



SUPPLEMENTARY PEER REVIEW REPORT

Phase 1

Legal and Regulatory Framework

LEBANON



Table of Contents

About the Global Forum	5
Abbreviations	7
Executive summary	9
Introduction	13
Information and methodology used for the peer review of Lebanon	13
Recent developments	14
Compliance with the Standards	15
A. Availability of information	15
Overview	15
A.1. Ownership and identity information	16
A.2. Accounting records	24
A.3. Banking information	24
B. Access to information	27
B.1. Competent Authority’s ability to obtain and provide information	27
B.2. Notification requirements and rights and safeguards	33
C. Exchanging information	35
C.1. Exchange-of-information mechanisms	35
C.2. Exchange-of-information mechanisms with all relevant partners	37
C.3. Confidentiality	38
C.4. Rights and safeguards of taxpayers and third parties	39
C.5. Timeliness of responses to requests for information	39

Summary of determinations and factors underlying recommendations	41
Annex 1: Jurisdiction’s response to the review report	45
Annex 2: List of all exchange-of-information mechanisms	46
Annex 3: List of all laws, regulations and other material received	48

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.

Abbreviations

AML/CFT	Anti-Money Laundering and Countering the Financing of Terrorism
AML/CFT Law	Law no. 44 dated 24 November 2015 (AML/CFT Law) concerning efforts to combat financing of terrorism and prevent money laundering published in the Official Gazette No 48 dated 26 November 2015
BDL	Banque du Liban (Central Bank of Lebanon)
CDD	Customer Due Diligence
CoC	Code of Commerce
DTC	Double Tax Convention
EOI	Exchange of Information
EOI Law	Law no. 43 dated 24 November 2015 on exchange of information for tax purposes published in the Official Gazette No 48 dated 26 November 2015
EOIR	Exchange of Information on request
Global Forum	Global Forum on Transparency and Exchange of Information for Tax Purposes
SIC	Special Investigation Commission
TPC	Tax Procedure Code
1956 Banking Secrecy Act	Banking Secrecy Act of 3 September 1956
2012 Report	Phase 1 review report of Lebanon adopted and published by the Global Forum on Transparency and Exchange of Information for Tax Purposes in June 2012 (“the 2012 Report”).

Executive summary

1. This is a supplementary report on the amendments made by Lebanon to its legal and regulatory framework for transparency and exchange of information. It complements the Phase 1 review report which was adopted and published by the Global Forum on Transparency and Exchange of Information for Tax Purposes (Global Forum) in June 2012 (“the 2012 Report”).

2. The 2012 Report concluded that there were serious deficiencies in four areas: (i) Lebanon did not have a mechanism in place to ensure the availability of ownership information on bearer shares and foreign trusts (element A.1), (ii) the Lebanon authorities did not have sufficient access powers to access information, particularly for bank information (element B.1), (iii) the scope of professional secrecy in Lebanon was too broad (element B.1), and (iv) Lebanon’s EOI network was not in line with the international standard (elements C.1 and C.2).

3. In April 2016, Lebanon became a member of the Global Forum and committed to automatic exchange of information with first exchanges in September 2018.

4. In November 2015, the Lebanese Parliament adopted a number of laws which showed progress – although insufficient – towards compliance with the international standard on exchange of information on request (EOIR). Since then, the Lebanese authorities have worked on draft legislation aimed to address all the recommendations identified in the 2012 Report. However, given the political context in Lebanon and the absence of an elected president since 2014, this draft legislation could not be adopted before the cut-off date of this report; i.e. 12 August 2016.

5. As regards the legal framework governing the availability of ownership information in Lebanon (Element A.1), progress was made despite the limited possibility for a change in the law. To address the issue of bearer shares, two measures were adopted: (i) tax filing requirements on shareholders were introduced and (ii) the Central Bank of Lebanon (BDL) issued a Decision prohibiting Lebanese banks and financial institutions from dealing with Lebanese joint-stock companies and partnerships limited by shares

which have issued bearer shares as from 29 February, 2016 for new customers and following a transitional period for existing customers. In addition, the strengthening of the AML/CFT legislation regarding customer due diligence has narrowed down the possible legal gap on availability of ownership information on foreign trusts managed by a Lebanese trustee. This gap is now reduced to non-professional trustees.

6. In light of the above, the recommendation in the 2012 Report regarding bearer shares has been amended and that regarding foreign trusts is removed. Considering the progress made by Lebanon, element A.1 is determined to be “in place but certain aspects of the legal implementation of the element need improvement.”

7. No amendments have been enacted regarding availability of accounting records (Element A.2). The determination of Element A.2 remains therefore “in place, but certain aspects of the legal implementation need improvements”.

8. In respect to access to information (Element B.1), Lebanon enacted the Exchange of Information Law (EOI Law) dated 24 November 2015. Whilst this new EOI Law grants access to information (including banking information) for tax purposes, this is subject to certain restrictive conditions which are not in line with the standard. The Lebanese authorities indicated they can also access information through the AML/CTF Law. Furthermore, the BDL issued a binding Decision requiring banks and financial institutions to provide banking information for EOI purposes. Lebanon’s interpretation of the combined legal effect of the EOI and AML/CTF Laws and the BDL Decision provides access to information for EOI purposes in all cases. However, this interpretation could lead to legal uncertainty regarding the access powers of the Lebanese authorities because of the restrictions in the EOI Law. It is therefore recommended that Lebanon quickly amends the legislation to remove any uncertainty and restrictive conditions, so that it is ensured the authorities have the power to obtain and provide information, including banking information that is the subject of a request under an EOI agreement in accordance with the international standard. Accordingly, element B.1 is upgraded to in place but in needs of improvements.

9. Regarding element C.1, the 2012 Report found that none of Lebanon’s treaties provides for effective EOI to the standard due to restrictions on access to information, in particular bank information. Lebanon’s interpretation of the combined legal effect of the EOI and AML/CFT Laws and the BDL Decision provides access to information for EOI purposes in all cases. However, there remains a legal uncertainty regarding the access powers of the Lebanese authorities, which would prevent Lebanon from giving effect to its EOI agreements. It is therefore recommended that Lebanon quickly amends the legislation to remove any uncertainty and restrictive conditions, so that it

is ensured the authorities have the power to obtain and provide information, and therefore comply with and give effect to its EOI agreements. Accordingly, element C.1 is upgraded to in place but in needs of improvements.

10. Regarding element C.2, Lebanon has enacted legislation, which Lebanon interprets as providing access to information in all cases. However, there remains a legal uncertainty regarding the access powers of the Lebanese authorities, which would prevent Lebanon from giving effect to its EOI agreements. It is therefore recommended that Lebanon quickly amends the legislation to remove any uncertainty and restrictive conditions, so that it is ensured the authorities have the power to obtain and provide information, and therefore comply with and give effect to its EOI agreement.

