

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

Peer Review Report on the Exchange of Information  
on Request

**ISRAEL**

2022 (Second Round, Phase 1)



# **Global Forum on Transparency and Exchange of Information for Tax Purposes: Israel 2022 (Second Round, Phase 1)**

PEER REVIEW REPORT ON THE EXCHANGE  
OF INFORMATION ON REQUEST

This peer review report was approved by the Peer Review Group of the Global Forum on Transparency and Exchange of Information for Tax Purposes on 11 October 2022 and adopted by the Global Forum members on 7 November 2022. The report was prepared for publication by the Secretariat of the Global Forum on Transparency and Exchange of Information for Tax Purposes.

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Note by the Republic of Türkiye

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. Türkiye recognises the Turkish Republic of Northern Cyprus (TRNC). Until a lasting and equitable solution is found within the context of the United Nations, Türkiye 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 Türkiye. The information in this document relates to the area under the effective control of the Government of the Republic of Cyprus.

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## *Table of contents*

<b>Reader’s guide</b> .....	5
<b>Abbreviations and acronyms</b> .....	9
<b>Executive summary</b> .....	11
<b>Summary of determinations, ratings and recommendations</b> .....	17
<b>Overview of Israel</b> .....	23
<b>Part A: Availability of information</b> .....	29
A.1. Legal and beneficial ownership and identity information .....	29
A.2. Accounting records .....	58
A.3. Banking information .....	63
<b>Part B: Access to information</b> .....	69
B.1. Competent authority’s ability to obtain and provide information .....	69
B.2. Notification requirements, rights and safeguards .....	78
<b>Part C: Exchange of information</b> .....	81
C.1. Exchange of information mechanisms .....	81
C.2. Exchange of information mechanisms with all relevant partners .....	88
C.3. Confidentiality .....	89
C.4. Rights and safeguards of taxpayers and third parties .....	94
C.5. Requesting and providing information in an effective manner .....	94
<b>Annex 1: List of in-text recommendations</b> .....	101
<b>Annex 2: List of Israel’s EOI mechanisms</b> .....	105
<b>Annex 3: Methodology for the review</b> .....	109
<b>Annex 4: Israel’s response to the review report</b> .....	112



## Reader's guide

**The Global Forum on Transparency and Exchange of Information for Tax Purposes (the Global Forum)** is the multilateral framework within which work in the area of tax transparency and exchange of information is carried out by over 160 jurisdictions that participate in the Global Forum on an equal footing. The Global Forum is charged with the in-depth monitoring and peer review of the implementation of the international standards of transparency and exchange of information for tax purposes (both on request and automatic).

### Sources of the Exchange of Information on Request standards and Methodology for the peer reviews

The international standard of exchange of information on request (EOIR) is primarily reflected in the 2002 OECD Model Agreement on Exchange of Information on Tax Matters and its commentary, Article 26 of the OECD Model Tax Convention on Income and on Capital and its commentary and Article 26 of the United Nations Model Double Taxation Convention between Developed and Developing Countries and its commentary. The EOIR standard provides for exchange on request of information foreseeably relevant for carrying out the provisions of the applicable instrument or to the administration or enforcement of the domestic tax laws of a requesting jurisdiction. Fishing expeditions are not authorised but all foreseeably relevant information must be provided, including ownership, accounting and banking information.

All Global Forum members, as well as non-members that are relevant to the Global Forum's work, are assessed through a peer review process for their implementation of the EOIR standard as set out in the 2016 Terms of Reference (ToR), which break down the standard into 10 essential elements under three categories: (A) availability of ownership, accounting and banking information; (B) access to information by the competent authority; and (C) exchanging information.

The assessment results in recommendations for improvements where appropriate and an overall rating of the jurisdiction's compliance with the EOIR standard based on:

1. The implementation of the EOIR standard in the legal and regulatory framework, with each of the element of the standard determined to be either (i) in place, (ii) in place but certain aspects need improvement, or (iii) not in place.
2. The implementation of that framework in practice with each element being rated (i) compliant, (ii) largely compliant, (iii) partially compliant, or (iv) non-compliant.

The response of the assessed jurisdiction to the report is available in an annex. Reviewed jurisdictions are expected to address any recommendations made, and progress is monitored by the Global Forum.

A first round of reviews was conducted over 2010-16. The Global Forum started a second round of reviews in 2016 based on enhanced Terms of Reference, which notably include new principles agreed in the 2012 update to Article 26 of the OECD Model Tax Convention and its commentary, the availability of and access to beneficial ownership information, and completeness and quality of outgoing EOI requests. Clarifications were also made on a few other aspects of the pre-existing Terms of Reference (on foreign companies, record keeping periods, etc.).

Whereas the first round of reviews was generally conducted in two phases for assessing the legal and regulatory framework (Phase 1) and EOIR in practice (Phase 2), the second round of reviews combine both assessment phases into a single review. For the sake of brevity, on those topics where there has not been any material change in the assessed jurisdictions or in the requirements of the Terms of Reference since the first round, the second round review does not repeat the analysis already conducted. Instead, it summarises the conclusions and includes cross-references to the analysis in the previous report(s). Information on the Methodology used for this review is set out in Annex 3 to this report.

## Consideration of the Financial Action Task Force Evaluations and Ratings

The Financial Action Task Force (FATF) evaluates jurisdictions for compliance with anti-money laundering and combating terrorist financing (AML/CFT) standards. Its reviews are based on a jurisdiction's compliance with 40 different technical recommendations and the effectiveness regarding 11 immediate outcomes, which cover a broad array of money-laundering issues.



The definition of beneficial owner included in the 2012 FATF standards has been incorporated into elements A.1, A.3 and B.1 of the 2016 ToR. The 2016 ToR also recognises that FATF materials can be relevant for carrying out EOIR assessments to the extent they deal with the definition of beneficial ownership, as the FATF definition is used in the 2016 ToR (see 2016 ToR, Annex 1, part I.D). It is also noted that the purpose for which the FATF materials have been produced (combating money-laundering and terrorist financing) is different from the purpose of the EOIR standard (ensuring effective exchange of information for tax purposes), and care should be taken to ensure that assessments under the ToR do not evaluate issues that are outside the scope of the Global Forum's mandate.

While on a case-by-case basis an EOIR assessment may take into account some of the findings made by the FATF, the Global Forum recognises that the evaluations of the FATF cover issues that are not relevant for the purposes of ensuring effective exchange of information on beneficial ownership for tax purposes. In addition, EOIR assessments may find that deficiencies identified by the FATF do not have an impact on the availability of beneficial ownership information for tax purposes; for example, because mechanisms other than those that are relevant for AML/CFT purposes exist within that jurisdiction to ensure that beneficial ownership information is available for tax purposes.

These differences in the scope of reviews and in the approach used may result in differing conclusions and ratings.

## More information

All reports are published once adopted by the Global Forum. 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 reports, please refer to [www.oecd.org/tax/transparency](http://www.oecd.org/tax/transparency) and <http://dx.doi.org/10.1787/2219469x>.



