

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

**Tax transparency
and Exchange Of Information
Virtual training**

EOI CONCEPT

Learning objectives

- Types of exchange of information
- How tax auditors can access cross-border information
- The legal instruments that provide a basis for exchange
- The central role of the Competent Authority in this process
- The elements required for effective exchange of information
- The types of information you can request

Types of Exchange of Information

Exchange of Information on Request (EOIR)

Automatic Exchange of Information (AEOI)

Spontaneous Exchange of Information (SEOI)

Simultaneous Tax Examination

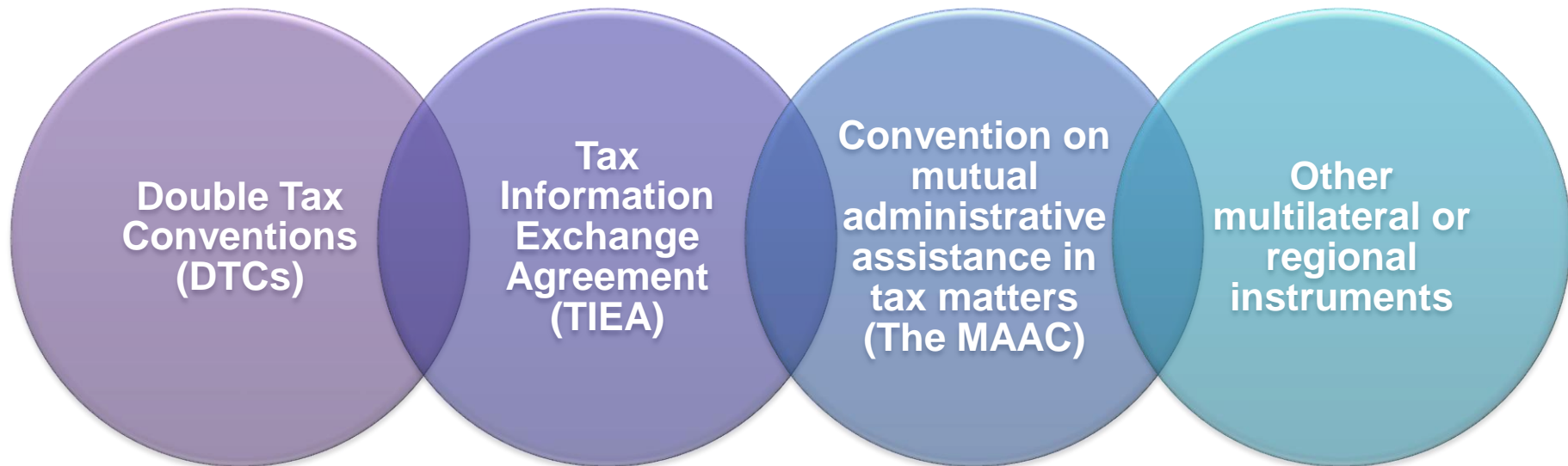
Tax Examination Abroad

Industry-wide exchanges

Key elements of EOI

- A legal basis: an international instrument allowing for EOI
- A representative performing this role: the Competent Authority

An international instrument allowing for EOI



Flexibility in the form, but if no EOI instrument, NO exchange of information

The Convention on Mutual Administrative Assistance in Tax Matters



All forms of administrative assistance

EOI on request

Automatic EOI

Spontaneous EOI

Simultaneous tax examinations

Tax examinations abroad

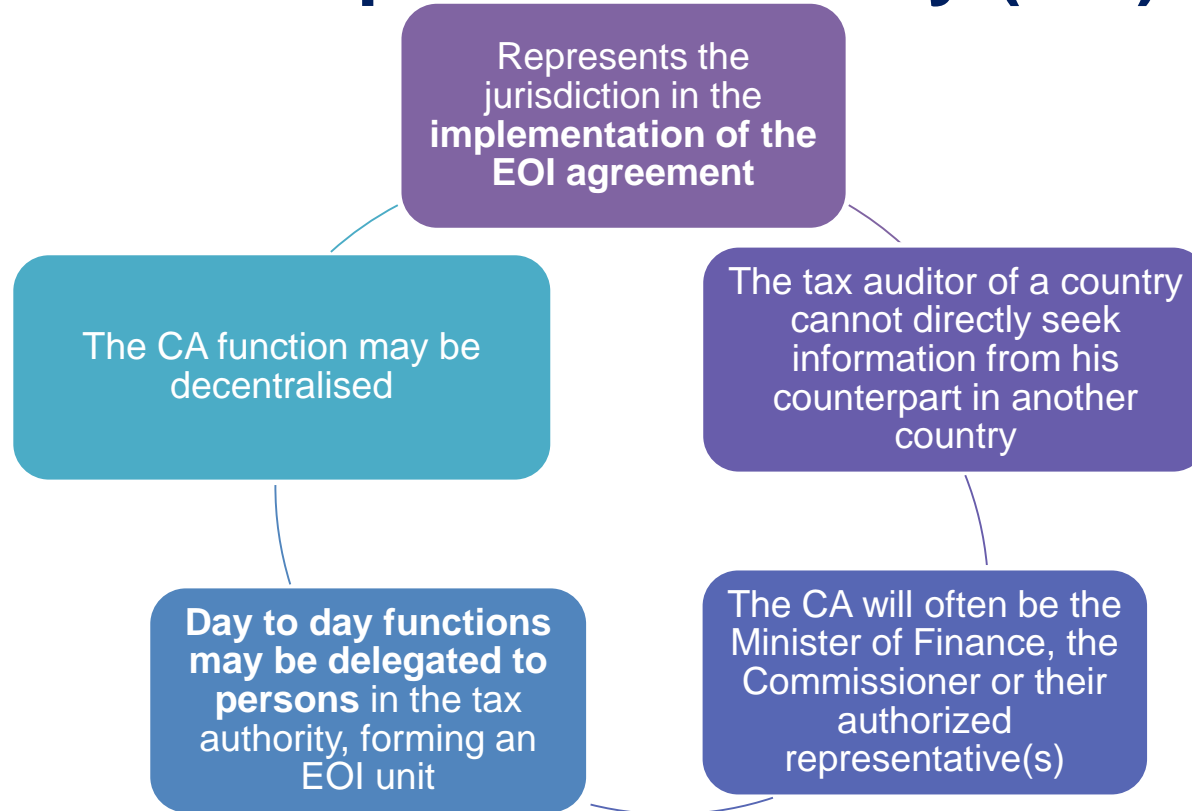
Assistance in recovery

Service of documents

Subject to reservations

Global coverage though a single instrument: **141 jurisdictions** currently covered