11. . The progress made by Lebanon in addressing the gaps identified in its 2012 Report is promising in light of the particular challenges that Lebanon is facing regarding the current political situation. In light of the actions undertaken by Lebanon to address the recommendations made in the 2012 Report, Lebanon is in a position to move to the next round of peer review, which is scheduled to commence in the second half of 2018 for Lebanon, in accordance with the PRG schedule of reviews for the next round. A follow-up report on the measures taken by Lebanon 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 2016 Methodology for the second round of peer reviews and non-member reviews.

Introduction

Information and methodology used for the peer review of Lebanon

12. The assessment of Lebanon’s legal and regulatory framework contained in this supplementary peer review report was based on the international standards for transparency and exchange of information as described in the Global Forum’s Terms of Reference to Monitor and Review Progress towards Transparency and Exchange of Information for Tax Purposes (“the Terms of Reference”). It was prepared pursuant to paragraphs 58 and 60 of the Global Forum’s Revised Methodology for Peer Reviews and Non-member Reviews and considers recent changes to the legal and regulatory framework of Lebanon. The assessment was based on information available to the assessment team including the laws, regulations, and exchange of information arrangements in force or signed as at 5 August 2016, and information supplied by Lebanon. It follows the Phase 1 Review Report on Lebanon which was adopted and published by the Global Forum in June 2012.

13. Until April 2016, Lebanon was not a member of the Global Forum on Transparency and Exchange of Information for Tax Purposes but was identified in 2010 as a jurisdiction that is relevant to the Global Forum’s work. In April 2016, Lebanon accepted the invitation from the Global Forum to become a member. In the same token, Lebanon committed to automatic exchange of information with the first exchanges taking place in September 2018. Lebanon has actively participated in all stages of the review process and has entered into a tailored technical assistance programme.

14. The Terms of Reference break down the standards of transparency and exchange of information into 10 essential elements and 31 enumerated aspects under three broad categories: (A) availability of information; (B) access to information; and (C) exchanging information. This review assesses Lebanon’ legal and regulatory framework against these elements and each of the enumerated aspects. In respect of each essential element, a determination is made that either (i) the element is in place, (ii) the element is in place but certain aspects of the legal implementation of the element need improvement, or (iii) the element is not in place.

15. The assessment was conducted by a team which consisted of two expert assessors and one representative of the Global Forum Secretariat: Mr. Christophe Leconte, Attaché from the Belgian Service Public fédéral Finances (Expertise et Support Stratégique – Service Réglementation); Mr. Duncan Nicol, Director from the Cayman Islands Department for International Tax Cooperation; with Ms. Séverine Baranger from the Global Forum Secretariat. The assessment team examined the amendments made to the legal and regulatory framework for transparency and exchange of information and relevant exchange of information mechanisms in Lebanon since the Phase 1 report was adopted.

16. An updated summary of determinations and factors underlying recommendations in respect of the 10 essential elements of the Terms of Reference, which takes into account the conclusions of this Supplementary Report, can be found at the end of this report.

Recent developments

17. The Lebanese authorities have prepared draft legislation aiming to address the recommendations identified in this report. These draft laws are the following:

- Draft law abolishing the notion of bearer shares and to order shares;
- Draft law replacing law No 43 dated 24/11/2015 (Exchange of information for tax purposes);
- Draft law amending articles 1, 23, 29, 32 of the Tax Procedure Code (law 44 dated 11/11/2008);
- Trustee draft law.

18. Given the political context in Lebanon, it was not possible for the Lebanese Parliament to approve the draft laws before the cut-off date of this report.

Compliance with the Standards

A. Availability of information

Overview

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

20. The 2012 Report identified that the relevant legal entities and arrangements in Lebanon were domestic companies, foreign companies, domestic partnerships, limited partnerships, foreign partnerships, foreign trusts and public interest associations.

21. In the 2012 Report, element A.1 (ownership and identity information) was determined to be not in place. Although the 2012 report indicated that Lebanese commercial, financial and tax legislation generally ensure that ownership information is available for limited liability companies and joint stock companies (with respect to registered shares) and partnerships, ownership information was not generally available on bearer shares. To address the deficiencies on bearer shares in anticipation of the adoption of a law abolishing bearer shares, the Lebanese authorities have amended the tax forms to include the identity of the beneficiaries of dividends derived from

shares (including bearer shares). In addition, the Central Bank of Lebanon issued a Decision prohibiting Lebanese bank from dealing with Lebanese joint-stock companies and partnerships limited by shares which have issued bearer shares as from 29 February 2016 for new customers, and following a transitional period for existing customers.

22. Shortcomings in the legal framework were also identified with regard to the availability of identity information on foreign trusts managed by a Lebanese-resident trustee. Lebanon strengthened its AML/CFT legislation regarding customer due diligence, which has narrowed the possible legal gap on availability of ownership information on foreign trusts managed by a Lebanese professional trustee. Accordingly, the recommendation on foreign trusts managed by Lebanese trustees has been removed from the box, and a recommendation regarding the remaining residual category of trustees has been introduced in the text of the report.

23. Element A.2 (accounting records) was determined to be in place but certain aspects of the legal implementation. Although all forms of companies, partnerships and associations have to keep relevant accounting records, there are no requirements for Lebanese trustees of foreign trusts to keep accounting information with regards to transactions and assets of foreign trusts. There were no changes made to the legal framework on this aspect, such that the recommendation and the determination remain unchanged.

24. The 2012 Report found that element A.3 (bank information) was “in place” and no recommendations are made in that regard.

A.1. Ownership and identity information

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

Companies (ToR A.1.1)

25. The 2012 Report found that the Lebanese commercial, financial and tax legislation ensure the availability of ownership information for limited liability companies, joint stock companies (including holding companies and offshore companies), partnerships limited by shares and civil companies, except with respect to bearer shares of joint stock companies and partnerships limited by shares (see ToR A.1.2 below). Foreign companies that have a permanent establishment in Lebanon are required to provide ownership information on registration and provide this information in their annual tax returns.

26. No recommendation was made in the 2012 Report regarding Element A.1.1.

Bearer Shares (ToR A.1.2)

27. The 2012 Report noted that joint stock companies and partnerships limited by shares are allowed to issue registered shares, bearer shares and to order shares (Arts.104 and 234 CoC). The Lebanese authorities advise that they cannot establish the identity of the owners of bearer shares in all circumstances.

28. The 2012 Report however noted that some legal and practical mechanisms in financial and commercial legislation require certain holders of bearer shares to be identified or limit the issuance of such shares:

- holders of bearer shares attending shareholders' meeting have their names recorded in the minutes of the meeting;
- the shares of banks must all be nominal and registered at Midclear, the custodian and clearing centre (Law No. 308 of 3 April 2001); and
- one third of the shares in a joint stock company whose object is the operation of a public service have to be nominal shares belonging to Lebanese shareholders which can only be transferred to Lebanese shareholders. Transfer to non-Lebanese citizens will be null and void (Art. 78(3) CoC).

