

GLOBAL FORUM ON TRANSPARENCY AND EXCHANGE
OF INFORMATION FOR TAX PURPOSES

Peer Review Report
Phase 1
Legal and Regulatory Framework

TUNISIA



Global Forum on Transparency and Exchange of Information for Tax Purposes Peer Reviews: Tunisia 2016

PHASE 1: LEGAL AND REGULATORY FRAMEWORK

March 2016
(reflecting the legal and regulatory framework
as at January 2015)

This work is published on the responsibility of the Secretary-General of the OECD. The opinions expressed and arguments employed herein do not necessarily reflect the official views of the OECD or of the governments of its member countries or those of the Global Forum on Transparency and Exchange of Information for Tax Purposes.

This document and any map included herein are without prejudice to the status of or sovereignty over any territory, to the delimitation of international frontiers and boundaries and to the name of any territory, city or area.

Please cite this publication as:

OECD (2016), *Global Forum on Transparency and Exchange of Information for Tax Purposes Peer Reviews: Tunisia 2016: Phase 1: Legal and Regulatory Framework*, OECD Publishing.
<http://dx.doi.org/10.1787/9789264250697-en>

ISBN 978-92-64-25068-0 (print)
ISBN 978-92-64-25069-7 (PDF)

Series: Global Forum on Transparency and Exchange of Information for Tax Purposes Peer Reviews
ISSN 2219-4681 (print)
ISSN 2219-469X (online)

Corrigenda to OECD publications may be found on line at: www.oecd.org/publishing/corrigenda.

© OECD 2016

You can copy, download or print OECD content for your own use, and you can include excerpts from OECD publications, databases and multimedia products in your own documents, presentations, blogs, websites and teaching materials, provided that suitable acknowledgment of OECD as source and copyright owner is given. All requests for public or commercial use and translation rights should be submitted to rights@oecd.org. Requests for permission to photocopy portions of this material for public or commercial use shall be addressed directly to the Copyright Clearance Center (CCC) at info@copyright.com or the Centre français d'exploitation du droit de copie (CFC) at contact@cfcopies.com.

Table of Contents

About the Global Forum	5
List of abbreviations	7
Executive summary	9
Introduction	13
Information and methodology used for the peer review of Tunisia	13
Overview of Tunisia	14
Compliance with the Standards	19
A. Availability of information.	19
Overview	19
A.1. Ownership and Identity Information	20
A.2. Accounting records	38
A.3. Banking information	43
B. Access to information	49
Overview	49
B.1. Competent authority’s ability to obtain and provide information	50
B.2. Notification requirements and rights and safeguards.	62
C. Exchange of information	63
Overview	63
C.1. Exchange-of-information mechanisms	64
C.2. Mechanisms for exchanging information with all relevant partners	70
C.3. Confidentiality	71
C.4. Rights and safeguards of taxpayers and third parties.	73
C.5. Speed of response to requests for information	74

Summary of determinations and factors underlying recommendations	75
Annex 1: Jurisdiction’s response to the review report	77
Annex 2: List of all exchange of information mechanisms in force.	78
Annex 3 : List of all laws, regulations and other relevant material	84

About the Global Forum

The Global Forum on Transparency and Exchange of Information for Tax Purposes is the multilateral framework within which work in the area of tax transparency and exchange of information is carried out by over 130 jurisdictions, which participate in the Global Forum on an equal footing.

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

The standards provide for international exchange on request of foreseeably relevant information for the administration or enforcement of the domestic tax laws of a requesting party. Fishing expeditions are not authorised but all foreseeably relevant information must be provided, including bank information and information held by fiduciaries, regardless of the existence of a domestic tax interest or the application of a dual criminality standard.

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

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

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

List of abbreviations

AML/CFT	Anti-Money Laundering and Countering the Financing of Terrorism
AM/CFT Law	Law no. 2015-26 of 7 August 2015 (AML/CFT Law) concerning efforts to combat financing of terrorism and prevent money laundering
API	<i>Agence de Promotion de l'Industrie</i> , Agency for the promotion of industry
BCT	<i>Banque Centrale de Tunisie</i> , Tunisian Central Bank
CGA	<i>Comité générale des assurances</i> , General Insurance Committee
CMF	<i>Conseil du marché financier</i> , Financial Market Council
CII	<i>Code d'Incitation aux Investissements</i> , Investment Incentive Code
CIRPPIS	<i>Code de l'Impôt sur le Revenu des Personnes Physiques et de l'Impôt sur les Sociétés</i> , Tax Code on Revenue of Natural Persons and Companies
CDPF	<i>Code des Droits et Procédures Fiscaux</i> , Code of Tax Rights and Procedures
Commercial register law	Law no. 95-44 of 2 May 1995 on the commercial register
CSC	<i>Code des Sociétés Commerciales</i> , Commercial Company Code
DTC	Double Tax Convention
EOI	Exchange of Information
EOIR	Exchange of Information on request

Finance Law for 2016	Law no. 2015-53 of 25 December 2015 on the Finance Law for 2016 published in the Official Gazette no 104 of 29 December 2015
SA	<i>Société anonyme</i> , joint stock company
SARL	<i>Société à responsabilité limitée</i> , limited liability company

Executive summary

1. The present report summarises Tunisia’s legal and regulatory framework for transparency and exchange of information. The international standard, which is set out in the Global Forum’s Terms of Reference to Monitor and Review Progress Towards Transparency and Exchange of Information, is concerned with the availability of relevant information in a given jurisdiction, the competent authority’s ability to access this information rapidly and whether this information can be effectively exchanged with its exchange of information partners.

2. The Tunisian legal framework is generally in line with the international standard of exchange of information on request (EOIR).

3. In Tunisian law, the information concerning the ownership of companies, partnerships and other relevant entities and arrangements is available as follows:

- Information on ownership of Tunisian companies divided by shares is available on incorporation and on registration in the commercial register. Ownership information is updated with the commercial register upon transfer of ownership for all types of companies, exclusive of listed public limited companies and those for which the articles of association do not prescribe for transfer requirements. These public limited companies must keep an up-to-date register of shareholders, in which the ownership information is available. In addition, ownership information is available with authorised intermediaries mandated by the issuing listed public limited liability companies.
- Tunisian legislation does not allow for bearer shares (*titres au porteur*). Law no. 2000-35 of 21 March 2000 includes the dematerialisation of all securities issued in Tunisia.
- Identity and ownership information concerning partners in partnerships, persons involved in an association and foreign trusts managed by a Tunisian-resident trustee is generally available in Tunisia.

- As a general rule, the penalties applicable to ensure the availability of ownership information are sufficiently deterrent to guarantee that legal obligations are respected.

4. Accounting information is available under accounting and tax law. Legal requirements to maintain accounting information apply to any person having trader status as well as any taxpayer liable to corporate tax, value added tax and income tax on natural persons with professional income. Banking information is also available under accounting laws and anti-money laundering legislation.

5. The Tunisian tax authorities have broad powers to access accounting information and information concerning the ownership of legal entities under the right to information provided in the Code of Tax Procedures and Rights (*Code des droits et procédures fiscales*, CDPF). They also have power to audit tax returns and acts used to assess taxes and duties. In particular these powers allow them to request information that is relevant to any taxpayer, third party or other administration to assess and audit taxes and duties. These information-gathering powers, which originate in Tunisian domestic law, are applicable to any international convention, pursuant to the principle that international conventions prevail over domestic law.

6. Up until 1 January 2016, the Tunisian tax administration had only limited power to access banking information, which greatly limited the tax authorities' power to obtain banking information. The Finance Law for 2016 has deeply modified the tax authorities' power to access banking information by completely lifting the banking secrecy applicable in Tunisia without restrictions, but only to respond to requests for exchange of information (EOI) received by Tunisia under an EOI agreement. Thanks to this recent modification, Tunisia complies with the international standard on exchange of information on requests (EOIR) concerning banking information.

7. Furthermore, as the scope of professional secrecy for attorneys is not defined in Tunisian law, it could extend beyond what is allowed in the international standard for exchange of information requests. Tunisia is recommended to clarify the scope of the attorney-client privilege to ensure its conformity with the international EOIR standard.

8. Tunisia currently has a network of information exchange mechanisms covering 119 jurisdictions. Tunisia is party to the Convention on Mutual Administrative Assistance in Tax Matters as amended (multilateral Convention) signed on 16 July 2012 and in force since 1 February 2014. Tunisia is also a party to the Convention between the states of the Arab Maghreb Union for the avoidance of double taxation and mutual assistance with respect to taxes on income. None of the bilateral tax agreements concluded by Tunisia contain paragraphs 4 and 5 of Article 26 in the OECD

Model Tax Convention. The convention with Switzerland contains no EOI provision, but Switzerland is a signatory to the multilateral Convention.

9. Tunisia's response to the conclusions and factors underlying the recommendations of the present report, as well as the practical implementation of its legal and regulatory framework will be assessed in detail during the combined evaluation of Tunisia under the terms of reference adopted on 29 October 2015 by the Global Forum. This assessment of the legal and regulatory framework in Tunisia and EOIR in practice (combined review) is scheduled for the first semester of 2018. A follow-up report on the measures taken by Tunisia to respond to the recommendations made in the present report will be provided to the Peer Review Group in June 2017, and subsequently according to the terms of the monitoring procedure set out in detail in the methodology for the second round of EOIR peer reviews.

Introduction

Information and methodology used for the peer review of Tunisia

10. The assessment of Tunisia’s legal and regulatory framework is based on the international standard for transparency and exchange of information as described in the Global Forum’s Terms of Reference, and was prepared using the Methodology for Peer Review and Non-Member Reviews. The assessment is based on the laws, regulations and exchange of information mechanisms in effect on 4 January 2016, other material provided by Tunisia and information supplied by partner jurisdictions.

11. The Terms of Reference break down the standards of transparency and exchange of information into 10 essential elements and 31 enumerated aspects under three major categories: (A) availability of information, (B) access to information and (C) exchanging information. The present review assesses Tunisia’s legal and regulatory framework as concerns these elements and each of the enumerated aspects. As concerns each essential element, the review concludes whether (i) the element is in place, (ii) the element is in place but certain aspects of its legal implementation require improvements or (iii) the element is not in place. These conclusions are given together with recommendations for improvement of certain aspects of the Tunisian system.

12. The assessment was led by a team consisting of two expert assessors and one representative of the Global Forum Secretariat: Aurore Arcambal, Legal Advisor, Ministry of Finance, Seychelles; Romain Perret, Legal Advisor in the tax legislation department, Ministry of Finance, France; and Séverine Baranger for the Global Forum Secretariat. The team evaluated the legal and regulatory framework for transparency and exchange of information and Tunisia’s relevant information exchange mechanisms.

Overview of Tunisia

13. Tunisia is located in northern Africa. It is bordered to the north and east by the Mediterranean Sea, to the west by Algeria and to the south-east by Libya. The main resources of the Tunisian economy are agriculture, phosphate extraction and processing, textiles and food industries, tourism and fishing.

14. Tunisia had a population of 10 982 754 in 2014. In 2014, its GDP was TND 46.9 billion¹ (EUR 21.18 billion).

General information on the legal and tax system

Legal system

15. The Tunisian constitution currently in force (Constitution) was adopted on 27 January 2014 and promulgated on 10 February 2014. It provides for a parliamentary system in which the President of the Republic has certain prerogatives. Tunisia is a civil state, according to Article 2 of the Constitution of 2014. Legislative power is exercised by the people through elected members of the people's Representative assembly. Executive power is shared between the President of the Republic and the Head of Government. Furthermore, in Tunisia the judiciary guarantees the administration of justice, the primacy of the Constitution, sovereignty of law and protection of rights and freedoms.

16. Tunisian law is based on civil law which includes a system of rules, a large portion of which is codified. These rules are applied and interpreted by judges. Furthermore, the Tunisian legal system is based on a single national legislation. The new Tunisian constitution was adopted on 27 January 2014. The Constitution can be revised by way of constitutional laws adopted by a two-thirds majority in the people's Representative Assembly. In addition, the president of the republic can, after approval by a two-thirds majority in the Assembly, submit the revision to referendum. The revision then must be approved by a majority of voters in order to be adopted.

17. International conventions are approved and ratified by the Parliament and take precedence over domestic laws but are lower in the hierarchy than the Constitution.

1. As at 8 October 2015, the Tunisian dinar: Euro conversion rate was TND 1= EUR 0.450768.

Tax system

18. The Tunisian tax system comprises both national and local taxes. It includes income tax for natural persons, corporate tax, registration and stamp duties, value-added tax, customs duties, consumption taxes, local taxes and various taxes levied on certain products, transport and insurance.

19. Corporate tax is levied on taxable profits, which are based on accounting profits after taking account of all deductions and amounts added back prescribed by the tax laws or resulting from tax benefits.

20. Companies resident in Tunisia are taxed on a territorial basis on income related to their activities. Non-resident companies are subject to tax in Tunisia on their revenue of Tunisian origin. The standard corporate tax rate is 25%. A rate of 35% is levied on certain businesses (financial sector, telecommunications, insurance, oil sector as concerns production, refining, transport and wholesale distribution, etc.). A rate of 10% is levied on certain sectors (e.g. profits derived from eligible export activities, craftsman, agricultural and fishing industries). Non-resident companies are taxable in Tunisia on proceeds, profits and income relating to the assets that they own, the activities they carry out and the money-making operations they perform in Tunisia.

21. Income tax is levied on the income and profits of natural persons and their interest in profits derived from partnerships fiscally transparent having an activity in Tunisia. The income concerned is professional income, salaried income, income and profits from property, income and profits from investments and agricultural income (Article 8 of Tax code on revenue of natural persons and companies (*CIRPPIS*)).

22. Natural persons domiciled for tax purposes in Tunisia are liable to tax on their income of Tunisian and foreign origin. Natural persons not domiciled for tax purposes in Tunisia are only liable to tax on their income of Tunisian origin. A natural person is considered to be domiciled in Tunisia for tax purposes when he/she has a permanent home in Tunisia or when he/she is resident in Tunisia, continuously or not, for more than 183 days per calendar year (Article 2 of the *CIRPPIS*). The scale for calculating income tax is progressive up to the maximum rate of 35%. Dividends paid by Tunisian companies, and by Undertakings for Collective Investment in Transferable Securities investment set out in the Collective Investments and the Venture Capital Code are subject to a 5%-withholding tax when they are received by resident and non-resident individuals or legal entities. This rate is increased to 25% if the dividends are paid to non-residents located in tax havens² (Article 52 c bis of the *CIRPPIS*).

2. There is no legal definition of the concept of “tax havens” under Tunisian law. However, a list of these havens was established by Decree No. 2014-3833 of 3 October 2014, laying down the list of tax havens under Article 44 of Law

23. Value-Added Tax (VAT) is levied on industrial, craft and commercial activities, construction work and property development, professional services and imports. The normal VAT rate is 18% but two reduced rates of 12% and 6% apply in certain cases.

Overview of the financial sector and relevant professions

Banking, capital markets and insurance

24. The Tunisian financial sector includes the Tunisian Central Bank (BCT), 21 credit institutions that function as banks, two investment banks, eight off-shore banks, eight offices representing foreign banks, three factoring companies, 22 resident insurance companies, three offshore insurance companies and 10 leasing companies, in addition to the national post office. The financial system also includes the Financial Market Council, the Tunis Stock Exchange, the Tunisian Interprofessional Securities Deposit and Clearing House, the General Insurance Committee, investment companies and collective investment undertakings³.

25. The banking and financial sector is supervised by the BCT, the Financial Market Council (*Conseil du Marché Financier*, CMF) and the General Insurance Committee. The BCT was founded on 19 September 1958 and is a financially autonomous, national public institution with legal personality.

26. Tunisian regulations on exchange control place offshore banks (eight in all), based on their activities with non-residents, in the category of non-resident institutions. Due to their non-resident status, they are not bound by requirements to repatriate foreign funds to Tunisia. They are free to engage in exchange operations with non-residents to whom they can provide any sort of assistance, particularly in the form of equity investment, as well as any type of guarantees.

27. The CMF is responsible for protecting assets invested in securities and in exchange traded financial products and for any investment giving rise to a public offering. It is also responsible for organising and monitoring the proper functioning of securities markets and exchange traded financial products.