The Competent Authority (CA)



The CA: a key actor of EOIR

Processing outbound requests

- Receives outbound requests of tax auditors to submit to partner CA
- Checks legal basis, relevance, drafting
- Conveys these requests to the partner CA
- Forwards the answers to the tax auditors

Managing role of EOI function

- EOIR training
- EOI tools (including EOI Manual)
- Monitoring and supervision of the EOI activity (statistics)

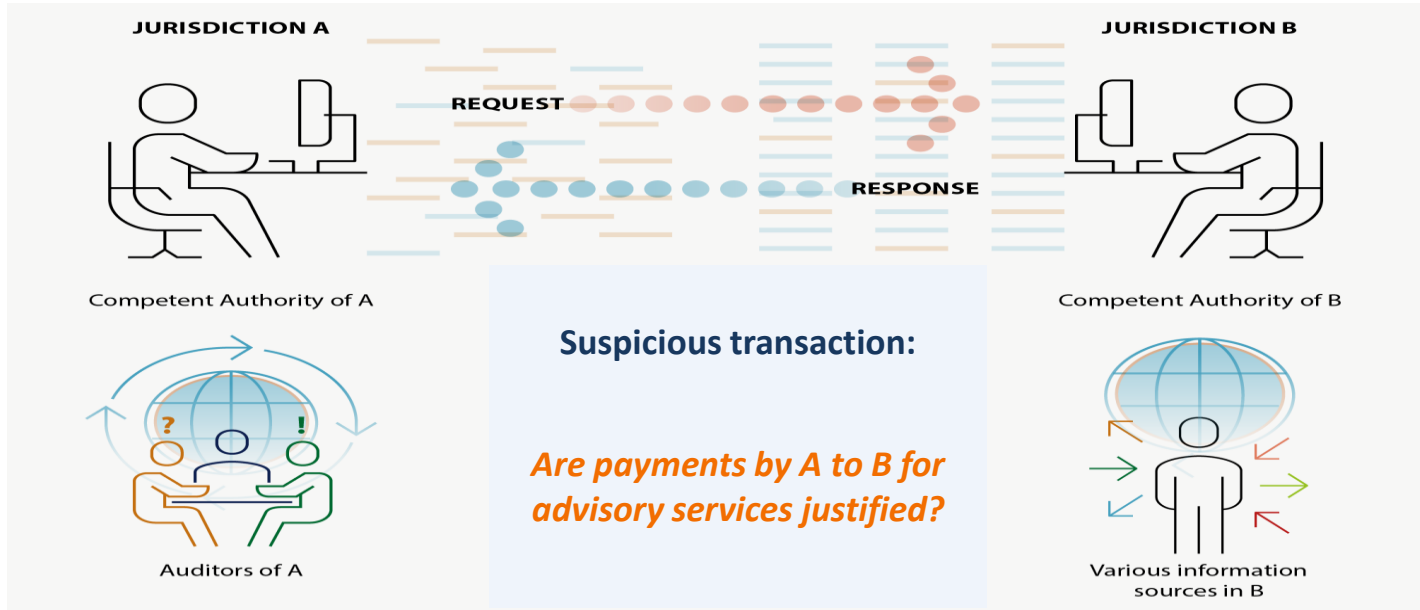
Liaising with partner CA

- CAs should provide replies within 90 days (reply or status update)
- Follow up in case of partial answers
- Requests for clarification, if necessary

One story but two Standards



EOIR: how does that work?



Tax investigation



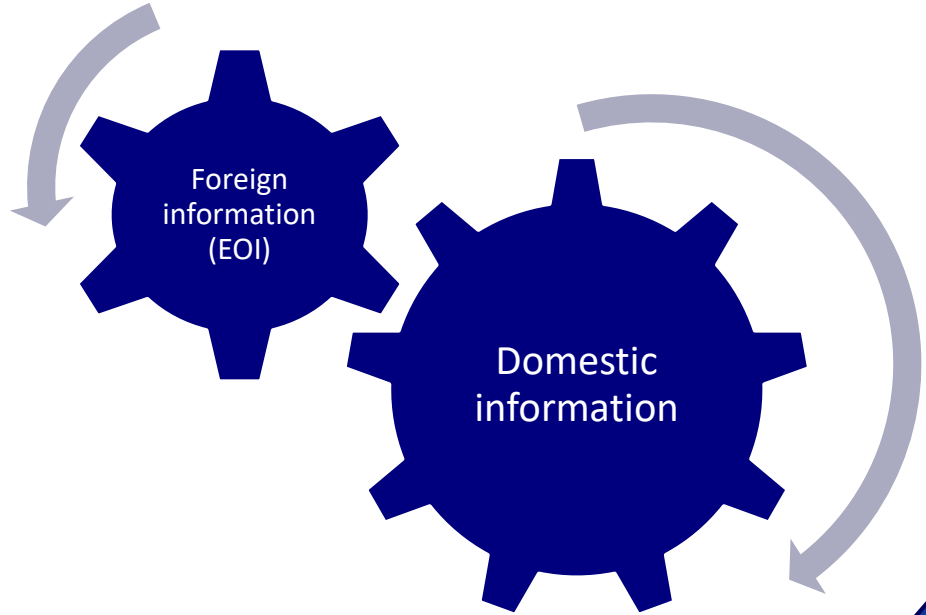
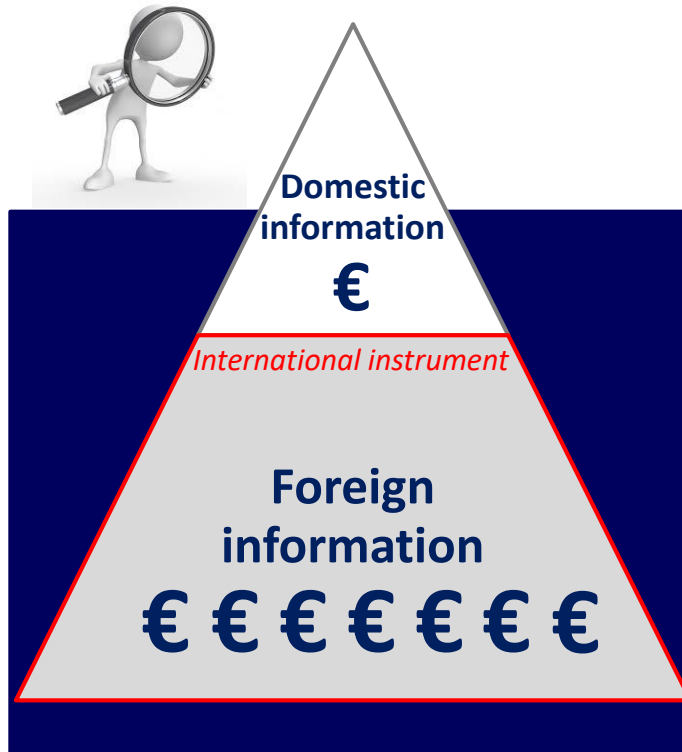
Subsidiary A

