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NOTES & MANUALS

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This technical note addresses the following questions:

Conditions, design elements, and implementation considerations of a successful voluntary disclosure program (VDP), including its compliance with anti–money laundering/combating the financing of terrorism (AML/CFT) international standards. This technical note and manual emphasizes that such a program must be offered in the context of a considerably strengthened and credible enforcement capacity—one that is explicitly publicized to taxpayers—to avoid undermining tax morale.

Fiscal Affairs Department
Legal Department

Voluntary Disclosure Programs—Design, Principles, and Implementation Considerations

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Authors' E-Mail Addresses	DBenedek@imf.org; Martin.grote4@gmail.com; Gjackson@imf.org; Mmarkevych@imf.org; lydiasofrona@hotmail.com; Cwaerzeggers@imf.org

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I. INTRODUCTION

A significant share of the global financial wealth of households is held offshore and unrecorded. The existence of tax jurisdictions that do not implement international transparency standards enables the evasion of taxes—typically on capital income, net wealth, and inheritances—and may facilitate tax avoidance and generally undermine tax authorities' compliance actions (Bethmann and Kvasnicka 2017). This is exacerbated by weak information and enforcement powers by tax administrations, which also hinder the effective collection of taxes on hidden wealth held domestically. Some recent studies found that tax evasion is particularly prevalent among the ultra-wealthy (see, for example, Alstadsæter, Johannesen, and Zucman 2019).

Tax authorities mainly resort to using third-party information to improve or supplement data from filing and reporting obligations. An effective way to improve compliance is through access to and effective use of third-party information, such as from other government agencies or from financial institutions, including through international exchange networks such as the international Exchange of Information (EOI) framework[1] and US Foreign Account Tax Compliance Act (FATCA).[2] Although in some instances tax authorities have also been able to obtain confidential bank data outside these regular channels—for instance, from whistleblowers in breach of confidentiality rules—and while courts have sometimes upheld enforcement actions taken on the basis of such information, more sustainable long-term solutions should be preferred (Bethmann and Kvasnicka 2017).

Voluntary Disclosure Programs (VDPs), including for foreign asset holdings with supporting tax measures, have gained popularity with tax authorities as another countermeasure against tax evasion. One may also expect a surge in VDP proposals in the coming period when short-term revenue needs in many countries are very high. Recently, several countries have launched VDPs, which often include asset repatriation as a package (see Annex I).[3] Taxpayers are typically incentivized to participate in these programs by offers of a reduction in tax liabilities, accumulated interest, or compulsory penalties. As part of AML/CFT requirements, investors are required to provide certain information—for example, the origin of their funds, including information relating to their source of wealth and source of funds. These (asset) VDPs can broaden the income tax base by increasing taxes on reported earnings from offshore portfolios and fixed investments—especially when such

1 EOI effectiveness outside the automatic EOI (AEOI) framework is doubtful because, under the EOI on request framework, provided for by tax treaties, information can be requested only about a specifically named person and to the extent that the information is "foreseeably relevant" to the administration, enforcement or recovery of any taxes, a so-called "fishing expedition" for taxpayer data is not possible. However, it should separately be noted that, in some countries, police can request from any bank any information also at the pre-investigation stage (for example, a fishing expedition), which is in line with Financial Action Task Force [FATF] Recommendation 31 (that is, Assessment Criterion 31.3.a), and includes countries that have centralized bank account registries that law enforcement and other competent authorities can consult to request information. And most often and in addition, law enforcement will be able to use the financial intelligence unit to ask banks for specific data. Finally, in some Nordic countries, individual tax information is published, and foreign authorities can combine these with domestic data. Beer, Coelho, and Leduc (2019) also find no effect of EOI, but strong effect of AEOI.

2 The US Foreign Account Tax Compliance Act generally requires foreign financial institutions and certain other nonfinancial foreign entities to report on the foreign assets held by their US account holders.

3 Not all VDPs insist on asset repatriation; some allow the maintenance of any foreign asset holdings, but with due payment of all arising tax liabilities.

VDPs are combined with a more effective enforcement framework, which demonstrates that tax administrations will detect and punish future noncompliance (Baer and Le Borgne 2008; Martin and Camarda 2017).

This note explores VDPs' benefits and costs as well as how they relate to VDP design and implementation. If adopted, VDPs should be designed in the best possible way to maximize benefits and avoid negative effects as much as possible. This technical note explores benefits and costs as well as good and bad design features. It is structured as follows: Section II reviews key elements and design features of a VDP; Section III examines preconditions for a successful VDP and compliance with AML/CFT standards; Section IV discusses procedural and administrative issues; and Section V offers key conclusions.

II. VOLUNTARY DISCLOSURE PROGRAMS

A. Elements of VDPs

VDPs should be distinguished from outright tax amnesties. Both VDPs and tax amnesties seek to incentivize delinquent taxpayers to voluntarily regularize their tax affairs, usually within a predetermined timeframe and in return for some degree of immunity from legal prosecution. However, VDPs typically do not waive all tax liabilities in relation to previously undeclared assets or income.[4] Instead, they may impose a flat tax in lieu of taxes otherwise due—which, if imposed on gross asset values, may even translate into a relatively high effective tax burden—and typically offer at least some reduction in penalties and/or late interest. VDPs are usually introduced as part of an overarching compliance improvement strategy and subject to specific governance arrangements and reporting requirements, including those that ensure compliance with AML/CFT standards.

VDPs, which have been introduced by a growing number of countries worldwide, attempt to improve tax compliance. Their potential success in encouraging targeted taxpayers to voluntarily disclose their previously untaxed, usually foreign, assets crucially depends on an increased detection capability by the authorities (including central banks, financial intelligence authorities, and supported by coordinated frameworks for exchange of information among revenue administrations or at an interagency level) and a firm commitment to take follow-on action against taxpayers who do not participate in the VDP and continue to hide their assets. VDPs are rather redundant if there is a framework of robust information powers by the tax administration, including international AEOI arrangements,[5] that provides sufficient information for effective detection. Even if the information framework is not sufficient, VDPs still require ramping up the credible risk of better detection of tax offenses, penalties, reputational risks, and potential prosecution. VDPs focus on the long-term benefit of broadening the tax base (that is, foreign assets), which can be taxed prospectively. Hence, VDPs must be coupled with other compliance-enhancing measures, provided the tax administration (see OECD 2015, 36–129) can credibly commit to maintain the new norms (for example, via expanded service, monitoring, or enforcement; see TAS Research and Related Studies 2017).

If there is no improvement in the overall compliance approach to this group of taxpayers, the VDP may still have a one-time impact; however, it is unlikely to help raise compliance (and revenue) levels sustainably over the medium term. The overarching compliance strategy, with tougher audits and enforcement steps for nondisclosed assets (supported by AEOI standards), should become a permanent feature of a tax administration that contemplates a VDP. Importantly, successful VDPs tightly manage the benefits offered to disclosing taxpayers, to ensure that these taxpayers pay a price for their noncompliance, which maintains and ideally boosts the morale of compliant taxpayers. It is common under VDPs for taxpayers to have additional reporting requirements, demonstrating

[4] According to the Organisation for Economic Co-operation and Development (OECD 2015, para. 18), "Typically, countries do not waive tax as part of their voluntary disclosure programme. Waiving tax would represent some form of a tax amnesty." The OECD report indicates that most countries that have implemented a VDP require the payment of tax upon making a qualifying voluntary disclosure.

[5] For example, the Common Reporting Standard Multilateral Competent Authority Agreement, or the EU Directive on Administrative Cooperation (2011/16/EU, as subsequently amended).

beneficial ownership/title and date of acquisition of assets and income declared, and providing detailed inventories of such assets and their investment returns. Moreover, taxpayers must have assets valued by certified valuers in the jurisdiction where the assets are registered or located.

International experience suggests that long-term revenue effects of tax amnesties are discouraging. VDPs could have a deleterious effect on long-term revenue collections (see Box 1), because it is very difficult to credibly commit to making a VDP a one-off opportunity. The only consistent credible option for governments is not to do a VDP. However, if a VDP is announced, proper preparation is essential, including readying those state actors responsible for its administration. An important precondition for successful VDPs is an effective, existing administrative detection and enforcement capacity, which should not be assumed as a given in most low-income and emerging countries.

BOX 1. Claimed Fiscal Benefits and Costs of Voluntary Disclosure Programs

Voluntary Disclosure Programs (VDPs) are typically promoted as a quick way to close the tax gap, which is defined as the difference between taxes paid and taxes that would have been collected if taxpayers had accurately reported their tax liability.

The short-term gross revenue gains from the VDP should be balanced against (1) a reduction in taxpayer compliance due to continuing weaknesses in the tax administration and declining morale of compliant taxpayers; (2) the administrative cost of the VDP; and (3) the cost in forgone revenues from penalties and waived interest.