29. In 2012, no statistics were available regarding the issuance of bearer shares. To illustrate the issue of bearer shares in Lebanon, the tax administration has indicated that as of 1 August 2016 the total amount of tax registered joint stock companies was 10 954, of which 60 have issued bearer shares (0.55% of the tax registered Joint stock companies).

30. No legislative changes have been introduced to address this issue. However, two measures were adopted with a significant impact on the Lebanese joint-stock companies and partnerships limited by shares which have issued bearer shares in practice: (i) tax filing requirements and (ii) prohibition for banks to have Lebanese joint-stock companies and partnerships limited by shares which have issued bearer shares as customers.

New tax filing requirements

31. First, the Minister's Resolution no 135/1 dated 7 February 2014 amended the tax Declaration forms of income tax on movable property. This new form, which must be completed by Lebanese companies conducting business in Lebanon. It contains a field related to amounts paid to beneficiaries residing in a country having a DTC with Lebanon (in addition to a table detailing information about these beneficiaries), and a field related to amounts paid to beneficiaries residing in a country without a DTC. It includes also the country of residence, the amount of distributed dividends,

withholding tax applicable under the Double Tax Convention (where applicable), and the amount of withholding tax due. It also includes a field for interest paid on debt instruments, and requires the name of the beneficiaries of the interest income.

32. In addition, tax Form D2 has been modified to include a table to be filled by the company on an annual basis. It shows the dividends/interest paid to the beneficiaries during the current year and includes the name of the beneficiaries (regardless of whether they are resident of a double tax treaty jurisdiction), the type of shares (bearer shares or nominative shares), the amount of dividends/interests and the date of receipt.

33. Under article 109 of the Tax Procedure Code, any delay in submitting or failure to submit the tax declaration is subject to a penalty of 5% of the tax due in line with the declaration or the profit determined by the tax department for each late month (or fraction of a month) not greater than one hundred percent (100%) of the tax due for each declaration, and not less than:

- LBP 750 000 (USD 500) for joint-stock companies;
- LBP 500 000 (USD 332) for partnerships, limited liability companies and tax-exempted institutions;
- LBP 100 000 (USD 66) for individuals and the other taxpayers.

34. Under article 110 of the Tax Procedure Code (TPC), any incorrect declaration is subject to a penalty equivalent to 20% of the difference between the net tax due and the net declared tax, with the same minimum thresholds as those applicable under article 109 TPC. Omission of information without an impact on the tax due is subject for each declaration to a penalty equivalent to LBP 200 000 (USD 133) for joint stock companies; LBP 100 000 (USD 66) for partnerships, limited liability companies and tax-exempted institutions; and LBP 50 000 (USD 33) for individuals and the other taxpayers.

35. Although the Tax Form D2 allows for the availability of ownership information on the bearer share holder in case of dividend distributions, it does not ensure availability of such information in case the issuing company does not distribute dividends or in case of liquidation proceeds. Accordingly, the bearer shares can change ownership multiple times without any ownership reporting to the issuing company.

Banking restrictions

36. The Lebanon Central Bank (Banque du Liban (BDL)) issued a Decision on 29 February, 2016¹ (the Decision), thereby prohibiting banks and financial

1. Banque du Liban, Circular No 411 of 29 February, 2016.

institutions from undertaking operations (banking and non-banking, financial and non-financial), registered on or off their balance sheets, with any entity or mutual fund whose shares or stocks are, partially or wholly, (i) issued in bearer form; or (ii) owned, directly or indirectly, by entities or mutual funds whose shares or stocks are issued in bearer form. In addition, all relevant BDL regulations were amended to be in line with the above requirement.

37. As a transitional period, banks and financial institutions that have Lebanese joint-stock companies and partnerships limited by shares which have issued bearer shares as existing customers have a maximum period of two years (i.e. until 28 February, 2018) to comply by the above-mentioned prohibition. In practice, this means that:

- From 29 February 2016, banks and financial institutions cannot accept a Lebanese joint-stock companies and partnerships limited by shares which have issued bearer shares as a new customer.
- For existing customers of banks and financial institutions that are Lebanese joint-stock companies and partnerships limited by shares which have issued bearer shares, the banks and financial institutions must ask them to convert their bearer shares into nominative shares before 28 February, 2018, or cease their customer relationship with them.

38. As a result of the Decision, existing Lebanese joint-stock companies and partnerships limited by shares which have issued bearer shares should be unable to have a bank account with a Lebanese bank or to carry out any transaction through a Lebanese bank as from 29 February, 2018. Nevertheless, these companies could have a foreign bank account and therefore continue to carry on their activities, but the prohibition is likely to create many difficulties for the companies to carry out their activities.

39. Notably, Lebanese commercial law provides that joint-stock companies, partnerships limited by shares and limited liability companies incorporated in Lebanon need to have the amount deposited in a bank account with a Lebanese bank to be able to carry out the issuance of shares (being in nominative or bearer form)². The application of the Decision together with the obligation to have a bank account with a Lebanese bank should have the following consequences:

- As from 29 February, 2016, the Lebanese banks should systematically check if the articles of association of the company to be incorporated allow for the issuance of bearer shares. If this is the case, the bank should not take that company as a new customer.

2. Application of articles 80 and 85 of the Lebanese commercial law.

Accordingly, newly incorporated companies should be unable to issue bearer shares.

- Existing Lebanese joint-stock companies and partnerships limited by shares which have issued bearer shares should be unable to issue new shares (in any form) if they do not have a bank account with a Lebanese bank. To be admitted as a customer by a Lebanese bank, existing joint-stock companies and partnerships limited by shares which have issued bearer shares would need to convert the existing bearer shares into nominative shares.

40. To the extent all Lebanese banks comply with the Decision, new issuance of nominative and bearer shares by Lebanese joint-stock companies and partnerships limited by shares which have issued bearer shares should not be possible from 29 February, 2018. This matter will be examined in practice during the combined review scheduled in the second semester of 2018.

41. The compliance by banks and financial institutions with the Decision will be monitored by the BCL and the Banking Control Commission (*Commission de contrôle des banques*), which can apply penalties in case of non-compliance. Failure to comply with the Decision will be sanctioned pursuant to article 208 of the Code of Money and Credit. The sanctions range from warnings to appointing an official administrator to delisting of the bank or financial institutions. The practical application of the Decision by the banks and financial institutions and its monitoring by the BCL and the Banking Control Commission should be reviewed during the evaluation of the practical application of Lebanon's legal EOI framework.

42. Finally, the BDL confirmed that the application of the Decision by a bank cannot be challenged by an account holder. In Lebanon, there is no obligation for banks to open or maintain a bank account for a client. In addition, the BDL confirmed that the banks and financial institutions covered by the Decision cannot challenge the application of the Decision, as it was issued by the Regulator.

Conclusion

43. Lebanon introduced tax filing requirements providing for the identification of the shareholders and a prohibition for banks and financial institutions from undertaking operations with Lebanese joint-stock companies and partnerships limited by shares which have issued bearer shares, thereby reducing the materiality of the bearer share issue in Lebanon. However, bearer shares can still be issued by joint stock companies and partnerships limited by shares in Lebanon. Appropriate legal mechanisms to allow identification of owners of bearer shares are not in place. Lebanon should ensure that appropriate mechanisms to identify owners of bearer shares are in place.