28. Total banking assets in August 2015 stood at TND 60 878 million (EUR 27 338 million).

No. 2013-54 of 30 December 2013. This list was established on the basis of commonly accepted criteria, mainly no or insignificant taxation criterion compared to the Tunisian tax system.

3. Ministry of Finance Portal, October 2015. www.finances.gov.tn.

Anti-Money Laundering and the financing of terrorism (AML/CFT)

29. The legal framework for the prevention of money laundering and the financing of terrorism (AML/CFT) in Tunisia is based on Law no. 2015-26 of 7 August 2015 (AML/CFT Law) concerning efforts to combat financing of terrorism and prevent money laundering. The AML/CFT law describes the financial activities subject to the anti-money laundering and counter-terrorism mechanism, and defines the basic principles of prevention and detection as well as control of compliance with these obligations:

- customer identification,
- implementation of a detection and audit system to combat money laundering and the financing of terrorism,
- declaration of unusual or suspicious transactions,
- role of financial sector supervisors in controlling compliance with these obligations
- disciplinary and criminal sanctions in case of failure to comply.

30. All financial activities described in the FATF recommendations are carried out by financial institutions covered by the basic principles of financial regulations and therefore subject to the prudential supervision of the BCT, the General Insurance Committee (CGA, a branch of the Ministry of Finance) and the CME.

31. Tunisia is a member of MENAFATF, which assessed Tunisia in 2008. The 2014 sixth monitoring report noted numerous areas of progress made by Tunisia particularly as concerns customer due diligence.

Transparency and exchange of information

32. Tunisia joined the Global Forum in 2012. Tunisia is party to the Convention on Mutual Administrative Assistance in Tax Matters (Multilateral Convention) since 16 July 2012. It was ratified and entered into force on 1 February 2014.

Recent Developments

33. The Finance Law for 2016 was adopted on 10 December 2015 by the Tunisian Parliament (*Assemblée des Représentants du Peuple*) and signed by the Tunisian President on 25 December 2015. Law no. 2015-53 of 25 December 2015 on the Finance Law for 2016 was published in the Official Gazette no 104 of 29 December 2015. Article 49 of the Finance Law for 2016 amends article 17 of the Code of Tax Rights and Procedures (*Code des Droits et Procédures Fiscaux*, CDPF) which provides Tunisian tax authorities with unrestricted access to banking information, but only for EOI purposes from 1 January 2016.

Compliance with the Standards

A. Availability of information

Overview

34. Effective EOI requires the availability of reliable information. In particular, it requires information on the identity of owners and other stakeholders of an entity or arrangement as well as information on transactions carried out by any entity or structure. Such information may be kept for tax, regulatory, commercial or other reasons. If such information is not kept or if the information is not retained for a reasonable period of time, a jurisdiction's competent authority may not be able to obtain and provide it when requested. This section of the report assesses the adequacy of Tunisia's legal and regulatory framework on availability of information.

35. Ownership information of all forms of Tunisian companies is available:

- in the commercial register:
 - from their registration which is mandatory except for silent partnerships.
 - this information is updated with the commercial register for all types of companies, with the exception of (i) public limited companies (*SAs*) that are publicly listed or (ii) *SAs* whose articles of association do not include any provision regarding share transfers. All companies (excepting the two types of abovementioned *SAs*) are required to inform the commercial register of any act concerning the sale or transfer of ownership of company shares.

- In the register of partners/shareholders. All companies incorporated under Tunisian law, irrespective of their legal form, must keep a register of partners/shareholders. Thereby, information concerning ownership of all companies, including *SAs*, is available from the company itself.

36. Tunisian legislation does not provide for issuance of bearer shares as all securities issued by Tunisian companies must be dematerialised.

37. Information concerning partners of partnerships as well as persons involved in an association is available. As concerns trusts, although Tunisian legislation does not allow the creation of trusts governed by Tunisian law, a trust can be administered from Tunisia. As a professional, a trustee is bound to gather and keep all information to identify customers and beneficial owners, pursuant to AML/CFT legislation.

38. As a general rule, the sanctions applied in Tunisia to ensure availability of information concerning ownership seem sufficiently dissuasive to ensure that legal obligations are respected.

39. Any person who functions as a trader and all taxpayers liable to corporate tax must keep accounting data for at least 10 years. Tunisian accounting law requires that accounting and financial documents be available in accordance with generally accepted principles.

40. Under AML/CFT legislation, banks and financial institutions are required to know their customers and beneficial owners and to keep information about transactions carried out by their customers for a period of at least 10 years.

A.1. Ownership and Identity Information

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

Companies (ToR 4 A.1.1)

41. Companies divided by shares are subject to disclosure formalities and registration procedures in particular when they are incorporated, to obligations to keep information and tax return procedures ensuring the availability of information concerning the identity and ownership of companies divided by shares.

-
4. Terms of reference to monitor and examine progress towards transparency and information exchange.

Types of companies

42. Companies are governed by the Commercial Companies Code (CSC). Three types of companies divided by shares may be created in Tunisia:

- An SA (*société anonyme*, public limited company) – the public limited company is a joint stock company with legal personality. It must have at least seven shareholders who are liable only up to the amount of their contribution. The minimum company capital is TND 5 000 (EUR 2 273) and TND 50 000 in case the SA is publicly listed as set out in article 161 CSC. The SA is named with a company name preceded or followed by the type of the company and the amount of share capital.
- An SCA (*société en commandite par actions*, partnership limited by shares) – the partnership limited by shares is a company whose capital is divided into shares. It is created by a contract between two or more general partners and limited partners. Limited partners are the only ones to hold the status of shareholders and are liable for losses only up to the amount of their contribution. The number of limited partners cannot be less than three. The general partners, who are traders, are indefinitely and jointly liable for company debt.
- An SàRL (*société à responsabilité limitée*, limited liability company) – the Limited liability company is created by two or more persons who are only liable for losses up to the amount of their contribution. The minimum company capital is TND 1 000 (EUR 454). When a limited liability company has only one shareholder, it is known as a one-person limited liability company (*société unipersonnelle à responsabilité limitée*, SUARL). The only difference between an SàRL and a SUARL is that the SUARL only has one shareholder. This person exercises the same powers as those granted to the company director.

43. Companies divided by shares (i.e. SA, SCA and SàRL) are required to follow commercial law procedures concerning their registration in the commercial register and the disclosure formalities throughout the existence of the company. Furthermore, companies divided by shares are subject to tax obligations concerning their registration with the tax authorities from the time of their registration and annual tax return procedures.

Information available from the commercial register

44. Companies divided by shares must register with the commercial register, but they are also required to fulfil disclosure formalities throughout the life of the company.

Registration with the commercial register

45. Article 14 of the CSC establishes a general requirement for all companies to register with the commercial register associated with the court where their headquarters is located within a month of their incorporation. Any commercial company constitutes a distinct legal person independent from its shareholders starting from its registration with the commercial register (Art. 4 of the CSC). Registration is accomplished through the filing of the company statutes and the documents provided for in the law governing the commercial register.

46. The commercial register centralises information about traders and companies and makes it available to the public. A local commercial register is kept by each court of first instance and recorded in it are (Art 2. of the CSC):

- Natural persons who are traders according to the definition of Article 2 CSC⁵ as well as natural persons engaged in an activity on behalf of a *de facto* company who are traders, and foreigners carrying on a professional activity in Tunisia;
- companies with their headquarters in Tunisia that have legal personality;
- foreign commercial companies and representatives that have an establishment or a branch in Tunisia, as well as non-resident companies;
- other legal persons required by law to register.

47. The information required to register a company includes:

- the name, first name, personal domicile, nationality, date and place of birth of the shareholders/partners who have indefinite and joint liability for company debt;
- the name, first name, date and place of birth, personal domicile and nationality of partners and third parties who can direct or manage the company or who can commit the company, indicating for each of them when it is a commercial company whether they can singly or jointly sign contracts with third parties on behalf of the company; and
- the members of the board of directors, the managing board, supervisory board or auditors.

48. The information included in each local commercial register is gathered in a central data storage centre that is under the responsibility of the

5. A trader is defined as “anyone who, in a professional capacity, carries out production, circulation, or speculation activities, subject to the exceptions provided by law”. This definition covers in particular the purchase and sales or rental of goods (irrespective of their form), insurance, bank or brokerage transactions.

Justice Ministry. If the procedures required by the legislation and regulations for each category have not been completed, the registration of legal persons will be rejected.

49. The register includes: an alphabetical listing of persons registered; the individual file made up of the request for registration, where necessary, any subsequent information registered; an additional file including all the acts and documents required to be recorded in the commercial register, for all natural and legal persons required by the legislation in force to keep proper accounts. The National institute of standardisation and industrial property maintains a central commercial register to collect the information recorded in every local register.

Ownership information held by the Commercial register

50. Ownership information and transfer of ownership information for all Tunisian companies is available from the Commercial register with the exception of (i) SAs that are publicly listed or (ii) SAs whose articles of association do not include any provision regarding share transfers. If the articles of association provide for some transfer conditions, for example a first right of refusal, the modalities of publicity to the Register of Commerce apply within one month following the transfer (article 321 of the CSC). Article 16 of the CSC requires all Tunisian companies (with the exception of the two above-mentioned categories of SA) to complete filing formalities and formalities of disclosure within one month following the transfer of company shares. Therefore, the information on the ownership of SaRLs and SCAs which did not have a public offering are available in the commercial register.

51. Furthermore, SAs, SCAs, and SaRL, are required to provide, in two copies appended to the commercial register, the list of shareholders or associates whose participation is greater than the following thresholds:

- 5% for SaRL, SAs that are not publicly listed on a stock exchange and SCAs; and
- 3% for SAs that are publicly listed on a stock exchange (article 51 of the Commercial law Register and article 14 of the Ministerial Order dated 22 February 1996, as amended).

Information available from tax authorities

52. According to article 45 of the CIRPPIS, corporate tax applies to SAs, SCAs and SaRLs. Any legal person subject to corporate taxes must, before beginning its activity, file with the tax office a declaration of existence according to the model determined by the administration (Art 56 of CIRPPIS).

53. The declaration of existence must be accompanied by a copy of the articles of incorporation for legal persons and a copy of accreditation or administrative authorisation when the professional activity or the place where it is being carried out requires prior authorisation. The competent tax control office provides the abovementioned persons a tax identity card. They must post this in their place of business.

Information available from the company

54. Companies divided by shares are required to keep an up-to-date list of shareholders, and also to carry out the disclosure formalities concerning, in particular, their shareholders. They are also subject to tax obligations relating to the information concerning their ownership.

Commercial law obligation concerning the register of partners/ shareholders

55. Pursuant to Article 11 b of the CSC, all Tunisian companies, whatever their legal form, must keep a register of shares or securities that includes various elements:

- information concerning the shares concerned by that register,
- the identity of their respective owners,
- transactions on the shares ; and
- the taxes and fees imposed on the shares in question.

56. The above-mentioned list is subject to the provisions of law no. 2000-35 of 21 March 2000 concerning dematerialisation of shares. Furthermore, every company must keep a register mentioning the full names and addresses of every executive and the members of the supervisory board.

57. For SAs, the list of shareholders in the limited company must additionally be made available to shareholders at least two weeks before every shareholder's meeting. Securities issued by SAs must be recorded in the accounts kept by the issuing corporate body or by an approved intermediary (Article 314 of the CSC). For publicly listed SAs, these accounts are held by the legal issuer or an approved intermediary. For SAs with no public offering, these accounts are kept exclusively by the issuing company.

58. The SA must in its headquarters or with an approved intermediary (credit institution, stock market intermediary or the central depository) open an account in the name of each securities owner indicating full name and domicile and, if necessary, the name and domicile of the usufructuary indicating the number of shares held (Article 315 of the CSC). The account is held

by the issuing company to the exclusion of all others if the company has not had a public offering. The securities are materialised through the act of being recorded in this account alone.

59. The issuing SA or authorised intermediary provides a certificate giving the number of securities held by the person concerned. The securities accounts must include the following information:

- the information to identify the natural or legal persons who own the securities and, if pertinent, to identify the usufructuary as well as the related rights and, where necessary, who the rights belong to,
- restrictions these shares may be subject to, such as pledge of shares or attachment;
- the number and title of the account must make it possible to identify precisely the identity and nationality of the account holder, as well as the characteristics of the securities owned, in accordance with the conditions set by the Financial Market Council regulations.

60. Furthermore, issuing SAs and authorised intermediaries are required to update the securities accounts that they are responsible for whenever they are made aware of any change:

- in the ownership of the shares, or
- in the rights and restrictions on the shares.

Obligations concerning disclosure formalities to the commercial register

61. As mentioned in the section concerning *Information available from the commercial register*, Tunisian companies with the exception of listed companies and SAs the articles of association of which do not include specific transfer provisions, must register the transfer of shares with the commercial register. Therefore, the information on ownership of SaRLs and SCAs with no public offering is generally available at the commercial register. For SAs, information is available in the shareholder register.

Tax requirements

62. Tunisian companies must file with the tax authorities all documents noting a modification in the articles of association or the increase or decrease of capital within 30 days following the date of the decision made by the shareholders (article 57 of the CIRPPIS).

63. Any person (natural or legal), whether subject to taxes or tax-exempt, must file an annual income or capital gains tax return, as the case may be, with the tax office (Article 59 of the CIRPPIS). It should be noted that even tax-exempt companies must file an income tax return annually.

Non-resident companies under exchange control legislation

64. Since 1993, the Investment Incentives Code (*code d'incitation aux investissements, CII*) allows for the creation of Tunisian companies enjoying various tax advantages (including non-resident companies under the exchange control legislation). The CII covers all business sectors with the exception of mining, energy, internal trade and the financial sector which are governed by specific texts. For industrial activities and services, the projects must figure in a declaration filed with the Agency for the Promotion of Industry (API). Some activities require authorisation from the relevant ministry. Various additional financial and tax advantages are granted to the following priority activities: exportation, regional development, agricultural development, promotion of technology and research development, new promoters and SMEs and support investments.

65. Amongst the companies benefiting from the incentives of CII, the “non-resident companies under the exchange control legislation” are registered in Tunisia as such if their capital is held for more than 66% by foreign shareholders, paid up in foreign currencies. To qualify as non-resident companies within the meaning of exchange control legislation, these companies must also have activities dedicated fully to export to benefit from the incentives set out in the CII. Concerning commercial law obligations, non-resident companies within the meaning of the exchange control legislation are incorporated under Tunisian company law and are subject to Tunisian company law requirements. The Tunisian authorities have confirmed that non-resident companies within the meaning of exchange control legislation are subject to the same rules of incorporation and disclosure based on the legal form under which they incorporate (e.g. SaRL, SA, etc). Consequently, the information concerning ownership of shares for non-resident companies within the meaning of exchange control legislation is in principle available in all instances, in the same way as for any other companies incorporated under Tunisian law.

66. In conclusion, as non-resident companies within the meaning of exchange control legislation are subject to the same company law or tax requirements as resident companies, information on the ownership of these companies are available either in the commercial register, from the tax authorities or from the company itself. The effectiveness and application of these requirements will be assessed during the combined review scheduled in the first semester of 2018.

Foreign companies

67. The terms of reference require that foreign companies keep records of their shareholders when they have a strong nexus to a jurisdiction. This is particularly the case when the company has its tax residence in that jurisdiction. In the case of Tunisia, strictly speaking, there is not a concept of tax residence for companies. However, company law establishes the principle of “effective administration” which gives Tunisian nationality to a foreign company.

68. Information about the ownership of foreign companies said to operate in Tunisia is available through company reporting obligations.

Commercial law requirements

69. Companies with their headquarters in Tunisia are subject to Tunisian law (Article 10 of the CSC). Headquarters is defined as the location of the main establishment in which the effective administration of the company is found. Thereby, foreign companies with their effective administration in Tunisia are subject to the same formalities and requirements concerning in particular maintaining a registry of partners or shareholders, and the disclosure of share transfers to the commercial register.

70. Foreign companies with their effective administration in Tunisia according to the CSC must keep an up-to-date register of partners/shareholders in Tunisia, irrespective of their legal form.

71. Ownership information on foreign companies is also available with the commercial register, with the exception of foreign companies that are similar to Tunisian SAs because of their legal form. For the latter type of foreign company, ownership information is available in the register of shareholders which they are required to keep. Any other form of foreign companies must record all decisions or transactions modifying the articles of association to the extent they have a branch in Tunisia (Art 52 of the commercial register law). Accordingly, ownership information of all foreign companies having a branch in Tunisia are available with the commercial register, except for foreign companies that are similar to Tunisian SAs because of their legal form.