Claimed benefits:

- Allow taxpayers to comply with the tax laws and “come clean” about past tax-law infringements
- Permit immediate collection of outstanding taxes
- Allow “marginal” tax evaders who have dropped out of the system to become compliant again and “turn over a new leaf” (they may have missed one year of filing and the cost of such disclosure may be too high, or those who omitted to include an item once, are forced annually to repeat the same omission)
- May increase future voluntary compliance, if credibly advertised as a “last chance” and complemented with other compliance-enhancing measures
- Require low administrative costs to detect offshore funds
- May aid in improving tax authorities’ records and knowledge about offshore financial structures, with an accompanying growth of the tax base
- Are appropriate if they prepare for a transition period prior to a new and stricter enforcement regime (that is, automatic exchange of information) or the introduction of new tax instruments

Costs and unfairness:

- Reduce the expected cost of noncompliance and reward delinquent taxpayers
- Repeated or frequent VDPs could adversely impact future revenues, as they reduce fear of strict enforcement and may encourage ongoing evasion because taxpayers have wiped their slate clean in relation to previous tax infringements

- Post-VDP revenue effects are discouraging unless frequent audits of high-income taxpayers are not statutorily prohibited, and a tax court exists that reduces court overload and prosecution cost
- Compromise fairness, as honest taxpayers attract a higher average effective tax rate than do tax fraudsters—the offshore VDP flat tax applied to gross assets, however, partially mitigates this unfairness
- Generally, ex post VDP compliance levels are lower than before the VDP was rolled out
- Undermine effective progressivity of the tax system, since tax evaders are typically wealthier compared with the median taxpayer and a low, flat rate VDP charge as compensation for previous tax infringements eliminates the progressive rate structure of an income tax regime

NOTE: See also discussions in Baer and Le Borgne (2008); Mattiell (2005); and Mikesell and Ross (2012).

Countries typically introduce VDPs for the purpose of raising revenues in the short term. VDPs vary in terms of duration, qualifying taxes, and types of absolved penalties and interest. Regardless of their controversial nature, VDPs remain popular; however, evidence is mounting that they generate much less incremental revenue than expected. There are high opportunity costs associated with them for the simple reason that tax administrators are diverted from normal collection procedures of taxes, and without additional resources, enforcement and collection backlogs may develop elsewhere in the system, further undermining tax morale and revenue-yielding capacity (see Baer and Le Borgne 2008).

VDPs are generally linked to new or expanded opportunities for cooperation and information exchange with other tax administrations, such as through AEOI provisions, and therefore often have a particular focus on previously undisclosed foreign assets. Although it is less common for VDPs to require that such foreign assets be repatriated, the program usually prescribes or regulates how repatriated assets can be invested domestically. Fixed assets like real estate have limited applicability with repatriation programs, but their asset disclosure for income tax purposes (rental and capital gain income) is still very important. As with amnesties, repeated VDPs should be avoided, as they could seriously erode tax morale and affect voluntary compliance.

A 2015 OECD survey found that 47 countries implemented VDPs, of which 19 jurisdictions administered offshore asset VDPs.[6] Out of the 47 countries, 5 required or offered asset repatriation. Annexes I through III present selected cross-country experiences with VDPs.

[6] Martin and Camarda (2017) and OECD (2015, 29–129) reviewed VDP legislation for these countries: Argentina, Australia, Austria, Belgium, Canada, Chile, People's Republic of China, Costa Rica, Croatia, Czech Republic, Denmark, Estonia, Finland, France, Germany, Hungary, Iceland, India, Indonesia, Ireland, Italy, Japan, Jersey, Korea, Latvia, Liechtenstein, Lithuania, Luxembourg, Malaysia, Malta, Mexico, Netherlands, New Zealand, Norway, Poland, Portugal, Russian Federation, Singapore, Slovak Republic, Slovenia, South Africa, Spain, Sweden, Switzerland, Turkey, United Kingdom, and United States.

B. Typical Design Features of a VDP

Objectives and Key Design Features

The commonly declared goal or justification for VDPs is to promote (1) declaration of natural persons' asset ownership; (2) payment of outstanding taxes, or a substitute flat tax in lieu of taxes (sometimes including penalties and/or interest) related to assets disclosed under the program; and (3) the broadening of the tax base, including by encouraging repatriation of assets. Taxpayers will have additional reporting requirements, such as disclosing an inventory of foreign-held assets, property, and income for a specified reporting period, that may precede a jurisdiction's tax statute of limitations.

Often the VDP requires the payment of a one-off charge or a flat tax at different rates depending on the different types of assets declared by the taxpayer (individual and/or legal entity). By voluntarily disclosing the existence (and location) of foreign assets, and by paying the flat tax in lieu of all taxes and duties otherwise due in relation to the assets, legal certainty and immunity is secured against further investigations and prosecution for prior related tax offenses with respect to those assets and property disclosed as part of the VDP procedure.

Persons Qualifying for VDPs and Eligible Assets

Depending on the design of the VDP, eligible taxpayers may include only individuals (including sole proprietors) who own (co-own) and/or are beneficiaries/beneficial owners of assets eligible for the VDP or could also cover legal entities and arrangements (corporations, partnerships, estates, or trusts).[7] This choice ensures equal treatment between various taxpayer categories and expands the eligible taxpayer base. That said, tax administrations must exercise care in the application of the VDP flat tax or charge in lieu of the standard rates of tax due, as in many cases tax rates differ according to specific types of legal entities.

A wide variety of assets could be eligible for disclosure under the VDP. Eligible assets could be portfolio investments (funds), fixed property, and other investment instruments such as life insurance products acquired before a certain date but preceding the VDP's effective date. It could also include rights to securities, rights to shares in property of legal persons, or rights to funds, including a controlling interest in controlled foreign companies. Depending on the scope of eligible assets (and persons; see previous paragraph), the program may cover various tax types for which unmet liabilities related to those assets may exist.

Provided Guarantees for Natural Persons

To attract as many potential applicants as possible, VDPs commonly provide immunity against prosecution for tax offenses,[8] covering the following cases:

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[7] Several countries, such as Albania, Greece, Italy, Portugal, Slovenia, and Spain, have enacted VDPs in which legal entities were entitled to benefit from the program.

[8] The VDP cannot grant the taxpayer immunity from investigation, prosecution, or conviction for money laundering or a predicate offense in relation to declared or repatriated funds or other assets, nor can the assets be immune from confiscation should they be proved to be proceeds of crime.

- If the individual pays the VDP flat tax or charge for disclosed assets and income, which was the source of the acquisition of offshore assets or other disclosed income, then that taxpayer is then relieved from any other tax obligation or compulsory payments under the prevailing tax legislation. This, relief however, is limited to disclosed assets/income.
- If an individual is audited for periods before the stipulated VDP, then the audited tax base and related tax liabilities are reduced by the amounts of assets or income that the individual voluntarily declared under the VDP.
- Given that a tax audit is labor and resource intensive, some VDPs (for example, the South African VDP) exclude from entry into the program individuals who are already under audit or investigation by the revenue administration (OECD 2015, 38).[9] However, this principle is not consistently applied by all countries.[10]
- A VDP should shield natural persons from criminal prosecution for tax offenses only and related penalties with respect to the disclosed assets and sources of their acquisition.[11] In assessing any tax penalties, chargeable income is decreased by the disclosed VDP base. VDP legislation should not legalize proceeds from other nontax economic crimes, such as organized crime, bribery, human trafficking, and the like.
- Individuals who apply for a VDP are exempt from penalties for tax and currency exchange control infringements—but only if they voluntarily disclose their assets.[12] The same protection should be offered to managers and/or directors of legal entities, in case they are jointly and severally liable for the entities' tax obligations.
- Co-owners of assets should separately apply to individually prevent prosecution for nonpayment of taxes.
- VDPs commonly stipulate that information provided by individuals as part of the VDP is to remain confidential—to protect them against repeated audits and investigations related to the reported and regularized assets. To address these concerns, countries have introduced confidentiality safeguards by limiting the information disclosed to designated tax officials, supported by dedicated tax secrecy provisions applying to tax officials administering the

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9 The Dutch VDP successfully applied this principle—that is, those who are already under investigation can be excluded from the VDP. The principle holds that, "Voluntary disclosure must take place before we know what has not been disclosed." The amount of the fine also depends on how long ago you failed to file a return or filed an incorrect one. See https://www.belastingdienst.nl/wps/wcm/connect/bldcontenten/standaard_functies/individuals/contact/your_rights_and_obligations/voluntary-disclosure-scheme-correct-your-tax-return-or-as-yet-file-a-tax-return/.

10 It can also create practical difficulties, as the experience in South Africa showed, where proof of the taxpayer's knowledge of being under investigation at the time of applying for the VDP became a procedural sticking point. A condition of this nature, therefore, is feasible only to the extent that the VDP unit can verify unequivocally that the taxpayer was in fact under investigation upon receipt of the VDP application. Alternatively, penalty waivers for taxpayers/prospective VDP applicants could be structured in such a way that they are subject to a significantly higher penalty if already under audit at the time of application.

11 Taxpayers should not be exempt, by law or in practice, from investigation, prosecution, or conviction for money laundering/financing of terrorism (ML/FT) in relation to repatriated funds or other assets, or for confiscation of these assets if these are proceeds of crime (even if the taxpayer had paid taxes over these illicit income or assets).

12 There is a legal difference between a tax authority and/or the prosecution to have a policy in place not to prosecute a certain conduct if certain conditions are met, and on the other hand, "immunity" which is more intrusive as it is a prohibition in law to prosecute someone, regardless of other factors (for example, a head of state may be immune). Hence, a VDP should not grant an immunity from prosecution for money laundering and any predicate offenses because immunity often extends to investigations (in law or in practice) and prevents in law or practice legal actions against enablers that may legally not be covered by the immunity.

VDP. The guarantee should not apply in the case of nontax criminal investigations. This also addresses concerns that defaulting taxpayers might have about reputational damage from unfettered access to information disclosed under the VDP.