Information gathering



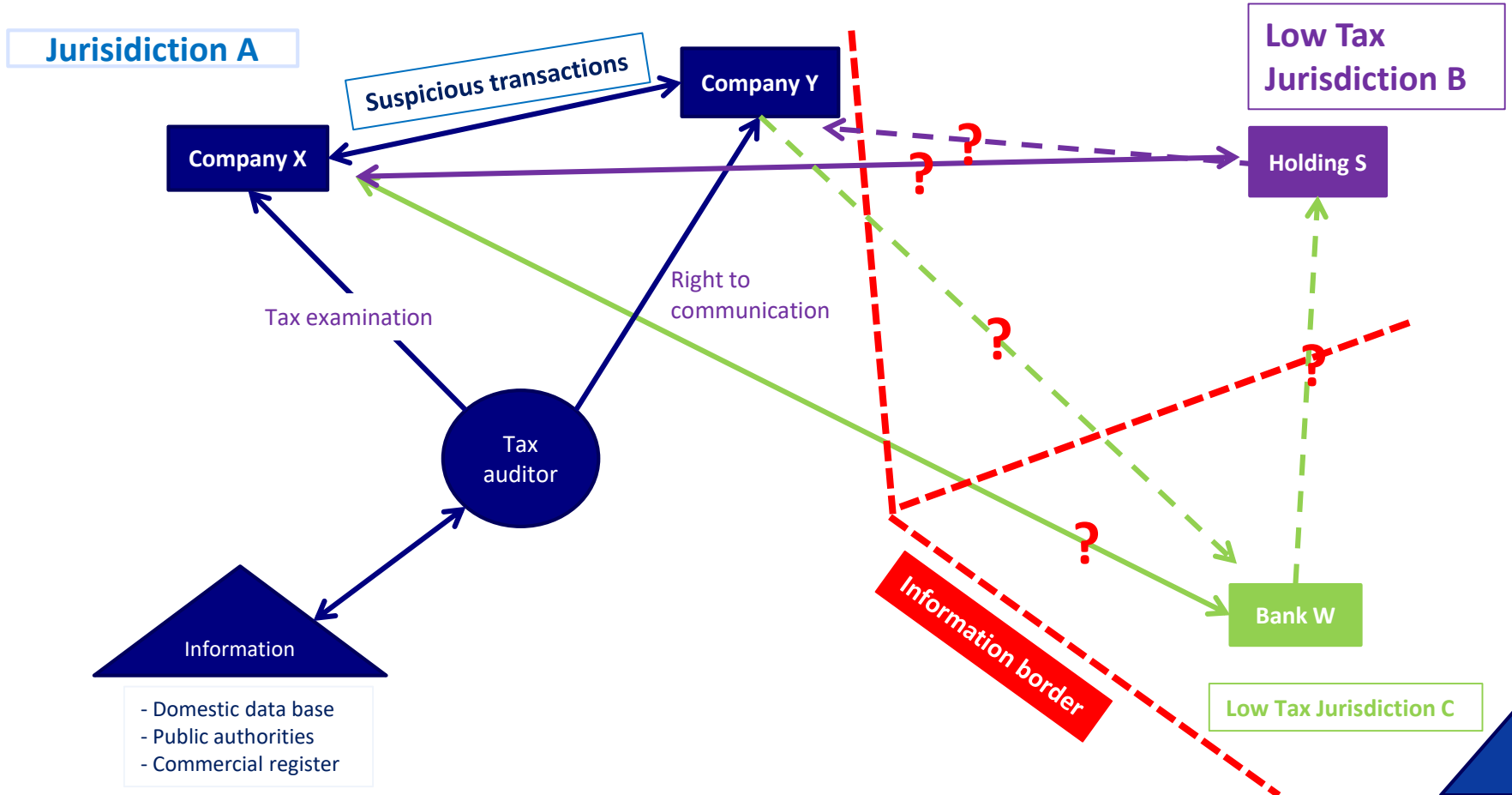
Parent B

Foreign information: the hidden part of the iceberg

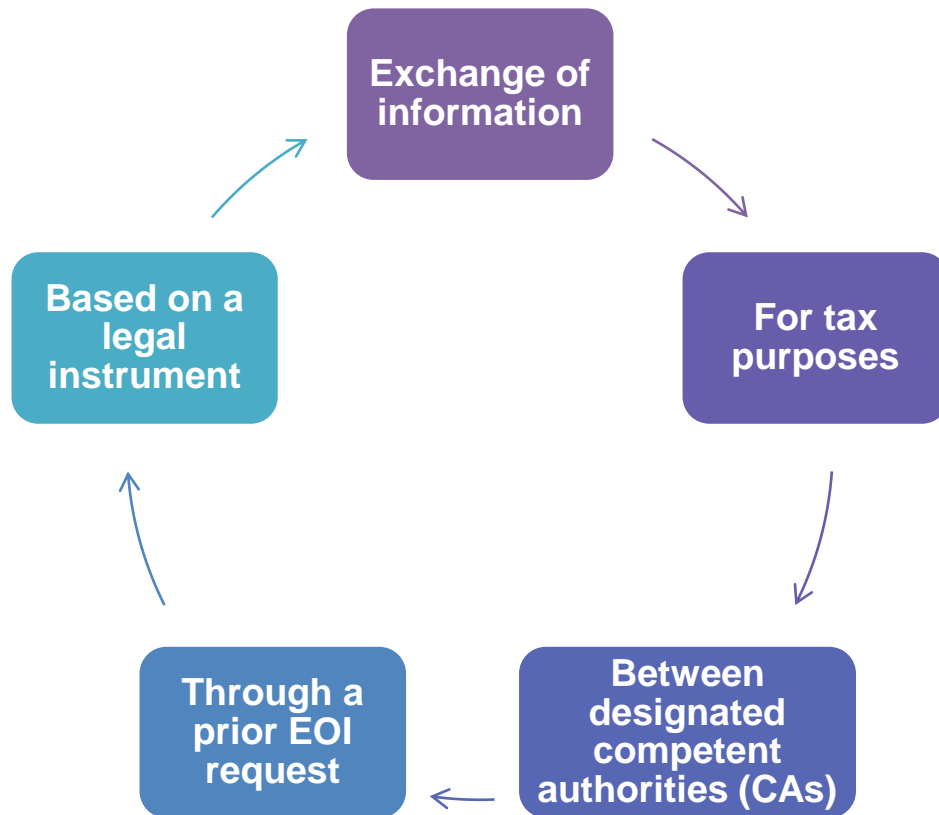


For a **successful** tax examination

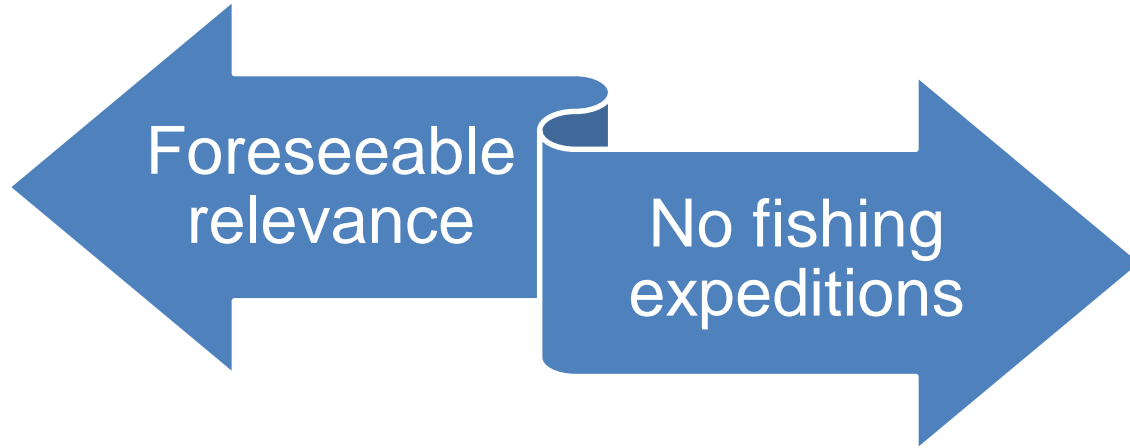
Limits of domestic information



Definition



What must be provided?



- To demonstrate that the information is foreseeably relevant to the administration or enforcement of your tax laws
