by member states. Between 2010 and 2016, the Global Forum produced 124 peer review reports from its first round of peer reviews of member state implementation of the EOIR standard. All members must submit to peer review according to a schedule established by the Global Forum. Non-member jurisdictions may also be reviewed and invited to join the Global Forum. For example, Nicaragua was identified as a non-member jurisdiction of relevance in 2020 and scheduled for review.

Peer reviews evaluate member states in two stages based on (1) their implementation of the legal and regulatory frameworks underpinning both standards; and (2) the implementation of the standards in practice. The two stages of review have been assessed together since 2013 to shorten the protracted review process, which now takes assessors on average 12 months to complete.

Peer reviews of the AEOI standard assess each jurisdiction's legal framework to verify that it complies with the standard and how effective the implementation of the standard is in practice. The AEOI Peer Review Group appoints a panel of 13 experts drawn from member jurisdictions to analyse the results submitted by assessors and produce a report on each country's implementation. To date, the Global Forum has assessed the legal frameworks of the first 100 jurisdictions who implemented the AEOI standard in 2017-2018. The result of peer reviews on the effectiveness of the implementation of AEOI in practice is due to be published in 2022.

Confidentiality of tax information

Confidentiality of exchanged tax information is a core metric of post-implementation peer reviews for both AEOI and EOIR standards. Jurisdictions implementing the AEOI standard must have the requisite legal protections, administrative policies, and data protection safeguards in place before information is exchanged. New implementers are peer reviewed for these safeguards prior to the automatic exchange of information.

The Global Forum prioritises confidentiality and has published a toolkit on technical standards to ensure taxpayer information remains secure and confidential. The strictness of the technical standards for data and privacy is a major roadblock for developing countries in the expansion of both AEOI and EOIR standards. As a result, the Global Forum has commenced initiatives targeting these jurisdiction's technical capabilities.

4 How are AEOI and EOIR Implemented Globally?

Since commencement of the EOIR standard and peer reviews of its implementation and effectiveness commenced in September 2009, 122 out of 125 regimes reviewed have repealed bank secrecy regimes in their domestic law. Overall compliance in implementation of the EOIR standard is reasonably strong. Peer reviews confirm that 69 members of the Global Forum had broadly implemented the standard. Although improvements were identified for many of these jurisdictions, existing deficiencies had a limited impact on the standard in practice. Within the same batch of reviews 2 jurisdictions were non-compliant and 8 were partially compliant. Partial compliance implies a deficiency in implementation that will have a material impact on efficacy in practice.

The Global Forum reports that the EOIR standard has enabled over 300,000 requests for information among members since 2009. The second round of peer reviews, of 78 member states, found that the

majority were timely in providing information, with only 8% of requests taking more than one year to fulfil. In addition, only 1% of requests were rejected without a valid justification.

The main focus of EOIR review is now on the removal of bearer shares as a means of concealing ownership of income or assets. Since 2009, 50 jurisdictions have abolished bearer shares or enabled owner identification. However, many jurisdictions still support bearer shares or other means of concealing ownership. In 2020, 22 of the remaining jurisdictions reported that these matters have been addressed or are in the process of being addressed, but this has not been confirmed by the Global Forum.

G20 leaders committed to the automatic exchange of tax information as the new global standard in September 2013. All Global Forum members committed to implementing the AEOI standard by 2017-2018, although there was an exception for developing countries without financial centres. In 2020, 105 jurisdictions exchanged information under AEOI with a further 10 jurisdictions committing to AEOI by 2023. In 2017-2018, 12 jurisdictions had either not implemented domestic legislation or their legislation had material deficiencies that undermined the AEOI standard such as exclusions to reporting for a broader category of financial institutions than allowed under the AEOI Terms of Reference.

While a majority of the 163 Global Forum member countries have implemented both AEOI and EOIR standards (69 of 78 reviewed jurisdictions for the EOIR standard and 105 jurisdictions for the AEOI standard), a significant minority have not yet done so. This reflects a legal and technical capacity gap between countries. The response of the Global Forum since 2011 has been to try and build capacity and aim to increase the number of implementing jurisdictions and to educate tax authorities on how to effectively receive, protect and use AEOI data in tax enforcement. A particular focus of the programme has led to three regional initiatives to build capacity in Africa, Latin America, and the Pacific.