Penalties and Interest[13]

Any reduction in penalties under a VDP should, in principle, not extend to interest payable by a participant. Unlike penalties, interest is compensatory in nature, as it seeks to compensate the government for the deprivation of the earning capacity of the amount underpaid; therefore, it should not, as a general rule and a matter of principle, be reduced or waived. However, international lessons with amnesties and VDPs—in particular where they are designed as a one-off opportunity—appear to be more nuanced on the issue of interest, given the limited-time opportunity for a specified group of taxpayers to pay a defined amount, in exchange for forgiveness of a tax liability (which could include interest and penalties) relating to a previous tax period or periods and without fear of criminal prosecution. In some cases, legislation extending an amnesty also imposes harsher penalties on those who are eligible for amnesty but who elect not to make use of the opportunity.

A VDP should be designed to ensure that taxpayers are adequately incentivized to come forward and disclose their past failures. The reduction in penalties offered under the VDP must be substantial for it to sufficiently encourage taxpayers to step forward. However, to ensure horizontal fairness with compliant taxpayers, penalties should not be completely removed. Reported country practice on special VDPs varies widely, with several jurisdictions waiving the penalty but increasing the VDP flat tax rate.

Failure to make a voluntary disclosure should be considered in determining the culpability of a taxpayer upon subsequent discovery of any irregularities or errors. In a jurisdiction where the tax authority exercises administrative penalty discretion, such failure of a delinquent taxpayer to avail of the VDP should be seen as an aggravating factor, unless there are good reasons outside the taxpayer's control (force majeure) why the taxpayer was unable to participate in the VDP.

Limitations on Decisions Not to Prosecute

Jurisdictions that offer VDPs differ in their approach as to whether public officials or those who hold political office can benefit from the VDP. Some countries permit participation; some limit it to periods when the applicant was not an official; some generally preclude participation (for example, Greece) or limit it to a period after leaving public office; and some preclude explicitly any politically exposed persons (PEPs; that is, politicians and officials),[14] including their family members. In some instances, such persons may make use of the VDP, but the relevant application must meet additional requirements, such as audits and a disclosure about the sources of funds used for acquiring offshore

[13] Based on Waerzeggers, Hillier, and Aw (2019).

[14] The FATF defines PEPs as individuals (including family members or close associates) who are or have been entrusted with prominent public functions by a country (for example, heads of state or of government, senior politicians, senior government, judicial or military officials, senior executives of state-owned corporations, important political party officials), and distinguishes foreign from domestic PEPs. It also recognizes a third category of PEPs—namely, persons who are or have been entrusted with a prominent function by an international organization (for example, members of senior management, directors, deputy directors, and members of the board or equivalent functions). The definition of PEPs is not intended to cover middle-ranking or more junior individuals in the foregoing categories.

assets. Reviewed VDP designs indicate that VDP benefits do not extend to assets acquired from proceeds of committed corruption and organized crimes regardless of when they were committed—but there are exceptions, as indicated in Annex I.[15] However, from an AML/CFT perspective, PEPs (including when they are the beneficial owners of the assets or accounts) could be prohibited from availing or participating in the VDP due to the higher risks associated with money laundering/financing of terrorism (ML/FT). In such circumstances, jurisdictions will need to implement robust measures, including enhanced due diligence checks, to ensure that an applicant is not a PEP.

VDP Flat Tax Considerations

There is significant variation across countries in the requirement to pay a levy or fee in lieu of taxes otherwise due. Some VDPs impose only a flat tax in lieu of taxes otherwise due on the assets and/or income declared under the VDP, sometimes including penalties and/or interest (for example, the Indonesian and South African asset repatriation programs; see Annex I). Others simply waive the penalties and/or interest and grant an exemption from prosecution for tax crimes with full payment of outstanding taxes. The latter approach appears to be more common in the case of a permanent/general VDP, while a flat tax or charge substituting for the full tax liability is more common in the case of one-off VDPs. The Italian VDP offered two different alternatives (see Annex I): the general one (full payment of tax due) and the simplified one (flat rate of 5 percent per year) available only for taxpayers with an average bank account balance of EUR2 million for each reported year.

To (partly) compensate for the past evaded taxes, VDPs may introduce an attractive VDP flat tax that is usually applied to the asset base as delineated by the applicant. The specified flat rate is imposed on the gross asset values, which in some cases may translate into a high effective tax burden if compared with the standard marginal personal income tax rate withheld or imposed on interest income and or capital gains. In offshore programs, the flat tax rate is often varied by an election of either keeping assets abroad (higher rate) or repatriating them through the domestic banking system of the VDP jurisdiction (encouraged through a discounted rate). In some instances, immediate uptake of the offered VDP (and return of assets, in case of a repatriation requirement) within a relatively short period is being rewarded with a lower fee rate, with rates graduating upward the longer applicants wait to repatriate their assets.

If the rationale for an offshore or special VDP is predominantly about the repatriation or identification of foreign assets, then it would be reasonable to insist that the liability for a VDP flat tax in lieu of standard taxes should be defrayed from foreign-held assets. This should be done before taking into account any fees or commissions charged by financial institutions on the conversion of the funds. The principle is that the already discounted levies in lieu of outstanding taxes should not be further eroded by charges in the banking sector. If a VDP charge for domestic tax violations, that enabled the placing of funds offshore, is found acceptable, it can be paid within 30 days of the approval of the application from local funds. VDP applicants and facilitators should pay the flat tax or other related levies through the banking system to a domestically controlled account managed by the central bank. The proposed VDP adjudication unit (see Section IV) would only report monthly on reconciliated payments without physically handling the funds.

[15] It should be noted that the information in Annex I relates to case studies and is not included as models of best practice.

Audit of Data Contained in the Voluntary Disclosure Report

Most VDPs protect applicants against repeated audits or misuse by the revenue administration of data on asset portfolios reported through the VDP. Some country examples of special or offshore VDPs stipulated that information provided in the VDP report may not be audited or used against a taxpayer as part of a tax enforcement action. Note, though, that only the assets contained in the VDP report are protected against enforcement actions by the revenue administration, including an in-office audit of computational errors in calculating the asset base. If technical errors or additional asset information must be corrected and reflected in the VDP report, then the individual can amend the respective data but must submit such information in a new voluntary disclosure report within the prescribed VDP deadline. However, the taxpayer should not be able to make "downward" corrections/adjustments, especially if under audit.

III. PRECONDITIONS AND ADHERING TO CORE DESIGN

A. Good Practices in Implementing VDPs

Global experience with VDPs has established several key principles and preconditions for their effective implementation (FATF 2012; Martin and Camarda 2017). Unambiguous legislation and the ability to speedily draft secondary legislation/regulations to find solutions for unforeseen problems will ensure objective and effective administration of the VDP. Enabling legislation should grant the revenue administration the authority to administer the VDP and should specify nondiscretionary program parameters, such as scope, duration, general timing, penalties and interest waivers, applicable levies or fees, payment provisions, confidentiality safeguards, extent of immunity from criminal prosecution or imprisonment, and qualifying taxpayer criteria. Such a solid legal framework should build taxpayers' confidence in the objectives of the VDP, entice taxpayers to declare their undisclosed assets, and guarantee protection against penalization and intrusive tax investigations (KPMG 2015). Box 2 discusses important design considerations of VDPs.

BOX 2. The Do's and Don'ts of Voluntary Disclosure Programs (VDPs)

The do's—features that make a VDP with related tax measures efficacious:

- The VDP should be clear about its goals and scope.
- The program must evidence a cost-effective increase in short-term revenues.
- The adopted VDP must align with the generally applicable compliance and enforcement culture of the tax administration. Although this would need further enhancement in many countries that are currently contemplating a VDP.
- The VDP must specifically improve compliance levels of the target group for which the VDP is intended, and it would need to maintain a credible deterrent against future compliance slippage.
- With its short-term boost to revenues, the VDP must unfold in a generally improving compliance environment across all taxpayer segments and contain measures that improve tax compliance over the medium term.
- Clear and comprehensive legislation and regulations must create taxpayer certainty and guarantees against subsequent recurring tax audits of previously disclosed and hence regularized assets.
- When implementing a VDP, the tax authorities should be adequately resourced and have capacities to deal expeditiously with applications that are commonly complex. Also an advanced data management system should be in place for coping with the influx of taxpayers and for analyzing VDP transactions and information; this system can be used to uncover legal persons who remain outside the tax net.
- Successful VDPs provide a level of protection to facilitators of evasion schemes in a way that the mechanics are disclosed and the revenue administration can draw lessons on how to tackle such schemes in the future.
- VDPs must be an integral part of wider voluntary compliance and enforcement strategies, as a VDP alone can never be effective in inducing taxpayers to honestly declare

unreported income. Previously delinquent taxpayers also should be incentivized by the heightened probability of detection through new enforcement capabilities and strategies. Compliant taxpayers will be reassured if governments also effectively ramp up their efforts to prosecute tax offenders.

- VDPs with asset repatriation involve multiple countries with dispersed information where asset and portfolio investments are held, and administrations should be ready for this complex exercise. This effort complicates the verification task for financial institutions and the authorities. Recent progress with automatic exchange of information (AEOI) strengthens enforcement, and taxpayers seeking to conceal their wealth can no longer hide from tax authorities and simultaneously benefit from a secure investment environment.
- To protect against abuse of the offered VDP, the authorities should put in place all-embracing arrangements for mutual legal assistance, exchange of information, and prosecutions. This tactic should also include asset recovery investigations and proceedings, where applications were unsuccessful (FATF 2012). The AEOI standard reduces the scope of tax evasion, enables the discovery of undetected tax evasion, and, if fully implemented, should make VDPs redundant.
- The "window" for application should be long enough to allow for some approvals to be granted before the end of the application period. This "spreads the word" about the credibility of the VDP (no negative consequences for applicants owing to the submission of applications).