- The requesting jurisdiction should explain why the information is required
- **No** speculative requests for information that have no apparent (or clear) link to an open enquiry or investigation

What can be obtained?

Transfer pricing
documentation

Beneficial and legal
ownership
information
(individuals and
entities)

Information on
residency
(confirmation of
residency, tie-
breaker rules)

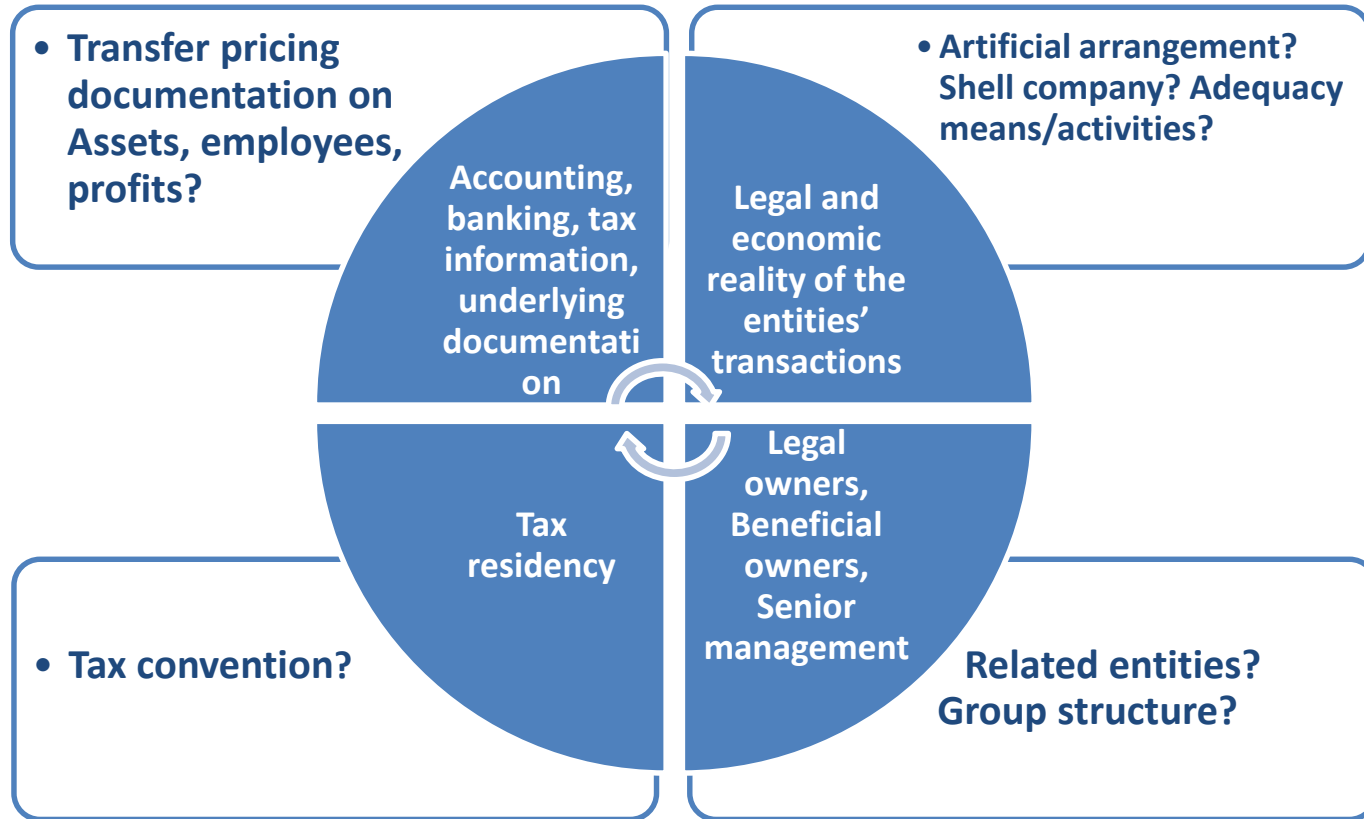
Accounting
information (e.g.
financial
statements,
invoices, contracts)