Table 1: Non-Country Partners of the Global Forum’s Capacity-Building Initiatives

Africa Initiative	Punta Del Este Initiative	Pacific Initiative
African Tax Administration Forum	Inter-American Centre for Tax Administrations	Asian Development Bank
<i>Cercle de Réflexion et d’Échange des Dirigeants des Administrations Fiscales</i>	Inter-American Development Bank	Pacific Islands Tax Administrators Association
World Bank Group	World Bank Group	World Bank Group
French Ministry of Europe and Foreign Affairs		OECD
UK Foreign, Commonwealth & Development Office		Australian Taxation Office
African Union Commission		New Zealand Inland Revenue Department
African Development Bank Group		
European Union		
Norwegian Agency for Development Cooperation		
State Secretariat for Economic Affairs		
West African Tax Administration Forum		

Sources: *Tax Transparency in Africa 2021: Africa Initiative Progress Report*, *Tax Transparency in Latin America 2021: Punta del Este Declaration Progress Report*, *Developing Capacities in Times of COVID-19: 2021 Global Forum Capacity Building Report*.

The Africa Initiative launched in 2014 and currently comprises 32 member countries and 11 partner organisations. Its mandate, initially three years but renewed twice, now extends to the end of 2022. Its broad focus is to promote tax transparency to combat illicit financial flows out of Africa by stoking political will for tax transparency and developing capacity to implement the legal, regulatory, and technical frameworks required for the EOIR and AEOI standards. For instance, the initiative is training local officials to be assessors for EOIR peer reviews which are then used as a basis for addressing identified deficiencies in EOIR implementation. The Global Forum created a toolkit on how to ratify the Tax Administrative Convention for the AEOI standard as well as providing bespoke assistance to 16 African jurisdictions.

In 2018, eight Ministers of Finance from Latin America signed the Punta del Este Declaration, now expanded to 13 countries since November 2020. The Declaration aims to strengthen regional focus on tax evasion among other things. Again, the aim of tax transparency was to address illicit financial flows in order to raise resources for sustainable economic growth in Latin America. Signatories undertook to ratify the Tax Administrative Convention, strengthen domestic EOIR capabilities and implement the AEOI standard. Throughout 2020, under the Punta del Este Declaration Initiative, the Global Forum trained 1,100 officials in virtual training sessions on the two standards.

The Pacific Initiative commenced in October 2020 with a specific focus on assisting Pacific nations to become parties to the Tax Administrative Convention and to improve technical and legal frameworks to enable implementation of the AEOI and EOIR standards. Initial action involved induction programmes for Palau and Papua New Guinea, tailored assistance for Vanuatu, and the training of 75 tax officials.

5 Australia's Implementation of EOIR and AEOI

Government and administrative response

Australia is an active participant in the Global Forum and served as the inaugural chair from 2009-2013. While Australia had tax information exchange Articles in its 45 bilateral tax treaties, most of these were not with tax havens and many protected bank secrecy or otherwise limited the information that could be exchanged. Consequently, Australia was an early adopter of TIEAs as a means of exchanging tax information. When Australia signed its first TIEA with Bermuda in November 2005, it was the third country in the world to sign such an instrument. Australia signed the Tax Administrative Convention in 2011 and it entered into force on 1 December 2012.

Under the EOIR standard, the Australian Taxation Office (**ATO**) sent 2 million records annually relating to non-resident income such as interest, dividends, unit trust distributions, and foreign resident withholding payments and received 300,000 records annually of income derived abroad by Australian tax residents. The ATO provides guidance to the Global Forum on how reporting entities are to lodge their CRS reporting.