## Abbreviations and acronyms

<b>2016 TOR</b>	Terms of Reference related to EOIR, as approved by the Global Forum on 29-30 October 2015
<b>AML</b>	Anti-Money Laundering/Countering the Financing of Terrorism
<b>Banking Order 411</b>	Proper Conduct of Banking Business Order 411, Management of Anti-Money Laundering and Countering Financing of Terrorism Risks
<b>BSPO</b>	Prohibition on Money Laundering (Obligations of Business Service Providers regarding Identification, Reporting and Record-Keeping for the Prevention of Money Laundering and the Financing of Terrorism) Order, 5775-2014 (applicable to Business Services Providers)
<b>CDD</b>	Customer Due Diligence
<b>CL</b>	Companies Law 5759-1999, as amended
<b>DTC</b>	Double Taxation Convention
<b>EOI</b>	Exchange of Information
<b>EOIR</b>	Exchange of Information on Request
<b>EU</b>	European Union
<b>FATF</b>	Financial Action Task Force
<b>Global Forum</b>	Global Forum on Transparency and Exchange of Information for Tax Purposes
<b>ICA</b>	Israeli Corporations Authority
<b>IMPA</b>	Israeli Money Laundering and Terror Financing Prohibition Authority
<b>ITA</b>	Israel's Tax Authority

<b>ITO</b>	Israel's Income Tax Ordinance
<b>Multilateral Convention</b>	Convention on Mutual Administrative Assistance in Tax Matters, as amended in 2010
<b>NIS</b>	New Israeli Shekel
<b>PMLL</b>	Prohibition on Money Laundering Law, 5760-2000, as amended
<b>PMLO</b>	Prohibition on Money Laundering (Obligations of Banking Corporations regarding Identification, Reporting and Record-Keeping for the Prevention of Money Laundering and the Financing of Terrorism) Order, 5761-2001, as amended (applicable to Banks)
<b>PO</b>	Partnership Ordinance
<b>Registrar</b>	Registrar of Companies Unit or Registrar of Partnerships Unit, of the Israel Corporations Authority, as the case may be
<b>Register</b>	Register of Companies administered by the Registrar of Companies Unit or Register of Partnerships administered by Registrar of Partnerships, as the case may be
<b>TIEA</b>	Tax Information Exchange Agreement

## Executive summary

1. This report analyses the implementation of the standard of transparency and exchange of information on request in Israel on the second round of reviews conducted by the Global Forum. Due to the COVID-19 pandemic the onsite visit could not take place. Hence, the present report assesses only the legal and regulatory framework (Phase 1) in force as on 1 August 2022 against the 2016 Terms of Reference. As the review was started with a view to conduct a combined review, some peer inputs have been received and used in this review to the extent possible. The assessment of the practical implementation of the legal framework of Israel will take place separately at a later time (Phase 2 review).

2. This report concludes that Israel's legal and regulatory framework is in place, but improvements are needed with respect to six elements regarding the availability, access and exchange of information for tax purposes. In 2016, the Global Forum evaluated Israel in a combined review against the 2010 Terms of Reference for both the legal implementation of the EOIR standard and its operation in practice. That report of that evaluation (the 2016 Supplementary Report) concluded that Israel was rated Largely Compliant overall (see Annex 3 for details).

3. The current report assesses the compliance of Israel's legal framework with the 2016 Terms of Reference, which includes, amongst others, new requirements on availability of beneficial ownership information on legal entities and arrangements and bank accounts. The table below provide a comparative overview of the 2016 Supplementary Report and the Second Round Phase 1 report.

### Comparison of ratings and determinations for First Round Report and determinations for the Second Round Phase 1 Report

Element	First Round Supplementary Report (2016)		Second Round Report Phase 1 (2022)
	Determinations	Ratings	Determinations
A.1 Availability of ownership and identity information	In place	Compliant	Needs improvement
A.2 Availability of accounting information	Needs improvement	Largely Compliant	Needs improvement
A.3 Availability of banking information	In place	Compliant	Needs improvement
B.1 Access to information	Needs improvement	Largely Compliant	Needs improvement
B.2 Rights and Safeguards	In place	Largely Compliant	In place
C.1 EOIR Mechanisms	In place	Compliant	Needs improvement
C.2 Network of EOIR Mechanisms	In place	Compliant	In place
C.3 Confidentiality	Needs improvement	Largely Compliant	Needs improvement
C.4 Rights and safeguards	In place	Compliant	In place
C.5 Quality and timeliness of responses	Not applicable	Partially Compliant	Not applicable
<b>OVERALL RATING</b>	<b>LARGELY COMPLIANT</b>		<b>NOT APPLICABLE</b>

*Note:* The three-scale determinations for the legal and regulatory framework are In place, needs improvement, and not in place. The four-scale ratings on compliance with the standard (capturing both the legal framework and practice) are Compliant, Largely Compliant, Partially Compliant, and Non-Compliant Progress made since previous review.

### Progress made since the previous review

4. The 2016 Supplementary Report concluded that the legal and regulatory framework of Israel was in place but needed improvement. Some important recommendations were included, as follows:

- Israel should ensure availability of identity information and accounting records for foreign trusts having a trustee resident in Israel and for trusts created by new immigrants and veteran returning residents which are vested with assets or income from assets abroad. Israel was also recommended to ensure availability of accounting records as well for foreign companies that are managed and controlled in Israel by new immigrants or veteran returning residents.
- Israel should take the necessary measures to bring its exchange of information agreements into force expeditiously and to continue to develop its exchange of information network with all relevant partners.
- Israel should ensure that confidentiality rules concerning information received under agreements which do not provide for relief from double taxation are in line with the standard.

5. Israel has made progress in some of those recommendations. The most notable progress is the entry into force of the Multilateral Convention on Mutual Administrative Assistance in Tax Matters (the Multilateral Convention) on 1 December 2016 and they have also reduced the time to bring into force the bilateral agreements signed since the last report.

6. During 2021, a committee for legislative amendments (Committee) was formed together with representatives of Israel's Tax Authority (ITA), accountants and lawyers. The Committee agreed on amendments to Israel's legislation to address the recommendations in the 2016 Supplementary Report. However, further progress is needed to go through the adoption process and to ensure Israel addresses the recommendations from the 2016 Supplementary Report.

7. Progress concerning the implementation of the EOIR standard in practice will be analysed during the Phase 2 review.

## Key recommendations

8. The above-mentioned recommendations made in the 2016 Supplementary report are maintained, regarding the availability of identity information and accounting records for foreign trusts and foreign companies and the confidentiality rules concerning information received under agreements which do not provide for relief from double taxation.

9. The 2016 Terms of References include new requirements in respect of the availability of, and access to, beneficial ownership information of legal entities and arrangements. Several of Israel's new key recommendations in this report are related to these new requirements, as follows:

- In Israel, the main source of beneficial ownership information is the anti-money laundering (AML) framework which requires banks and other AML-obliged persons to identify the beneficial owners of their clients. The availability of beneficial ownership information sourced in the AML framework covers most, but not all relevant entities and arrangements. Legal entities (including partnerships) and arrangements that are taxpayers in Israel are required to have a bank account in Israel upon registration with the tax authority. However, not all legal entities and arrangements are obliged to engage with a business service provider obliged under AML law.
- The Israeli approach to determine beneficial ownership for trusts and other legal arrangements is not in line with the standard, because it does not include persons that exercise ultimate control over the trust.

- Information on beneficial owners should be obtained upon account opening and updated each time a doubt arises concerning the identity of the beneficial owner or the veracity of the identification documents, and whenever a new beneficial owner is added to an existing account. Although a general update obligation exists based on the risk level of the customer, the AML legislation in Israel does not include a specified frequency for AML-obliged persons to update beneficial ownership information. In the case of banks, the AML applicable legislation only determines that the frequency of update for high-risk customers will be higher than for other customers, as determined by the bank's risk management policy.

10. Israel is recommended to address the above-mentioned gaps to ensure that adequate, accurate and updated beneficial ownership information is available for all relevant legal entities and arrangements, according to the standard, without exception.

11. Further, with respect to element B.1 on *Access to Information*, the tax authority in Israel, as the competent authority for exchange of information purposes, has no access to information held by AML-obliged persons following requirements under the AML legislation (e.g. CDD information), when the information is sought following a request of information based on a civil tax investigation. This limitation may severely impact access to beneficial ownership information in Israel, as the only source of beneficial ownership information stems from the AML legislation. This limitation also affects Israel's capacity to give full effect to its exchange of information agreements, as it hinders its capacity to exchange all types of information and to provide assistance to its peers in civil tax investigations (element C1). Accordingly, Israel is recommended to ensure that the competent authority can access beneficial ownership information and other related documents held by AML-obliged persons, in line with the standard in all cases and in order to give full effect to its EOI agreements.

## Exchange of information in practice

12. Israel has a significant experience in EOI especially with its main partners France, United States, Germany, Latvia, and Belgium. In the years 2018 to 2020, Israel sent 252 requests and received 372 requests for information from its EOI partners.

13. The assessment of the exchange of information in practice is not covered by this review and will be the subject of the upcoming Phase 2 review that will take place as soon as the travel conditions allow the assessment team to visit Israel.