Information on
assets

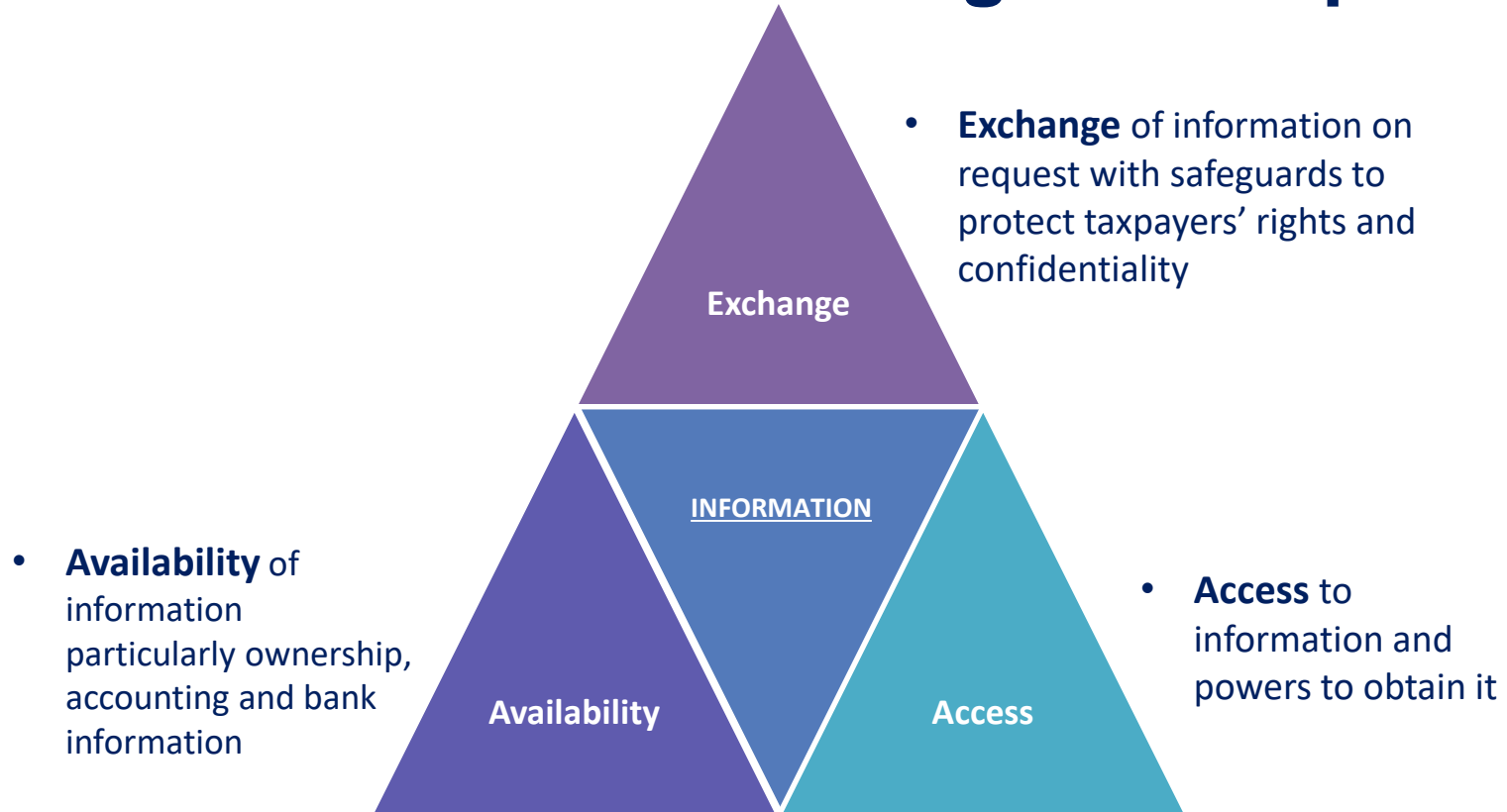
Bank records
(account holders,
transactions,
balances)

Tax returns
(reported income
and expenditure)