Peer review results

Australia was fully compliant in implementing the EOIR standard in its initial 2010 review. However, at its second review, Australia lost this standing for deficiencies in two areas. First, reporting obligations of ultimate beneficial ownership did not apply in respect of certain trusts or where reporting entities acted as trustees. Secondly, the 2014 amendments by Australia to the *Anti-Money Laundering and Counter-Terrorism Financing Rules Instrument 2007 (No. 1)* exempted reporting

entities from ultimate responsibility for customer due diligence obligations when relying on information from a third party. Australia addressed the review's recommendations in 2018.

Australia implemented the AEOI standard in 2018. Australia imposed CRS obligations, which underpin the AEOI standard, on Australian financial institutions under sub-div 396-C of Schedule 1 to the *Taxation Administration Act 1953* (Cth). The Global Forum's most recent peer review report on Australia deemed an exemption from reporting for superannuation funds to be a deficiency in legislative implementation. This is because the AEOI standard only allows exemptions for retirement funds relating to an employer-employee relationship. Australia's superannuation scheme allows for extra contributions unrelated to salary payments and non-residents may own up to 50% of a superannuation fund. The review also identified a lack of penalties for compliance with the CRS as a deficiency.

6 Impact

Broad adoption of the AEOI and EOIR standards of tax information exchange has significantly improved the transparency of cross-border financial arrangements for tax authorities. The Global Forum reports that by 2019, the AEOI regime facilitated the automatic exchange of information about 84 million financial accounts which covered €10 trillion in assets.

The Global Forum estimates that its work on transparency and the exchange of information has provided €107 billion in additional tax revenues to 2019, of which €29 billion went to developing countries. This is a relatively small amount when considered globally over a decade, however, these tax revenues are most likely an understatement as only 30% of Global Forum members monitor additional tax revenues gained from EOIR and only 15% of members do the same for AEOI. Heightened tax transparency also appears to have reduced the attractiveness of certain jurisdictions for tax evasion purposes. In the decade from 2009 to 2019, bank deposits in offshore jurisdictions fell by 24%.

7 What comes next?

The work of the Global Forum is far from complete. Peer review results indicate that around 10% to 15% of member states that have committed to implementing the standards have failed to do so adequately. There remain about 30 non-member states or jurisdictions that do not participate in these global cooperative processes. The peer review process and targeted regional initiatives are geared towards addressing this compliance gap, as it undermines the effectiveness of other member jurisdictions' commitment to information exchange by enabling taxpayers to arrange their affairs outside of the EOIR and AEOI information sharing regimes.

The Global Forum will commence peer review of 48 jurisdictions for implementation of the EOIR standard in 2022-2023, to be delayed in reporting to 2024 because of a nine-month pause on jurisdiction assessment caused by the COVID-19 pandemic. While the pandemic was disruptive to peer reviews, it pushed some jurisdictions to exchange information digitally and this is likely to continue post-pandemic. The crisis also produced a greater political will in non-implementing countries to fight against tax evasion because of the need to mobilise domestic financial resources to support a post-pandemic economic recovery.

In its capacity-building programs, the Global Forum is piloting a Train the Trainer programme to enable officials to disseminate acquired knowledge among African tax authorities. By 2022, under the Africa initiative, it is expected that seven African countries will have implemented AEOI up from the three

jurisdictions satisfactorily exchanging information under AEOI in 2020. The Punta del Este Initiative has plans for an exchange of information working manual and data tracking tool to assist Latin American tax authorities to create functional exchange of information units. The Initiative will also provide “Last Mile” educational seminars for tax compliance officials and free e-learning courses on the EOIR standard. The Global Forum plans to transpose the Train the Trainer programme to Latin America in future.

An important issue for the future is transparency of beneficial ownership of offshore entities, such as companies and trusts in tax havens. This is a necessary improvement for the standards themselves but it is not currently mandated for Global Forum member states. As Gupta (2021) recognised, the effectiveness of AEOI and EOIR is conditional upon accurate records of beneficial ownership.

A beneficial ownership register may be confidential (maintained by the tax authority or other government agency) or may be public. Some non-government organisations have called for a public register of beneficial ownership. Another approach may be a blockchain ledger, suggested as a low-cost, secure, confidential, automatically updated, and easily auditable means of providing such a register. The Global Forum has not publicly expressed its position on this idea. In sum, the information required to be shared under the AEOI standard and CRS mechanism are a significant step forward in providing greater transparency for the purposes of taxation but are not yet adequate for fully effective global tax cooperation.