## Next steps

14. This review assesses only the legal and regulatory framework of Israel for transparency and exchange of information for tax purposes. Israel has achieved a determination of “in place” in three elements (B.2, C.2 and C.4) and a determination of “in place but needs improvement” in six elements (A.1, A.2, A.3, B.1, C.1 and C.3). The rating for each element and the Overall Rating will be issued once the Phase 2 review is completed.

15. This report was approved at the Peer Review Group of the Global Forum on 11 October 2022 and was adopted by the Global Forum on 7 November 2022. Unless the Phase 2 review is organised by then, a follow up report on the steps undertaken by Israel to address the recommendations made in this report should be provided to the Peer Review Group no later than 30 June 2023 and thereafter in accordance with the procedure set out under the 2016 Methodology for Peer Reviews and Non-Member Reviews, as amended.



## Summary of determinations, ratings and recommendations

Determinations	Factors underlying recommendations	Recommendations
Jurisdictions should ensure that ownership and identity information, including information on legal and beneficial owners, for all relevant entities and arrangements is available to their competent authorities ( <i>ToR A.1</i> )		
<p><b>The legal and regulatory framework is in place but needs improvement</b></p>	<p>Israeli law does not ensure the availability of identity and beneficial ownership information in respect to settlors, trustees and beneficiaries of foreign resident trusts having a trustee resident in Israel and for trusts created by new immigrants and veteran returning residents which are vested with assets or income from assets abroad for a period of 10 years, if the trust is operated by a trustee who is not an attorney, or an accountant covered by AML obligations</p>	<p>Israel should ensure the availability of identity and beneficial ownership information in respect of the settlors, trustees and beneficiaries of foreign resident trusts having a trustee resident in Israel and for trusts created by new immigrants and veteran returning residents which are vested with assets or income from assets abroad in all cases.</p>

Determinations	Factors underlying recommendations	Recommendations
	<p>Israel relies upon the AML framework for availability of beneficial ownership information of legal entities and arrangements. However, not all relevant entities and arrangements are obliged to engage in a relationship with an AML-obliged person, such that beneficial ownership information may not be available in all cases. Although most entities and arrangements are required to have a bank account with an Israeli bank when they register with the tax authorities, not all relevant legal persons and arrangements must register with the tax authority, and some have reporting obligation exceptions. Furthermore, although there is an obligation to update customer due diligence based on the risk profile of the customer and in certain other circumstances, there is no specified frequency of carrying out Customer Due Diligence to update beneficial ownership information.</p> <p>The combination of AML and Tax rules covers the identification of the settlor(s), the protector(s) and the beneficiaries, as the beneficial owner(s) of trusts and other similar legal arrangements, but does not include the residual clause “any other natural person exercising ultimate effective control”, as required by the standard.</p>	<p>Israel should ensure that adequate, accurate and up-to-date beneficial ownership information is available for all relevant legal entities and arrangements, according to the standard, without exception.</p> <p>Israel should ensure that the definition of beneficial owner for trusts and other similar legal arrangements is in line with the standard.</p>
Jurisdictions should ensure that reliable accounting records are kept for all relevant entities and arrangements ( <i>ToR A.2</i> )		
<p><b>The legal and regulatory framework is in place but needs improvement.</b></p>	<p>Israeli law does not ensure the availability of accounting records in respect of foreign resident trusts having a trustee resident in Israel and for trusts created by new immigrants and veteran returning residents which are vested with assets or income from assets abroad for a period of 10 years, as well as in respect of activities outside of Israel of foreign companies that are controlled in Israel by new immigrants or veteran returning residents for a period of 10 years.</p>	<p>Israel should ensure that accounting records consistent with the standard are maintained for all relevant legal entities and arrangements, without exceptions.</p>

Determinations	Factors underlying recommendations	Recommendations
Banking information and beneficial ownership information should be available for all account-holders ( <i>ToR A.3</i> )		
<b>The legal and regulatory framework is in place but needs improvement.</b>	The combination of AML and Tax rules covers the identification of the settlor(s), the protector(s) and the beneficiaries, as the beneficial owner(s) of trusts and other similar legal arrangements, but does not include the residual clause “any other natural person exercising ultimate effective control”, as required by the standard.	Israel should ensure that the definition of beneficial owner for trusts and other similar legal arrangements is in line with the standard.
	Although there is a general obligation to update customer due diligence based on the risk profile of the customer and in certain other circumstances, there is no specified frequency of carrying out Customer Due Diligence to update beneficial ownership information.	Israel should ensure that up-to-date beneficial ownership information of all account-holders is available at all times, in line with the standard.
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> )		
<b>The legal and regulatory framework is in place but needs improvement</b>	The tax authorities' powers to obtain information from new immigrants, veteran returning residents and the trustees of foreign resident trusts, having a trustee resident in Israel, in respect of foreign source income are inadequate.	Israel should ensure that its authorities have powers to obtain information from new immigrants, veteran returning residents and trustees of foreign resident trusts which might be subject of an information request from its EOI partners.

Determinations	Factors underlying recommendations	Recommendations
	<p>The competent authority is only able to access information gathered under the AML framework by AML-obliged persons (e.g. banks and non-financial regulated persons), including CDD and beneficial ownership information of their customers, through a Court order for criminal tax purposes. As beneficial ownership information is mainly available with AML-obliged persons in Israel due to the AML requirements, the Competent Authority is prevented from accessing beneficial ownership information on legal entities and arrangements and bank accounts for EOI requests involving civil tax matters.</p>	<p>Israel is recommended to ensure that its competent authority can access beneficial ownership information and other related documents held by AML-obliged persons, including CDD documentation, in line with the standard in all cases.</p>
<p>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>)</p>		
<p><b>The legal and regulatory framework is in place</b></p>		
<p>Exchange of information mechanisms should provide for effective exchange of information (<i>ToR C.1</i>)</p>		
<p><b>The legal and regulatory framework is in place but needs improvement</b></p>	<p>Several exceptions limit access to ownership and accounting records information from new immigrants, veteran returning residents and the trustees of foreign resident trusts, having a trustee resident in Israel, in respect of foreign source income. Additionally, while beneficial ownership information is mainly available with AML-obliged persons under the AML framework, Israel is not able to access information (e.g. CDD information including beneficial ownership information) gathered by AML-obliged persons under the AML requirements for civil tax matters. Thus, Israel is unable to give full effect to its EOI agreements, as the competent authority is not able to obtain all types of information.</p>	<p>Israel is recommended to ensure that its competent authority has access to all types of information from information holders, including beneficial ownership information and other related documents held by AML-obliged persons, in line with the standard in all cases, in order to give full effect to its EOI agreements.</p>

Determinations	Factors underlying recommendations	Recommendations
The jurisdictions' network of information exchange mechanisms should cover all relevant partners ( <i>ToR C.2</i> )		
<b>The legal and regulatory framework is in place.</b>		
The jurisdictions' mechanisms for exchange of information should have adequate provisions to ensure the confidentiality of information received ( <i>ToR C.3</i> )		
<b>The legal and regulatory framework is in place but needs improvement.</b>	Information received under agreements that do not provide for relief from double taxation, including the Multilateral Convention, will be treated only pursuant to Israel's domestic confidentiality rules which allow use of information beyond the standard.	Israel should ensure that confidentiality rules concerning information received under agreements which do not provide for relief from double taxation, including the Multilateral Convention, are in line with the standard
The exchange of information mechanisms should respect the rights and safeguards of taxpayers and third parties ( <i>ToR C.4</i> )		
<b>The legal and regulatory framework is in place.</b>		
The jurisdiction should request and provide information under its network of agreements in an effective manner ( <i>ToR C.5</i> )		
<b>Legal and regulatory framework:</b>	This element involves issues of practice. Accordingly, no determination on the legal and regulatory framework has been made.	





## Overview of Israel

16. This overview provides some basic information about Israel that serves as context for understanding the analysis in the main body of the report. It does not claim to be a complete picture of the legal and regulatory system of the jurisdiction.

17. Israel is a small State located in the Middle East region with a population of 9.4 million.<sup>1</sup> Hebrew and Arabic are the official languages; however English and Russian are also widely spoken. The official currency is the New Israeli Shekel (NIS).