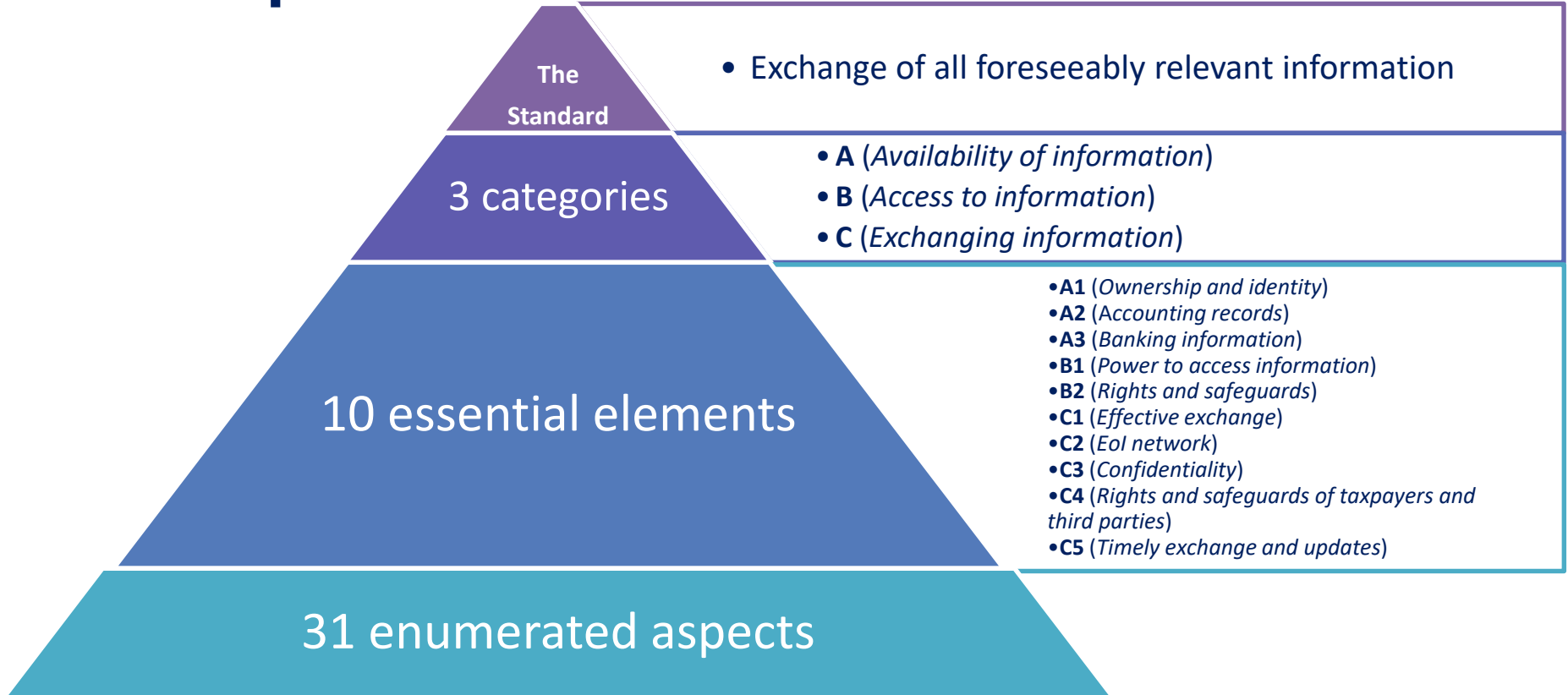
The example of transfer pricing audit



The standard of Exchange on Request



EOIR peer review – overview of the standard



A.1: Legal versus beneficial ownership

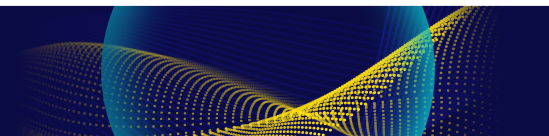


- Person **holding legal title** to the asset
- Legal owner may be a legal or natural person

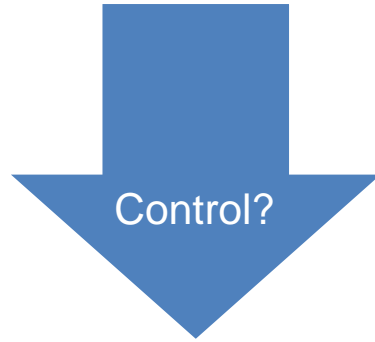
- Person **exercising control** over the legal person or arrangement and/or the **person on whose behalf a transaction is being conducted**
- Legal title is starting point only
- Beneficial owner **must be a natural person**

A.1: Ownership and identity information

Entity	Ownership information	Potential sources of availability
Companies	Identity of <u>shareholders</u> , including that of shares held by <u>nominees</u> and <u>bearer shares</u>	Government agencies – Registrars, tax authorities Entities themselves – directors, general partners, trustees, foundation council members Service providers – company managers, professional trustees
Partnerships	Identity of <u>general and limited partners</u>	
Trusts	Identity of <u>settlers</u> , <u>beneficiaries</u> and <u>trustees</u>	
Foundations	Identity of <u>founders</u> , <u>council members</u> and <u>beneficiaries</u>	
Other entities and arrangements e.g. association etc.	Equivalent relevant ownership information	



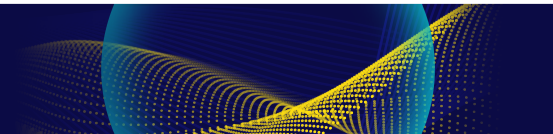
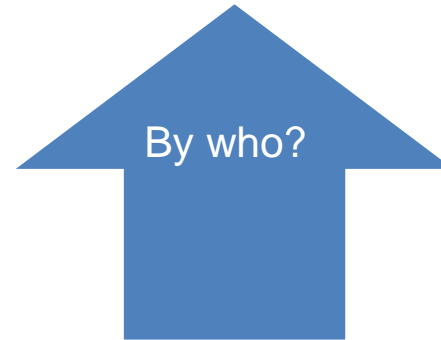
A.1: Exercising control



The ability to take relevant decisions within the legal person or arrangement and to impose those decisions



in companies:
shareholder(s), board
of directors, executive
officer(s)
in trusts: settlor(s),
trustee(s),
beneficiary(ies)



A.2 and A.3: Accounting and banking information

A.2

- Accounting records to be maintained by all relevant entities and arrangements

A.3

- Banking information for all account-holders including all records and related financial and transactional information
- Information on legal and beneficial owners of the accounts

B.1 and B.2: Access to information and rights and safeguards

B.1

- Power to obtain information from any person within their territorial jurisdiction
- Regardless of domestic tax interest
- Secrecy provisions should not restrict effective EOI