Tax law requirements

72. Tunisian tax law does not have a definition of tax residence for companies divided by shares or partnerships. For tax purposes, non-resident legal persons who generate revenue of Tunisian origin or capital gains from the transfer of buildings located in Tunisia or rights relating to them or company rights in non-trading real estate partnership and not connected to establishments located in Tunisia, from revenue or capital gains alone, are subject to final withholding

tax (Article 45 CIRPPIS). They must register with the Tunisian tax authorities, with the same procedures as resident companies. Finally, foreign companies carrying on business in Tunisia through a permanent establishment are subject to corporate tax on income derived from the permanent establishment. In this case, the foreign companies have a tax number in Tunisia.

73. The tax due in Tunisia on income derived by the foreign companies on their permanent establishment in Tunisia must be declared in an annual tax return (Article 52 (c) bis of CIRPPIS).

74. In conclusion, foreign companies with their effective administration in Tunisia are required to register with the commercial register and are subject to the same commercial law requirements as Tunisian resident companies. These commercial law requirements ensure the availability of information concerning ownership of foreign companies.

Information held by nominees (“mandataires”)

75. Tunisian law does not set down any particular provisions concerning the notion of “nominees”. However, Tunisian law does provide for a *mandataire* which is a concept from civil law. Tunisian commercial law provides that in certain specific cases, shareholders of a company can be represented for various acts by a *mandataire*. However, these act on behalf of the shareholder, who remains known to the company as a shareholder. In the case where professionals are acting as nominees according to the common law concept, these professionals are covered by the provisions of the AML/CFT legislation even if this concept is not enshrined in commercial law. In this case, they would be required to identify their clients.

Commercial law

76. The CSC provides that all shareholders may be represented by a *mandataire* of his/her choice at the time of incorporation of the company or a shareholders’ meeting. However, in this case, the *mandataire* acts expressly and publicly on behalf of the shareholder, and is not considered a shareholder by third parties.

77. The *mandataire* must obtain a special mandate (power of attorney) from the principal (Article 1117 of the Code of Obligations and Contracts). Although Tunisian law does not require any particular formality for the power of attorney, it can be enforced against third parties only if it is established by notarial deed or by private deed. The private deed must be signed both by the principal and *mandataire*. Such formality requires that the *mandataire* and the principal provide documents proving their identity (Articles 449 and 450 of the Code of Obligations and Contracts and Law No. 94-103 of 1 August 1994

on the organisation of legalisation of signature and certification of compliance with the original copies). Accordingly, this special mandate contains information about the identity of the principle(s). It must include the full name and domicile, as well as the number of shares and voting shares of the principle, the shareholders' meeting for which the power of attorney is granted and lastly the signature of the principal preceded by the words “*bon pour pouvoirs*” (approved for proxy) and the date of the power of attorney. Therefore, despite the action of the *mandataire*, the real identity of the owner remains known.

Anti-Money Laundering and Combatting Financing of Terrorism Legislation (AML/CFT)

78. Although the common law concept of “nominee” does not exist in Tunisian law, the customer identification requirements for AML/CFT can be used to determine the true identity of a shareholder who may have used a “nominee” to hide his/her identity. These identification requirements apply to the “nominee” who acts as such for professional reasons (for example a lawyer or a notary). These requirements are included in the AML/CFT Law, and this situation is very unlikely in practice.

79. According to article 107 of the AML/CFT law, non-financial businesses and professions must collect all information allowing them to identify their regular or occasional clients and beneficial owners. These non-financial professions and operations include the following professionals: attorneys, bailiffs, notaries, chartered accountants, estate agents, officers who draw up acts for landed property registries and other qualified professionals who prepare or carry out for their client operations and transactions concerning the purchase or sale of property or businesses. In addition, professionals who manage clients' investments and accounts, organise the necessary assets for creation of companies and other legal persons, operate or manage them, control said operations or transactions or advise clients concerning them are also covered.

80. Non-financial professions and operations must take the following due diligence measures (Article 108 of the AML/CFT law):

- refrain from opening secret accounts and verify, using official documents, and other documents from reliable and independent sources the identity of their usual or occasional customers and record all the necessary data that could identify their customers;
- verify, using official documents, and other documents from reliable and independent sources:
 - the identity of the beneficiary of the transaction or the transaction and the identity of the person who acts on his/her behalf.
 - the incorporation of the legal entity, its legal form, its head office, its share capital and the identity of its directors/managers

and those who have the power to engage the legal entity, while taking reasonable steps to identify the individuals who control it;

- Obtain information on the purpose and nature of the business relationship.

81. In case of introduced business by a third party, the following measures should be taken:

- obtain the necessary information to identify the client;
- ensure that the third party is subject to regulation and to a monitoring against any suspicious activities in relation to money laundering and terrorist financing;
- ensure that the third party took the necessary measures against suspicious activities and is able to provide, as soon as possible, copies of customer identification data and other relevant documents, considering that the responsibility for customer identification remains with the Tunisian service provider.

82. The due diligence measures apply notably in the following situations:

- these professionals engage in business relations,
- they carry out occasional transactions the value of which is equal to or greater than an amount to be fixed by order of the Minister of Finance or in the form of wire transfers,
- there is suspicion of money laundering or terrorist financing,
- there are doubts about the veracity or relevance of customer identification data previously obtained.

83. If the Tunisian persons subject to AML/CFT requirements cannot verify the aforementioned data or if the information obtained is insufficient or obviously falsified, they must refrain from opening an account, engaging in business relations or carrying out the operation or transaction and consider reporting the suspicious activity.

84. The aforementioned professionals must (i) update data concerning their clients' identities, (ii) exercise constant diligence about them for the duration of their business relations and (iii) attentively examine operations and transactions carried out by their clients to ensure that they are coherent with the data they have for their clients. They must perform (i), (ii) and (iii) taking into consideration the nature of their activities, the risks they assume and, where necessary, the origin of funds (Article 109 of the AML/CFT Law). All documents concerning the identity of clients must be held for at least 10 years from the execution date of the transaction (article 113 of the AML/CFT law).

85. As these requirements apply only to professionals, there is no way to obtain the identity of a shareholder who uses a nominee who is not acting within the framework of a professional activity. However, because Tunisian law does not distinctly include the common law concept of nominee, this situation is highly unlikely in practice.

Conclusion

86. The common law concept of nominees does not exist in Tunisian law, which provides for the civil law concept of *mandataire* or proxy. In this specific case, the identity of the shareholder is known and the proxy acts publicly on behalf of this shareholder. However, AML/CFT legislation enshrines the obligation for all notaries and other members of independent professions to identify their clients. This obligation then applies in the case of a professional acting as a “nominee”.

Bearer shares (ToR A.1.2)

87. Tunisian law does not allow for the issuance of bearer shares or units. Law no. 2000-35 of 21 March 2000 concerning dematerialisation provides that securities, regardless of their form, issued on Tunisian territory and subject to Tunisian legislation, must be registered and recorded in the accounts held by the issuing legal persons or by an approved intermediary.

88. Article 314 of the Commercial Code recalls that shares issued by SAs should be registered and recorded in the accounts held by the issuing legal persons or by an approved intermediary.

Partnerships (ToR A.1.3)

89. Three types of partnerships may be created in Tunisia, a *société en nom collectif* (general partnerships, SNC), a *société en commandite simple* (limited partnerships, SCS) and a *société en participation* (silent partnership). They are governed by the CSC.

- **The SNC** is a partnership in which the partners all enjoy the status of traders with indefinite and joint liability for the partnership debt. The SNC is designated by a company name, which may include the name of one or more partners, and which must be immediately preceded or followed by the words “*société en nom collectif*”. Shares are nominative and may only be transferred with the consent of all partners.
- **The SCS** comprises two types of partners: general partners who are the only ones managing the company and who have indefinite and joint liability for the partnership’s debt; limited partners, who are only

liable for the partnership's debts up to the amount of their contribution. General partners are subject to the same legal regime as partners in an SNC. Limited partners are subject to the same legal regime as partners in an SaRL. The limited partner cannot make contributions in kind.

- It is also possible to create a **silent partnership (société en participation)**. The silent partnership only governs the relationships between partners and is not intended to be known by third parties. It does not have legal personality and is not subject to registration or any disclosure formality. If this partnership is commercial in nature, the relationships between partners are governed by the rules applicable to SNCs, unless otherwise provided. For legal purposes, the partners are deemed to carry out their activities directly. As this form of partnership is not registered, it will not be assessed in detail.

90. Information about partners of Tunisian partnerships and partnerships of foreign persons with a subsidiary in Tunisia (see A.1.1. concerning foreign companies) is available at the commercial register, from the tax authorities and from the partnership itself.

Commercial law obligations

91. Information on ownership of SNCs and SCSs is generally available in the commercial register.

92. The CSC provides that SNCs and SCSs must be registered with the commercial register (Arts. 4 and 14 of the CSC). They are subject to the same registration requirements, under the CSC, as those described in section A.1.1 for companies divided by shares. Furthermore, their articles of association must indicate the following information, failing which they will not be valid: full name and domicile of each partner, or, if it is a legal person, its names, form and headquarters as well as the signature of all partners (Art. 15 of the CSC).

93. Article 16 of the CSC requires inter alia SNCs and SCSs to carry out the formalities of filing and disclosure concerning the transfer of company shares. Furthermore, they are required to provide, in two copies appended to the commercial register, the list of shareholders and partners whose participation is greater than the following thresholds:

- 5% for SaRL, SAs that are not publicly listed on a stock exchange and SCAs; and
- 3% for SAs that are publicly listed on a stock exchange (article 51 of the Commercial law Register and article 14 of the Ministerial Order dated 22 February 1996, as amended).

Tax requirements

94. Ownership and identity information of Tunisian partnerships is generally available with the Tunisian tax authorities.

95. Partnerships are subject to tax law requirements in the same way as any other taxpayer. Article 56 of the CIRPPIS states that all person engaging in industrial, commercial or non-commercial professional activities as well as any legal person are required, before beginning their activity, to file a declaration of existence in the tax office in the place of registration in line with the model determined by the administration. The information provided as part of this declaration of existence is the same as for companies divided by shares, as mentioned above in section A.1.1.

96. SNCs and SCSs are fiscally transparent. Partnerships, even if they are not taxable themselves are required to file a declaration including their net profit determined according to the provisions of the CIRPPIS and a statement of distribution of these profits among partners, coparticipants or members liable for tax is included with the declaration. Corporate tax only applies to SNCs and SCSs if they are companies divided by shares.

97. SNSs and SCSs must file with the tax authorities all documents noting a modification in the statutes or the increase or decrease of capital within 30 days following the date of the decision made by the shareholders or of which they were informed (article 57 of CIRPPIS).

Anti-money laundering legislation

98. Under the anti-money laundering legal provisions, certain legal or natural persons who are not members of the partnership are required to keep information on the identity of the partners in a partnership. They include for example banks, notaries and lawyers (Art. 74 of the AML/CFT law).

99. As is the case with companies divided by shares, any partnership engaging in trading activity is required to open an account in a banking institution or a postal financial service centre for the purposes of the business. Consequently, there is always a person governed by the anti-money laundering legislation who is required to identify the owners of the partnership and keep that information (article 107 and 108 of the AML/CFT law).

Conclusion

100. In conclusion, information concerning the owners of partnerships is available through tax and company reporting requirements.

Trusts (ToR A.1.4)

101. Tunisian law currently includes no provisions for trusts and Tunisia is not a signatory to the Hague Convention of 1 July 1985 on the law applicable to trusts and their recognition. Accordingly, it is impossible to create a trust or similar structure under Tunisian law. However, no legal provision prevents a trust created in a foreign jurisdiction from being administered in Tunisia or for assets located in Tunisia to be part of a foreign trust. In this case, no reporting requirements of tax or commercial law apply that would require managers of foreign trusts domiciled in Tunisia to reveal the identity of the settlor or the beneficiary of the trust. However, record-keeping obligations apply as per anti-money laundering legislation but these obligations apply only to professionals subject to anti-money laundering rules.

Commercial law requirements

102. In the case of a trust governed by foreign law administered in Tunisia, there are no specific requirements for registration with public authorities. However, the reporting requirements provided for in the legislation in force for all Tunisian or foreign natural and legal persons practicing a commercial activity on Tunisian territory is applicable to the Tunisian trustees of foreign trusts. As trusts are not recognised under Tunisian law, only the trustee can carry out the filing requirements, which does not guarantee the disclosure of identity regarding the beneficiaries, settlor(s) and other trustee(s). Thus, whenever the person acting in Tunisia as the trustee in a professional capacity is engaged in a commercial activity⁶, he/she is required to register with the commercial register as a service provider. In this case, the same information required of all companies upon registration will be communicated to the commercial register.

Anti-money laundering legislation

103. It is impossible to form a trust under Tunisian law. However, attorneys and all professionals acting as a trustee for a trust under foreign law would fall within the scope of the Tunisian anti-money laundering legislation, since all professionals will likely be covered by the broad scope of AML legislation. Under the AML/CFT law persons governed by the provisions of this law are required to gather all the information necessary to ascertain and verify the identity of their occasional or regular customers and beneficial owners (Article 107 of the AML/CFT law).

6. Article 2 of the CSC. Reference is made to paragraph 46 of this report for a description of commercial activities.

104. The AML/CFT covers lawyers, notaries, auditors, external accountants, tax advisors, credit institutions, stock market intermediaries, insurance/reinsurance companies and insurance brokers. Under Art. 113 of the AML/CFT law, these persons must keep the documents identifying their occasional or regular clients for at least 10 years from the date the account is closed or the termination of their business relations.

105. In conclusion, professionals acting as a trustee in Tunisia are required to identify their customers, whether settlors or beneficiaries. Tunisian non-professional trustees are not covered by the AML/CFT obligations. Although supplying such services should generate taxable income and trigger an obligation to keep information substantiating the tax position of the person concerned, the information concerning a settlor or beneficiary of a trust may not be kept by the non-professional trustee in all circumstances. It is considered that having non-professional trustees in Tunisia is likely to be a rare situation and that it would not prevent effective EOI. This matter will be examined in practice during the combined review scheduled in the first semester of 2018.

Foundations (ToR A.1.5)

106. The concept of foundation is not defined in Tunisian law. However, associations exist which are governed by the provisions of decree-law no. 2011-88 of 24 September 2011 (Association law), covering the organisation of associations. Article 2 of the aforementioned law defines an association as “the agreement by which two or more persons work permanently to achieve goals other than making a profit.”

107. The Association law states that any association must file a declaration to the secretary general of the government in a letter sent by registered mail containing a list of information, determining the non-profit nature of the association and the identity of the founders and board members.

108. In terms of taxes, foundations are covered under the scope of corporate tax but remain tax exempt unless they engage in commercial activity (article 45 I (6) of the CIRPPIS).

Conclusion

109. Due to the prior declaration and tax compliance obligations as applicable to an association, Tunisian legislation ensures that the availability of identity information concerning founders and board members.

***Implementing of provisions ensuring the availability of information
(ToR A.1.6)***

110. Under the Terms of Reference, Tunisia is required to effectively enforce provisions concerning ownership and identity information of relevant entities and legal arrangements, which includes the power to access this information (see part B below). This section of the report assesses whether penalties are applicable in the event of non-compliance with legal rules concerning ownership and identity information.

111. In general, enforcement measures in force in Tunisia to ensure the availability of ownership information have sufficient deterrent effect to ensure compliance with legal obligations.

Penalties for failure to incorporate, register or maintain information

112. The following enforcement measures ensure that adequate penalties are applicable in case of non-compliance with registration requirements:

- Failure to register or disclose an amendment with the commercial register is punishable by a fine of TND 100 (EUR 45.10) to TND 1 000 (EUR 451). In case of repeat offence, the fine is doubled. For legal persons, the fine cannot be less than half of the maximum (Article 68 of the commercial register law).
- Any misrepresentation given in bad faith for registration or recording in the commercial register is punishable by a fine of TND 100 (EUR 45.10) to TND 5 000 (EUR 2 255) (Article 69 of the commercial register law).
- Failure to disclose registration and all acts that must be registered in the commercial register exposes the company directors responsible to a fine of TND 300 (EUR 135) to TND 3 000 (EUR 2 254) (Article 20 of the CSC). This penalty covers particularly the failure to disclose the transfer of shares of all companies, excluding SAs.