Partnerships (ToR A.1.3)

44. There are two types of partnerships in Lebanon: general partnerships and limited partnerships. The 2012 Report determined that Lebanese tax legislation requires submission to the Ministry of Finance of the names of all partners of general and limited partnerships and foreign partnerships doing business in Lebanon, and no recommendation was made on this aspect.

Trusts (ToR A.1.4)

45. The 2012 Report found that although the concept of trust does not exist in Lebanon, Lebanese law does not prevent a Lebanese resident from acting as a trustee or administrator of a foreign trust. With regard to such trusts, the 2012 Report found that Lebanese law does not in most cases ensure that information identifying the settlors, trustees and beneficiaries is available, in particular in cases where the trustee is not a bank. The parties under a Lebanese fiduciary contract (fiduciary, settlor and beneficiary) have to be stated in a written contract which under AML/CFT and accounting law has to be kept by the entities authorised to act as fiduciaries for such contracts i.e. banks and fiduciary institutions.³ Hence, the 2012 Report recommended that Lebanon ensures that information is available identifying the settlors, trustees and beneficiaries of foreign trusts which are administered in Lebanon or in respect of which a trustee is resident in Lebanon.

46. Law Number 44 on Fighting Money Laundering and Terrorist Financing (AML/CFT Law) strengthened the Customer Due Diligence (CDD) requirements applicable on the following professionals: banks, financial institutions, leasing companies, institutions that issue and promote credit or charge cards, institutions that perform money transfer electronically, exchange institutions, financial intermediation institutions, collective investments schemes, and any other institutions requiring a license or supervised by the BDL (article 4 of the AML/CFT Law.)

47. The CDD rules also apply to certified accountant, notaries and lawyers, notably when they “establish or manage legal persons or unique legal arrangements” (Article 5 of the AML/CFT Law). Accordingly, although the AML/CFT Law does not refer to trustees as such, the CDD rules apply to the establishment and management of a trust by a trustee acting in a professional capacity, if the trustee is a certified accountant, a notary, a lawyer and any financial institutions as set out in paragraph 47. Hence, there is a limited gap under which information may not be available if the Lebanese-resident trustees are not covered by the AML/CFT law. Lebanon is recommended

3. However, this information is subject to bank secrecy and not available for tax purposes (see further Part B.1 of this report).

to ensure the availability of information identifying the settlors, trustees and beneficiaries of foreign trusts which are administered in Lebanon or in respect of which a trustee is resident in Lebanon in all cases.

48. The CDD rules provide, *inter alia*, for the following requirements:

- To implement CDD measures on permanent customers (whether natural persons or legal persons or unique legal arrangements), in order to check their identity on the basis of reliable documents or information or data.
- To determine the identity of the economic owner and take the steps needed to verify this identity, on the basis of reliable documents or information or data.
- To retain copies of related documents of all operations, and to retain information or data or copies of the customer's identification documents, for at least five years after performing the operations or ending the business relationship, whichever longer.
- To continuously monitor and review the business relationship.

49. The AML/CFT Law established an independent commission called "the Special Investigation Commission (SIC)" in 2001 as per Law 318, which was amended by the AML/CTF Law, whose mission includes *inter alia* ensuring compliance by the professionals subject to CDD obligations. Lawyers, certified accountant and notaries are also monitored by their respective Orders in respect of their compliance with CDD requirements. The SIC is also in charge with international EOI in AML/CFT matters and tax evasion under Lebanese laws.

50. Professionals that fail to comply with the CDD requirements may be subject to a fine up to 100 million Lebanese pounds (USD 66 253⁴) and/or imprisonment for a period of two months to one year (article 13 of the AML/CFT Law).

51. It is impossible to form a trust under Lebanese law. However, since 25 November 2015, attorneys and all professionals acting as a trustee for a foreign trust are required to identify their customers, whether settlors or beneficiaries. Lebanese 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 Lebanon is likely to be a rare situation and that it would not prevent effective

4. Conversion on 29 February 2016.

EOI. This matter will be examined in practice during the combined review scheduled in the second semester of 2018.

Foundations (ToR A.1.5)

52. Foundations do not exist in Lebanon. There are, however, two types of not for profit associations: associations and public service institutions (i.e. associations with a qualified purpose), for which the Phase 1 report found the rules in conformity with the international standard on ownership information.

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

53. The 2012 Report noted that Lebanese legislation provides sanctions in case of non-compliance with relevant requirements to keep information available.

Determination and factors underlying recommendations

Phase 1 determination	
The element is in place but certain aspects of the legal implementation of the element need improvement.	
Factors underlying recommendations	Recommendations
Lebanon introduced tax filing requirements providing for the identification of the shareholders and a prohibition for banks and financial institutions from undertaking operations with Lebanese joint-stock companies and partnerships limited by shares which have issued bearer shares, thereby reducing the materiality of the bearer share issue in Lebanon. However, bearer shares can still be issued by joint stock companies and partnerships limited by shares in Lebanon. Appropriate legal mechanisms to allow identification of owners of bearer shares are not in place.	Lebanon should ensure that appropriate legal mechanisms are in place to identify the owners of bearer and to order shares in all instances.

A.2. Accounting records

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

General requirements (ToR A.2.1), Underlying documentation (ToR A.2.2) and Document retention (ToR A.2.3)

54. The Phase 1 report found that all forms of companies, partnerships and associations have to keep relevant accounting records. However, there are no requirements for Lebanese trustees of foreign trusts to keep accounting information with regard to transactions and assets of a foreign trust. The 2012 Report determined that Element A.2 was in place, but certain aspects of the legal implementation of the element need improvement.

55. No legal changes were adopted on this aspect since the Phase 1 report, and the recommendation and the determination remain unchanged.

Determination and factors underlying recommendations

Phase 1 determination	
The element is in place, but certain aspects of the legal implementation of the element need improvement.	
Factors underlying recommendations	Recommendations
Lebanese legislation does not ensure that reliable accounting records or underlying documentation are kept for foreign trusts which are administered in Lebanon or in respect of which a trustee is resident in Lebanon.	Lebanon should establish obligations for the maintenance of reliable accounting records, including underlying documentation, for foreign trusts which are administered in Lebanon or in respect of which a trustee is resident in Lebanon. These records should be kept for a minimum of 5 years.

A.3. Banking information

Banking information should be available for all account-holders.

Record-keeping requirements (ToR A.3.1)

56. No recommendation was made with regard to availability of banking information and no relevant legislative changes have been made since the 2012 Report. The determination for A.3 was, and remains, in place.

Determination and factors underlying recommendations

Phase 1 determination
The element is in place.

B. Access to information

57. A variety of information may be needed in a tax enquiry and jurisdictions should have the authority to obtain all such 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).