18. Israel is a developed country with GDP per capita of USD 43 712 in 2021. The service sector produces about 70% of the GDP followed by industry with about 25% and agriculture 2%. The financial services represent about a quarter of the services sector contribution to Israel's GDP.

19. Israel has a technologically advanced market economy. It depends on imports of crude oil, vehicles, raw materials, and military equipment. Cut diamonds, high-technology equipment, chemicals, and medicine are the leading exports. The main trading partners of Israel are the United States, the EU member states and the People's Republic of China.

20. In 2010, Israel formally acceded to the OECD. Israel is also a member of the World Trade Organization, the International Monetary Fund, the Financial Action Task Force (FATF) and the United Nations. Israel is a member of the Global Forum on Transparency and Exchange of Information for Tax Purposes and is committed to implement the international standards for transparency and exchange of information for tax purposes.

## Legal System of Israel

21. Israel is a parliamentary democratic republic with a multi-party system. Israel's highest legislative body is the 120-seat unicameral Parliament (Knesset). Knesset members are elected for a four-year term based on the

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1. Central Bureau of Statistics, December 2021, <https://www.cbs.gov.il/he/publications/doclib/2021/yarhon1021/b1.pdf>.

share of total national vote in general elections. The Israeli head of state is the President, elected by the Knesset for a seven-year term. Most executive power lies with the Government which is accountable to the Knesset. The Prime Minister, who is the head of government, is appointed by the President on the basis of the general election results.

22. Israel's legal system is strongly influenced by the common law tradition. The courts have made a significant contribution to the development of Israeli law by means of judicial interpretation. In their decisions, the courts, to some extent, have been influenced by continental law, although English and American laws also have persuasive force. Israel has no formal constitution. The main principles of the state's power and its functioning are stipulated in a number of Basic Laws. Laws are passed by the Knesset. The Government (typically ministers) can issue secondary legislation to implement laws within the limits laid down by the law. Laws and secondary legislation come into force on their promulgation. International treaties have the same legal power as domestic laws approved by the Knesset unless specifically provided by the respective domestic law.

## Tax system

23. The Israeli tax system is mainly based on indirect taxation of goods and services and income taxes. All taxes are administered by the Israel Tax Authority (ITA).

24. Income tax is levied according to the Israeli Income Tax Ordinance (ITO). The ITO contains rules for corporate income tax, individual income tax as well as for the administrative aspects of taxation. As of 2021, corporations in Israel are generally subject to a basic tax rate of 23%. Individuals are subject to progressive personal income tax rates up to 50%. Special rules apply with regard to passive source income, rental fees, persons aged over 60, new immigrants (or first time residents) and veteran returning residents.<sup>2</sup> The main benefits for new immigrants and returning residents who became citizens since 1 January 2007 and onwards are as follows:<sup>3</sup>

- 10-year tax exemption on foreign-source income
- 10-year exemption from declaring foreign-source income which are exempted

2. Section 14(a) of the ITO refer to the term “first time resident” and “veteran returning residents” and the exemptions they enjoy under tax law. The first term is defined as individuals who become Israel residents for the first time and the latter, as an individual who returned and became an Israel resident after he/she stayed abroad during at least 10 consecutive years.

3. Source: Israel Tax Authority at <https://www.gov.il/en/departments/general/immigrant-guide#:~:text=The%20main%20benefits%20for%20new,source%20income%20which%20are%20exempted.>

- 10-year exclusion from definition as an Israeli company resident – for a company established abroad and owned by a new immigrant or a veteran returning residents
- for individuals, option to be considered a foreign resident for taxation purposes, for one year from arrival
- 3.5 years of entitlement to tax credit, with options of extension.

25. Personal and corporate income taxes are levied on the worldwide income of individuals or companies who are Israeli tax residents. Non-residents are taxed on Israeli-source income. An individual is an Israeli tax resident if the “centre of life” of that person is located in Israel (s. 1(a) ITO). A company is considered as Israeli tax resident if it is incorporated in Israel, or it is managed and controlled from Israel (S 1(b) ITO).

26. The standard value added tax (VAT) rate is 17%. Certain goods and services are subject to zero VAT rate, including exported and intangible goods and provision of certain services to a non-resident (e.g. in tourism). Financial institutions are subject to profit tax instead of VAT at the same rate as VAT. Employers and employees are subject to national insurance (social security) and pension contribution. The employee’s share of national insurance includes compulsory health insurance. Employee’s contribution to national insurance is applied at rates from 2% to 12%; employer’s rates are from 3.45% to 7.5%. The government further levies real estate taxes, betterment levy and land betterment levy,<sup>4</sup> customs duties, purchase tax and municipal taxes on real estate.

## Financial services sector

27. Israel’s financial sector is dominated by banks. Banks operating in Israel are mainly domestically owned. In June 2022, the banking system in Israel included 11 banking corporations, 4 branches of foreign banks, 8 merchant acquirers companies<sup>5</sup> and 1 joint service company. The banking system in Israel is dominated by the five largest banking groups. The total of

4. Taxes or fees applicable on real state that has increased its value due to public infrastructure investments or a policy action executed by a public body.

5. Pursuant to the Banking Licensing Law 5741-1981, an acquirer is a company that holds an acquirer licensing. Further “acquiring of payment card transactions” is defined as the “payment to a supplier as consideration for the assets which a customer had purchased from that supplier using a payment card, in exchange for receiving the value of the assets from the issuer of the payment card, and where payment to said supplier is made by the issuer, in exchange for receiving the value of the assets directly from the customer”. In other words, it is a financial institution that processes credit and debit card transactions on behalf of another company.

bank assets amount to about 139% of the GDP. Banking assets amount to NIS 2.241 billion NIS (EUR 631 billion) as of March 2020.

28. The Bank of Israel is responsible for the supervision of the banks, merchant acquirer companies and controlled payment systems. The Governor of the Bank of Israel, after consultation with the Licensing Committee, issues among other: (i) a bank licence, (ii) a permit to control a banking corporation or a bank holding corporation, or (iii) a foreign bank licence.

29. The Tel Aviv Stock Exchange is the only stock exchange operating in Israel, with around 540 listed companies. It is supervised by the Israel Securities Authority and offers various products for investors, including the trading of shares, corporate bonds, treasury bills and bonds, index-tracking products, and derivatives on shares, indices, and currency exchange rates.

## Anti-money laundering framework

30. The AML regime in Israel covers all financial institutions required by the FATF including banks, members of stock exchange, portfolio managers, trading platforms, credit service providers, money service businesses insurers and provident funds and the Postal Bank.<sup>6</sup> For non-financial professionals, lawyers and accountants are subject to licensing requirements and are subject to CDD and record keeping AML obligations.

31. The Prohibition on Money Laundering Law (PMLL) enacted in 2000 is Israel's AML legislation. The PMLL is the primary legal instrument setting out the preventive measures, including customer due diligence (CDD), reporting and record keeping obligations which apply to the covered financial sector and non-financial professionals subject to AML obligations sectors in Israel. The law focuses on four principles: prevention, punishment, confiscation, and international co-operation. It includes empowering provisions, allowing AML supervisors to enact enforceable sectoral rules for specifying the detailed operational requirements of these preventive measures. The range of instruments includes regulations, orders, directives, and circulars. In addition, where applicable, Israel relies on general sectoral-specific supervisory powers provided under respective laws to implement AML preventive measures.

32. The PMLL was amended in 2016, notably to add serious tax offences requiring a *mens rea* of intention to the list of predicate offences to money laundering. These offences include offences according to the Income Tax Ordinance, the Value Added Tax Law, and the Taxation of Real

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6. The Postal Bank services are provided by the Israel Post Company on behalf of the Israel Postal Bank Company and overseen by the Ministry of Communications.

Estate Law. In February 2017, the definition of “beneficial ownership” was amended.