113. Concerning maintenance requirements of the shareholder register, the following enforcement measures apply:

- SAs must, open an account in the name of each securities owner in their headquarters or with an authorised intermediary (credit institution, stock market intermediary or the central depository). The account must indicate the name and address of the shareholder, and where applicable the name and domicile of the usufructuary indicating the number of shares held (Article 315 of the CSC).

- Members of the board of directors who do not provide the documents and reports that must be submitted to the shareholders' meeting (which includes the register of shareholders) will face a fine of TND 500 (EUR 227) to TND 5 000 (EUR 2 255) (Article 222 of the CSC).
- The issuing company's auditor must ensure that the company's securities accounts are compliant with existing legislation. This due diligence obligation must be respected even if the issuing company appoints an approved intermediary to keep the securities accounts. Their report to the annual shareholders' meeting must include a reference to this compliance requirements. (article 19 of Decree no. 2001-2728 of 20 November 2001 on registration of securities and intermediaries authorised to hold securities accounts)
- Any director of a commercial company or an economic interest group who hampers the work of (an) auditor(s) or who refuses to provide, upon request, by any medium that leaves a written record, the documents necessary for them to carry out their work is liable to imprisonment of six months and a fine of TND 5 000 (EUR 2 255) or one of those two punishments (Article 13 of the CSC).

Tax legislation

114. Article 97(1) of the CDPF provides for a fine of TND 100 (EUR 45.10) to TND 1 000 (EUR 451) applicable to any person who does not keep the ledgers, registers or lists required in the tax legislation or who refuses to communicate them to the tax authority's agents or who destroys them before the legal period required for their conservation.

Anti-money laundering legislation

115. Concerning punishments for failure to comply with due diligence and documentation obligations, any failure to comply with diligence measures provided in articles 108, 109, 110, 111 et 112 of the AML/CFT law will be prosecuted in accordance with the procedures in force provided for in the disciplinary system of each profession.

116. The competent disciplinary authority can, after hearing the party, apply one of the following sanctions (article 117 of the AML/CFT law):

- a warning,
- reprimand,
- ban from engaging in the activity or a suspension of accreditation for a period of less than two years,

- termination of activities,
- definitive ban from engaging in the activity or accreditation withdrawal.

117. These sanctions also apply to directors and members of the Supervisory Board if their responsibility for non-compliance with due diligence requirements is established.

Determination and factors underlying the recommendations

Phase 1 determination
The element is in place.

A.2. Accounting records

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

118. Jurisdictions should ensure that reliable accounting records are kept for all relevant entities. Accounting registers must (i) correctly record all transactions, (ii) be such that the financial situation of the entity or the arrangement may be determined with reasonable accuracy at any time and (iii) enable the preparation of financial statements. Accounting records must also be supported by underlying documentation such as invoices, contracts, etc., be detailed and be maintained for a minimum period of five years.

General requirements (ToR A.2.1)

119. Partnerships and companies subject to corporate tax are required to keep accounts that comply with the business accounting system. This obligation is part of commercial law, accounting law, tax law and AML/CFT.

120. Tunisian accounting law comes from the legislative and regulatory framework below:

- Law no. 96-112 of 30 December 1996, on the business accounting system (accounting law),
- Decree no. 96-2459 of 30 December 1996, approving the framework accounting concept,
- Decree by the Finance Minister of 11 March 2011 on the simplified accounting standard.

Commercial and accounting law requirements

121. Tunisian commercial and accounting law requires the keeping of accounts; non-compliance is subject to penalties.

122. Tunisian accounting legislation referred above applies to companies and partnerships referred in section A.1.1 and A.1.3. It also applies to associations and foundations referred to in section A.1.5⁷. It requires that accounting and financial documents are available and maintained according to the generally accepted principles: legible, relevant, reliable and comparable information. According to articles 11 and 18 of the Accounting Law, companies subject to accounting standards must keep accounting books (journal, general ledger and stock ledger) and financial statements (balance sheet, statement of income, cash flow statement and notes on the financial statement).

123. Article 51 of the Commercial register law requires legal persons and company auditors (see below) to file the financial statements with the commercial register in two copies. This should be filed in the month following the approval by the shareholders' meeting and in any case, before the 7th month following the end of the fiscal year.

124. Additionally, companies divided by shares are required to designate an auditor. However, only SAs have a mandatory requirement to appoint an auditor. For SàRL, SUARL, and SCA, this obligation only applies if two of the three following thresholds are met (Articles 13 and following of the CSC):

- the balance sheet exceeds TND 100 000.;
- the total turnover exceeds TND 300 000; and
- the average number of employees exceeds ten employees.

125. For liquidated companies, the notice of closure of the “financial statement” must be filed and published after winding up, liquidation, merger, division, partial or total transfer of assets (article 16 of the commercial register law). Disclosure must be made to the commercial register within a month of the act or the proceedings.

Enforcement measures

126. Persons required to file financial statements with the commercial register are fined TND 100 (EUR 45.10) to TND 1 000 (EUR 451) (article 68 of the Commercial register law) if they fail to file these statements. In case of a repeated offense, the fine is doubled. For legal persons, the fine cannot be less than half of the maximum.

7. Article 39 of Decree-Law No. 2011-88 of 24 September 2011 on associations.

Tax law Obligations and enforcement measures

127. Tunisian tax law requires accounts to be kept, failure to do so being subject to penalties.

Tax Law Accounting obligations

128. Tunisian tax legislation requires that accounts be kept and be compliant with business accounting legislation. This obligation is applicable to all Tunisian legal persons, irrespective of their tax treatment and to all legal persons liable to corporate tax (article 62 of the CIRPPIS).

129. According to article 45 of the CIRPPIS, corporate tax applies to companies and other legal entities listed hereafter that carry out business activity in Tunisia:

- SAs, SCAs, SaRLs and all partnerships (see section A.1.3 partnerships) which engage in a commercial activity;
- production, consumer or service co-operatives and their unions;
- public institutions and State organisations, governorate and industrial or commercial towns with financial autonomy;
- non-trading partnership if it is established that they indeed present the characteristics of companies divided by shares;
- coparticipants in silent partnerships, members of economic interest groups and coparticipants in special purpose vehicles when they are legal persons subject to corporate taxes.
- associations that do not carry out their activities in compliance with the legislative provisions governing them; that is, when they engage in activities outside of their not-for-profit purpose.
- non-resident legal persons that derive (i) Tunisian-sourced income, (ii) capital gains derived from transfer of immovable property located in Tunisia or (iii) income and capital gains derived from in non-trading real estate partnership.

130. These companies must file annual tax declarations, with several annexes including the following accounting documents:

- balance sheet
- statement of income,
- cash flow statement
- notes on the financial statement
- Table to determine taxable income based on accounting results

- Detailed amortisation statement
- Detailed statement of :
 - reserves for doubtful accounts including the identity of the debtor and the nominal value of each debt as well as the amount of reserves constituted and the net accounting value.
 - reserves constituted for depreciation of shares indicating initial cost, the reserves constituted and the net accounting value of shares.
 - gifts and grants provided including the identity of the beneficiaries and the amounts attributed.
- Certificate of payment of subscribed capital or proof of payment of the amount of profits reinvested for venture capital investment companies or in venture capital investment funds.

Enforcement measures

131. Any person who fails to keep the accounts, registers or account books required by the tax law will be fined TND 100 (EUR 45.10) to TND 1 000 (EUR 4 511) (Article 97 of the CDPF). In case of repeated offenses within a period of five years, the offender who is subject to tax will face imprisonment of 16 days to three years and a fine ranging from TND 1 000 (EUR 451) to TND 50 000 (EUR 22 545).

132. Furthermore, any person who keeps dual account books or uses falsified accounting documents, ledgers or lists with the aim of avoiding paying taxes in part or in whole or to enjoy tax advantages or tax returns will face imprisonment of 16 days to three years and a fine of TND 1 000 (EUR 451) to TND 50 000 (EUR 22 545) (article 98 of the CDPF).

AML/CFT Obligations

133. Professionals subject to AML/CFT legislation must keep ledgers, account books and other documents in paper or electronic format for of at least ten years (Article 113 of the AML/CFT law). The same sanctions as those applicable for due diligence (see section A.1.6) are applicable for accounting record obligations.

Non-resident companies under the exchange control legislation

134. Amongst the companies benefiting from the incentives of CII, the “non-resident companies under the exchange control legislation” are registered in Tunisia as such if their capital is held for more than 66% by foreign

shareholders, paid up in foreign currencies. To qualify as non-resident companies within the meaning of exchange control legislation, these companies must also have activities dedicated fully to export to benefit from the incentives set out in the CII. In addition, to benefit from the “non-resident” status, it is required to “keep regular accounts in compliance with the corporate accounting system” (Article 7 of the CII). This means that they are subject to the accounting laws set out in paragraph 120 of this report.

135. Concerning tax obligations, any person (natural or legal), whether subject to tax or tax exempt, must file an annual income tax return or a capital gains return with the tax office (Article 59 of the CIRPPIS). Therefore, even tax-exempt companies must fulfil the obligation to file an annual tax return, which necessarily includes all income and profits.

136. In conclusion, as non-resident companies under the exchange control legislation are subject to the same accounting and tax requirements as resident companies, accounting information for these companies are available either from the tax authorities or the company itself. The effectiveness and application of these requirements will be examined during the combined review scheduled in the first semester of 2018.

Conclusion

137. Therefore, in view of its accounting and tax legislation, Tunisia ensures the availability of accounting information from which it is possible to accurately trace all transactions, assess the financial position all relevant entities and prepare financial statements for them.

Underlying documentation (ToR A.2.2)

138. Proper accounting is based on supporting documents and includes keeping account books as well as drawing up and presenting financial statements (Article 2 of the Accounting Law). More specifically, any accounting record must be kept chronologically by operation and by date and must be backed by supporting documents. Any record must specify the origin, contents and purpose of the operation as well as the references to any related supporting documents. Similar operations performed in the same place and on the same day can be covered by a single supporting document (article 12 of the Accounting law).

139. Tax legislation also refers to supporting documents and requires that they be kept in particular to justify tax deductions and exemptions.

140. Additionally, legal and natural persons are required to provide justifications, including accounting documents and supporting documents (article 6 of CDPF).

Document retention (ToR A.2.3)

141. Financial statements related to a fiscal year, as well as documents, ledgers, balances, supporting documents and related items must be kept for at least ten years (Article 25 of the Accounting Law). This same requirement applies pursuant to tax legislation according to which company ledgers and other accounting documents, and in general all documents required by the CSC, must be maintained for 10 years (article 62 IV of the CIRPPIS).

142. Directors are subject to a fine of TND 300 (EUR 136) to TND 3 000 (EUR 1 365) if they do not comply with the publication requirements with the commercial register in case of dissolution, liquidation, merger, division or partial or total transfer of assets (article 20 of the CSC).

143. Indirectly, article 13 quinter of the CSC requires directors of commercial companies that must appoint an auditor to fulfil the company's accounting obligations. Any director who prevents the work of (an) auditor(s) or who refuses to provide the documents necessary for them to carry out their mission is liable to imprisonment of six months and a fine of TDN 5 000 (EUR 2 254) or one of those two punishments (article 13 sexes CSC).

144. Having regard to the tax and accounting requirements set out in the various laws in force in Tunisia, Tunisian accounting legislation on keeping accounting information is compliant with the international standard.

Determination and factors underlying the recommendations

Phase 1 determination
The element is in place.

A.3. Banking information

Banking information should be available for all account-holders.
--

145. Access to banking information is of interest to tax authorities only if the bank has useful and reliable information on its customers' identity and the nature and amount of financial transactions.

Record-keeping requirements (ToR A.3.1)

146. All credit institutions incorporated under Tunisian law, and subsidiaries or agencies of credit institutions with headquarters in a foreign jurisdiction and authorised to engage in their professional activity in Tunisia, must:

- keep accounts that comply with the Accounting Law;

- meet the specific standards and rules set by the BCT in this area, in order to control credit institutions (article 32 of law no. 2001-65 of 10 July 2001 on credit institutions);
- close their fiscal year annually on 31 December, and establish, in the 3 months following the end of the fiscal year, the financial statement that must be presented to the shareholders' meeting and published in the official journal.
- during the year, draft accounting statements according to a schedule and in compliance with a standard form established by the BCT;
- provide the BCT with all the documents, information, clarifications and supporting documents necessary to examine their situation and making it possible to ensure that they are correctly applying the regulations on credit and exchange verification and credit institution verification;
- submit to an external audit, at the request of the BCT.

147. Accounting standards concerning banks and other financial institutions have been established, as follows:

- Presentation of the bank's financial statements;
- Internal audits and accounting organisation within banks;
- Currency operations in banks;
- Liabilities and related revenue in banks;
- Shares portfolio in banks;
- Presentation of financial statements for insurance and/or reinsurance companies;
- Internal audits and accounting organisation within insurance and/or reinsurance companies;
- Revenue in insurance and/or reinsurance companies;
- Technical provisions in insurance and/or reinsurance companies;
- Technical expenses in insurance and/or reinsurance companies; and
- Investments in insurance and/or reinsurance companies.

148. Banks must have the organisation, the human and logistic resources and clear, precise internal procedures to ensure proper application and respect of anti-money laundering and combatting financing of terrorism laws and regulations.

149. Article 42 of law no. 2001-65 of 10 July 2001 on credit establishments establishes the sanctions applicable for violations of banking regulations and legislation. These are prosecuted under the initiative of the governor of the BCT and expose non-compliant credit institutions to the following sanctions:

- a warning,
- reprimand,
- a fine which can reach five times the amount of the violation, collected for the treasury through liquidation decided and made enforceable by the governor or deputy-governor of the BCT and executed in accordance with the provisions of the public accounting code,
- suspension of all credit from the BCT,
- ban from engaging in certain operations and all other limitations in the exercise of the activity,
- withdrawal of title of “approved intermediary”
- withdrawal of the accreditation.

Anti-money laundering regulation

150. All financial activities described in the FATF recommendations are carried out by financial institutions covered by the basic principles of financial regulation, and therefore subject to the prudential supervision of the BCT, the General Insurance Committee (CGA, a branch of the Ministry of Finance) and the Financial Market Council (CMF).

151. Article 107 of the AML/CFT law requires credit institutions, micro-credit institutions, the national post office, stock market intermediaries and insurance and reinsurance companies and insurance brokers to take due diligence measures with their clients. These procedures are an integral part of the internal audit system and must describe the diligence measures to be completed and the rules to follow, particularly as concerns anti-money laundering and combatting financing of terrorism (articles 107 et seq. of the AML/CFT law, see A.1.1 *Information kept by nominees*):

- identification and knowledge of customers,
- constitution and updates of client files;
- timeframes for verifying client identity and updating related information (these scheduled times should be more frequent for clients who are the subject of enhanced vigilance);

- establishing relations with corresponding cross-border banks;
- monitoring and analysing unusual operations and transactions, the results of which monitoring should form a written record made available to the BCT and auditors;
- analysis of operations and transactions that could be the subject of a declaration of suspicion;
- conservation of documents;
- creation and conservation of databases.

152. Internal procedures must be examined and approved by the permanent internal audit committee and by the board of directors or the supervisory board of the establishment.

153. Banks must keep files and documents related to identity documents of their permanent or occasional clients for ten years at least from the date they cease to have relations with them. They must moreover keep the documents and information relating to operations and transactions they carried out, in paper and/or electronic format, for at least ten years from the execution date, given that they could be consulted by the competent authorities (article 113 of the AML/CFT law).

154. The organisation of documents kept must make it possible to reconstitute all transactions and share, within the required timeframe, all information requested by any authorised authority.

155. In keeping with articles 116 et 117 of the AML/CFT law, any failure to comply with due diligence measures provided in articles 108, 109, 110, 111, 112 et 113 of the AML/CFT law will be prosecuted in accordance with the procedures in force provided for in the disciplinary system that governs each of the persons subject to AML/CFT requirements. In the absence of a specific disciplinary system, disciplinary proceedings are undertaken by the authority in charge of investigating those persons. For credit institutions, these disciplinary measures are imposed by the BCT.