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

58. The Phase 1 report found that the Tax Procedure Code, which grants access powers to Lebanon's Ministry of Finance, appears to limit the use of most access powers to situations where it has a domestic need for the information. Nonetheless, information which is already available to the competent authority can be exchanged to foreign counterparts. Penalties are applicable for non-provision of information requested by the Ministry of Finance.

59. The Lebanese authorities indicated that they apply two different laws as a legal basis to access information, including banking information:

- Law No 43 of 24 November 2015 (EOI Law), which provides for the circumstances under which the Lebanese competent authorities may reply to EOI requests in general. The EOI Law also introduced a specific procedure for requests dealing with banking information. The EOI Law applies to EOI requests received after 24 November 2015.
- Law 44 of 24 November 2015 (AML/CFT Law) on Fighting Money Laundering and Terrorist Financing.

Access to Information under the EOI Law

60. Since 24 November 2015, Article 3 of the EOI Law establishes the conditions for an EOI request to be considered valid. These conditions apply to any kind of EOI requests, irrespective of whether the requests relate to banking information. In addition, a specific procedure is applicable under the EOI Law for EOI requests related to banking information.

Conditions applicable to all types of EOI requests

61. The restrictive conditions set out in the EOI Law are as follows:

- “the request must either be based on an irrevocable judgment convicting the person under investigation of tax evasion or tax fraud, or include conclusive presumptions or relevant facts that this person has engaged in tax evasion or tax fraud in the requesting jurisdiction”; and
- in addition, the request must include “sufficient information about that person’s relevant bank accounts in the banks operating in Lebanon”.

62. These restrictive conditions limit the possibility for an EOI request to be considered valid, even if such EOI request meets the standard of foreseeable relevance. Accordingly, by limiting the powers of the competent authorities to access information to circumstances where the EOI requests meets restrictive conditions, the EOI law is not in conformity with the EOI standards.

Conditions applicable to EOI request for banking information

63. As detailed below under *Secrecy provisions*, the Lebanese banking system provides for strict bank secrecy by virtue of the 1956 Banking Secrecy Act. Bank secrecy is applicable towards third parties, including the Ministry of Finance.

64. However, the EOI Law introduced a specific procedure to lift bank secrecy to answer EOI requests (i) dealing with banking information and (ii) qualifying under the general conditions set out in Article 3 of the EOI Law (see above). In addition, the BDL issued a Decision dated 5 August 2016 on the topic of EOI for tax purposes. Details of the procedure to lift bank secrecy and the Decision issued by the BDL are set out in Element B.1.5 below.

Access to information under AML/CFT Law

65. The Lebanese authorities have indicated that they rely on AML/CFT Law as a legal basis to access information (e.g. ownership, accounting and

banking information). They rely on a combination of provisions in the law that provide the Special Investigation Committee (SIC) with the power to request information.

66. Article 10 grants the SIC with the ability to “directly request from parties referred in the law to provide the SIC with all the documents and information needed to perform its duties. Such parties must respond to this request within a reasonable period of time”. The parties referred to in AML/CFT Law include banking and financial institutions, certified accountants, notaries and lawyers.

67. The Lebanese authorities indicated that the SIC can exercise these powers in relation to EOI on the basis of Art. 1(20) of the AML/CFT Law, which covers tax evasion under Lebanese Law.

68. The duties of the SIC are set out in article 6(2) of the AML/CFT Law, which provides that the SIC must amongst other duties, “to collect and retain the information received from the parties referred to in The AML/CTF Law, as well as the information received from Lebanese and foreign official authorities, and all other collected information, and to share such information with the Commission’s counterparts, in its capacity as the competent authority and the official center to undertake such a task”.

69. The Lebanese authorities stated that the AML/CFT Law can be applied to access information for EOI purposes, including from persons that are not specifically obligated persons under the AML/CTF Law. The effectiveness of this interpretation will be examined during the next round of reviews.

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

70. The 2012 Report found that the Tax Procedure Code, which grants access powers to Lebanon’s Ministry of Finance, appears to limit the use of most access powers to situations where it has a domestic need for the information. Nonetheless, information which is already available to the competent authority can be exchanged to foreign counterparts. The 2012 report recommended that Lebanon clarify that its competent authority has the power to obtain and provide information that is the subject of an EOI request regardless of a domestic tax interest.

71. The provisions on access powers have been amended as the competent authority is entitled now to access information even if Lebanon does not need it for its own tax purposes. However the conditions to access information are very restrictive, especially with respect to banking information. (see *Information requests in general*.)

Compulsory powers (ToR B.1.4)

72. No recommendations were made with regard to this element in the 2012 Report. The Phase 1 report found that penalties are applicable for non-provision of information requested by the Ministry of Finance, which are applicable for the purposes of applying the EOI Law. Moreover, compulsory powers are available in certain circumstances.

Secrecy provisions (ToR B.1.5)

73. The 2012 Report found that all banking information is covered by bank secrecy and may only be disclosed for tax purposes if the client authorises the disclosure in writing. In addition, the 2012 Report found that the scope of the professional secrecy safeguards appears to be broader than the professional secrecy protected under the international standard, and its impact on effective exchange of information is unclear. Nothing has changed in this respect since the adoption of the 2012 Report.

Bank secrecy

74. Whilst the Lebanese interpretation of the AML/CFT Law provides the Special Investigation Commission (SIC) with the ability to lift bank secrecy for EOI tax purposes, access to banking information is also possible under the EOI Law. In addition, the Central Bank of Lebanon (BDL) issued a Decision applicable to banks and financial institutions, which according to the Lebanese authorities allows the SIC to get banking information from banks and financial institutions, without the application of the restrictive conditions applicable under EOI Law.

Procedure to lift bank secrecy under The EOI Law (EOI Law)

75. The EOI Law introduced a procedure to lift bank secrecy in respect of EOI requests dealing with banking information. The qualifying conditions under Article 3 of the EOI Law must be met for the EOI requests to be considered valid. This means the request for banking information must either be based on an irrevocable judgment convicting the person under investigation of tax evasion or tax fraud, or include conclusive presumptions or relevant facts that this person has engaged in tax evasion or tax fraud in the requesting jurisdiction. The Lebanese authorities have clarified that the only fact that a jurisdiction has requested bank account information cannot be considered as a “conclusive presumption. It further clarified that the request must include at least the name of the bank and the account number. In addition, the request must include “sufficient information about that person’s relevant bank accounts in the banks operating in Lebanon”.

76. Article 4 of the EOI Law provides for the details of the procedure to lift the bank secrecy, as follows:

- The EOI request must directly be forwarded, together with the opinion of the Ministry of Finance, to the Special Investigation Commission (SIC). According to article 6(3) of the AML/CFT Law, the SIC is already the competent authority to lift bank secrecy in favour of the competent judicial authorities and the Higher Banking Commission on accounts or transactions suspected to be related to money laundering or terrorist financing.
- The SIC must decide whether or not to lift the bank secrecy “in compliance with the legal provisions and international conventions relating to EOI on tax evasion and tax fraud”. The SIC may lift the bank secrecy in compliance with DTCs, even the exchange of information article does not contain a provision akin to 26(5) of the OECD Model Convention.
- In case the SIC decides to provide the banking information to the requesting jurisdiction, the person under investigation shall be notified and has 15 days to object the SIC’s decision (see Element B.2 for further analysis on the prior notification of the bank account holder).