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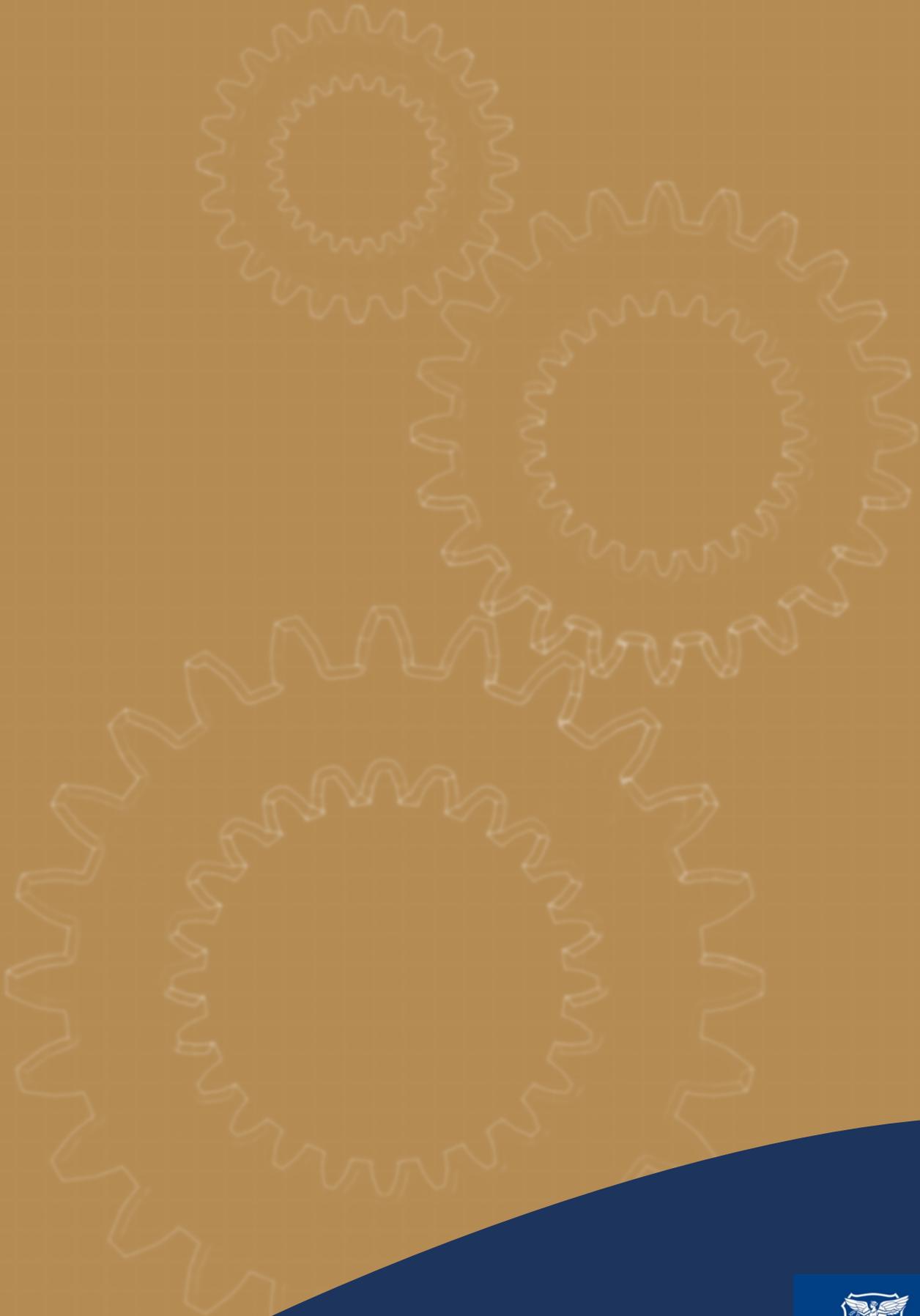
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