156. The competent disciplinary authority can, after hearing the party, apply one of the following sanctions (article 117of the AML/CFT law):

- a warning,
- reprimand,
- ban from engaging in the activity or a suspension of accreditation for a period of less than two years,
- termination of activities,
- definitive ban from engaging in the activity or withdrawal of accreditation.

157. These sanctions are also applicable to members of the supervisory board if their responsibility for the failure to respect due diligence measures is established.

158. In conclusion, with regard to banking activity, Tunisia’s anti-money laundering legislation ensures the availability of information about identity and ownership and of financial and accounting information for 10 years.

Determination and factors underlying the recommendations

Phase 1 determination
The element is in place.

B. Access to information

Overview

159. A variety of information may be needed in a tax enquiry and jurisdictions should have the authority to obtain all such information. This includes information held by banks and other financial institutions as well as information concerning ownership of companies and the identity of stakeholders in other persons or entities, such as partnerships and trusts, as well as accounting information for these entities. This section of the report examines whether Tunisia’s legal and regulatory framework gives the authorities the powers to access the information necessary from the appropriate persons and whether taxpayers’ rights and safeguards are compatible with effective information exchange.

160. The competent authority for EOI requests received by Tunisia is the Finance Minister, who may delegate this power to one or more persons. This authority has been delegated to the tax authorities (*Direction Générale des Impôts*). The Tunisian authorities use the powers available to them for domestic tax matters for EOI purposes.

161. The Tunisian tax authorities hold extensive access powers to accounting and ownership information and information through application of the right to information provided in the CDPF. The tax authorities also have power to audit tax returns and acts used to assess taxes and duties. With these powers, the tax administration can request useful information from all taxpayers, third parties or other administrations to assess and audit taxes and duties. These information gathering powers, which have their origin in Tunisian domestic law, are applicable to all international conventions, under the principle of primacy of international conventions over domestic law.

162. However, although since 1 January 2015, the Tunisian administration has access powers to banking information for domestic purposes, this power is subject to very restrictive conditions that greatly limit the possibility for the tax authorities to obtain banking information. However, the Finance Law for 2016 deeply modified the Tunisian tax authorities’ right of access to banking

information when it must reply to a request for information exchange made under an EOI agreement. This legislative change puts the legal framework in line with the standard for access to banking information.

163. The scope of the attorney-client privilege is not defined under Tunisian domestic law and could extend beyond what is allowed under the international EOIR standard. Tunisia should clarify the scope of the attorney-client privilege provision to ensure consistency with the international EOIR standard. The practical application of the attorney-client privilege will be assessed during the combined review scheduled for the first semester of 2018.

164. The powers of access to information are backed up by measures to enforce the provision of information.

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

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

Power to access information under Tunisia's domestic tax law

165. Tunisia's competent authority for exchanging information, as provided for by international tax conventions, is the minister of finance or the person(s) delegated for that purpose. The person to whom that authority has been delegated is the Director General of taxes.

166. In Tunisia, the powers to collect information for exchange purposes are based on Tunisian domestic law. These are the same powers as those that the tax authorities use for their own purposes.

Ownership and identity and accounting records information (ToR B.1.1. et ToR B.1.2)

167. In Tunisia, the information from tax returns is in the possession of the tax authorities and some information is held by the General Customs Directorate (such as the amounts of imports and exports). The tax authorities have several powers to access information, of which the most used one is the right to information. It can also use its right of audit, and particularly the subcategory of in-depth audit of the tax situation of the taxpayer to obtain accounting information.

Right to information

168. When the information requested is not with the tax authorities, the latter may invoke its right to information and EOI, provided in article 16 of the CDPF. This right is most often used to reply to an EOI request, if the taxpayer or the person concerned by the request is not the subject of a tax audit.

169. This right to information extends to taxpayers as well as to other administrations and third parties, with the exception of banks concerning banking information. This article provides that to allow access to all useful information to assess and audit taxes and duties owed by third parties, the tax authorities may request:

- registers, accounting, invoices and documents held by State services and local government, public establishments and enterprises, companies and bodies controlled by the State or local government and private sector institutions, businesses and other legal persons and natural persons that they are required by tax law to maintain;
- acts, written documents, registers and information from files held or conserved by public officers and archive and government security depositories as part of their duties.

170. This right to information applies to all information, including banking information subject to the conditions set out in Article 17 CDPF, requested of taxpayers themselves. It applies also to all information requested of third parties, with the exception of banking information requested of banks and with the exception of information covered by professional confidentiality under certain conditions (see section B.1.5 below).

171. The tax authorities can use its right to information to obtain accounting information. It can also use its right of audit. The tax authorities then have a right to audit the returns and acts used to establish taxes and duties. To that end, the taxpayer, legal or natural persons, are required to supply all necessary supporting documents and to present all accounting documents to agents of the tax authorities (articles 4 to 14 CDPF).

The right of audit

172. Tax audit is not a procedure intended to respond to EOI requests, even if the tax administration may use it to that end. Particularly complex EOI requests may lead to the opening of a tax audit, depending on the circumstances. More generally, when there is a tax audit underway for the entity or the person concerned by the request for information, the file will be referred to the department in charge of the audit. That department will seek out the information requested during the audit, whether it is an in-depth tax audit or a seizure procedure.

173. The tax audit provided for in articles 36 et seq. of the CDPF aims to examine a company's accounting on site and to compare certain physical data in order to check the accuracy and the integrity and correctness of returns. The tax audit is carried out either as a preliminary audit of returns, acts and written records held by the tax authorities or as an in-depth tax audit of the taxpayer.

Preliminary audit of declarations

174. The procedure for preliminary audit of declarations is given in detail in article 37 of the CDPF. Preliminary audit of returns, acts and written records held by the tax authorities is based on:

- documents and information held by the administration;
- documents filed by third parties in application of the tax legislation in force: or
- documents received by the tax authorities under the right to information.

175. In the framework of preliminary tax audit, tax authorities must request in writing any information, clarifications or justifications concerning the audit. The taxpayer must reply to this request in writing within 20 days from the date of notification. The preliminary audit is not subject to prior notification and does not prevent an in-depth tax audit. However, tax authority departments cannot carry out another preliminary audit of the same tax and for the same period.

176. Lastly, the tax administration must notify the taxpayer of the results of the preliminary audit of his/her declarations, acts or written documents within 90 days from the end of the period set out by law for presenting his/her response.

In-depth tax audit tax audit

177. The procedure for the in-depth tax audit is governed by articles 38 to 41 of the CDPF. The in-depth tax audit concerns all or part of the taxpayer's tax situation. It is carried out on the taxpayer's mandatory accounting records and in all cases based on information, documents or presumptions of fact or of law.

178. The tax authorities can carry out a new in-depth audit for the same tax and for the same period only if it has information concerning assessment and base of a tax about which it did not have previous knowledge (Article 38 (2) CDPF). Additionally, the tax authority department cannot carry out a preliminary audit after an in-depth audit for the same tax and for the same period.

179. In-depth tax audits are subject to prior notification (article 39 of the CDPF). The notification of an in-depth audit must specify the taxes and the periods concerned by the audit, the agent or agents who will carry them out and the date the audit will begin, which must be at least two weeks from the date of notification. The in-depth tax audit takes place on the company's premises (article 40 of the CDPF). The audit can be held in the tax authorities' office at the written request of the company or on the initiative of the tax authorities should it be necessary.

180. The tax authorities can request information, clarification or justification related to the audit (article 41 of the CDPF). When the request is made in writing, the taxpayer must respond in writing within 20 days from notification or the direct delivery of the request by the tax authorities.

181. Tunisian tax legislation does not provide a maximum amount of time, nor a statute of limitations for the use of the right to information. However, as taxpayers are required to keep accounting documents and supporting documents for at least 10 years (article 25 of the Accounting Law); in practice the right to information can be exercised beyond a period of 10 years.

Application of power of access to required information

182. The tax authorities may use their right to information to obtain information concerning ownership either from the commercial register for SARLs and partnerships or from the company itself in all cases or with an authorised depository for SAs listed on a stock exchange.

183. Financial statements are available from tax authorities. All individual and corporate taxpayers subject to accounting obligations must file with the tax authorities financial statements and table of determination of taxable profits.

184. Financial statements are also available from the commercial register. Individuals, legal entities subject to accounting obligations, and auditors of companies which must appoint an auditor, are required to register their annual accounts with the commercial register. For corporate taxpayers, this filing must take place within a month following the annual assembly of shareholders, and in any case within, at most, seven months following the end of the fiscal year. Accounting information is also available directly from the entities themselves, in which case the tax administration can exercise its right to information or its right of audit.

185. As concerns banking information, see section B.1.5 below.

Use of information-gathering measures in the absence of domestic tax interest (ToR B.1.3)

186. The concept of “domestic tax interest” describes situations in which a contracting party can only provide information to another contracting party if it has an interest in gathering such information for its own needs.

187. Domestic tax interest does not constitute a limitation of the Tunisian tax services’ right to information concerning ownership or accounting. Before the changes made to access to banking information by the Finance law for 2016, domestic tax interest did constitute however a limitation of the tax authorities’ power of access in terms of banking information (see section B.1.5 *Provisions concerning secrecy*). The right to information is not limited by a minimum threshold, nor by launching of an audit or audit operation, subject to what was announced previously concerning banking information.

188. Tunisian legislation provides the right to information without mentioning its intended use. Therefore, while the information requested by Tunisia’s partners may not be intended to determine taxes in Tunisia, the tax authorities are still empowered to use the right to information solely for information exchange purposes. Only the right to information established in article 17 of the CDPF concerning banking information requested of banks requires an in-depth tax audit of the account holder, who must be a Tunisian resident taxpayer. However, since 1 January 2016, this condition does not apply to EOI request received by Tunisia under an EOIR agreement (see section B.1.5).

189. For other information which may be sought by the requesting jurisdiction, the use of national information-gathering powers for EOI purposes is based on EOI agreements and their application in Tunisian domestic law. Article 20 of the Constitution states that international treaties approved by the Assembly of Representatives of the People take precedence over all other laws, but remain under the Constitution.

190. Thus, international conventions concluded and ratified by Tunisia are part of Tunisian law from their publication and take precedence over Tunisia’s domestic law. The tax authorities are therefore required to use the right to information provided in the articles to respond to any request for information coming from a jurisdiction with which Tunisia has concluded and ratified an EOI agreement. Tunisian legislation contains no provisions to prevent the tax authorities from using domestic information-gathering powers for EOI purposes.

191. According to the Tunisian authorities, the provisions under which information may be gathered in order to assess or audit Tunisian taxes and duties are interpreted as being valid even when the information is intended solely for a foreign tax authority, provided that it is justified by an international convention concluded between the jurisdiction concerned and Tunisia.

192. Tunisian authorities assert that they have thus far always used their right to information to respond to EOI requests and that the right to information enables them to obtain information from all entities, including companies governed by the law on offshore financial centres. How the tax authorities use their powers for EOI purposes will be assessed during the combined review scheduled in the first semester of 2018.

193. In conclusion, domestic tax interest does not constitute a limitation of Tunisia's tax authority's power to obtain information concerning ownership and accounting.

Powers for enforcing access to information (ToR B.1.4)

194. Failure to provide information and documents requested under the right to information set forth in article 16 of the CDPF or the right of audit set forth in articles 5 to 14 of the CDPF is punishable by a fine of TND 100 (EUR 45.1) to TND 1 000 (EUR 451) plus a fine of TND 10 per piece of information that is not provided, or is provided but is inaccurate or incomplete (Art. 100 CDPF). The same fine can be applied again every 90 days. Additionally, the taxpayer failing to present bank statements to the tax authorities after formal notice faces a fine of TND 100 (EUR 45.10) to TND 1 000 (EUR 451).

195. Similarly, financial institutions that fail in their obligations to provide banking information are punishable by a fine of TND 1 000 (EUR 451) to TND 20 000 (EUR 8 995) plus a fine of TND 100 (EUR 45.10) per piece of information that is not provided or is provided but is inaccurate or incomplete (Art. 101 CDPF). The fine can be applied again every 30 days. The penalty is doubled beginning from the second instance.

Secrecy provisions (ToR B.1.5)

196. The international standard requires that information on bank account holders' identity and the operations of accounts be accessible to the competent authority.

Banking secrecy

197. Banking secrecy is enshrined in article 30 of law no. 2001-65 of 10 July 2001 concerning credit institutions and articles 99 and 117 of the Code of financial services to non-residents. Under Article 30 of law no. 2001-65 members of boards of directors, members of supervisory boards and executive directors of credit institutions, their directors, nominees, auditors and employees are strictly bound by professional secrecy for all matters communicated to them by clients of the institution or which come to their attention through their professional activity, except in those cases provided by

law, and subject to the penalties set forth in article 254 of the criminal code. This obligation is repeated in article 99 of the Code of financial services to non-residents. Article 116 of the Code of financial services to non-residents states that professional secrecy cannot be invoked against the BCT or the Financial Market Council when engaged in their audit missions.

198. Two main changes took place recently concerning the tax authorities' access to banking information. The first amendment, applicable from 2015 subjects access to banking information to very restrictive conditions. This access procedure applies to all domestic situations from 1 January 2015 and to EOI but only for 2015. From 2016, the second legislative amendments enables access to banking information without any restrictive conditions, but only for EOI purposes.

Access power following the first legislative amendment applicable from 2015

199. Prior to 2015, Tunisian law did not allow tax authorities to obtain information about balances, bank statements or operations for a bank account in Tunisia. Moreover, the residual information in the accounts (identity of the owner and date opened) could only be obtained if the taxpayer concerned was the subject of an in-depth tax audit, meaning that the period in question could not be out of the statute of limitations nor previously audited.

200. The additional law on finance of 7 August 2014 modified in particular article 17 of the CDPF by enabling the right to information to banking information. However, the power to obtain banking information by the administration remains limited. This procedure is applicable to domestic situations since 1 January 2015. Concerning the requests for information under an EOI agreement, this procedure was only applicable from 1 January 2015 to 31 December 2015 (see below section for the procedure applicable from 1 January 2016).

201. Since 1 January 2015, the new article 17 of the CDPF allows for direct application of the right to information for banking information from banks, but only if the taxpayers who are the subject of the request have not filed all required tax declarations.

202. In all other cases, i.e. taxpayers who have filed all required tax declarations, the right to information is applicable to obtain banking information but on several restrictive conditions. Banks, national post offices, stock market intermediaries and insurance companies can now deliver account statements and amounts saved if the following conditions are met:

- the taxpayer concerned is the subject of an in-depth tax audit;
- the taxpayer has been notified and has not presented the account statements and the amounts saved within the time allotted, or they are incomplete; and

- the competent tax authorities obtain a court order issued in a period of time which must not exceed, in all cases, 72 hours from the time the request was presented by the tax authorities.

203. The new provisions of article 17 of the CDPF were an improvement in comparison with the previous situation, that is to say, prior to 2015. Article 17 of the CDPF allows the tax authorities to obtain under certain conditions, bank account operations in detail, which constitutes a notable improvement to the competent authority's powers of access. Further, the tax administration can directly obtain banking information without a court order; to the extent the taxpayer has not filed tax returns.

204. However, access to banking information is limited by the restrictive conditions established in paragraphs 4 and 5 of article 17 of the CDPF, which from 2016 remain applicable to domestic situations only. For EOI purposes, these restrictive conditions, only applied in 2015:

- **Limitation of the scope to taxpayers only** (Article 17(3) of the CDPF): the right to information from banks only applies to banking information for Tunisian taxpayers. Therefore, if the account holder is not a Tunisian taxpayer, the tax authorities cannot obtain information from banks.
- **Prior request for banking information from taxpayers** (Article 17(4) of the CDPF): the right to information from banks only applies after a request to the taxpayer for banking information, followed by his refusal to provide the information.
- **Uncertainty about recourse available to the taxpayer**: the tax authorities must request and obtain within 72 hours a court order after having unsuccessfully ordered the taxpayer to provide said information (Article 17(4) of the CDPF). The taxpayer may challenge the referral to the Court by the tax administration (Article 54 of the CDPF)
- **Requirement of an in-depth tax audit** (Article 17 (5) of the CDPF): requiring an in-depth tax audit could, in practice, neutralise access to banking information, especially if this information is necessary to respond to an EOI request by a foreign tax authority.
- For companies and individuals required to keep accounts, the tax authorities could open an in-depth tax audit only over the previous four year period. The tax administration's right of review is limited to four years, subject to exceptions (article 19 et seq. of the CDPF). Indeed, the in-depth tax audit may cover periods under limitation having impact on the tax base or the amount of tax due in respect of periods not subject to the statutes of limitation (Article 26 of CDPF) second, new in-depth audits of the same tax and for the same period are prohibited

(article 38 of the CDPF) except in cases where the tax authorities have new information concerning the base and payment of the tax. Thereby, if the tax authority receives a request for banking information concerning a period that has already been the subject of an in-depth tax audit, it would be impossible to obtain the information insofar as it could not justify a new tax audit necessary for the signing of a court order.