The don'ts

- Do not repeat the VDP; rather, begin to enforce the tax and other relevant legislation to the full letter of the law.
- Do not repeat the VDP; but present it as a limited-time offer, which deters delinquent taxpayers from putting off participation/waiting for a similar or extended program in the future.
- Include the basic feature and conditions in the law but leave details to administrative regulations that can be quickly drafted and published in the government gazette. The same applies to the administrative functioning of the unit dealing with VDP applications—in the interest of time-effective processing, administrative practices may need to be adjusted at short notice.
- Do not create a complex system. The taxpayer should be able to calculate, with a degree of certainty, the amount of tax/penalties/interest owed.

SOURCES: OECD 2007, 2010, 2015; and Explanatory Memorandum on the South African Exchange Control Amnesty and Amendment of Taxation Laws Bill 2003 (the bill was promulgated as Act 12 of 2003).

B. Compliance with AML/CFT International Standards

Before a VDP is considered, countries should have an effective AML/CFT framework in place, which is often not the case for low- and medium-capacity countries. As payment of taxes is one of the established typologies for money laundering, VDPs also have the potential to be abused by criminals for the purpose of legitimizing illicit funds and, as a result, present increased ML/FT risks. To mitigate these risks, an established and effective AML/CFT framework (including the tight application of AML/CFT preventive measures) must be in place before such a program can be launched. In addition, a strong enforcement framework is a critical feature of an effective AML/CFT program, and countries that do not already have this in place should not consider a VDP in the first place, because they will not be able to manage the VDP effectively—let alone have a better system in place after the VDP. In practice, this means that countries with weaker AML/CFT systems and high levels of economic crimes would find it difficult to put in place a VDP and be able to convince FATF or a FATF-style regional body (FSRB) that the country is able to mitigate the ML/FT risks of the VDP. FATF gray listing[16] can be an indicator of a weaker AML/CFT system, but ultimately the effectiveness of an AML/CFT is reflected in the comprehensive assessment report, which should consider compliance levels with specific recommendations, including jurisdictional risks, that are relevant in the context of a country.

It is imperative that any VDP that facilitates the legalization of the taxpayer's situation vis-à-vis assets that were previously unreported or incorrectly reported is fully aligned with the FATF best practices, which set out FATF's policy on how to comply with international AML/CFT standards. The four key principles are as follows: (1) the effective application of AML/CFT preventative measures is a prerequisite for addressing and mitigating the money laundering and terrorist financing risks; (2) the VDP cannot allow for full or partial exemptions from AML/CFT requirements; (3) relevant domestic competent authorities must be able to coordinate and cooperate, and exchange information, as appropriate; and (4) the widest possible range of mutual legal assistance and exchange of information in ML/FT investigations, prosecutions, and related proceedings (including asset recovery investigations and proceedings) should be provided. All countries should submit the VDPs to FATF or to their FSRB for a review, to ensure that the program complies with the international AML/CFT standards and take actions to address concerns flagged by such review.

The design or implementation of the VDP must not allow for full or partial exemptions from AML/CFT requirements. Due diligence must be carried out for all applicants who repatriate or declare assets, along with the identification of the beneficial owner of the account into which the assets are repatriated. In addition, the following steps/measures should be implemented: (1) repatriated or declared assets are deposited with a financial institution that is subject to AML/CFT requirements; (2) assets coming from countries that do not adequately apply the FATF recommendations are given particular attention; (3) the authorities raise awareness among financial institutions on the potential for abuse and the ML risks in the VDP; and (4) any documents or statements issued by the competent authorities in relation to the VDP are not official endorsements that the assets involved are of legitimate origin.[17]

For the purposes of the offshore or special VDP—with or without asset repatriation—domestic and international coordination between the domestic and foreign tax authorities is crucial. First, the tax authorities launching the VDP should receive sufficient investigative powers to trace the origin of assets domestically or refer such investigation to competent authorities in the jurisdiction where said assets are located. Second, mechanisms should exist that would allow for effective information sharing on taxpayers and their repatriated assets. Finally, countries from which assets are being repatriated should provide full cooperation with the authorities of the VDP jurisdiction.

[16] Not all countries with fundamental AML/CFT shortcomings will be subject to gray listing, especially not countries with smaller economies.

[17] See FATF Best Practices, Principle 1: Effective application of AML/CFT preventive measures.

Improved Deterrents against Attempts of Laundering Proceeds from Crime

The VDP adjudication body (see Section IV) must have enough investigative powers or capacity to verify the source of the assets. As for the modalities used to investigate applications for money laundering risks, assurances must be provided that the tax administration or the VDP adjudication body will have its own adequate investigative powers to verify the origin of assets or, alternatively, can delegate this function to the criminal investigation branches of government. In addition, close coordination arrangement is needed with (other) law enforcement agencies and the financial intelligence unit (FIU). A centralized unit in the FIU to check all declared funds for ML/FT suspicion is also useful.

Domestic and international coordination and cooperation are key to preventing abuse of the VDP by money launderers, terrorist financiers, and other criminals. A VDP may affect several authorities at the domestic level, including tax authorities, the FIU, law enforcement, supervisory authorities, prosecutorial authorities, and customs agencies. So, it is important to ensure that all relevant domestic authorities are able to coordinate and cooperate, as appropriate, with a view to detecting, investigating, and prosecuting any ML/FT abuse of the program. If included in the VDP, asset repatriation, by its nature, affects more than one country; therefore, a framework should be in place to provide the widest possible range of mutual legal assistance and exchange of information to mitigate these risks and ensure that any related ML/FT activity is effectively investigated and prosecuted.[18]

In VDP design, certain restrictions can be included in order to reduce exposure to ML/FT risk. Depending on the country, certain measures could be included—for example, the prohibition of PEPs as applicants for the VDP—or more stringent, enhanced due diligence measures could apply for PEPs (beyond those that the jurisdiction ordinarily carries out for PEPs) who make use of VDPs, including obligatory reporting (to the domestic and country of asset origin FIUs) or publication requirements. To reduce the attractiveness of tax residence for laundering proceeds of crime, particularly foreign, after the announcement of the VDP, the authorities can limit the eligibility of VDP applicants to legal entities and individuals who are resident for tax purposes of the country as of a date predating the announcement of the VDP. The necessary measures/restrictions should be based on the ML/FT risk and should take into account concerns regarding equality before law.

Liability for Attempts of Concealing Proceeds from Crime

Investigation of VDP applications and forfeiture of related assets and paid VDP flat tax for failure to provide the required AML/CFT information or satisfy AML/CFT requirements can act as a deterrent for criminals seeking to misuse the VDP to conceal the proceeds of crime. Failure to provide required AML/CFT information and/or satisfy AML/CFT requirements may be grounds for suspicion of ML/FT; where this is the case and where such a suspicion is formed, the suspicion should be further investigated and, where applicable, raised with the relevant authorities (per the requirements in the jurisdiction). Credibly threatening to apply preventive measures and initiate a criminal investigation can deter criminals seeking to misuse the VDP to conceal the proceeds of crime. A clause could also be included whereby the VDP substituting flat tax (in lieu of standard taxes) is forfeited where there is a failure to provide the required AML/CFT information (for example, information on

[18] FATF Best Practices: Principles 3 and 4.

the source of foreign assets) or satisfy AML/CFT requirements in addition to the potential imposition of other penalties, including the forfeiture of the assets themselves if they are found to have been obtained illegally.

The primary and secondary VDP legislation must provide that proceeds from crime and bribes cannot be regularized. In the event such criminal proceeds are identified, state guarantees offered by the VDP are neither enforceable nor applicable. Put another way, filing a one-time declaration and payment of the respective VDP flat tax cannot legalize proceeds or assets acquired by criminal means. If it is suspected or proved that the applicant's declared income or assets are proceeds of crime, then the regular criminal provisions apply, the criminal should be investigated and prosecuted for the predicate offense and money laundering, and the assets seized either as proceeds or as instrumentalities of a crime.

IV. PROCEDURAL AND ADMINISTRATIVE MATTERS

A. A Central *VDP Adjudication Unit*

Inherent risks, such as taxpayers abusing the VDP for ML and continued tax evasion, can be mitigated through proper planning and organization. The South African VDP of 2003 prioritized this effort, in that a dedicated adjudication unit, staffed by experts in investigations and audit, was assigned the task of running the VDP with associated tax measures. Given VDPs' commonly short window of opportunity to declare assets (typically six to nine months), large volumes of transactions may be declared that can overwhelm financial institutions, the FIU, the tax administration, and other competent authorities. These administrative institutions would need to apply proper verification processes in terms of AML/CFT measures. Indeed, an effective AML/CFT framework—one where financial institutions are equipped to monitor transactions and distinguish ordinary ones from those related to the VDP—is essential.

Hence, a VDP could benefit from a centralized adjudication unit for processing the applications (but not for AML/CFT, which remains a separate regime). An independent chairperson (for example, a retired judge) could be appointed, though the unit should contain personnel from both the financial intelligence office and the tax administration. The unit could terminate after processing all successful VDP applications and after all unsuccessful applicants have exhausted their appeals. The VDP legislation or regulation providing for the operation of this suggested adjudication unit should provide for quorum arrangements of decision-making officials from the two institutions. One approach to processing voluntary disclosure applications could be that all applications must be submitted for consideration by all unit members at a full unit meeting (effectively guarding against corruption through single discretionary decision making). Because this approach slows down the adjudication process, quorum arrangements may be more efficacious, whereby applications are considered by teams of two adjudicators, comprising one person from the FIU and one person from the tax administration. All declined or appealed applications will still be considered at full unit meetings despite the quorum arrangements. Note that the AML/CFT framework should operate independently and separately from any other administrative decision-making processes, even if AML/CFT considerations should feed into these processes. Annex III shares some important practical administrative lessons from the South African VDP (see Rossouw 2006). The VDP unit, in the case of South Africa, reported via the revenue authority to the minister of finance.