33. Detailed rules for AML procedures and obligations are contained in orders and directives issued by the supervisory authorities. Under these orders, financial institutions are required to undertake the CDD measures when 1) establishing business relations; 2) carrying out occasional transaction above a threshold of NIS 10 000 (EUR 2 700 approx.) for cash transactions, including situations where the transaction is carried out in a single operation or in several operations that appear to be linked; 3) carrying out occasional transactions over a threshold that are wire transfers; 4) When they have doubts about the veracity or adequacy of previously obtained customer identification; 5) when there is suspicion of money laundering or terrorist financing.

34. In 2018, Israel underwent a joint FATF/Moneyval mutual evaluation on its measures to combat money laundering and terrorist financing. Recommendations 10 (Customer due diligence for financial institutions), 24 (Transparency and beneficial ownership of legal persons) and 25 (Transparency and beneficial ownership of legal arrangements) were rated Largely Compliant and Recommendation 22 (Customer due diligence for designated non-financial businesses and professions) was rated Partially Compliant. Immediate Outcome 3 (Adequate supervision for compliance of AML framework) was rated Moderate and Immediate Outcome 5 (Prevention of misuse of legal persons and arrangements) was rated Substantial.<sup>7</sup>

35. In general, the conclusions of the evaluation were that Israel has implemented an AML system that is effective in many areas, with particularly good results in areas of ML/TF risk assessment and risk understanding, including the use of financial intelligence, targeted financial sanctions related to terrorism financing, preventing misuse of legal structures, and co-operating domestically and internationally. However, the report noted the need to strengthen supervision and implementation of preventive measures.

36. Israel became an observer to the FATF in February 2016. With the publication of the report in December 2018, Israel became an official member of the FATF.

37. Following the adoption of the Mutual Evaluation Report, the country was placed in the regular follow-up process, which is the default monitoring mechanism for all countries to ensure a continuous and on-going system of monitoring. Subsequently, Israel was required to report back to the FATF after three years from the adoption of the MER, in February 2022. Israel's

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7. <https://www.fatf-gafi.org/media/fatf/documents/reports/mer4/MER-Israel-2018.pdf>.

Follow up Report was adopted by FATF on May 2022<sup>8</sup>. The report analysed Israel's improvement in technical compliance and, consequently some recommendations were re-rated. The ratings for the recommendations of interest in the Global Forum assessment process (10, 22, 24 and 25) remain, as stated above in paragraph 34.

## Recent developments

38. In 2019, tax regulations required to apply the Common Reporting Standard on automatic exchange of financial account information were enacted to allow for the unified reporting standard and the due diligence on financial accounts.

39. Israel has also indicated that a number of changes are planned to partnership legislation in the short term, including an annual reporting obligation.

40. In addition, in January 2022, a proposed amendment to the Companies Law was published for public comment. The amendment establishes a framework to write-off inactive companies from the Register of Companies; it includes criteria to write-off the companies, provides channels for the companies to contend the decision and the conditions to restore a company in the Register. According to Israel, the amendment was adopted as an official legislative proposal in May 2022 and the next steps include the three readings in the Parliament, before this bill can become an official law.

41. The Israel Tax Authority is also in the process of enhancing transparency for legal arrangements (trusts) through automating all its trust forms.

42. Finally, Israel has indicated that the Government recently set up an inter-ministerial team that is examining the establishment of a beneficial ownership registry for legal entities.

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8. <https://www.fatf-gafi.org/media/fatf/content/images/Follow-Up-Report-Israel-2022.pdf>.

## Part A: Availability of information

43. Sections A.1, A.2 and A.3 evaluate the availability of ownership and identity information for relevant entities and arrangements, the availability of accounting information and the availability of banking information.

### A.1. Legal and beneficial ownership and identity information

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

44. Identity and legal ownership information on all relevant legal entities (including partnerships) and arrangements is mainly available in Israel under the company law, the trust law, and the tax law requirements. The 2016 Supplementary Review concluded that the legal framework for the availability of legal ownership information is in line with the standard, albeit an in-box recommendation was introduced on the availability of identity information on foreign trusts having an Israeli resident trustee. This recommendation has not been addressed since the last review; thus, it is retained.

45. In Israel, the main source of beneficial ownership information are banks and other AML-obliged persons. All legal entities and arrangements that are taxpayers in Israel are obliged to have a local bank account, with some exceptions applicable to trusts that are considered taxpayers but hold assets abroad. Additionally, not all legal entities and arrangements are obliged to engage with an AML regulated business service provider. Consequently, beneficial ownership information may not be available for all relevant legal entities and arrangements, in line with the standard.

46. The obligation to identify beneficial owners of trusts does not include persons that exercise ultimate control over a trust.

47. In light of the above, the following issues are found:

- Not all relevant entities and arrangements are obliged to engage with an AML-obliged person that would avail of BO information.

- Beneficial ownership measures applicable to legal arrangements are not in line with the standard and some relevant information would not be captured, as the definition of beneficial owner does not include all natural persons that ultimately exercise control over trusts or other arrangements.
- Information received by the ITA via the annual tax returns does not constitute beneficial ownership information according to the standard, but legal ownership and identity information.

48. Concerning supervision and sanction powers to ensure the availability of identity and legal ownership information, the ITA has adequate supervisory and sanctioning powers under the tax law. Regarding beneficial ownership information, the AML legislation gives adequate supervisory and sanctioning powers to the regulators for non-compliance with their obligations, including maintenance of beneficial ownership information.

49. Israel used to allow for the issuance of bearer shares in the past. Israel indicated that currently the number of companies with bearer shares in circulation is limited to four companies. The CL was amended to disallow the issuance of bearer shares after September 2016. As noted in the 2016 Supplementary Report, there is still a possibility for holders of bearer shares to remain anonymous for a potentially unlimited period of time (para. 60). Since then, Israel has not taken any action to close this gap, thus the in-text recommendation is kept for Israel to take measures to restrict the possibility of holders of bearer shares to remain anonymous for a potentially unlimited period of time. This issue will be assessed during the Phase 2 review (see Annex 1. List of in-text recommendations).

50. In the peer input received, many peers reported to have requested legal and beneficial owners of legal entities and arrangements and in most cases, they were satisfied with the answers provided by Israel. Some peers indicated that they had received only partial identity information or did not receive the information requested during the review period. The availability of legal and beneficial ownership information in practice will be addressed in the Phase 2 review.

51. The conclusions are as follows:



**Legal and Regulatory Framework: in place, but certain aspects of the legal implementation of the element need improvement**

Deficiencies identified/Underlying factor	Recommendations
<p>Israeli law does not ensure the availability of identity and beneficial ownership information in respect to settlors, trustees and beneficiaries of foreign resident trusts having a trustee resident in Israel and for trusts created by new immigrants and veteran returning residents which are vested with assets or income from assets abroad for a period of 10 years, if the trust is operated by a trustee who is not an attorney, or an accountant covered by AML obligations.</p>	<p>Israel should ensure the availability of identity and beneficial ownership information in respect of the settlors, trustees and beneficiaries of foreign resident trusts having a trustee resident in Israel and for trusts created by new immigrants and veteran returning residents which are vested with assets or income from assets abroad in all cases.</p>
<p>Israel relies upon the AML framework for availability of beneficial ownership information of legal entities and arrangements. However, not all relevant entities and arrangements are obliged to engage in a relationship with an AML-obliged person, such that beneficial ownership information may not be available in all cases. Although most entities and arrangements are required to have a bank account with an Israeli bank when they register with the tax authorities, not all relevant legal persons and arrangements must register with the tax authority, and some have reporting obligation exceptions. Furthermore, although there is an obligation to update customer due diligence based on the risk profile of the customer and in certain other circumstances, there is no specified frequency of carrying out Customer Due Diligence to update beneficial ownership information.</p>	<p>Israel should ensure that adequate, accurate and up-to-date beneficial ownership information is available for all relevant legal entities and arrangements, according to the standard, without exception.</p>
<p>The combination of AML and Tax rules covers the identification of the settlor(s), the protector(s) and the beneficiaries, as the beneficial owner(s) of trusts and other similar legal arrangements, but does not include the residual clause “any other natural person exercising ultimate effective control”, as required by the standard.</p>	<p>Israel should ensure that the definition of beneficial owner for trusts and other legal arrangements is in line with the standard.</p>

**Practical Implementation of the Standard: no rating is assigned on this element, as it involves issues on practice that are dealt with in the Phase 2 review.**

### ***A.1.1. Availability of legal and beneficial ownership information for companies***

52. In Israel, the Companies Law provides for the existence of two types of companies:

- Public companies: legal entities that have their shares listed for trade on a stock exchange or have been offered to the public pursuant to a prospectus as defined in the Securities Law and are held by the public. As of December 2020, there were 638 public companies registered in Israel.
- Private companies: these are all companies that are not public companies. As of December 2020, there were 366 357 private companies registered in Israel.