205. In conclusion, the modification of article 17 of the CDPF, which applied in 2015 to EOI requests and which remains applicable to domestic situations, provides the tax authorities with access to banking information under certain restrictive conditions. However, these conditions may delay or even prevent access to banking information. Further amendments made to article 17 CDPF are applicable from 2016 and provides the Tunisian authorities with the power to access banking information for EOI purposes.

Access power on banking information applicable from 2016

206. The Finance Law for 2016 amended article 17(7) of the CDPF to ensure that tax authorities can obtain banking information from financial institutions, without the application of the restrictive conditions of article 17 of the CDPF, and without the condition that the account holder be a taxpayer.

207. While the law applicable in 2015 already allowed for a direct access to banking information when the taxpayer has not filed his tax returns, the Finance Law for 2016 extended this direct access to “to all EOI requests sent from foreign jurisdictions under an EOI agreement”. Accordingly, the restrictive conditions set out in article 17 CDPF do not apply for EOI requests from foreign jurisdictions with which Tunisia has concluding an EOI agreement.

208. Paragraph 7 of article 17 of the CDPF refers to paragraph 3 of article 17 of the CDPF, which sets out the procedures to access banking information. Credit institutions acting as banks, the National Post Office, stock market intermediaries and insurance companies “are required to provide to the competent departments of the tax authorities upon written request and within ten days from the date of notification of the request, copies of account statements and amounts saved under capitalisation contracts in the case of the taxpayer’s failure to communicate these copies within ten days of receiving written notification”. Tunisian authorities have confirmed that the term “taxpayer” was voluntarily omitted from the new addition to paragraph 7 of article 17 of the CDPF to establish a broad scope and cover any account owner who is the subject of a request for information, whatever his or her status (resident taxpayer, non-resident, non-taxpayer).

209. Additionally, the Tunisian authorities have confirmed the following:

- banking information will be exchanged with the signatories to the multilateral Convention on the basis of that basis and that of Article 17 CDPF;
- EOI on banking information with jurisdictions not parties to the multilateral Convention, but bound by an double tax treaties the article 26 of which has not been updated to include paragraph 5, will be carried out on the basis of article 26 and article 17 CDPF, because the restriction to banking information exchange was lifted from 1 January 2016; and
- the reference to EOI agreements in the new article 17(7) CDPF does not restrict direct access to banking information for EOI request received under an EOI agreement that does not contain the equivalent of paragraph 5 of Article 26 of the OECD Model Convention. The Tunisian authorities confirmed that the new amendment allows access to banking information under all EOI agreement, even those not containing paragraph 5 of article 26 of the OECD Model Convention.

210. The modalities for applying this new article 17(7) CDPF and its practical interaction with tax conventions lacking Article 26 (5) will be assessed during the combined evaluation planned for the first semester of 2018.

211. Changes to the tax authority’s right to access banking information apply from 1 January 2016. The Tunisian authority confirmed that this access applies to banking information for taxable periods prior to 1 January 2016. Therefore, a requesting jurisdiction could request information concerning tax periods before 2016.

212. Through this legislative change applicable from 1 January 2016, Tunisian authorities’ access to information complies with the international EOI standard. The practical application of this new provision and its modalities will be assessed during the combined review to be held the first semester of 2018.

Professional secrecy

213. Article 16(5) of the CDPF provides that individuals and legal persons may not “in the absence of legal provisions to the contrary” invoke the obligation to respect professional secrecy against tax authority agents authorised to exercise the right to information. The developments below assess the interaction of the right to information with the professional secrecy of lawyers, certified accountants, notaries and other professions.

Attorney-client privilege

214. Attorney-client privilege is protected by articles 29 and 31 of the Decree-law of 20 August 2011 organising the legal profession. These provisions

include that the lawyer must absolutely preserve any secret that a client entrusts to him/her or that is learned of through the exercise of his/her profession.

215. Paragraph 19.3 of the commentaries on article 26 (3) of the OECD Model Tax Convention provides that “a requested State may decline to disclose information relating to confidential communications between attorneys, solicitors or other admitted legal representatives in their role as such and their clients to the extent that the communications are protected from disclosure under domestic law. However, the scope of protection afforded to such confidential communications should be narrowly defined.”

216. The Decree-Law on the profession of attorney does not define the scope of attorney-client privilege. Yet the OECD commentary specifies that secrecy cannot apply “to documents or records delivered to an attorney, solicitor or other admitted legal representative in an attempt to protect such documents or records from disclosure required by law”. For example, accounting documents or a register of shareholders cannot be covered by professional secrecy. In addition, the OECD commentaries specify that “information on the identity of a person such as a director or beneficial owner of a company is typically not protected as a confidential communication”. Lastly, the OECD commentary specifies that communications among attorneys or other admitted legal representatives and their clients are only confidential to the extent that such representatives are acting in their capacity as attorneys, solicitors or other admitted legal representatives and not in a different capacity, such as nominee shareholders, trustees, etc.

217. Article 16 of the CDPF required professionals to communicate requested information, barring “legal provisions to the contrary”. However, as legal provisions to the contrary exist for attorneys, for whom attorney-client privilege is absolute and is not defined, the application of the attorney-client privilege in the framework of the right to information may extend beyond what is allowed under the international EOI standard on request.

Professional secrecy for notaries

218. In Tunisia notaries are considered public officers and as such they are bound, according to article 16 of the CDPF to communicate to authorised tax authorities written acts, registers and documents in the exercise of their profession. Notaries must register notarised acts concerning the legal status of buildings and businesses within 60 days and all other notarised acts within 30 days (articles 2, 3 and 14 of the stamp and registration duty code). Consequently, notaries cannot invoke their professional secrecy against tax authorities; rather they have additional obligations as concerns the right to information.

Professional secrecy for certified accountants

219. Certified accountants are bound by professional secrecy, except where otherwise specified by law, as in article 16 of the CDPF which establishes the right to information. The same obligation applies to their employees. Article 8 of law no. 88-108 of 18 August 1988 on auditors provides that “unless otherwise provided, legal and natural persons entered on the professional registers and their employees are bound by professional secrecy. They are furthermore bound by the same obligations for business brought to their knowledge in the exercise of their profession.” Tunisian authorities have confirmed that the tax authority has right of access to tax information held by certified accountants, notwithstanding the application of professional secrecy.

Other professions

220. Article 99 of the code of financial services provided to non-residents prohibits members of boards of directors, members of supervisory boards and members of managing boards of authorised non-resident financial service providers, their directors, nominees, auditors and employees, from divulging secrets communicated to them or that they have learned of through their professional activity, except in the cases permitted by law, and punishable by criminal sanctions. Through this exception, those who provide financial services to non-residents cannot invoke professional secrecy in tax matters.

221. Pursuant to article 254 of the Criminal Code “physicians, surgeons and other health professionals, pharmacists, midwives and all other persons who, as a result of their status or profession, are privy to secrets, except where required or permitted by law to act as whistle-blowers, who reveal these secrets are liable to imprisonment of six months and a fine of TND 120.”

Conclusion for B.1.5

222. Prior to 2016, although article 17 of the CDPF granted the tax authority the right to obtain banking information under certain restrictive conditions, thereby likely to delay or prevent access to banking information. Since 1 January 2016, the conditions restricting the right of access to banking information no longer apply when the Tunisian administration uses its right to information to respond to a banking information request from a foreign jurisdiction. The practical application of this new provision and its modalities will be assessed during the combined review to be held the first semester of 2018.

223. Due to the lack of a specifically defined scope of professional secrecy for attorneys under Tunisian law, some uncertainty remain about the application of attorney-client privilege, which could expand beyond what is allowed by the international EOI standard on request. It is recommended that Tunisia

clarifies the scope of the attorney-client privilege to ensure consistency with the international EOI standard on request.

Determination and factors underlying the recommendations

Phase 1 determination	
The element is in place but certain aspects of the legal implementation of the element need improvement	
Factors underlying the recommendations	Recommendations
The scope of the attorney-client privilege is not defined under Tunisian domestic law and could extend beyond what is allowed under the international EOI standard on request.	Tunisia should clarify the scope of the attorney-client privilege provision to ensure consistency with the international EOI standard on request.

B.2. Notification requirements and rights and safeguards

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

224. Rights and safeguards should not unduly delay or prevent the effective EOI. For example, notification procedures should allow exceptions to prior notification (e.g. in cases where the request for information is very urgent or where notification is liable to compromise the chances of success of an investigation carried out by the requesting jurisdiction).

Rights and safeguards should not unduly delay or prevent effective exchange of information (ToR B.2.1)

225. Taxpayers have the right to appeal a reassessment from the tax authorities before the Court of First Instance (articles 52 to 66bis of the CDPF). The decisions of the Court of First Instance can be appealed before the Court of Appeals (Articles 67 and 68 of the CDPF). In respect of exchange of information, there is no provision in Tunisian domestic law which requires a person to be informed when he/she is the subject of a request for information, including in the framework of international administrative assistance.

Determination and factors underlying the recommendations

Phase 1 determination
The element is in place.

C. Exchange of information

Overview

226. Jurisdictions cannot generally exchange information for tax purposes unless they have a legal basis or mechanism for doing so. In Tunisia, the legal authority to exchange information is derived from multilateral and bilateral mechanisms (double taxation agreements). This section of the report assesses whether Tunisia has a network to exchange information that allows it to achieve effective EOI.

227. Tunisia has an extensive network of EOI mechanisms, in the form of bilateral or multilateral conventions. Tunisia is a signatory to the Convention on Mutual Administrative Assistance in tax matters (multilateral Convention), which it has ratified, and is also a party to the Convention between the states of the Arab Maghreb Union for the avoidance of double taxation and mutual assistance with respect to taxes on income (Arab Maghreb Union tax convention).

228. Tunisia currently has a network of information exchange agreements covering 119 jurisdictions. No bilateral tax convention concluded by Tunisia contains paragraphs 4 and 5 of article 26 of the OECD Model Tax Convention. The double tax convention (DTC) with Switzerland contains no EOI provisions, but Switzerland is a signatory to the multilateral Convention. However, since 1 January 2016, the amendments made to article 17 of the CDPF allows for a direct access to banking information for EOI requests received from foreign jurisdictions that have concluded an EOI agreement with Tunisia, even if such agreement does not contain the equivalent of paragraph 5 of Article 26 of the OECD Model Tax Convention.

229. Tunisia's network of agreements covers its major economic partners, the majority of European Union and OECD member states as well as a large number of Global Forum members. Tunisia has never declined to conclude an information exchange agreement with another jurisdiction.

230. All EOI mechanisms include provisions concerning confidentiality and Tunisian domestic legislation also contains provisions on this subject. They apply equally to information and documents concerned by EOI requests received by Tunisia and to the responses provided to the treaty partner.

231. Similarly, all the EOI agreements concluded by Tunisia contain provisions which protect the rights and safeguards of taxpayers and third parties.

C.1. Exchange-of-information mechanisms

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

232. Tunisia has an extensive network of EOI mechanisms in the form of bilateral or multilateral conventions. Tunisia has been a party to the multilateral Convention since 16 July 2012, meaning that it has an agreement compliant with the standard with 51 jurisdictions with which it did not previously have an information exchange agreement.

233. Tunisia is also party to the Arab Maghreb Union tax convention, the other parties to which are Algeria, Libya, Mauritania and Morocco.

234. Tunisia has an information exchange agreement with 119 jurisdictions. No bilateral tax convention concluded by Tunisia contains paragraphs 4 and 5 of article 26 of the OECD Model Tax Convention; except for the DTC with Luxembourg, which was amended to introduce an Article 26 identical to the one of the OECD Model Convention and signed on 8 July 2014⁸. The DTC with Switzerland contains no EOI provisions, but Switzerland is a signatory to the multilateral Convention. However, since 1 January 2016, the amendments made to article 17 of the CDPF allows for a direct access to banking information for EOI requests received from foreign jurisdictions that have concluded an EOI agreement with Tunisia, even if such agreement does not contain the equivalent of paragraph 5 of Article 26 of the OECD Model Tax Convention.

235. Negotiations are currently underway with Germany and Singapore to modify the articles on EOI and to add paragraphs 4 and 5 of article 26 of the OECD Model Tax Convention. Similarly, a draft exchange of tax information agreement with Brazil is being discussed.

8. The Protocol modifying the DTC between Tunisia and Luxembourg of 8 July 2014 has not yet ratified by Tunisia.

Standard of foreseeable relevance (ToR C.1.1)

236. The international standard in information exchange provides that information should be exchanged upon request to the widest possible extent. However, it does not allow “fishing expeditions”, meaning speculative requests for information which appear to have no clear link with an ongoing audit or investigation. The balance between these two competing aspects is expressed in the concept of “foreseeable relevance” contained in Article 26 (1) of the OECD Model Tax Convention which states:

The competent authorities of the Contracting States shall exchange such information as is foreseeably relevant for carrying out the provisions of this Convention or to the administration or enforcement of the domestic laws concerning taxes of every kind and description imposed on behalf of the Contracting States, or of their political subdivisions or local authorities, insofar as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by Articles 1 and 2.

237. The majority of treaties signed by Tunisia include the term “necessary” (*necessaire*). This term is considered in the commentary to Article 26 of the OECD Model Tax Convention as having the equivalent effect for EOI purposes as “foreseeably relevant”. Tunisia confirms that it supports this interpretation. These treaties may therefore be considered to comply with the standard of foreseeable relevance.

238. A certain number of treaties restrict EOI to application of the “provisions of this convention” (Germany, Austria, Ethiopia, Netherlands and United Kingdom). As they do not permit the EOI not referred to in the convention, they do not comply with the international standard.

239. It should be noted however that all of these jurisdictions, with the exception of Ethiopia, are covered by the multilateral Convention.

240. The DTC concluded with Switzerland on 10 February 1994 does not contain an EOI clause. However, Switzerland is a signatory to the multilateral Convention.

In respect of all persons (ToR C.1.2)

241. Effective EOI implies that the obligation of a jurisdiction to provide information should not be limited by the residence or nationality of either the person concerned by the request for information or of the person who possesses or holds the information requested. For this reason, the international EOI standard provides that EOI mechanisms should allow an EOI covering all persons.

242. Article 26 (1) of the OECD Model Tax Convention provides that “The exchange of information is not restricted by Articles 1 and 2”, article 1 defining the personal scope of the convention. Almost none of the bilateral tax conventions concluded by Tunisia contain the phrase from the model, with the exception of 16 tax agreements⁹. The EOI article in these agreements nevertheless applies to both residents and non-residents of the contracting parties, since it applies to “the provisions of this convention or those of the domestic laws of the contracting states relating to the taxes covered by the convention, insofar as the taxation thereunder is not contrary to the Convention”.

243. These treaties therefore do not restrict EOI to residents only, since domestic tax law applies to all taxpayers (and third parties where access to information is concerned) whether residents or not (for example non-residents are liable to tax on income derived from Tunisia). An EOI concerning all persons is therefore possible under the terms of these treaties. The Tunisian authorities confirm that they support this interpretation.

244. Lastly, five bilateral agreements¹⁰ concluded by Tunisia do not contain the phrase from the OECD Model Tax Convention and the wording of the article in these agreements relating to information exchange states that the agreement applies only to “the taxes covered by the Convention” and not to the Contracting States domestic law. In these cases the agreements do not apply to all persons (and non-residents in particular) and therefore do not comply with the standard. However, these jurisdictions (with the exception of Ethiopia) are covered by the multilateral Convention, which is compliant with the EOIR standard. Tunisia is recommended to amend its DTC with Ethiopia to conform it to the EOIR standard.