Ensuring confidentiality is important in particular for offshore VDPs with asset repatriation programs, because taxpayers want to avoid reputational damage and need guarantees that their disclosed offshore financial affairs will not trigger repeated audit investigations by tax administrations.[19] Information about VDP applicants should be carefully managed as it may secure future

[19] According to the 2015 OECD Update on VDPs (p. 8), "Taxpayers are also concerned about the confidentiality of the information that is provided, both because of the reputational damage that might result from any publicity and for reasons of personal security. Taxpayers want reassurance that the financial terms on which their liabilities will be settled will not be prohibitive. They also want reassurance that once the disclosure is complete, they will not be unduly targeted for enhanced scrutiny in the future." Issues of confidentiality and use of information disclosed should therefore be based on legal obligation and the laws of a country and should not be guided by discretions or verbal commitments by officials. In countries where adherence to confidentiality standards is a concern, practical solutions were adopted in some VDPs such as strictly limiting access to provided information in VDP applications to designated tax officials who can protect the information

compliance; hence, officials handling the VDP should operate in line with special tax secrecy provisions for officials assigned to the proposed VDP adjudication unit. The suggested unit, centralized without any regional branches, could be a guarantor against repeated tax audits by making only successful applications and their underlying data available to the tax administration so that applicants receive their desired VDP protection. With this in mind, all VDP applications (files) should be stored physically and/or electronically in the adjudication unit's central filing facility and stored under access control of the unit. Furthermore, the unit should provide aggregate information about the VDP's progress to the minister of finance and parliament and/or make this information publicly available without disclosing individual taxpayer identities; this approach will ensure that the VDP is conducted in a transparent and accountable way, while shielding taxpayer identities from public disclosure.

International AML/CFT standards prohibit such secrecy or confidentiality provisions to impede on the AML/CFT system. Hence, all information must be reportable by financial institutions and government authorities, including the tax authorities, to other competent authorities, including the FIU, domestically and internationally. This includes the normal requirement that applicants must be able to disclose their participation in the VDP to their banks (at a minimum when asked by the bank to explain a transaction), and another requirement that banks report to the FIU all confirmed and possible/suspected transactions related to the VDP.[20] This also includes the application of other regular AML/CFT requirements, such as the need for banks to understand and establish PEP applicants' source of wealth and of funds.

B. Valuation of Assets

VDP applicants must include in a disclosure report any assets for which they seek immunity. Furthermore, they may—or may not—be obligated to value the disclosed assets, although it is common that VDP applicants must self-assess the base for the VDP flat tax calculation of the disclosed asset(s). Although not all VDPs require it, VDP applicants must accurately value their assets and pay taxes owed with the view to securing immunity against further taxes and penalties. In terms of immunity for foreign assets that are held in violation of a respective country's exchange control regulations, the immunity should extend only to disclosed foreign assets. Nondisclosed foreign assets should remain fully subject to potential civil and criminal prosecution.

The reviewed VDPs predominantly rely on a system whereby applicants voluntarily self-assess the base for the VDP flat tax calculation of the disclosed asset(s), if applicable. Applicants should, however, seek to accurately value their assets to secure immunity against future taxes and penalties. Not requiring an expert valuation may hurt both the VDP applicant and the tax administration. For that reason, some VDPs (for example, the South African VDP) require at a set VDP date a statement of assets' market value with a full description of assets' identifying characteristics. Ideally, supporting documents will confirm the asset values. Table 1 presents more information on such documentation.

via special legislative tax secrecy provisions applying to tax officials in the VDP unit. Of course, transparency as to the use of provided VDP information should still be guaranteed and VDP information must be shared among relevant organs of state (that is, the FIU).

20 FATF Recommendations 9, 10, and 20.

TABLE 1. Particulars of Asset Types and Required Documents of Proof

TYPE OF [FOREIGN] ASSET	SUPPORTING DOCUMENTS REQUIRED TO CONFIRM VALUE AT A SPECIFIED AMNESTY DECLARATION DATE
Cash	Declaration by applicant providing description and value
Bank accounts, call deposits, term deposits, and any other short-term asset	Declaration describing and valuing asset accompanied by an original or certified copy of statement of account
Listed financial instruments	Statement of account, stating price and value
Unlisted financial instruments	Valuation certificate from a foreign valuator, stating price and value
Fixed property	Valuation certificate from a valuator in, or government of, the relevant country, stating price and value
Foreign insurance policies	Valuation certificate from insurer, stating value
Collective investment schemes	Valuation statement from management company
Intangible assets (for example, copyrights)	Valuation certificate from a valuator in country where asset is located, stating value
Other foreign assets	Declaration by applicant providing description and value

C. Problems with VDP Tax Collections

Multiple practical problems can arise during the collection of amounts assessed under the VDP,[21] but the suggested VDP adjudication unit can manage these issues. Issues arise in VDPs that require discretionary powers by the unit to grant extensions for tax payments. The following are common: (1) death of applicant between the time of the submission of their applications and the adjudication of such applications, resulting in the blocking of such assets for probate purposes; (2) fixed investments that could not be withdrawn within the period permitted for the payment of the tax; (3) executors of deceased estates that could not access foreign assets, owing to insufficient provisions in domestic wills to deal with foreign assets; (4) assets frozen abroad, owing to infrequent previous use by account holders; (5) disputes that may arise about ownership of foreign assets in divorce proceedings instituted after VDP applications had been submitted, but before applications were adjudicated; (6) illiquid assets (for example, real estate) held abroad; (7) incompetence of representatives of applicants, certain foreign banks in transferring funds back to domestic banks in the VDP jurisdiction, domestic authorized banks, or exchange dealers; and (8) withdrawal conditions imposed by foreign banks, inter alia, in terms of disclosure legislation in foreign jurisdictions. Also, rules should exist for refunding VDP tax overpayments. Discretionary powers must be prescribed in legislation, along with a transparent procedure for administering the VDP.

D. Public Awareness and Reporting Obligations

A well-designed legal framework must be complemented by a clear communication of the rationale and the key features of the VDP. Without clarity on the VDP objectives, the types of taxpayers being targeted, and the costs and risks of nonparticipation by delinquent taxpayers, the entire effort could be undermined and simultaneously erode compliant taxpayers' trust in the tax system. Furthermore, transparency of the general use of public resources, which underpins the confidence of taxpayers in the tax system and administration, is necessary to establish this trust. Also, public awareness should be a constant goal. This awareness can be achieved via media coverage of the unit's activities; this

[21] Taxes, including a VDP flat tax, penalties, and interest.

coverage (for example, frequently asked questions in a weekend newspaper, participation in radio and TV programs) also provides an opportunity to explain VDP procedures during the period in which taxpayers submit applications.

A successful VDP is built on transparency, which must be maintained throughout the program. The VDP unit should prepare monthly reports with updated statistics on progress with adjudication of applications, unauthorized assets disclosure, VDP flat tax imposition, and the amount of receipts and accruals disclosed from foreign sources. Exemptions granted to applicants may need to be explained to foreign jurisdictions, as developed economies have increased compliance requirements for financial institutions.

There must be credible and effective ongoing audit and enforcement efforts by the tax authority. Delinquent taxpayers will not be inclined to participate in the VDP if there is no reasonable chance of being caught for previous noncompliance. These conditions are absolutely essential—and missing from many tax administrations in low-income developing and emerging countries. The VDP should be well publicized so that taxpayers are aware of the opportunities and advantages thereunder, as well as of the consequences of not participating.

A credible threat needs to be ensured that VDP non-participants will be effectively and firmly dealt with. The establishment of a follow-up investigation task force, for example, can send this message. A key element in any successful VDP is the perception of the tax authority's capacity and willingness to follow up after the VDP deadline with more rigorous investigation and enforcement action against nonparticipants. Tax administrations should announce in advance the disclosure deadline of the establishment of a dedicated follow-up investigation task force, as this announcement would help bolster the credibility of any likely negative consequences of not coming forward. A credible threat that VDP nonparticipants will face stricter enforcement, requires a comprehensive communication strategy that highlights the "threats" following the VDP's expiration (for example, EOI and enhanced audits/penalties). The recent Greek VDP adopted some of these approaches (see Annex II).

E. The Issue of Facilitators

Few of the reviewed VDPs seem to address the role of tax practitioners and facilitators,[22] whose participation could be quite important for securing a successful VDP. However, experience suggests that advisors and facilitators need some level of protection. It is likely that advisors and facilitators may attempt to dissuade applicants from coming forward out of fear that an applicant's request for VDP approval will lead to the prosecution of these advisors and facilitators. The authorities reviewing the VDP should not force an applicant to disclose the identity of any party who assisted in a foreign exchange or tax violation (see Box 3 for Italian VDP safeguards to facilitators).

[22] Some VDPs specify that any party or resources that assisted with the assets' acquisition need not be revealed.