77. The final decision is made by the State Council, which determines in an irrevocable manner whether the legal conditions that require the exchange of banking information are met within three months from the submission of the recourse by the person under investigation. The State Council is an administrative court of justice established within the Ministry of Justice (decree – law No 14 dated 09/01/1953). The State council is the highest judicial authority to decide on disputes between the State and other parties dealing with the State, and in particular objections and appeals on tax issues. It considers in particular:

- The preparation of legislative and regulatory texts;
- The requests of compensation for damage occurred due to the implementation of public works;
- The administrative issues related to contracts or purchases conducted by public administrations; and Direct and indirect tax issues.

Decision No 12309 on access to banking information

78. On 5 August 2016, the BDL issued Decision No 12309 of 05 August 2016 on the Exchange of Tax Information covered by Banking Secrecy, in line with international standards. The BDL Decision refers in its preamble to both the EOI and the AML/CFT Laws.

79. Article 1 of this Decision provides the following:

As far as each is concerned, banks and financial institutions shall take at their own full responsibility the appropriate administrative and technical measures required to provide the Special Investigation Commission (SIC) with the information that the concerned foreign authorities request from the Lebanese Ministry of Finance regarding the accounts of residents in the requesting countries. Any such request of information shall take place within the tax information exchange framework, in compliance with the recommendations issued by the Global Forum on Transparency and Exchange of Information for Tax Purposes and by the OECD, and according to the regulatory mechanism to be set for that purpose by the SIC in co-ordination with Banque du Liban.

80. The Lebanese authorities indicated that this Decision is part of the legislative framework of the EOI and AML/CFT Laws. Article 1 of Decision No 12309 requests a full co-operation with the SIC from banks to provide information on bank accounts of residents of the requesting countries. The Lebanese authorities indicated that the BDL has a legal power on banks and financial institutions. They cannot challenge the application of the Decision as it was issued by the Regulator even if the decision contradicts the law.

81. The Lebanese authorities stated that they have access to banking information without restrictions pursuant to the application of the EOI and AML/CFT Laws and Decision No 12309. 82.

Conclusion

82. Whilst the new EOI Law grants access to information (including banking information) for tax purposes, this is subject to restrictive conditions which are not in line with the standard. The Lebanese authorities indicated they can also access information through the AML/CTF Law. Furthermore, the BDL issued a binding Decision requiring the production of banking information by banks and financial institutions for EOI purposes. Notwithstanding the restrictions in EOI Law, Lebanon's interpretation of the combined legal effect of the EOI and AML/CTF Laws and the BDL Decision is that it provides access to information for EOI purposes in all cases. The effectiveness of these access powers in practice will be examined during the next round of reviews.

83. Lebanon's interpretation of its legislation could lead to legal uncertainty regarding the access powers of the Lebanese authorities. It is therefore recommended that Lebanon quickly amends the legislation to remove any uncertainty or restrictive conditions, so that it is ensured the authorities have the power to obtain and provide information, including banking information that is the subject of a request under an EOI agreement in accordance with the international standard.

Determination and factors underlying recommendations

Phase 1 determination	
The element is in place, but certain aspects of the legal implementation of the element need improvement.	
Factors underlying recommendations	Recommendations
<p>Whilst the new EOI Law grants access to information (including banking information) for tax purposes, this is subject to restrictive conditions which are not in line with the standard. The Lebanese authorities indicated they can also access information through the AML/CTF Law. Furthermore, the BDL issued a binding Decision requiring banks and financial institutions to provide banking information for EOI purposes. Notwithstanding the restrictions in the EOI Law, Lebanon's interpretation of the combined legal effect of EOI and AML/CTF Laws and the BDL Decision is that it provides access to information for EOI purposes in all cases. However, this interpretation could lead to legal uncertainty regarding the access powers of the Lebanese authorities.</p>	<p>It is recommended that Lebanon quickly amends the legislation to remove any uncertainty and restrictive conditions, so that it is ensured the authorities have the power to obtain and provide information, including banking information that is the subject of a request under an EOI agreement in accordance with the international standard.</p>
<p>The scope of the professional secrecy safeguards appears to be broader than the professional secrecy protected under the international standard.</p>	<p>Lebanon should ensure that its professional secrecy rules do not operate to prevent exchange of information in accordance with the international standard.</p>

B.2. Notification requirements and rights and safeguards

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

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

84. No recommendation was made with regard to Element B.2.

85. As described under Element B.1.5, the EOI Law has set up a specific procedure to lift bank secrecy. The procedure introduces a written notification of the person under investigation who may object to the SIC's decision of

lifting the bank secrecy. Such objection must take place within 15 days from the notification date.

86. Whilst the standard provides that the fact that information is being exchanged may be disclosed to the taxpayer (or their proxy), there should also be exceptions to limit that notification prior to the information being exchanged for example in situations where the request was of a very urgent nature or such disclosure would compromise the investigation being concluded in the requesting State. However, the EOI Law does not provide for any exception from this notification.

87. Considering the absence of express exceptions to prior notification in the law, Lebanon should ensure that the procedure to access bank information to answer an EOI request on banking information includes appropriate exceptions to notifications prior to exchange of information.

Determination and factors underlying recommendations

Phase 1 determination	
The element is in place, but certain aspects of the legal implementation of the element need improvement.	
<p>Under the procedure for accessing bank information, a prior notification is made in writing to the person under investigation. There are no exceptions to this notification of the account-holder prior to exchange of information, for example for cases where the information requested is of a very urgent nature, or where prior notification is likely to undermine the chance of success of the investigation in the requesting jurisdiction.</p>	<p>Lebanon should ensure that disclosure of information relating to an EOI request in the course of the court process to access bank information includes appropriate exceptions to notification prior to exchange of the information.</p>

C. Exchanging information

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

C.1. Exchange-of-information mechanisms

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

89. The Phase 1 Report found that Lebanon signed agreements that provide for exchange of information with 33 jurisdictions, 29 of which were in force. All of them were double tax conventions (DTCs), which are based on the OECD Model Tax Convention.

Foreseeably relevant standard (ToR C.1.1)

90. No recommendation was made with regard to Element C.1.1 and no relevant legislative changes have been made since the 2012 Report.

In respect of all persons (ToR C.1.2)

91. No recommendation was made with regard to Element C.1.2 and no relevant legislative changes have been made since the 2012 Report.

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

92. The 2012 Report found that as detailed previously in Part B.1.5 of this report, there are considerable limitations in Lebanon's laws with respect to access to bank information. The Lebanese competent authorities did not have access to information regarding transactions or the identity of customers of banks and other financial institutions. As a result, bank information could

not be exchanged by Lebanon with its treaty partners and none of Lebanon's agreements meet the international standard.