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

245. Jurisdictions cannot undertake effective EOI if they are unable to exchange information held by financial institutions, nominees or persons acting in a fiduciary capacity or because the information relates to ownership interests in a person.

Limitations in exchange of banking information

246. Article 26 (5) of the OECD Model Tax Convention provides that a contracting State may not decline to supply information solely because it is held by a bank, other financial institution, nominee or person acting in an

9. Belgium, China, Denmark, Egypt, Hungary, Indonesia, Italy, Korea, Lebanon, Mauritius, Portugal, Senegal, Serbia, Syria, United States and AMU Convention.

10. Germany, Austria, Ethiopia, Mauritius, and Netherlands.

agency or a fiduciary capacity or because the information relates to ownership interests in a person.

247. None of the tax conventions concluded by Tunisia include provisions equivalent to paragraphs 4 and 5 of Article 26 of the OECD Model Tax Convention. Of the 56 jurisdictions with a tax convention with Tunisia, 32 jurisdictions are also covered by the Multilateral Convention. Only 24 jurisdictions¹¹ are not covered by the multilateral Convention.

248. As Tunisian domestic law included restrictions on access to banking information obtained from banks prior to the adoption of the Finance Law for 2016, the competent authority was not able to obtain banking information in all cases.

249. As from 1 January 2016, the Tunisian tax authorities are able to obtain banking information from banks for EOI requests from foreign jurisdictions under EOI agreements concluded by Tunisia with no restrictions.

250. The Tunisian authorities confirmed that the latest modification allows access to banking information under any request for information from foreign jurisdictions which have concluded an information exchange agreement, even if it does not contain the equivalent of Article 26 (5) of the OECD Model Tax Convention.

251. Modifications to the tax authority's right to access banking information apply from 1 January 2016. The Tunisian authorities confirmed that this access applies to banking information for periods prior to 1 January 2016. Therefore, a requesting jurisdiction could request information concerning tax periods before 2016.

252. Through this legislative change applicable beginning 1 January 2016, Tunisian authorities' access to information complies with the standard. The practical application of this new provision and its modalities will be assessed during the combined review to be held the first semester of 2018.

Absence of domestic tax interest (ToR C.1.4)

253. The concept of domestic tax interest describes situations in which a contracting party can only provide information to another contracting party if it has an interest in obtaining the desired information for its own tax purposes. Inability to provide information which is based on any such domestic tax interest does not comply with the international standard. The contracting parties should use domestic information-gathering powers even if they are

11. Burkina Faso, Chad, Congo, Côte d'Ivoire, Egypt, Ethiopia, Iran, Jordan, Lebanon, Mali, Oman, Pakistan, Qatar, Senegal, Serbia, Sudan, Syria, United Arab Emirates, Vietnam and Yemen.

used solely for the purpose of obtaining and providing information to the other contracting party.

254. None of the bilateral agreements concluded by Tunisia contain the equivalent of Article 26 (4) of the OECD Model Tax Convention which requires contracting states to use their information-gathering measures to obtain the requested information even though they may not need it for their own tax purposes. However, Tunisia is in a position, even without this paragraph, to exchange information with its partners without reference to a domestic tax interest in all cases.

Absence of dual criminality principles (ToR C.1.5)

255. The dual criminality principle provides that assistance can only be provided if the matter under investigation (and prompting the request for information) would constitute a criminal matter in the requested jurisdiction if had arisen in that jurisdiction. If it is to be meaningful, information exchange must not be restricted by the enforcement of a dual criminality principle.

256. None of the information exchange mechanisms established by Tunisia provide for the application of the dual criminality principle in order to restrict EOI.

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

257. Communicating information may be necessary for both tax and criminal purposes. The international standard is not limited to EOI for criminal tax matters but extends to EOI for tax administration purposes.

258. All information exchange mechanisms concluded by Tunisia provide for EOI for both criminal and civil purposes.

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

259. In certain cases, a contracting party may need to receive information in a specific form in order to satisfy its evidentiary or other legal requirements. These forms may include witness statements and authenticated copies of original documents. The requested party may decline to provide information in the specific form requested if, for instance, the requested form is unknown or not permitted in its administrative practice. Declining to provide information in the requested form does not affect the requirement to provide the information.

260. There are no restrictions in the EOI mechanisms established by Tunisia that would prevent them from providing the information in the requested form as long as it complies with their administrative practice.

In force (ToR C.1.8)

261. EOI cannot take place unless a jurisdiction has EOI mechanisms in force. Where such mechanisms have been signed, the international standard requires that the jurisdiction must take all steps necessary to bring them into force expeditiously.

262. In Tunisia, all tax agreements (DTCs, EOI agreements, protocols amending existing DTCs or multilateral agreements) must be ratified by the Parliament.

263. The multilateral Convention, signed by Tunisia on 16 July 2012, was ratified on 31 October 2013. It entered into force on 1 February 2014.

264. Seven DTCs signed by Tunisia are not yet in force: the DTCs with Congo (2005), Côte d'Ivoire¹² (1999), Gabon (1986), Guinea (1993), Iraq (2001), Togo (1987) and Chad (2012). The Tunisian authorities have clarified that Tunisia has ratified the DTCs with Guinea (1993), Togo (1987), Côte d'Ivoire (1999) and Congo (2005). Tunisia also indicated that the Tunisian Ministry of Finance sent correspondences to the jurisdictions concerned repeatedly through diplomatic channels asking them to proceed with the ratification. As regards the DTC with Chad, the signing took place in French only; however a signed version in Arabic is essential to proceed with the ratification of the DTC. Once the Arabic version is signed, the Tunisian side will proceed with the ratification. Regarding the DTC with Iraq, signed in 2001, negotiations are scheduled for early 2016 to amend the DTC. It is recommended that Tunisia continues to work together with its partners in order for the seven conventions signed some time ago be effectively ratified, enabling effective EOI.

In Effect (ToR C.1.9)

265. For information exchange to be effective, the contracting parties must take the necessary measures to comply with their commitments.

266. Once a treaty or agreement has come into force, Tunisia does not need to take any additional measure in order for it to be effective.

Determination and factors underlying the recommendations

Phase 1 determination
The element is in place

12. The DTC between Tunisia and Côte d'Ivoire signed on 14 May 1999, and ratified by Tunisia on 17 December 1999, was ratified by Côte d'Ivoire on 3 June 2015 and the procedures of exchange of instruments were initiated through diplomatic channels.

C.2. Mechanisms for exchanging information with all relevant partners

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

267. According to the international standard, jurisdictions should be able to exchange information with all relevant partners, meaning partners interested in concluding an EOI agreement. Agreements cannot be concluded solely with partners of no economic significance. If a jurisdiction refuses to conclude or negotiate agreements with partners, especially those which have reasonable grounds for seeking information from that jurisdiction in order to properly administer and enforce their tax laws, that fact may indicate a lack of commitment to implementing the standards.

268. Tunisia has an extensive network of EOI agreements, including 56 bilateral agreements and two multilateral agreements, namely the Multilateral Convention (which guarantees Tunisia standard-compliant EOI with 51 new jurisdictions with which it has no other EOI agreement) and the Arab Maghreb Union tax convention, the other signatories to which are Algeria, Libya, Mauritania and Morocco. Tunisia's network therefore currently covers 119 jurisdictions.

269. Tunisia has stated that its main economic partners are France (26.2% in 2013) and Italy (18.6% in 2013) and more generally the Euro zone, which in 2013 represented more than 70% of its exportations. Tunisia's information exchange networks cover most OECD and European Union members, with whom EOI agreements comply with the standard. The Tunisian authorities have confirmed that Tunisia has never refused to negotiate an EOI agreement.

270. Tunisia has indicated that it is currently negotiating a draft EOI agreement with Brazil.

Determination and factors underlying the recommendations

Phase 1 determination	
The element is in place	
Factors underlying the recommendations	Recommendations
	Tunisia should continue to extend its EOI network in compliance with the standard.

C.3. Confidentiality

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

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

271. Governments would not engage in EOI without the assurance that the information provided would be used only for the purposes permitted under the relevant EOI agreement and its confidentiality would be preserved. EOI mechanisms must therefore contain provisions indicating exactly to whom the information may be disclosed. Furthermore, the domestic legislation in force in the jurisdictions concerned usually contains strict regulations on protecting the confidentiality of information gathered for tax purposes.

272. Each of the EOI agreements concluded by Tunisia contains a confidentiality clause compliant with Article 26 (2) of the OECD Model Tax Convention, which states that:

Any information received under paragraph 1 by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, the determination of appeals in relation to the taxes referred to in paragraph 1, or the oversight of the above. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

273. In addition, Tunisian domestic law contains rules designed to guarantee the confidentiality of exchanged information. To that end, article 15 of the CDPF provides:

Any person who in the performance of their duties or position is called to act in the assessment, collection, audit or disputation of taxes or duties is bound by professional secrecy.

Tax-related notifications and correspondence exchanged between tax authorities or about which they notify the taxpayer must be communicated under sealed cover.

Tax authority agents can only provide information from or copies of files in their possession to the taxpayer him/herself, and concerning his/her tax situation to persons who may be liable for payment in place of the taxpayer.

Tax collection services and tax administration services can only provide copies or registered acts or extracts from the register concerning registration to contracting parties or their assigns. In other cases, copies and extracts can only be provided on an order of the competent judge.

274. Penalties provided by article 254 of the criminal code – up to six months imprisonment and a fine of TND 120 – apply to any offender with an obligation to respect professional secrecy set out in article 15 of the CDPF. The Finance Law for 2016 provides that the penalties are multiplied by five in case of disclosure of information mentioned in article 17 CDPF and received under an EOI agreement (Article 102 CDPF).

275. In addition, article 7 of Law no. 83-112 of 12 December 1983 concerning the general status of civil servants of the state, local governments and public institutions that function as administrations provides that “independent of the rules set out in the criminal code on professional secrecy, any civil servant is bound by an obligation to professional discretion concerning all acts he/she learns of through his/her professional activity. [...] the civil servant can be exempted from this obligation or relieved of this prohibition instituted by the previous paragraph only upon written authorisation from the administration under whose responsibility he/she acts. This derogation is applied and interpreted restrictively, either to ensure the protection of people threatened or abused, to protect public health (disclosure of cases of contagious diseases requiring monitoring), or to preserve public order (reporting crimes, for example).

Other information exchanged (ToR C.3.2)

276. The provisions concerning confidentiality which are included both in the relevant EOI agreements and in Tunisian domestic legislation do not distinguish between information received in reply to a request or information that forms part of the request. These provisions apply in the same manner to requests, attached documents and all communications between the jurisdictions involved in the exchange.

Determination and factors underlying the recommendations

Phase 1 determination
The element is in place.

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

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

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

277. The international standard allows the requested jurisdictions not to provide information in response to a request in certain very specific situations. Inter alia, a request for information may be declined if the requested information could reveal confidential information protected by attorney-client privilege, which is part of the legal system of many jurisdictions.

278. All the double taxation conventions concluded by Tunisia contain a provision equivalent to the exception provided for in Article 26(3) of the OECD Model Tax Convention, which allows a State to refuse to exchange certain types of information, including information which would disclose any trade, business, industrial or professional secret or trade process. However, the term “professional secret” is not defined in the double taxation conventions (DTC) and therefore, considering the provision of Article 3 (2) of the DTCs, this term would derive its meaning from the domestic law of Tunisia.

279. As noted in part B.1.5 of this report, article 16 of the CDPF required professionals to communicate requested information, barring “legal provisions to the contrary”. However, as legal provisions to the contrary exist for attorneys, for whom attorney-client privilege is absolute, the application of the attorney-client privilege in the framework of the right to information may extend beyond what is allowed under the international EOI standard on request. It is therefore recommended that Tunisia ensures that the implementation of laws regarding the «secrecy” in its domestic law complies with the EOI standard on request for the purpose of EOI agreements. An analysis of the application of privilege under the right of communication will be conducted during the combined review expected in the first semester of 2018.

Determination and factors underlying the recommendations

Phase 1 determination	
The element is in place but certain aspects of the legal implementation of the element need improvement.	
Factors underlying the recommendations	Recommendations
The DTCs concluded by Tunisia do not define the term “professional secret” and the scope of the attorney-client privilege under domestic laws of Tunisia is not clearly consistent with the international standard.	Tunisia must clarify the scope of protection offered under the attorney-client privilege under its domestic law so as to be in line with the standard for the purpose of EOI agreements.

C.5. Speed of response to requests for information

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

Response within 90 days (ToR C.5.1)

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

281. An analysis of the practical resources available to the Tunisian competent authorities in order to respond promptly to requests for information sent to them will be carried out during the combined review scheduled in the first semester of 2018.

Organisational process and resources (ToR C.5.2)

282. An analysis of the organisational process and resources implemented by Tunisia in practice will be carried out during the combined review scheduled in the first semester of 2018.

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

283. There is no provision in Tunisian legislation or in its EOI agreements which contains specific conditions governing EOI, other than those included in Article 26 of the OECD Model Tax Convention or the OECD Model TIEA.

Determination and factors underlying the recommendations

Phase 1 determination

The assessment team is not in a position to evaluate whether this element is in place, as it involves issues of practice that are dealt with in the combined review scheduled for the first semester of 2018.

Summary of determinations and factors underlying recommendations

Determinations	Factors underlying the recommendation	Recommendations
Jurisdictions should ensure that ownership and identity information for all relevant entities and arrangements is available to their competent authorities. <i>(ToR A.1)</i>		
The element is in place		
Jurisdictions should ensure that reliable accounting records are kept for all relevant entities and arrangements. <i>(ToR A.2)</i>		
The element is in place		
Banking information should be available for all account holders. <i>(ToR A.3)</i>		
The element is in place.		
The competent authorities should have the power to obtain and provide information that is the subject of a request under an exchange of information agreement from any person within their territorial jurisdiction and who is in possession or control of such information (irrespective of any legal obligation on such person to maintain the secrecy of this information). <i>(ToR B.1)</i>		
The element is in place but certain aspects of the legal implementation of the element need improvement.	The scope of the attorney-client privilege is not defined under Tunisian domestic law and could extend beyond what is allowed under the international EOI standard on request.	Tunisia should clarify the scope of the attorney-client privilege provision to ensure consistency with the international EOI standard on request.
The rights and safeguards (e.g. notification or appeal rights) that apply to persons in the requested jurisdiction should be compatible with the effective exchange of information. <i>(ToR B.2)</i>		
The element is in place.		
Exchange of information mechanisms should allow for effective exchange of information. <i>(ToR C.1)</i>		
The element is in place.		

Determinations	Factors underlying the recommendation	Recommendations
The jurisdictions' network of information exchange mechanisms should cover all relevant partners. <i>(ToR C.2)</i>		
The element is in place.		Tunisia should continue to extend its EOI network in compliance with the standard.
The jurisdictions' mechanisms for exchange of information should have adequate provisions to ensure the confidentiality of the information received. <i>(ToR C.3)</i>		
The element is in place.		
The exchange of information mechanisms should respect the rights and safeguards of taxpayers and third parties. <i>(ToR C.4)</i>		
The element is in place but certain aspects of the legal implementation of the element need improvement.	The DTCs concluded by Tunisia do not define the term "professional secret" and the scope of the attorney-client privilege under domestic laws of Tunisia is not clearly consistent with the international standard.	Tunisia must clarify the scope of protection offered under the attorney-client privilege under its domestic law so as to be in line with the standard for the purpose of EOI agreements.
The jurisdiction should provide information under its network of agreements in a timely manner. <i>(ToR C.5)</i>		
The assessment team is not in a position to evaluate whether this element is in place, as it involves issues of practice that are dealt with in the combined review planned for the first semester of 2018.		

Annex 1: Jurisdiction’s response to the review report¹³

Tunisia wishes to express its sincere thanks to the Secretariat of the Global Forum and to the Global Forum for their concern and support throughout the process that helped prepare and carry out Phase 1 of the peer review of Tunisia.

Tunisia also wishes to express its gratitude to the evaluation team for their availability, their listening, their help, and their valuable advice, and for the work they have accomplished.

Similarly, Tunisia wishes to thank the members of the Peer Review Group for taking the trouble to study the Draft Report and for making helpful comments which were taken into consideration in finalizing the report.

The evaluation team concluded that the legal framework put in place in Tunisia, in terms of transparency and exchange of information, made it possible, in general, to our jurisdiction to exchange information on request.