BOX 3. The Italian Voluntary Disclosure Program (VDP): Safeguards for Tax Advisors/Facilitators

A taxpayer interested in applying for the VDP must engage a tax professional who carries out a preliminary analysis of the taxpayer's position. In this preliminary phase, the role of the tax advisor will consist of providing the taxpayer with a thorough overview of his or her violations, calculating an estimate of the taxes due, quantifying the potential penalty reduction, and verifying whether the VDP will protect the taxpayer against possible criminal penalties. The taxpayer should provide the tax advisor with a duly signed declaration wherein the taxpayer guarantees that the acts or documents made available in respect of the VDP are not false and that any information given is true. This aims to avoid implicating the advisor in respect of any new crime committed by the taxpayer as a result of providing false documents to the authorities or committing unlawful acts during the VDP.

Liability of tax advisors who assisted the applicant taxpayer in carrying out the transactions that led to the creation of the foreign assets that are the object of the VDP: Such policies or legal provisions not to prosecute third parties cannot extend to the crimes of money laundering and use of money, goods, or by-products of an unlawful origin (Mastellone 2015).

V. CONCLUSIONS

A well-functioning tax on capital or assets requires taxpayers to truthfully report information about their income and assets. Evasion risks loom large when reliable third-party information is insufficient. This raises the question of whether, under certain circumstances, a VDP might be desirable for a government seeking to improve tax compliance and boost revenue.

In certain circumstances, a well-designed VDP can help grow the tax base and offer delinquent taxpayers a clean slate. The main purpose of a VDP is to allow taxpayers to come forward and "regularize" financial or physical assets, including but not exclusively, assets held abroad. VDPs, often combined with asset repatriation programs, might offer taxpayers a pathway to address their outstanding tax liabilities for concealed assets and income under some specific circumstances. If properly designed, VDPs allow the tax base to prospectively grow, since the income generated by the regularized assets will hitherto be visible to the local tax authorities, allowing taxpayers to start complying with their tax obligations based on a clean slate. VDPs must comply with AML/CFT international standards, as noncompliance potentially benefits criminals. VDPs should not be repeated, as that creates a problem of time inconsistency and undermines government credibility.

A VDP should be considered only when certain preconditions are met. These include (1) a sufficiently modern tax administration that is equipped with robust information powers (both at the domestic and international level) and modern audit and enforcement tools (for example, establishment of a high-wealth individuals/large taxpayers unit and dedicated risk analysis techniques), and this competence has been demonstrated to the public to ensure there is a credible threat of detection in case of nonparticipation; and (2) an effective AML/CFT framework that is able to mitigate the risks of the VDP.[23] In many low-income and emerging countries, the preconditions for a successful VDP are not met.

VDPs should be administered by a specialized central VDP administrative unit composed of tax practitioners, administrators, and investigators from the financial intelligence authority who can adjudicate applications and protect taxpayers by erasing their application record if they are not successful in receiving immunity for exchange control and tax violations. This unit should regularly monitor and report on the uptake of the VDP, recording progress with asset repatriation (if required) and transparency arrangements, to demonstrate to the taxpaying public that the process is active, that applicants are treated fairly, and that taxpayers can regularize their asset ownership with certainty and at a significantly reduced cost. The VDP should also be accompanied by a comprehensive communications strategy that explains what happens when the VDP expires (for example, EOI and enhanced audits/penalties), the benefits of the VDP, and the risks to delinquent taxpayers who elect not to participate.

[23] Indicators in this regard can be FATF or FSRB assessments and follow-up reports, and relevant ratings from these reports. For example, a country that is subject to FATFs enhanced monitoring, or is in FATF or FSRB enhanced monitoring, may have difficulties establishing the ability to mitigate ML/FT-related VDP risks despite established ML/FT shortcomings. But even countries that have generally good ratings may have crucial weaknesses in their system—for example, if domestic cooperation and information exchange is not sufficient, or if the ML criminalization has shortcomings, including if self-laundering is not criminalized.

The VDP must not grant the taxpayer immunity from investigation, prosecution, or conviction for ML and any predicate offenses, but a legal provision could be included in the VDP to not prosecute persons for tax evasion in relation to declared or repatriated funds or other assets. One of the biggest challenges of VDP administration is ensuring strong domestic and international coordination between relevant stakeholders in order to cooperate and exchange information, as appropriate. In fact, declared assets or fees paid for them should be forfeited if the VDP supervisory authority subsequently establishes that the origin of those assets relates to crimes.[24] VDP legislation could also provide that PEPs should never qualify for immunities granted under the program.

[24] Note that, from a strictly legal perspective, it would only be a criminal court that can establish crime; and any suggestion that this function of a criminal court could be delegated to a special unit is not supported by the IMF's Legal Department since there is the need for a legal basis to do this, even under administrative law.

ANNEX I. CROSS-COUNTRY COMPARISON OF SPECIAL (OFFSHORE) VDPs[1,2]

COUNTRY	DESIGN FEATURES OF SPECIAL VOLUNTARY DISCLOSURE PROGRAMS (VDPs) (also sometimes labeled as *Tax Amnesty*)	REVENUE RESULT[3]
Argentina	Special program on undisclosed foreign currency for fiscal periods, ending December 31, 2012. Payment of taxes, including, where applicable, interests, fines, and related charges that result from the lack of advance payments was exempted. Applicants in carefully defined circumstances were released from criminal prosecution and imprisonment; however, assets had to be repatriated. The Amnesty Program between July 2016 and March 2017 allowed Argentinian assets to be declared and repatriated at special tax rates. Aimed at covering the costs of a pension reparation scheme, the program attracted much attention in the country. The law did not oblige disclosing taxpayers to repatriate their assets and did not apply to assets originating from money laundering, drug trafficking, or terrorist activities. Also, the law denied amnesty for assets held in "High Risk" or "Non-Cooperative Jurisdictions," as classified by FATF. The National Financial Intelligence Unit (FIU) was granted special powers to coordinate information on specific money laundering risks within the amnesty program with other intelligence and investigation units.	Broadening of the tax base by US$100 billion. Revenue collected in taxes and fees stood at US$9 billion, equivalent to 0.45 percent of total revenue collected in 2017.
Australia	Offshore Voluntary Disclosure Initiative (OVDI) for foreign income or capital gains: OVDI – Phase 1 (July 2007–November 2009): • Under the initiative, a shortfall penalty at the rate of 5 percent was payable only where a taxpayer's undisclosed taxable income exceeded $20,000 in any year. • Concessional approach to some interest charges. OVDI – Phase 2 (November 2009–July 2010): • A shortfall penalty at the rate of 10 percent was applied where the adjustment to taxable income was greater than $20,000 in a given income year; otherwise no shortfall penalty was payable. • Concessional approach to some interest charges. • The introduction of an ATO criminal investigation indication (potentially on a no-name basis), where individuals who came forward were given an indication as to whether the ATO was likely to initiate a criminal investigation into the taxpayers' disclosed affairs.	

1 Annex I preserves the original naming of the program—that is, a program is called "tax amnesty" even if it essentially constitutes a VDP.

2 Reporting on these country examples should not be construed that the IMF approves of the adopted tax amnesties or VDPs—much depends on their design and the adherence to AML/CFT provisions.

3 When available.

COUNTRY	DESIGN FEATURES OF SPECIAL VOLUNTARY DISCLOSURE PROGRAMS (VDPs) (also sometimes labeled as *Tax Amnesty*)	REVENUE RESULT
Australia	Project DO IT (March–December 2014) • Assessed tax only for the years during which the standard time limit for amending a tax assessment had not yet expired (generally, the past four income years). • In relation to the taxpayer's own affairs, the information was used only for tax shortfall purposes, meaning information would not be used by the ATO for investigating the taxpayer for the purpose of prosecuting the taxpayer for a criminal offense, or voluntarily provided to another law enforcement agency. • Penalties were capped at 10 percent, with no penalties in years in which the shortfall was $20,000 or less. • Additional certainty was provided in relation to the tax effects of winding up offshore structures and transferring assets to Australian entities.	
Austria	Agreements among Switzerland (2012), Liechtenstein (2013), and Austria on cooperation on taxes and the financial markets (2012): Taxes and interest were fully payable by tax delinquents, but all penalties were waived if taxpayers fully disclosed their offshore financial structures.	
Chile	Extraordinary VDP for assets and income held abroad for period 1 (January 2015–end of December 2015): Taxpayers who voluntarily disclosed attracted a flat tax of 8 percent on the value of declared assets and income. No further interest and monetary penalties applied. Criminal prosecution under AML law was possible. Additional reporting requirements applied without an asset repatriation requirement.	
Denmark	Temporary waiver of penalties for undisclosed funds in foreign accounts (2002–11): Tax and interest were fully payable, but penalties up to 60 percent of the undisclosed amount were waived. Criminal prosecution and imprisonment remained possible.	
France	2013 Special Unit for Correction of Tax Returns, dealing with undisclosed incomes for purposes of income tax, wealth, and inheritance taxes: Taxes and interest are payable in full but the penalty was reduced to a range between 15 percent and 30 percent of unpaid taxes.	
Hungary	Tax Amnesty for "Stability Saving Current Accounts" (2014–January 2017): Under the program, an individual could open an account at a Hungarian bank and deposit an amount of money (minimum of HUF 5 million), which was subsequently considered to be legally earned income. Withdrawing the account balance was tax-free after five years, there were no interest obligations, and a complete waiver of penalties applied. Criminal prosecutions and imprisonment were waived with compulsory asset repatriation.	
Indonesia	Indonesia operated a tax amnesty program from June 2016 until March 2017. The law provided for the elimination of payable taxes, and previously delinquent taxpayers after disclosure were not subject to any administrative or criminal sanctions. The amnesty was not applicable to taxpayers already being investigated or condemned for tax crimes. The "redemption money" was calculated by multiplying the applicable tax rate by the net value of assets not disclosed in the last annual income tax return, with repatriated offshore assets granted a 50 percent lower "redemption rate." Before 2016, the general VDP required tax payment in full for all disclosed income and assets, with the interest rate effectively being reduced.	US$348 billion increase in value of assets declared, or 40 percent of Indonesia's GDP (Nikkei, Asia; November 27, 2017), but the asset repatriation remained unfulfilled because asset repatriation was not obligatory and most overseas assets were in the form of real estate that could not be repatriated.