93. Moreover, the 2012 Report found that none of Lebanon's EOI instruments contains a provision similar to Article 26(5) of the OECD Model Tax Convention. The EOI Law introduced a procedure to lift bank secrecy in respect of EOI requests dealing with banking information, and the BDL issued a Decision on 5 August 2016 requesting full co-operation from the Lebanese banks and financial institutions with the SIC in respect of EOI for tax purposes. Although this new procedure shows progress, it is subject to restrictive conditions that are not in line with the standard (see B.1.5 above).

94. As described in Part B.1 (Access to Information), Lebanon's interpretation of the combined legal effect of the EOI and AML/CFT Laws and the BDL Decision is that provides access to information for EOI purposes in all cases. However, there remains a legal uncertainty regarding the access powers of the Lebanese authorities, which would prevent Lebanon from giving effect to its EOI agreements. It is therefore recommended that Lebanon amends the legislation to remove any uncertainty and restrictive conditions, so that it is ensured the authorities have the power to obtain and provide information, and therefore comply with and give effect to its EOI agreements.

Absence of domestic tax interest (ToR C.1.4)

95. The 2012 Report found that the lack of clarity with regard to the access powers of the Competent Authority in the absence of a domestic tax interest were also relevant in considering Element C.1.4.

96. As outlined in Part B of this report, the provisions on access powers have been amended as the competent authority is entitled now to access information even if Lebanon does not need it for its own tax purposes. However the conditions to access information are very restrictive, especially with respect to banking information. (see Information requests in general.)

Absence of dual criminality principles (ToR C.1.5)

97. No recommendation was made with regard to Element C.1.5 and no relevant legislative changes have been made since the 2012 Report.

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

98. No recommendation was made with regard to Element C.1.6 and no relevant legislative changes have been made since the 2012 Report.

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

99. No recommendation was made with regard to Element C.1.7 and no relevant legislative changes have been made since the 2012 Report.

In force (ToR C.1.8)

100. No recommendation was made with regard to Element C.1.8 and no relevant legislative changes have been made since the 2012 Report.

In effect (ToR C.1.9)

101. No recommendation was made with regard to Element C.1.9 in the 2012 Report.

Determination and factors underlying recommendations

Phase 1 determination	
The element is in place, but certain aspects of the legal implementation of the element need improvement.	
Factors underlying recommendations	Recommendations
Lebanon's interpretation of the combined legal effect of the EOI and AML/CFT Laws and the BDL Decision is that it provides access to information for EOI purposes in all cases. However, there remains a legal uncertainty regarding the access powers of the Lebanese authorities, which would prevent Lebanon from giving effect to its EOI agreements.	It is recommended that Lebanon quickly amends the legislation to remove any uncertainty and restrictive conditions, so that it is ensured the authorities have the power to obtain and provide information, and therefore comply with and give effect to its EOI agreements.

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

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

102. The 2012 Report found that Element C2 was not in place because Lebanon was not able to exchange information to the standard with any of its partners. It was recommended that Lebanon updates and develops its EOI network to ensure it has agreements for EOI to the standard with all relevant partners.

103. Since the 2012 Report, Lebanon’s interpretation of the combined legal effect of the EOI and AML/CFT Laws and the BDL Decision is that it provides access to information for EOI purposes in all cases. However, there remains a legal uncertainty regarding the access powers of the Lebanese authorities, which would prevent Lebanon from giving effect to its EOI agreements. It is therefore recommended that Lebanon quickly amends the legislation to remove any uncertainty and restrictive conditions, so that it is ensured the authorities have the power to obtain and provide information, and therefore comply with and give effect to its EOI agreements.

Determination and factors underlying recommendations

Phase 1 determination	
The element is in place, but certain aspects of the legal implementation of the element need improvement.	
Factors underlying recommendations	Recommendations
	Lebanon should continue to develop its EOI network to ensure it has agreements for exchange of information to the standard with all relevant partners.
Lebanon’s interpretation of the combined legal effect of the EOI and AML/CFT Laws and the BDL Decision is that it provides access to information for EOI purposes in all cases. However, there remains a legal uncertainty regarding the access powers of the Lebanese authorities, which would prevent Lebanon from giving effect to its EOI agreements.	It is recommended that Lebanon quickly amends the legislation to remove any uncertainty and restrictive conditions, so that it is ensured the authorities have the power to obtain and provide information, and therefore comply with and give effect to its EOI agreements.

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) and All other information exchanged (ToR C.3.2)

104. No recommendation was made with regard to Element C.3 and no relevant legislative changes have been made since the 2012 Report.

Determination and factors underlying 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 requirement to provide information (ToR C.4.1)

105. No recommendation was made with regard to Element C.4 and no relevant legislative changes have been made since the 2012 Report.

Determination and factors underlying recommendations

Phase 1 determination
The element is in place.

C.5. Timeliness of responses to requests for information

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

106. No recommendation was made with regard to Element C.5 and no relevant legislative changes have been made since the 2012 Report.

Determination and factors underlying recommendations

Phase 1 determination
This element involves issues of practice that are assessed in the Phase 2 review. Accordingly no Phase 1 determination has been made.

Summary of determinations and factors underlying recommendations

Determination	Factors underlying recommendations	Recommendations
Jurisdictions should ensure that ownership and identity information for all relevant entities and arrangements is available to their competent authorities (<i>ToR A.1</i>)		
<p>The element is in place, but certain aspects of the legal implementation of the element need improvement.</p>	<p>Lebanon introduced tax filing requirements providing for the identification of the shareholders and a prohibition for banks and financial institutions from undertaking operations with Lebanese joint-stock companies and partnerships limited by shares which have issued bearer shares, thereby reducing the materiality of the bearer share issue in Lebanon. However, bearer shares can still be issued by joint stock companies and partnerships limited by shares in Lebanon. Appropriate legal mechanisms to allow identification of owners of bearer shares are not in place.</p>	<p>Lebanon should ensure that appropriate legal mechanisms are in place to identify the owners of bearer and to order shares in all instances.</p>

Determination	Factors underlying recommendations	Recommendations
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, but certain aspects of the legal implementation of the element need improvement.	Lebanese legislation does not ensure that reliable accounting records or underlying documentation are kept for foreign trusts which are administered in Lebanon or in respect of which a trustee is resident in Lebanon.	Lebanon should establish obligations for the maintenance of reliable accounting records, including underlying documentation, for foreign trusts which are administered in Lebanon or in respect of which a trustee is resident in Lebanon. These records should be kept for a minimum of 5 years.
Banking information should be available for all account-holders (<i>ToR A.3</i>)		
The element is in place.		
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) (<i>ToR B.1</i>)		
The element is in place, but certain aspects of the legal implementation of the element need improvement.	Whilst the new EOI Law grants access to information (including banking information) for tax purposes, this is subject to restrictive conditions which are not in line with the standard. The Lebanese authorities indicated they can also access information through the AML/CTF Law. Furthermore, the BDL issued a binding Decision requiring banks and financial institutions to provide banking information for EOI purposes. Notwithstanding the restrictions in the EOI Law, Lebanon's interpretation of the combined legal effect of EOI and AML/CTF Laws and the BDL Decision is that it provides access to information for EOI purposes in all cases. However, this interpretation could lead to legal uncertainty regarding the access powers of the Lebanese authorities.	It is recommended that Lebanon quickly amends the legislation to remove any uncertainty and restrictive conditions, so that it is ensured the authorities have the power to obtain and provide information, including banking information that is the subject of a request under an EOI agreement in accordance with the international standard.