In this regard, Tunisia is particularly honored to affirm its full support to the positive findings of the report.

Moreover, regarding the recommendation to clarify the scope of the protection offered in its domestic law, under the concept of lawyers “professional secrecy”, Tunisia shall make every effort to execute and implement this recommendation, in order to comply with the standard for the implementation of the information exchange agreements.

13. This annex presents the jurisdiction’s response to the review report and shall not be deemed to represent the Global Forum’s views.

Annex 2: List of all exchange of information mechanisms in force

EOI agreements signed by Tunisia as at 16 October 2015, in alphabetical order

Tunisia is party to the multilateral Convention, signed on 16 July 2012. It was ratified on 31 October 2013 and entered into force on 1 February 2014.

	Jurisdiction	Type of agreement	Signature ^a / Territorial scope	Date of entry into force/status
1	Albania	Multilateral Convention	Signed	01-Feb-14
2	Algeria	Convention UMA	23-Jul-90	14-Jul-93
3	Andorra	Multilateral Convention	Signed	Not yet in force in Andorra
4	Anguilla ^b	Multilateral Convention	Extended	01-Mar-14
5	Argentina	Multilateral Convention	Signed	01-Feb-14
6	Aruba ^a	Multilateral Convention	Extended	01-Feb-14
7	Australia	Multilateral Convention	Signed	01-Feb-14
8	Austria	Multilateral Convention	Signed	01-Dec-14
		DTC	23-Jun-77	04-Sep-78
9	Azerbaijan	Multilateral Convention	Signed	01-Sep-15
10	Barbados	Multilateral Convention	Signed	Not yet in force in Barbados
11	Belgium	Multilateral Convention	Signed	01-Apr-15
		DTC	07-Oct-14	05-Jun-09
12	Belize	Multilateral Convention	Signed	01-Feb-14
13	Bermuda ^b	Multilateral Convention	Extended	01-Mar-14
14	Brazil	Multilateral Convention	Signed	Not yet in force in Brazil
15	British Virgin Islands ^b	Multilateral Convention	Extended	01-Mar-2014

	Jurisdiction	Type of agreement	Signature^a/ Territorial scope	Date of entry into force/status
16	Bulgaria	Multilateral Convention	Signed	Not yet in force in Bulgaria
17	Burkina Faso	DTC	15-Apr-03	01-Apr-13
18	Cameroon	Multilateral Convention	Signed	01-Oct-15
		DTC	26-Mar-99	10-May-06
19	Canada	Multilateral Convention	Signed	01-Mar-14
		DTC	10-Feb-82	04-Dec-84
20	Cayman Islands	Multilateral Convention	Extended	01-Jan-14
21	Chad	DTC	12-May-12	Not in force
22	Chile	Multilateral Convention	Signed	Not yet in force in Chile
23	China (People's Republic of)	Multilateral Convention	Signed	01-Feb-16
		DTC	16-Apr-02	23-Sep-03
24	Colombia	Multilateral Convention	Signed	01-Jul-14
25	Congo	DTC	04-Oct-05	Not in force
26	Costa Rica	Multilateral Convention	Signed	01-Feb-14
27	Côte d'Ivoire	DTC	14-May-99	Not in force
28	Croatia	Multilateral Convention	Signed	01-Jun-14
29	Curacao ^a	Multilateral Convention	Extended	01-Feb-14
30	Cyprus ^d	Multilateral Convention	Signed	01-Apr-15
31	Czech Republic	Multilateral Convention	Signed	01-Feb-14
		DTC	14-Mar-90	25-Oct-91
32	Denmark	Multilateral Convention	Signed	01-Feb-14
		DTC	05-Feb-81	28-May-81
33	Egypt	DTC	08-Dec-89	02-Jan-91
34	El Salvador	Multilateral Convention	Signed	Not yet in force in El Salvador
35	Estonia	Multilateral Convention	Signed	01-Nov-14
36	Ethiopia	DTC	23-Jan-03	17-05-07
37	Faroe Islands ^c	Multilateral Convention	Extended	01-Feb-14
38	Finland	Multilateral Convention	Signed	01-Feb-14
39	France	DTC	28-May-73	01-Apr-75
		Multilateral Convention	Signed	01-Feb-14

	Jurisdiction	Type of agreement	Signature^a/ Territorial scope	Date of entry into force/status
40	Gabon	DTC	13-Feb-86	Not in force
		Multilateral Convention	Signed	Not yet in force in Gabon
41	Georgia	Multilateral Convention	Signed	01-Feb-14
42	Germany	Multilateral Convention	Signed	01-Dec-15
		DTC	23-Dec-75	19-Nov-76
43	Ghana	Multilateral Convention	Signed	01-Feb-14
44	Gibraltar ^b	Multilateral Convention	Extended	01-Mar-14
45	Greece	Multilateral Convention	Signed	01-Feb-14
		DTC	31-Oct-92	31-Oct-92
46	Greenland ^c	Multilateral Convention	Extended	01-Feb-14
47	Guatemala	Multilateral Convention	Signed	Not yet in force in Guatemala
48	Guernsey ^b	Multilateral Convention	Extended	01-Aug-14
49	Guinea	DTC	15-Jan-93	Not in force
50	Hungary	Multilateral Convention	Signed	01-Mar-15
		DTC	22-Oct-92	19-Jul-97
51	Iceland	Multilateral Convention	Signed	01-Feb-14
52	India	Multilateral Convention	Signed	01-Feb-14
53	Indonesia	Multilateral Convention	Signed	01-May-15
		DTC	13-May-92	12-Apr-93
54	Iran	DTC	16-Jul-07	14-Jun-05
55	Iraq	DTC	02-Apr-01	Not in Force
56	Ireland	Multilateral Convention	Signed	01-Feb-14
57	Isle of Man ^b	Multilateral Convention	Extended	01-Mar-14
58	Israel	Multilateral Convention	Signed	Not yet in force in Israel
59	Italy	Multilateral Convention	Signed	01-Feb-14
		DTC	15-May-79	17-Sep-81
60	Japan	Multilateral Convention	Signed	01-Feb-14
61	Jersey ^b	Multilateral Convention	Extended	01-Jun-14
62	Jordan	DTC	14-Feb-88	01-Jan-90
63	Kazakhstan	Multilateral Convention	Signed	01-Aug-15

	Jurisdiction	Type of agreement	Signature^{a/} Territorial scope	Date of entry into force/status
64	Korea	Multilateral Convention	Signed	01-Feb-14
		DTC	27-Sep-99	25-Nov-89
65	Kuwait	DTC	14-Feb-88	20-Mar-02
66	Latvia	Multilateral Convention	Signed	01-Nov-14
67	Lebanon	DTC	24-Jun-98	03-Jun-00
68	Libya	AMU tax Convention	23-Jul-90	14-Jul-93
69	Liechtenstein	Multilateral Convention	Signed	Not yet in force in Liechtenstein
70	Lithuania	Multilateral Convention	Signed	01-Jun-14
71	Luxemburg	Multilateral Convention	Signed	01-Nov-14
		DTC	27-Mar-96	18-Oct-99
72	Mali	DTC	28-Apr-00	20-Nov-02
73	Malta	Multilateral Convention	Signed	01-Feb-14
		DTC	31-May-00	31-Dec-01
74	Mauritania	AMU tax Convention	23-Jul-90	14-Jul-93
75	Mauritius	DTC	12-Feb-08	28-Oct-08
		Multilateral Convention	23-Jun-15	01-Dec-15
76	Mexico	Multilateral Convention	Signed	01-Feb-14
77	Moldova	Multilateral Convention	Signed	01-Feb-14
78	Monaco	Multilateral Convention	Signed	Not yet in force in Monaco
79	Montserrat ^b	Multilateral Convention	Extended	01-Feb-14
80	Morocco	Multilateral Convention	Signed	Not yet in force in Morocco
		AMU tax Convention	23-Jul-90	14-Jul-93
81	Netherlands	Multilateral Convention	Signed	01-Feb-14
		DTC	16-May-95	15-Dec-95
82	New Zealand	Multilateral Convention	Signed	1 March 2014
83	Nigeria	Multilateral Convention	Signed	01-Sep-15
84	Niue	Multilateral Convention	Signed	Not yet in force in Niue
85	Norway	Multilateral Convention	Signed	01-Feb-14
		DTC	31-May-78	28-Dec-79
86	Oman	DTC	16-Nov-97	22-Apr-98

	Jurisdiction	Type of agreement	Signature^a/ Territorial scope	Date of entry into force/status
87	Uganda	Multilateral Convention	Signed	Not yet in force in Uganda
88	Pakistan	DTC	18-Apr-96	05-Aug-97
89	Philippines	Multilateral Convention	Signed	Not yet in force in Philippines
90	Poland	Multilateral Convention	Signed	01-Feb-14
		DTC	30-Mar-93	15-Nov-93
91	Portugal	Multilateral Convention	Signed	01-Mar-15
		DTC	24-Feb-99	21-Jul-00
92	Qatar	DTC	08-Mar-97	01-Jan-99
93	Romania	Multilateral Convention	Signed	01-Nov-14
		DTC	23-Sep-87	19-Jan-89
94	Russia	Multilateral Convention	Signed	01-Jul-15
95	Saint-Maarten ^a	Multilateral Convention	Extended	01-Feb-14
96	San Marino	Multilateral Convention	Signed	01-Dec-15
97	Saudi Arabia	Multilateral Convention	Signed	Not yet in force in Saudi Arabia
		DTC	18-Jul-10	15-Jan-13
98	Senegal	DTC	17-May-84	02-Jul-85
99	Serbia	DTC	11-Apr-12	03-Jun-13
100	Seychelles	Multilateral Convention	Signed	01-Oct-15
101	Singapore	Multilateral Convention	Signed	Not yet in force in Singapore
102	Sint-Maarteen ^a	Multilateral Convention	Extended	01-Feb-14
103	Slovak Republic	Multilateral Convention	Signed	01-Mar-14
		DTC	14-Mar-90	25-Oct-91
104	Slovenia	Multilateral Convention	Signed	01-Feb-14
105	South Africa	Multilateral Convention	Signed	01-Mar-14
		DTC	02-Feb-99	10-Dec-99
106	Spain	Multilateral Convention	Signed	01-Feb-14
		DTC	12-Jul-82	14-Feb-87
107	Sudan	DTC	08-Oct-03	01-Jan-08
108	Sweden	Multilateral Convention	Signed	01-Feb-14
		DTC	07-May-81	19-Apr-83

	Jurisdiction	Type of agreement	Signature^{a/} Territorial scope	Date of entry into force/status
109	Switzerland	Multilateral Convention	Signed	Not yet in force in Switzerland
		DTC	10-Feb-94	29-Apr-95
110	Syria	DTC	22-Jun-98	19-Dec-00
111	Togo	DTC	11-Feb-87	Not in force
112	Turkey	Multilateral Convention	Signed	Not yet in force in Turkey
		DTC	02-Oct-86	28-Dec-87
113	Turks and Caicos Islands ^b	Multilateral Convention	Extended	01-Feb-14
114	Ukraine	Multilateral Convention	Signed	Not yet in force in Ukraine
115	United Arab Emirates	DTC	10-Apr-96	27-May-97
116	United Kingdom	Multilateral Convention	Signed	01-Feb-14
		DTC	15-Dec-82	20-Jan-84
117	United States	Multilateral Convention	Signed	Not yet in force in United States
		DTC	17-Jun-85	26-Dec-90
118	Vietnam	DTC	13-Apr-10	06-Mar-13
119	Yemen	DTC	08-Mar-98	27-Dec-00

Notes: a. Territorial extension by the Kingdom of the Netherlands.

b. Territorial extension by the United Kingdom.

c. Territorial extension by the Kingdom of Denmark.

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

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

Annex 3 : List of all laws, regulations and other relevant material

The Constitution of the Republic of Tunisia

Codes

Tax Code For Income Of Natural Persons And Corporations

Tax code for Value-Added Tax

Code of Tax Rights and Procedures, CDPF

Code on Stamp And Registration Duty

Commercial Company Code, CSC

Commercial Code

Code for Collective Investment Undertakings

Exchange and Foreign Commerce Code

Code for Financial Services Provided to Non-Residents

Laws, decree-laws and decrees

Organic Law no. 63 of 27/07/2004, Data Protection Act

Framework Decree-law no. 120 of 14 November 2011, anti-corruption

Decree-law no. 79 of 20 August 2011 on the profession of attorney

Law no. 32 of 13/04/1999 on the national statistics system

Law no. 65 of 10/07/2001 on credit institutions

Beylical Decree of 18/07/1957 abolishing private and mixed habous land system

- Beylical Decree of 31/05/1956 transferring habous property to public property
- Decree-law no. 88 of 24/09/2011 on associations
- Law no. 92 of 02/08/1988 on investment companies
- Decree no. 2478 of 01/11/1999 on stock market intermediaries
- Decree no. 2728 of 20/11/2001 on registration of securities and intermediaries authorised to hold securities accounts
- Law no. 35 of 21/03/2000 on securities dematerialisation
- Law no. 95 of 02/08/1988 on records
- Law no. 117 of 14/01/1994 on reorganisation of the financial market
- Law no. 26 of 07/08/2015 on anti-money laundering and combatting financing of terrorism (Available only in Arabic)
- Decree no. 2006-1294 of 8 May 2006, application of provisions in article 23 of Law no. 2005-96 of 18 October 2005 on making financial relations more secure
- Law No. 2009-64 of 12 August 2009 promulgating the Code of financial services to non-residents
- Law no. 92 of 02/08/1988 on investment companies
- Law no. 92 of 17/08/1999 on restarting the financial market
- Law no. 98-4 of 2 February 1998 on debt collection companies
- Law no. 112 of 30/12/1996 on business accounting
- Law no. 89 of 31/12/2004 on online business incorporation procedures
- Enforcement Decree for Law no. 96 of 18/10/2005 on making financial relations more secure
- General regulations for the Tunis stock exchange
- Law no. 95-44 of 2 May 1995 on the commercial register modified by Law no. 2005-96 of 18 October 2005
- Law no. 2010-15 of 14 April 2010 modifying and supplementing provisions of Law no. 95-44 of 2 May 1995 on the commercial register

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

The OECD is a unique forum where governments work together to address the economic, social and environmental challenges of globalisation. The OECD is also at the forefront of efforts to understand and to help governments respond to new developments and concerns, such as corporate governance, the information economy and the challenges of an ageing population. The Organisation provides a setting where governments can compare policy experiences, seek answers to common problems, identify good practice and work to co-ordinate domestic and international policies.

The OECD member countries are: Australia, Austria, Belgium, Canada, Chile, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea, Luxembourg, Mexico, the Netherlands, New Zealand, Norway, Poland, Portugal, the Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Turkey, the United Kingdom and the United States. The European Union takes part in the work of the OECD.

OECD Publishing disseminates widely the results of the Organisation's statistics gathering and research on economic, social and environmental issues, as well as the conventions, guidelines and standards agreed by its members.

Global Forum on Transparency and Exchange of Information for Tax Purposes

PEER REVIEWS, PHASE 1: TUNISIA

The Global Forum on Transparency and Exchange of Information for Tax Purposes is the multilateral framework within which work in the area of tax transparency and exchange of information is carried out by over 130 jurisdictions which participate in the work of the Global Forum on an equal footing.

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

The standards provide for international exchange on request of foreseeably relevant information for the administration or enforcement of the domestic tax laws of a requesting party. “Fishing expeditions” are not authorised, but all foreseeably relevant information must be provided, including bank information and information held by fiduciaries, regardless of the existence of a domestic tax interest or the application of a dual criminality standard.

All members of the Global Forum, as well as jurisdictions identified by the Global Forum as relevant to its work, are being reviewed. This process is undertaken in two phases. Phase 1 reviews assess the quality of a jurisdiction’s legal and regulatory framework for the exchange of information, while Phase 2 reviews look at the practical implementation of that framework. Some Global Forum members are undergoing combined – Phase 1 plus Phase 2 – reviews. The ultimate goal is to help jurisdictions to effectively implement the international standards of transparency and exchange of information for tax purposes.

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

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

Consult this publication on line at <http://dx.doi.org/10.1787/9789264250697-en>.

This work is published on the OECD iLibrary, which gathers all OECD books, periodicals and statistical databases.

Visit www.oecd-ilibrary.org for more information.