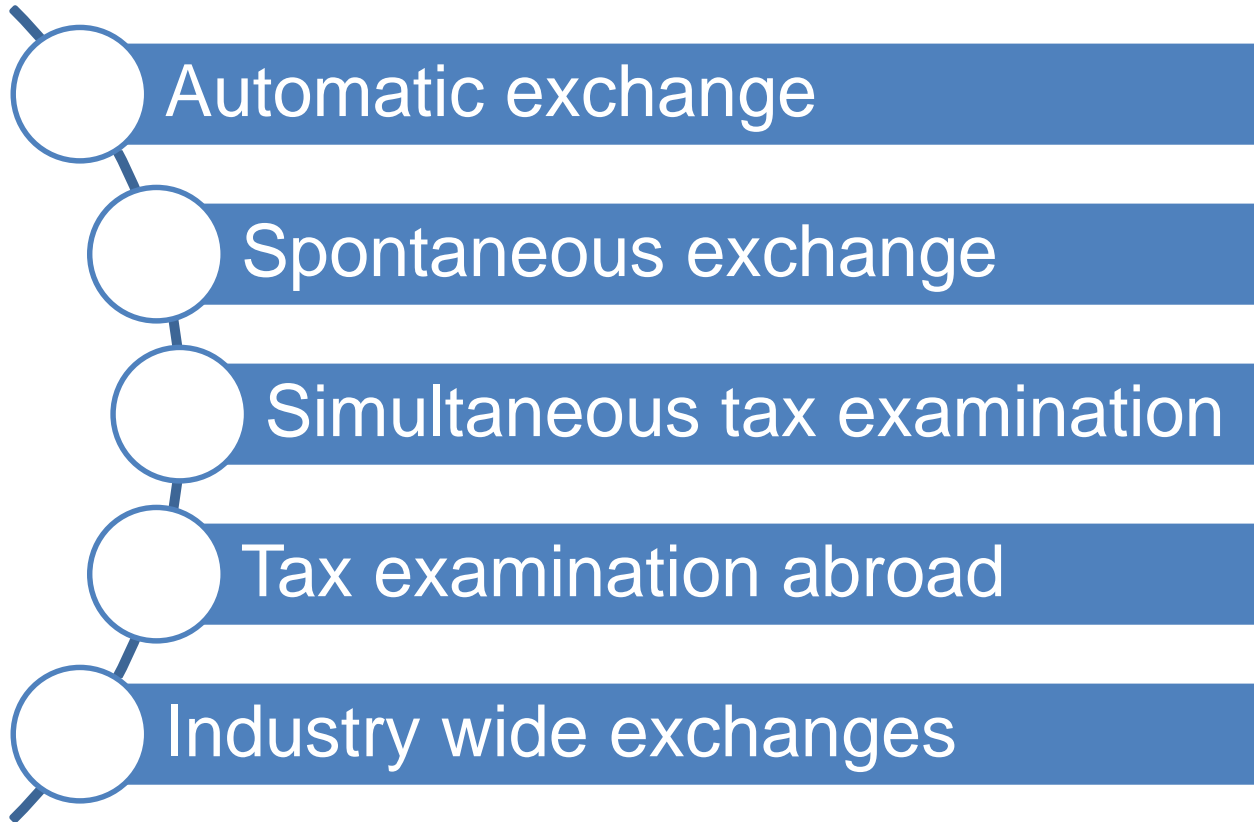
B.2

- Rights and safeguards should not prevent or delay exchange of information
- Notifications to taxpayer, appeal rights

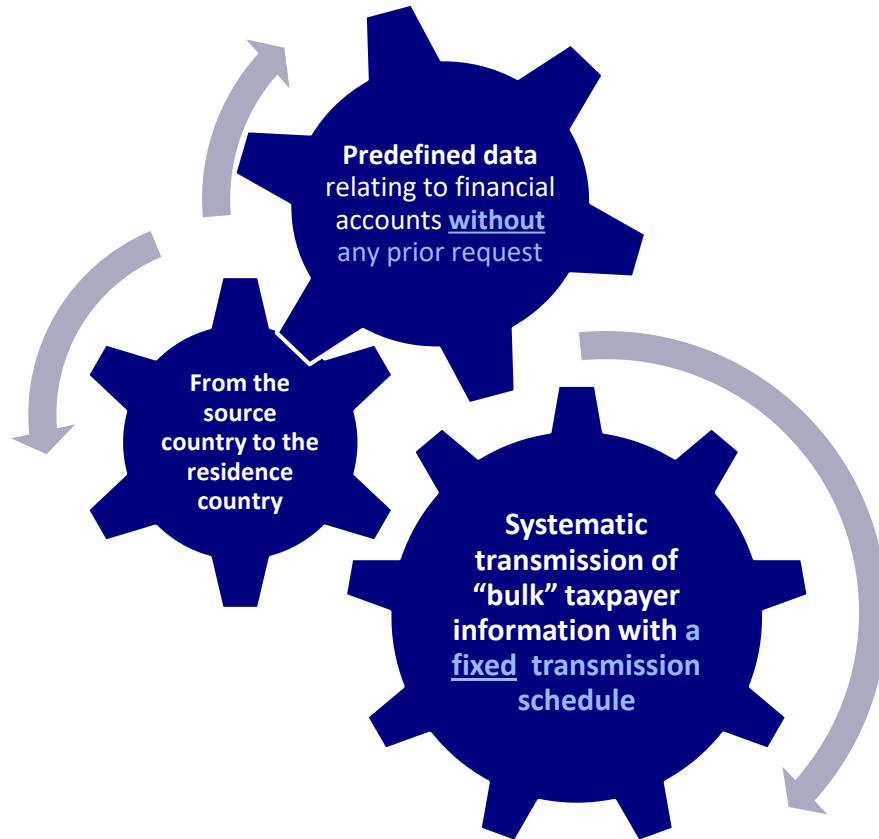
Element C: assessing exchange in practice