COUNTRY	DESIGN FEATURES OF SPECIAL VOLUNTARY DISCLOSURE PROGRAMS (VDPs) (also sometimes labeled as *Tax Amnesty*)	REVENUE RESULT
Ireland	2009 Disclosure of Undeclared Taxes in Respect of Trusts and Offshore Structures (assets and funds): Tax and interest were fully payable, but 90 percent of penalties were mitigated in case of qualifying disclosures.	
Italy	Comprehensive 2014 Tax Amnesty with capital repatriation with duration of a year. Two alternatives were available. Under the "analytical method," assets disclosed were taxed at a full rate (taxes were due as if income had been ordinarily declared). Depending on the type of income, the tax rate was 12.5 percent, 20 percent, 27 percent, or 43 percent. Under the "forfeit method," which applied only to foreign assets VDP and to taxpayers with an average bank account balance as of each tax year involved not exceeding €2 million, a 5 percent flat rate applied to the overall value of foreign assets and a 27 percent rate to taxable income. VDP applicants were entitled to significant exemptions on monetary sanctions for undeclared taxes and immunity from prosecution for fiscal crimes. Interest was due on tax arrears, but penalties were minimized—equal to 12.5 percent and 20 percent of unpaid taxes. In addition, participating taxpayers had to declare their name, bank information, and intermediaries to enable authorities to verify the origin of assets. Italy signed with Switzerland, where most of the assets were held, a tax information exchange and anti–tax fraud cooperation agreement. Tax practitioners could prepare a client's VDP, thereby protecting their confidentiality. It was a two-phase process: first, an inventory of assets held in Switzerland was prepared by reconstructing their origin and calculating taxes and penalties. Second, in Italy, arrangements were made to pay taxes and penalties. No bank documents or information identifying the Italian taxpayer were submitted to the Inland Revenue before the client agreed to the VD declaration.	
Latvia	The Law on Declaring Assets and Unreported Income of Natural Persons ("zero declaration" law) of 2011: Applies to real estate purchases in Latvia exceeding EUR14,229; foreign/domestic cash savings, shares, debt securities, and other property exceeding EUR14,229 need to be reported. On disclosure, a lower personal income tax (PIT) rate of 15 percent applies, and full interest and penalties will be waived. No criminal prosecution nor imprisonment is possible.	
Malta	Special regime with reduced tax, interest, and penalties (announced in 2009): Full payment of hitherto undisclosed taxable amount (due date October 31, 2010); the tax liability was reduced by 25 percent, or 20 percent for later payments. Interest and penalties were reduced by 85 percent if full payment was executed on or before the due date.	
The Netherlands	Special program for capital in foreign accounts until January 2010: Full tax and interest payable but 0 percent penalty with no asset repatriation; for foreign income and capital, the period for tax corrections was maximized at 12 years. Special program from January 1 to July 2010; and special program from July 1, 2010, until September 2 2013: Full tax and interest payable but 30 percent penalty. Special program from September 2, 2013, until July 1, 2014: Full tax and interest payable, penalty 0 percent, but after July 1, 2015, penalty escalates to 60 percent—to be contrasted with a 300 percent penalty for involuntary disclosures.	

COUNTRY	DESIGN FEATURES OF SPECIAL VOLUNTARY DISCLOSURE PROGRAMS (VDPs) (also sometimes labeled as *Tax Amnesty*)	REVENUE RESULT
Portugal	Exceptional Regime 1 of Tax Regularization of Assets (special VDP or RERT II): This regime applies to individuals and legal persons for disclosure and regularization of offshore assets (deposits, securities and other financial instruments, investment fund units, and life insurance policies), except those held in noncooperative countries as per the FATF by December 31, 2009. In lieu of a standard tax, a 5 percent flat tax on the value of offshore investments was payable without payment of interest and penalties. Assets located outside the EU and EEA had to be repatriated. Exceptional Regime or RERT III for offshore asset categories as per RERT II as on December 31, 2010, had to be reported by July 13, 2012, and a VDP flat tax of 7.5 percent on the value of assets held outside Portugal was payable—no interest or penalties applied, nor was asset repatriation required.	
South Africa	In 2003, South Africa introduced a "tax amnesty and asset repatriation program" with four objectives: to enable South Africans to regularize their affairs without being prosecuted; to ensure maximum disclosure of foreign assets; to facilitate foreign asset repatriation to South Africa if taxpayers elected to do so; and to expand the tax base by disclosing previously unreported foreign assets (SAICA 2003). Asset repatriation was an option, but very few amnesty applicants used it. The principal aim of the VDP with supporting tax measures was regularization of asset ownership rather than repatriation. At the time, feedback by multilateral financial institutions concluded that this amnesty/VDP could become a benchmark for judging the success of this amnesty/VDP as it achieved its objectives. Three tax rates applied: 10 percent on the value of assets not repatriated, 5 percent on repatriated assets, and 2 percent on the amount of assets held offshore that originated from previously undisclosed income and that through tax structuring were syphoned out of South Africa (nontax crime proceeds were excluded from the program). Penalties and interest were waived. A second VDP for offshore assets and income (as overseen by the Reserve Bank) was implemented from Nov 1, 2010, to October 31, 2011. Tax was payable in full, with differential interest relief. Where no audit/investigation was pending or had commenced, 100 percent relief was granted; however, where an audit/investigation was pending or had already commenced, only 50 percent relief applied. Monetary penalties, criminal prosecution, and imprisonment were waived.	During the nine-month-long period for submission of amnesty applications, foreign assets disclosed amounted to some €7.8 billion. Of this amount, some €2.4 billion comprised exchange-controlled authorized assets, while the balance of about €5.4 billion represented foreign-held assets not previously authorized for exchange control purposes. The VD levies collected amounted to 0.7 percent of tax collections in the 2005/06 tax year and 2.3 percent of personal income tax (PIT) for the same period. In other words, the foreign asset disclosure translated into an annual increase of PIT collections by an estimated €52 million.
Spain	In 2012, the Spanish government approved a special tax declaration regime that was in force between March and November of that year. Spanish taxpayers participating in the program were obliged to fully identify themselves and all the trusts, companies, or any other "hiding" schemes used. The program covered the unpaid income taxes of the previous four years and a reduced tax rate of 10 percent on the value of the declared assets applied for both individuals and companies. In addition, interest and penalties were waived and criminal prosecution immunity granted. The special program did not introduce mandatory repatriation of assets.	About €1.2 billion in revenue from the special tax declaration, plus an additional €350 million in revenue from other taxes indirectly increased by newly declared assets. The additional revenue amounted to 0.3 percent of total revenue in 2012. The program was a partial failure, as the short-term increase in revenue was €1.2 billion below government projections.

COUNTRY	DESIGN FEATURES OF SPECIAL VOLUNTARY DISCLOSURE PROGRAMS (VDPs) (also sometimes labeled as *Tax Amnesty*)	REVENUE RESULT
Switzerland	Special VDP to allow heirs to disclose untaxed funds having belonged to the deceased taxpayer (the latter being the tax delinquent): Tax and interest are payable only for three years, whereas the prescription period is 10 years and there are no penalties because of the delinquent party's death.	
United Kingdom	New disclosure opportunity, or special VDP, relating to an offshore account or asset: For the period of September 1, 2009, to January 4, 2010, tax and interest were payable in full but penalties were reduced to 10 percent of unpaid taxes if unpaid taxes did not exceed £1,000 and 20 percent if the offshore disclosure facility was being accessed. Under the Liechtenstein VDP (September 1 through April 5, 2016), investments or asset ownership could be regularized, waiving all taxes and interest up to April 1, 2009, but thereafter a normal tax of 40 percent; the penalty up to April 1, 2009, was limited to 10 percent, with higher 20 percent penalties thereafter. Under the Isle of Man, Guernsey, Jersey, or Crown Dependency VDPs (April 2013 to September 30, 2016), all tax liabilities prior to April 1, 2009, were waived; penalties were maintained at the lowest applicable rate of 20 percent of tax.	
United States	The general VDP attracts full tax and interest, but penalties may be abated case by case with probably no criminal prosecution. 2012–2014 Offshore VDP (OVDP) for undisclosed offshore account: Full tax and interest and multiple penalties are rolled into the miscellaneous offshore penalty as a fixed percentage of the highest aggregate balance in offshore acct of 20 percent to 27.5 percent. There would be no criminal prosecution or imprisonment. 2014 streamlined filing compliance to report foreign financial assets: Full tax and interest payable and miscellaneous offshore penalty is payable of 5 percent of highest aggregate balance. There may be imprisonment but uncertain. 2012 OVDP as third special VDP with full tax and interest payable and imposition of the miscellaneous offshore penalty with rates of 20 percent, 25 percent and 27.5 percent, depending on the program.	

Sources: Agencia Tributaria 2012; Martin and Camarda 2017; OECD 2010, 2015; and Transparency International 2017.