### ***Legal Ownership and Identity Information Requirements***

53. The legal ownership and identity requirements for companies are found mainly in the Israeli Company Law (CL) and the Tax Law. According to the CL, upon registration of the company, the applicant is required to provide the details of the company's shareholders and directors. The company will obtain its legal status upon registration in the Register, having provided the aforementioned information. Additionally, all legal entities are required to register with the tax administration and file annual tax returns; however, ownership information on companies registered in the Companies Register that did not comply with their obligation to register with the tax administration (i.e. inactive companies for tax purposes) will not be available with the tax administration. The following table shows a summary of the legal requirements to maintain legal ownership information in respect of companies.

#### **Companies covered by legislation regulating legal ownership information<sup>9</sup>**

Type	Company Law	Tax Law	AML Law
Public companies	All	Some	Some
Private companies	All	Some	Some
Foreign companies	None	All	Some

9. The table shows each type of entity and whether the various rules applicable require availability of information for "all" such entities, "some" or "none". "All" means that

## Companies Law requirements

54. In Israel, the Israeli Corporations Authority (ICA) is in charge of the registry, administration, and compliance of companies in Israel. It includes the Registrar of Companies, the Registrar of Partnerships and the Registrar of Associations and Companies for the Public Benefit, among others.

55. A company obtains its legal status upon registration with the Registrar of Companies, where information on all shareholders and representatives must be provided in a pre-determined form (s. 8 the CL). The request includes a statement from the initial directors appointed by the company, and a copy of the articles of association. Pursuant to section 23 CL, the articles of association include the note of the initial shareholders and the shares allotted to each and must be signed by them and authenticated by a lawyer. According to Israel, the details of the shareholders are verified in accordance with the population registration maintained by the Population and Immigration Authority (Ministry of Interior). When a request to register an Israeli company includes shareholders and directors that are not Israeli residents, the application must include a certified copy of their passports.

56. An amendment to the CL in September 2020 allows the identity authentication of the first shareholders upon registration of a company to be done either by a lawyer or online through an online registration.

57. Legal ownership information for private companies is available both with the Registrar and with the company:

- Up-to-date information is available with the Registrar through a series of requirements. Besides providing identity information on shareholders and directors, private companies in Israel are required to report any transfer of shares to the Registrar which must include information on both the old and new shareholders. Besides changes in the shareholders' details, shares issuances and share capital must also be reported. Further, private companies must report annually to the Registrar any information regarding appointments of the board of directors and shares transfer. This information must be reported annually, no later than 14 days after the company's annual general meeting or, if no meeting takes place, after the company delivers its financial statements to the shareholders (s. 140-141 CL). Where shares of the company are held in trust (nominee arrangements), the nominee shareholder/trustee must inform this to the Registrar as part of the annual reporting before the Registrar.

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the legislation, whether or not it meets the standard, contains requirements on the availability of ownership information for every entity of this type. "Some" means that an entity will be covered by these requirements if certain conditions are met.

- The company itself must also keep a registration on shareholders and directors, including their name, identity number and address, as well as the amount and types of shares held by each shareholder. The register must also include identity information on persons that act as shareholders on behalf of another person, with the reference that such person is acting as a nominee (“trustee” according to Israel’s law). A shareholder who acts as a nominee is treated as a legal owner of the shares in case of a private company, according to the CL, and the same tax rules as in case of trustees apply (s. 130-131 CL). This information does not cover the identification of the person on whose behalf the nominee/trustee is acting.

58. Public companies must also report certain information to the Registrar, but this does not include ownership information (s. 142 CL). Ownership information of public companies is available via the register of shareholders that the company is required to keep. With regard to nominees of public companies, when the company’s shares are listed for trading on a stock exchange in Israel, the nominee is not considered as a shareholder in the company and the shares entered under its name are considered owned by a person for whose benefit the nominee acts, who has to be registered in the shareholders registry kept by the company (s. 132 and 177 CL).

59. The CL also allows the establishment of public benefit companies (Chapter One A). Under certain conditions, the Registrar is authorised to make a compulsory registration of a public benefit company in case the company is in fact for public purposes, but has not filed a request to register as one. The law also foresees the establishment of a charitable fund as a type of charitable company. Israel reports that as of December 2020 there were 1 405 charitable companies and as of January 2020, there have been no requests to establish a charitable fund. Reporting obligations contained in section 140 of the CL (as described above in para. 57) are also applicable to charitable companies and supervisions and inspections mechanism of the CL apply to charitable companies as well.

60. A public benefit company is only allowed to act for public purposes contemplated in the law<sup>10</sup> and is forbidden to distribute profits, whether directly or indirectly, to its shareholders. These companies are obliged to file annual financial statements to the Registrar, which are audited if the company has a turnover above NIS 10 million or EUR 2.9 million. The annual financial statements are publicly available. Additionally, they must appoint an

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10. A charitable company can only act for one of the “public purposes” listed in the Companies law: environment, health, religion, heritage, animal welfare, human rights, education, culture and art, science, sports, immigration, charity, social or national welfare, protecting the rule of the law and giving grants for one of the above.

independent audit committee who has the powers to examine the fulfilment of the public purposes, whether the company acts in accordance with its purposes, and examine the company's financial affairs in line with its purposes. Finally, upon its dissolution and liquidation, the assets remaining from a public benefit company cannot be directly or indirectly distributed among its shareholders. Given the rules applicable to public benefit companies in Israel, they are deemed to have a limited materiality for EOIR purposes.

### **Tax law requirements**

61. All companies (private and public) are required to register with the ITA. Once a company is registered in the ITA, it must file a form that includes identity information on directors and shareholders of the company (s. 134 and 145 ITO). Companies must also file an annual report as part of the annual tax return, which includes information on current shareholders at the moment of filing (and not the list of shareholders during the year), and identity information on current and former directors (s. 131 ITO). This annual obligation ensures that shareholders and directors' information available to the ITA is updated regularly. Ownership information on companies registered in the Companies Register, but that did not comply with their obligation to register with ITA, will not be available with the ITA.

### **Foreign companies**

62. With regards to foreign companies, the ITO states that any body of persons is required to register before the ITA whenever it opens or begins to carry on its business (s. 134 ITO). This provision covers foreign companies that become tax residents in Israel or have a permanent establishment (by undertaking business in Israel). Foreign companies must also file annual reports including updated information on shareholders and directors, as described above for Israeli companies. As of December 2020, there were 3 008 foreign companies registered in Israel. These tax requirements ensure the availability of legal ownership information on foreign companies with a nexus in Israel in line with the standard.

63. As to the CL, all companies that are incorporated outside Israel shall be registered with the Companies Registrar, in order to maintain its place of business in Israel, including companies created only for maintaining an office for the registration or transfer of shares (s. 346(a) CL). Upon registration, the foreign company must provide the Registrar with the list of all directors and the contact of a person authorised to receive court orders and other notifications on behalf of the company. However, the information requested upon registration with the Registrar does not include ownership information on foreign companies. The annual statements filed with the Registrar does not include ownership information on foreign companies.

64. In light of the above, legal ownership information is not available under CL. However, all legal entities that start businesses in Israel are required to register before the ITA and, thus, report legal ownership information. In the case of foreign companies, ownership information must be filed upon registration and via the annual returns. As indicated in paragraph 61, the return contains the identity information of shareholders at the moment it is filed and does not reflect the changes in shareholders due to share transfers since the last annual return.