Other forms of exchange of information



The AEOI standard and its different types



Key benefits from AEOI

Detection of tax evasion and offshore wealth

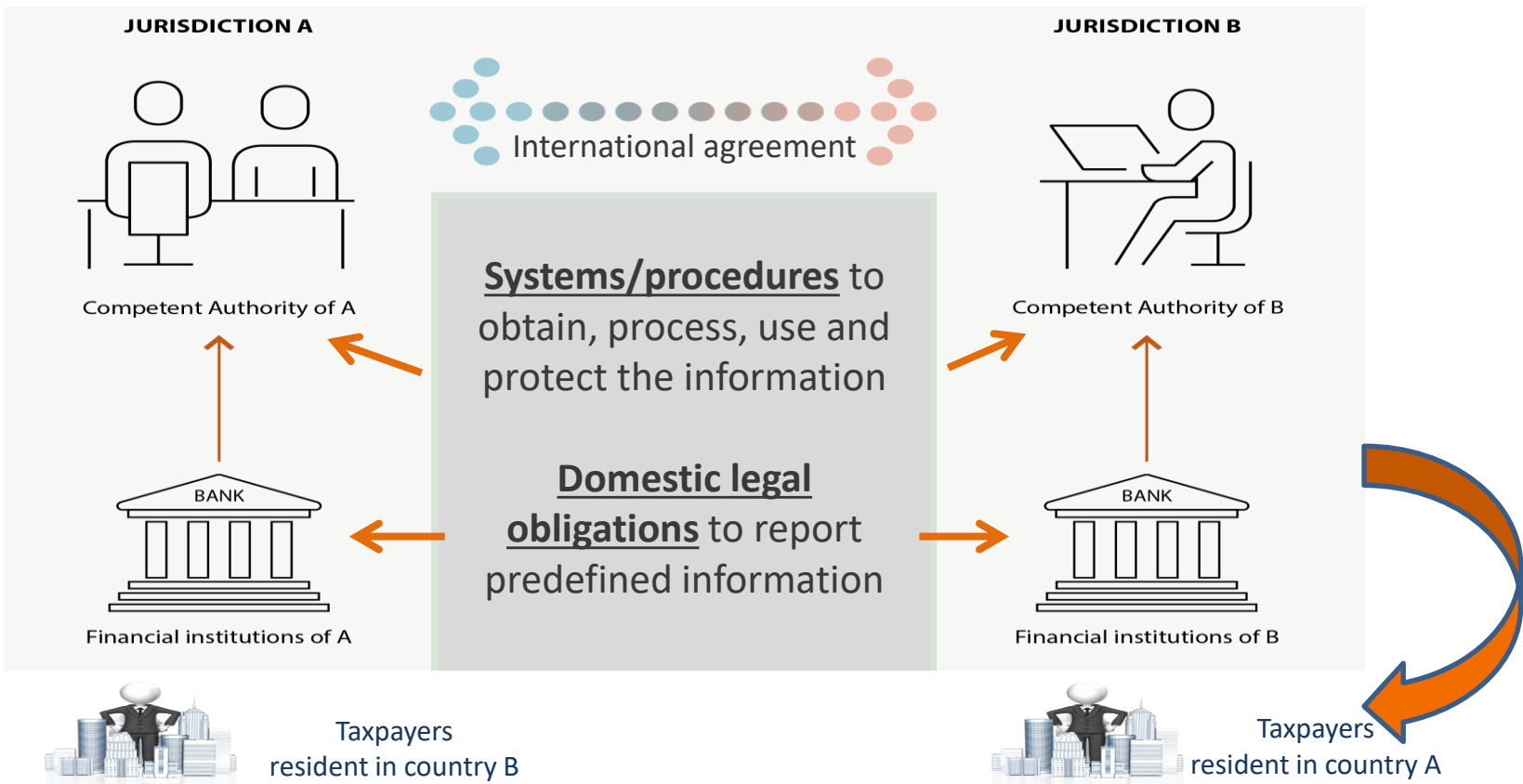
Deterrence from future non-compliance

Support domestic synergies

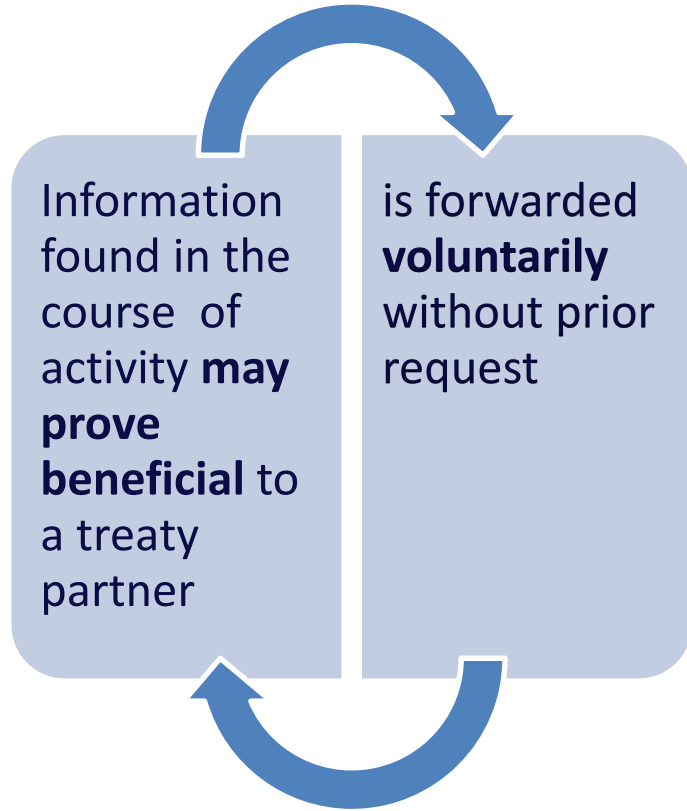
Enhance reputation

AEOI complements EOIR

AEOL: how does that work?



Spontaneous exchange of information



In which circumstances?

- Excessive payments to an associated entity in a low tax jurisdiction
- Tax evasion schemes
- Tax rulings granted
- Transactions involving low-tax jurisdictions
- Artificial transfer of profits between related companies

SEOI: how does that work?



Tax audit



Taxpayer A

Information that MAY be of interest on commission paid for technical services



Taxpayer B



Exchange of information and recent trends

Simultaneous tax examinations

- Is discretionary
- An arrangement by two or more jurisdictions
- Taxpayers in which they have a common or related interest
- Simultaneously but independently
- To determine cases, scope and procedure

Tax examinations abroad

- Enables tax officials to participate in tax examinations carried out by another country
- Passive or active
- Rights and safeguards of taxpayers
- Joint Audits

Industry wide exchanges

- Relates to an economic sector
- Not on specific taxpayers
- Information on -
- *Tax avoidance schemes*
- *Risk analysis strategies*
- *Sectoral studies*
- *TP audit studies*

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Thank you

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 gftaxcooperation@oecd.org

 <https://oe.cd/tax-news>