ANNEX II. THE GREEK VOLUNTARY DISCLOSURE PROGRAM (VDP)

A. Key Design Features

Overview

- After a (rather unsuccessful) tax amnesty asset repatriation scheme in 2010, a VDP was introduced in December 2016 for undeclared income and assets of previous years. The VDP initially applied until end of May 2017 and was subsequently extended until the end of November 2017.
- The VDP did not amount to a tax amnesty and instead required the payment of taxes for undeclared income or assets based on the tax rates applicable on the year of the original tax liability. Repatriation of assets was optional.
- The VDP was basically advertised as a favorable regime for late filing of initial or amending tax returns. There was no special application for entrance into the program; standard tax returns were filed.

Scope

- Taxpayers (both individuals and legal entities) who had not filed tax returns or filed inaccurate tax returns for all taxes, duties, or levies and for whom (1) no audit order had been notified, (2) an audit order had already been notified, and (3) a temporary corrective tax assessment (after initial audit findings) had been notified.
- Non-Greek entities with Greek beneficial owners were not eligible.
- Submission of tax returns was possible regardless of the statute of limitations period.

Exclusions

- Cases in which a final corrective (after-audit) tax assessment had been issued until December 12, 2016 (entry in force of the VDP law).
- Ineligible tax returns: (1) returns filed under reservations, (2) returns that would result in refunds, and (3) income tax returns declaring losses in the respective tax year.
- Amounts deriving from criminal activities (explicit reference to AML legislation), except for tax evasion as an underlying AML offense.
- Politically exposed persons at any time in the past and their close relatives.

Incentives Provided

- Significantly reduced fines (which were 60 percent–120 percent of the main tax for tax years until 2014 and 50 percent for tax years from 2014 onward): 8 percent through 36 percent of main tax, depending on how soon the taxpayer entered the program and whether an audit order had been issued. Interest was paid in full, where applicable (not applicable to tax liabilities until 2014).

- No other administrative and/or criminal penalties were triggered for tax evasion, including prosecution for tax evasion as a predicating ML offense.
- Any enforcement measures were withdrawn.
- Entrance into the VDPs did not constitute an audit risk-management criterion.

Procedure

- Standard tax returns were filed in the local tax offices; no special VDP administration was created.
- Supporting documentation was required, in line with requirements applicable at the time of the initial filing obligation. In the absence of supporting documentation, any other available evidence or supporting material could be submitted.
- Possibility to file information/reporting returns (for example, real estate ownership returns that are used as a basis for the calculation of property taxes).
- The total tax liability was payable within 30 days from the submission of the tax return.
- Very limited possibilities to correct a tax return filed under the program—no possibility of refunds of set-offs against other tax liabilities.
- The taxpayer could benefit from available debt settlement programs (for up to 24 installments).

B. Aspects of the Greek VDP Legislation That Were Difficult to Implement

- The system was very complex and hence very difficult to administer. The calculation of the tax liability was burdensome, as there were various rates for various types of taxes to be applied. Endless calculation tables were devised, and consecutive circulars were issued, with several illustrative examples, to make the system administrable for the tax officers who were receiving the tax returns and calculating the tax liability.
- Identifying the year when the tax liability was generated and determining the exact nature of the income, to apply the correct tax rates for the corresponding year, was challenging. Tax returns had to be accompanied by supporting documentation in line with the requirements applicable at the time of the initial filing obligation. This requirement created additional difficulty, as taxpayers could not provide the necessary documentation in all cases. The problem was solved by eventually allowing the submission of any other relevant evidence or material, in the absence of the required supporting documentation.
- E-filing and e-assessment were not possible due to the complexity of the system as well as the limited IT capacity of the Greek tax administration. All tax returns had to be filed in paper form and the assessment had to be completed manually. This effort led to great delays in tax assessment; it was finally resolved by forming VDP assessment teams within the local tax offices.
- Initially, there was no possibility to correct a tax return filed under the program. That situation created all sorts of problems with real estate ownership information returns, which sometimes had to be amended for corrections in the property description to match the property transfer deed. Because this effort led to significant blockages in real estate property transfers, the law was subsequently amended to allow for correcting tax returns in these cases.

C. Lessons from the Greek VDP

- A good communication strategy is key. The program attracted much attention in the country. It was widely advertised as the last opportunity for tax evaders to come clean in a far-ranging publicity campaign, which was developed as a joint initiative of the minister of finance, the tax administration, and the anti-corruption authority.
- The threat must be credible. The combination of the VDP with a highly visible crackdown on tax evasion made the program an effective instrument. The Greek tax administration's information powers as well as audit capabilities (new risk-management system) had already been enhanced after the introduction of the new tax procedures code in 2014. In parallel, the tax administration was prominently advertising a newly developed system for the cross-matching of bank accounts with tax returns of approximately 1,270,000 taxpayers located throughout the so-called evasion lists (lists of individuals' foreign bank accounts for the years 2002–14) obtained through various foreign sources. Also, Greece was in the process of implementing the EU and international framework on exchange of information, with various legislative acts adopted within the first months of 2017. Finally, taxpayers under audit received letters notifying them about deadlines for entrance to the program, which confirmed that the audit was "after them."
- Simplicity is efficiency. The complex system of calculations could not be supported by the development of an IT system in the tight deadlines provided. The tax assessment was performed manually, thus posing a huge administrative burden for the already stretched tax administration.
- Collection should be swift. The possibility for installments posed high risks for collection, and some taxpayers were excluded from the program for not following up on their payment obligations—the law provided for the reversal of the offered incentives in this case.

ANNEX III. ADMINISTRATIVE LESSONS FROM SOUTH AFRICAN OFFSHORE VOLUNTARY DISCLOSURE PROGRAM (VDP)

Some of the aspects of the South African Offshore VDP that were found to be impractical and impeded the effective functioning of the VDP unit were the following:

- The initial application period was too tight, as many applicants had to obtain the required documents themselves. This period was subsequently extended, which was beneficial in the following ways:
    - Some approvals of VDP were granted, and applicants received amnesty as promised without any negative consequences for them. Word spread, enticing more people to apply. So, if applications remain open once initial approvals are granted, more VDP applications will come. News that the VDP administration supporting tax measures was reasonable helped spread the word that the process is fair, and prospective applicants developed the necessary trust in the system.
    - More than half of all the 43,000 applications were received in the last week of the VDP period, including the final day (Sunday) until midnight.
- Thus, it is important to allow the assigned VDP administration through its actions to earn the confidence of the public.
- The legislation as promulgated made no provision for individual staff members to consider applications; initially, each application therefore had to be considered in a full unit meeting with all unit members attending. This process was untenable and very slow. The matter was subsequently amended, with each application thereafter considered by a two-person team comprising a representative of the South Africa Reserve Bank (SARB) and the SA Revenue Service.
- The stipulated payment period of three to six months was problematic. Three months were simply too short and even six months became challenging. A period should be provided in legislation, but the unit should have the discretionary power to extend it if informed by objective criteria or facts. For example, banks make serious mistakes—to the detriment of VDP applications. According to legislation, these mistakes could have meant that applicants lost their "amnesty" status, owing to nonpayment or because of incorrect payment by banks. So, it is important that all applications must be processed within the time set aside for the VDP; however, an extended VDP period of 10 to 12 months may be necessary. Due diligence and verification of asset registers are time-consuming efforts, especially since they involve data sharing and coordination with competent authorities in other tax jurisdictions.
- Refund provisions for paid fees and applications were problematic. Initially no one expected refund requests, but these related to observed errors by financial intermediaries (for example, banks).
- Applicants' refund requests raised suspicion among VDP unit members, who considered a refund from the SA Reserve Bank to be vulnerable to money laundering risks. However, applications could show, for instance, that banks paid the same amount twice to the adjudication unit. Experience indicated that refund requests were never for large amounts; they merely pointed to banks' clerical errors.

- Initially, only individuals, not companies or trusts, could apply for the VDP. This rule was too limiting, especially where personal affairs of applications were intertwined with private companies or trusts. Planning for a more general VDP would have taken longer but would have worked better.
- It was necessary to issue provisional and final letters to applicants, with provisional letters stating the VDP application is to be finalized once the VDP levy payment is received. These letters stated that "amnesty" was granted only based on the disclosure made by applicants in respect of the original sources of funds that led to the creation of foreign assets; however, this stipulation resulted in many complex administrative requirements.
- In 2003, digital capacity was underdeveloped and at the time, VDP applications were paper based. In practice, 43,000 applications had to be filed and locked away. Hence, any VDP approval should be electronic, rather than paper based, with a system that generates electronic response letters and other correspondence.
- Taxpayers who were already under investigation by the exchange control department of the SARB could not qualify for the VDP. This situation became an administrative hurdle, as exchange control records were inadequate, with missing names of listed investigation targets when reported to the adjudication unit. A further complication was that the SARB exchange control department could continue issuing letters of investigation without verifying that investigation targets may already have filed a VDP application. So, some taxpayers submitted VDP applications and then received letters of investigation, unrelated to their applications, which led to some suspicion and threatened the uptake ratio of the VDP. With hindsight, the administrators felt that the VDP should therefore cover people under investigation or potentially under investigation.
- Owing to the volume of applications, the unit existed much longer than initially envisaged—and hence, the advice is to provide for a say 10-month period for submission of VDP applications but extend the duration of the VDP unit's review, adjudication of applications, and audit of VDP flat tax payments for more than a year.

Note that the South Africa VDP of 2003 predates FATF's policy; hence, the policy was never reviewed by FATF or by the Eastern and Southern Africa Anti-Money Laundering Group, the relevant regional body of which South Africa is also a member. Such a review by the FATF or the regional body is a current requirement of FATF, to ensure that countries comply with the international AML/CFT standards. Therefore, countries that copy the 2003 South Africa VDP model may not receive a stamp of approval by FATF.

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