### **Inactive companies and companies that ceased to exist**

65. The concept of “inactive companies” is contemplated in the CL as “companies in violation of the law” (s. 352). Pursuant to the CL companies that do not submit annual reports or have not paid annual fees to the Registrar, including inactive companies according to the ITA, are declared to be “companies in violation of the law”. This status is publicly accessible.

66. There are two types of inactive companies, according to the ITA:

- companies that have not registered with the ITA and therefore failed to comply with tax requirements
- companies that have closed businesses and closed their files before the ITA but have not yet been dissolved/liquidated.

67. As at December 2020, there were 226 000 inactive companies in the ITA. Israel has not provided the number of companies in violation of the law in the Companies Register. This number of inactive companies in the ITA represents more than 60% of the total number of companies existing in the Register (including private and public companies, and foreign companies).

68. On the other hand, the issue with companies in violation of the law pursuant to the CL was analysed in the 2016 Supplementary Report in paragraph 54. The report noted that in 2016, 53% of all registered companies were considered in violation of the law. It noted that such status significantly limits the ability of companies to obtain credit, change the company name or purpose, and register mergers. The CL also allows the ICA to deny the controlling shareholder and any director who has not paid a fine imposed by the ICA from registering new companies.

69. However, inactive companies and companies in violation of the law may still operate since there is not express limitation in the CL or the ITO in this sense.

70. The CL further provides in section 362 the possibility for the Registrar to request the liquidation of a company in violation of the law.

This can be done within three years, following the imposition of a monetary sanction to the company, when the sanction has not been paid and when the Registrar has also imposed an additional monetary sanction for non-compliance with the first sanction.

71. In the 2016 Supplementary Review, an in-text recommendation was included for Israel to continue taking steps to improve the availability of ownership information with the Registrar, including striking off companies in violation of the law which continuously fail to comply with their obligations in application of section 362 of the CL.

72. As stated above, one of the reasons for a company to be considered in violation of the law under the CL is when they do not submit annual reports to the Registrar, which may lead to ownership information concerning these companies not to be available and updated in the Register.

73. For tax purposes, companies can be considered inactive if they have been incorporated in the Register but not registered before the ITA. In this case, these inactive companies would not be compliant with their tax registration and filing obligations and information would not be available with the ITA.

74. The interaction between the status of a legal entity in the Register and its registration before the tax authority and the practical impact of inactive entities and companies in violation of the law in the availability of ownership information will be analysed in the Phase 2 review (see Annex 1. List of in-text recommendations).

75. Concerning companies that cease to exist, the legal requirements establish that all records are available for a seven year record retention period following the liquidation. This is in line with the standard. The CL states that a company shall exist from the date of its incorporation until its termination upon dissolution. When dissolving a Company by mandate of law, the court shall order how to conduct the documents of a liquidated corporation, provided that they are kept for at least seven years. In a voluntarily dissolution, the General Assembly shall order how to conduct the documents and if no decision is taken, they will be retained by the trustee, or anyone authorised. Even though the law does not prescribe whether the information must be physically kept in Israel or the precise place it must be kept, Israel authorities have indicated that the information must be kept in a way (in paper form or digitally) that will enable the respective authorities to access the company's information.

76. Information on companies that cease to exist must be kept by the tax authority for a period of ten years, according to the Archives Regulations. As to the Registrar, Israel authorities have stated that all information is uploaded to the ICA's computing system and kept permanently.

**Legal ownership information – Enforcement measures and oversight**

77. The tax database is connected to the Registrar and indicates if a company fails to register with the tax administration. If the registration or the tax return is not filed within the deadline, the ITA issues a notice informing the taxpayer of the unfulfilled obligation and the respective sanction is applied.

78. The programme of tax audits includes on-site, and off-site inspections and the on-site inspections include the verification whether the company maintains the shareholder register. Further, the tax administration can apply administrative fines of NIS 380 (EUR 107) per month of delay or with a criminal sanction of one year imprisonment or a sanction of NIS 26 100 (EUR 7 405), or both, pursuant to section 216(4) of the ITO (para. 87, 2016 Supplementary Report) for non-compliance with tax returns and other reports to tax authorities. The adequacy of the enforcement and supervision in practice will be assessed during the Phase 2 review.

79. From the CL perspective, the supervision of company's filing obligations with the Registrar is the responsibility of the Israel Corporation Authority. The 2016 Supplementary Review indicated that, although ownership information is available with the tax authority based on tax filing obligations, Israel was recommended to continue taking steps to improve the availability of ownership information with the Registrar including striking off companies which continuously fail to comply with their obligations. At the time, Israel had indicated that there are sanctions, both administrative and criminal, for failure to report according to the ITO and they have also implemented the possibility of online filings as well as a pilot project for audits, both aimed to improve the availability of ownership information. No information was provided by Israel on striking off companies which continuously fail to comply with their obligations, thus a recommendation is kept in this report for Israel to continue taking steps to improve the availability of ownership information with the Registrar, including striking off non-compliant entities. This issue will be analysed during the Phase 2 review (see Annex 1. List of in-text recommendations).

***Availability of beneficial ownership information***

80. The standard was strengthened in 2016 to require that beneficial ownership information be available on companies. In Israel, this aspect of the standard is mainly met through the application of the AML law. The Registrar and the ITA obtain legal ownership information via annual reports that companies are obliged to file before each authority. Accordingly, beneficial ownership information may be available with ITA and the Register whenever the beneficial owners are the legal owners of the company.



### Companies covered by legislation regulating beneficial ownership information

Type	Company Law	Tax Law	AML Law
Private companies	Some	Some	Some
Public companies	Some	Some	Some
Foreign companies <sup>11</sup>	Some	Some	Some

#### Anti-Money laundering and Combating the Financing of Terrorism (AML) Law requirements

81. The obligations applicable to the AML-obliged persons include identification, reporting and maintenance of records governed by the PMLL and are further developed in the Prohibition on Money Laundering Order 5761-2001(PMLO), applicable to banks and other financial institutions, and the Prohibition on Money Laundering Order 5775-2014, applicable to Business Service Providers (BSPO), meaning lawyers and accountants.

82. There are no CDD obligations applicable to trust managers or other professional services providers. In total, there are two Trust Company and Service Providers (TCSPs) in Israel, which are not lawyers or accountants. However, Israel indicates that most of trust managers or other professional services providers' activities are conducted by lawyers and accountants, who are covered by the AML/CFT framework. Given that only lawyers that fulfil certain requirements are able to obtain a notary licence, the scope of the AML obligations applicable to lawyers in Israel covers notaries as well.

83. Legal entities and arrangements are not required to engage with a lawyer or accountant in all cases, but Israel has indicated that this is the usual practice. All legal entities (including partnerships) that are taxpayers in Israel are required to have a local bank account upon registration with the ITA. However some non-compliant legal entities may not be registered before the ITA (i.e. inactive entities), thus they may not have a bank account in Israel.

84. Israeli laws do not permit reliance on third parties for undertaking CDD measures. According to the PMLL, CDD and record keeping requirements for AML purposes must be carried out directly by financial institutions and regulated business services providers, which are solely responsible and accountable for complying with these obligations.

11. Where a foreign company has a sufficient nexus, then the availability of beneficial ownership information is required to the extent the company has a relationship with an AML-obliged service provider that is relevant for the purposes of EOIR. (Terms of Reference A.1.1 Footnote 9).

85. In Israel, the obligation for AML obliged persons to identify the beneficial owner(s) of a legal entity or arrangement derives from the PMLL obligation to identify the “beneficiaries” of the service or transaction. When such beneficiary is a corporation, the AML obliged person must always identify the individual(s) that is/are the controlling person(s) of such corporation using a cascading approach.

86. Banks must identify the person receiving their services, including the beneficiary of the transaction or the person creating a trust or endowment. For this purpose, the bank must identify each account holder and authorised signatories with its name, identification number, date of birth and sex (for individuals) or date of incorporation (for corporations) and address (s. 2(a) PMLO). If the person receiving the service is a corporation, or the transaction is being undertaken at the request of a corporation or through the account of a corporation, the PMLO indicates that the bank shall obtain the name and identification (ID) number of the beneficiaries. If after taking reasonable steps, the bank cannot obtain the ID number of the beneficiaries, it shall obtain the details of its date of birth and sex (for individuals) or the date of incorporation (for corporations) and the country of citizenship or incorporation, as applicable (s. 2(b) PMLO).