Determination	Factors underlying recommendations	Recommendations
	The scope of the professional secrecy safeguards appears to be broader than the professional secrecy protected under the international standard.	Lebanon should ensure that its professional secrecy rules do not operate to prevent exchange of information in accordance with the international standard.
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 (<i>ToR B.2</i>)		
The element is in place, but certain aspects of the legal implementation of the element need improvement.	Under the procedure for accessing bank information, a prior notification is made in writing to the person under investigation. There are no exceptions to this notification of the account-holder prior to exchange of information, for example for cases where the information requested is of a very urgent nature, or where prior notification is likely to undermine the chance of success of the investigation in the requesting jurisdiction.	Lebanon should ensure that disclosure of information relating to an EOI request in the course of the court process to access bank information includes appropriate exceptions to notification prior to exchange of the information.
Exchange of information mechanisms should allow for effective exchange of information (<i>ToR C.1</i>)		
The element is in place, but certain aspects of the legal implementation of the element need improvement.	Lebanon's interpretation of the combined legal effect of the EOI and AML/CFT Laws and the BDL Decision is that it provides access to information for EOI purposes in all cases. However, there remains a legal uncertainty regarding the access powers of the Lebanese authorities, which would prevent Lebanon from giving effect to its EOI agreements.	It is recommended that Lebanon quickly amends the legislation to remove any uncertainty and restrictive conditions, so that it is ensured the authorities have the power to obtain and provide information, and therefore comply with and give effect to its EOI agreements.

Determination	Factors underlying recommendations	Recommendations
The jurisdictions' network of information exchange mechanisms should cover all relevant partners (<i>ToR C.2</i>)		
The element is in place, but certain aspects of the legal implementation of the element need improvement.		Lebanon should continue to develop its EOI network to ensure it has agreements for exchange of information to the standard with all relevant partners.
	Lebanon's interpretation of the combined legal effect of the EOI and AML/CFT Laws and the BDL Decision is that it provides access to information for EOI purposes in all cases. However, there remains a legal uncertainty regarding the access powers of the Lebanese authorities, which would prevent Lebanon from giving effect to its EOI agreements.	It is recommended that Lebanon quickly amends the legislation to remove any uncertainty and restrictive conditions, so that it is ensured the authorities have the power to obtain and provide information, and therefore comply with and give effect to its EOI agreements.
The jurisdictions' mechanisms for exchange of information should have adequate provisions to ensure the confidentiality of 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.		
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 Phase 2 review.		

Annex 1: Jurisdiction’s response to the review report⁵

Lebanon expresses appreciation to the Global Forum members.

In addition to all the measures already put in place, Lebanon has considered all the comments of the review and looks forward to continuing to take the work of the Global Forum forward. Lebanon affirms its commitment to the international standards on exchange of information.

Finally, Lebanon accepts the report and the Lebanese team looks forward to a continuous fruitful collaboration.

5. 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

Lebanon has signed agreements that provide for exchange of information on request with 33 jurisdictions, 29 of which are in force.

	Jurisdiction	Type of Eol arrangement	Date signed	Date in force
1	Algeria	Double tax convention (DTC)	26.03.2002	19.07.2006
2	Armenia	DTC	16.09.1998	13.12.2000
3	Bahrain	DTC	07.08.2003	13.09.2005
4	Belarus	DTC	19.06.2001	30.12.2002
5	Bulgaria	DTC	01.06.1999	10.11.2001
6	Canada	DTC	29.12.1998	Not in force
7	Cuba	DTC	04.02.2001	Not in force
8	Cyprus ^a	DTC	18.02.2003	14.04.2005
9	Czech Republic	DTC	28.08.1997	24.01.2000
10	Egypt	DTC	17.03.1996	22.03.1998
11	France	DTC	24.07.1962	02.01.1964
12	Gabon	DTC	20.02.2001	Not in force
13	Iran	DTC	22.10.1998	19.01.2001
14	Italy	DTC	22.11.2000	21.11.2011
15	Jordan	DTC	31.10.2002	12.12.2003
16	Kuwait	DTC	21.01.2001	20.03.2002
17	Malaysia	DTC	20.01.2003	10.11.2004
18	Malta	DTC	23.02.1999	10.02.2000
19	Morocco	DTC	20.10.2001	07.08.2003
20	Oman	DTC	12.04.2001	28.10.2001
21	Pakistan	DTC	31.08.2005	26.06.2008
22	Poland	DTC	26.07.1999	07.11.2003

	Jurisdiction	Type of Eol arrangement	Date signed	Date in force
23	Qatar	DTC	23.11.2005	28.04.2009
24	Romania	DTC	28.06.1995	06.04.1997
25	Russia	DTC	07.04.1997	16.06.2000
26	Senegal	DTC	19.10.2002	22.09.2004
27	Sudan	DTC	09.03.2004	Not in force
28	Syrian Arab Republic	DTC	12.01.1997	10.03.1998
29	Tunisia	DTC	24.06.1998	03.06.2000
30	Turkey	DTC	12.05.2004	21.08.2006
31	Ukraine	DTC	22.04.2002	05.09.2003
32	United Arab Emirates	DTC	17.05.1998	21.05.1999
33	Yemen	DTC	29.09.2002	20.02.2006

Note: a. Footnote 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”.

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

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

Anti-money laundering laws

Amendment of law No 318/2001 – fighting money laundering: Law No 44 dated 24 November 2015 published in the Official Gazette No 48 dated 26 November 2015 (Anti-money laundering and financing terrorism).

Law on cross-border transportation of money: Law No 42 dated 24 November 2015 published in the Official Gazette No 48 dated 26 November 2015.

Commercial laws

Law No 27 dated 24/11/2015 published in the Official Gazette No 48 dated 26 November 2015.

Taxation laws

Law on Exchange of Information for Tax Purposes: Law No 43 dated 24 November 2015 published in the Official Gazette No 48 dated 26 November 2015.

Amendments of tax return forms

Central Bank of Lebanon

Intermediary Decision No 411 issued on 29 February 2016

Decision No 12309 of 5 August 2016 on the Exchange of Tax Information covered by Banking Secrecy, in line with international standards

For more information
**Global Forum on Transparency and
Exchange of Information for Tax Purposes**
www.oecd.org/tax/transparency
www.eoi-tax.org
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