87. In case of corporations, banks shall also record the identification of the individuals holding controlling interest in it, i.e. the beneficial owners (s. 2(c) PMLO). The latter also includes name and ID number, and when ID number is not obtainable, date of birth and sex and the country of citizenship.

88. Additionally, applicants wishing to open a bank account are required to provide the bank with a signed declaration stating whether there exists a beneficiary of the account. If the applicant is not the account holder, this declaration must be provided by the account holder as well. When the account is being opened for a corporation, the declaration must also contain information on the controlling persons (s. 4(b)).

89. The PMLO allows for a partial exemption (s. 5(b)), i.e. simplified due diligence, as follows: “The provisions in Sections 2(c), 2(d)(3), and 4(b) about recording a holder of a controlling interest shall not apply to the accounts of a banking corporation, an insurer, a provident fund, a managing company on behalf of a provident fund under its management, a company whose shares are traded on the Tel Aviv Stock Exchange or on a stock exchange in a member country of the OECD, or to the account of another type of accounts specified by the Supervisor of Banks in a directive”.

90. The list of situations where this partial exemption is applicable is exhaustive for specific potential customers of low risk, which are expressly covered by the FATF standard (Interpretative Note to Recommendation 10)

and corresponds to some of limited exceptions under the standard.<sup>12</sup> However, the category “another type of account specified by the Supervisor of Banks in a directive” could allow the application of this provision to other types of accounts. Israel clarified this exception was intended to be used for accounts with numerous beneficial owners – for example an account of a “kibutz” (Israeli communal settlement, based on egalitarian and communal principles in a social and economic framework). The second example of an intended use for this exception is an account of an embassy, which inherently does not have beneficial owners. Although the aforementioned instances covered by the exception regarding “another type of account specified by the Supervisor of Banks in a directive” appear to be in line with the standard, Israel should continue to ensure that the limited exceptions to identifying the beneficial ownership information under the simplified CDD are in line with the standard. Additionally, the analysis on whether this could create risks to the availability of beneficial ownership information for relevant entities will be done in the Phase 2 review (see Annex 1. List of in-text recommendations).

91. For purposes of the CDD procedure applicable to banks as described above, the AML legislation in Israel defines beneficiary (s. 7(a)(1) PMLL) as:

a person for whom or for whose benefit the property is being held, the transaction is being undertaken, or who has the ability to direct the disposition, whether directly or indirectly; and if the beneficiary is a corporation, also the controlling person in the corporation;

92. The PMLO adds that when the beneficiary is a corporation, both the corporation and the holders of the controlling interest in it shall be considered beneficiaries (s. 1 PMLO). Section 1 of the PMLL defines “controlling person” as

(i) an individual who has the power to direct the activities of a corporation, alone or with/through others, directly or indirectly, except the power derived solely from fulfilling a position as a senior officer in a corporation

(ii) without precluding the previous rule, an individual will be considered a controlling person of a corporation if he holds 25% or more of any kind of controlling measures, and if there is no

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12. Article 5(4)(b) of the 2022 Model Agreement on Exchange of Information on Tax Matters provide that “this Agreement does not create an obligation on the Contracting Parties to obtain or provide ownership information with respect to publicly traded companies or public collective investment funds or schemes, unless such information can be obtained without giving rise to disproportionate difficulties”.

other person holding controlling measures of the same kind in an amount exceeding his share of holdings and

(iii) without precluding the previous rules, in a corporation where [there] is no individual as defined above, the controlling person will be the chairman of the board of directors or an equivalent senior officer and the managing director of the corporation, and if there are no individuals holding those positions, the senior officer that holds an effective control over the corporation.

93. Concerning paragraph (ii) above, when determining controlling person applying the 25% threshold, the question arises as to whether the phrase “and if there is no other person holding controlling measures of the same kind in an amount exceeding his share of holdings” could result in the non-identification of certain beneficial owners. Israel authorities consider that in every case, all persons holding 25% or more of the controlling measures must be identified as beneficial owners. Even though there is no express reference to “the natural persons exercising control through other means”, the reference to “[the person] who has the ability to direct the disposition, whether directly or indirectly” in the definition of beneficiaries (see para. 91 above) can include persons that exercise control by other means, as confirmed by Israel. The implementation in practice of the definition of beneficial owner in Israel in line with the standard will be assessed in the Phase 2 review (see Annex 1. List of in-text recommendations).

94. All identification data recorded by the bank must be authenticated, before opening the bank account. Identity information must be verified by obtaining an ID card or passport or a certified copy thereof, and by comparing the information against the population registry in the Ministry of Interior. For foreign residents, identity must be verified against other documents bearing a photograph, identity number or address and date of birth (s. 3(a)(1) and (2) PMLO). The PMLO requires banks to obtain, authenticate and verify the identity information of beneficial owners. Section 30 of the Banking Order 411 requires banks to perform additional due diligence on high risk customers, including to “obtain additional information on the customer from other sources” and updating more frequently the identification data of the beneficial owner. However, the legislation does not expressly require banks to verify whether the beneficial owner(s) has been correctly identified for all account holders. The implementation of the verification obligation in practice and its impact in the availability of accurate and up-to-date beneficial ownership will be reviewed under the Phase 2 report (see Annex 1. List of in-text recommendations).

95. Banks are required to keep all necessary records on transactions for seven years from the date the transaction was recorded or after the

closure of the account (s. 7 PMLO). The seven-year retention period applies to banks that ceased to exist or cease operations in Israel.

96. Banks must refrain from opening an account unless it possesses all identification data and must also keep and maintain records, covering the identification details, the transactions with respect to which the reporting obligations applies and any other required by law.

97. As stated in section 2a(b) of the PMLO, banks must conduct ongoing monitoring with regard to the CDD procedure carried out at the beginning of the relationship, in line with the customer's level of risk of money laundering or financing of terrorism and update its records accordingly. Banks are also required to carry out the CDD procedure each time a doubt arises concerning the identity of the beneficial owner or the veracity of the identification documents. However, neither the AML legislation nor the AML regulation provide for a specified frequency for updating beneficial ownership information, and only state that the frequency of the update depends on the level of risk of the customer.

98. Concerning business service providers, section 8B(a) of the PMLL expressly defines such term as “an attorney or an accountant, that provides or that is asked to provide as part of his professional services a business service for a customer”. Notaries are also covered within the scope of the PMLL, given that only lawyers that comply with certain requirements can perform as notaries in Israel.

99. Pursuant to the PMLL, “business services” include any of the following activities:

- purchase, sale, or the perpetual leasing of real estate
- purchase or sale of business entities
- management of client assets, including managing money, securities, and real estate, as well as management of clients' bank accounts in a financial institution
- receipt, possession, or transfer of funds for the purpose of creating and operating a company
- creation or operation of a company, business, or trust for another.

100. In the case of lawyers and accountants as business service providers, the obligations included in the PMLL are:

- to identify the customer and the person for whom or for the benefit of whom, either directly or indirectly, the business service is being provided

- if the customer is a corporation or the business services is to be provided at the request of a corporation, the identification requirement includes those who have controlling interest over the corporation, i.e. the beneficial owners
- to refrain from providing a business service unless he/she possesses all identification data
- create and maintain records on the identification data and any other matter determined by the PMLO for the compliance of the law.

101. The definition of beneficiaries and controlling persons contained in the PMLL, as described in paragraph 91 and 92, is also applicable to lawyers and accountants in application of their identification due diligence measures. Pursuant to the Business Service Providers Order (BSPO), the updating requirements described in paragraph 97 are also applicable to business service providers. This means that business service providers have to update beneficial ownership information when the identification data or its supporting documents are no longer reliable and also based on the risk level of the customer, but there is no specified frequency.

102. For business service providers subject to AML, the requirement is to retain identification documents for a minimum period of five years after providing the business service. This can be extended at the written request of the supervisor. The requirement also includes the maintenance of all the main records which a business service provider has used in performing the customer recognition procedure, in an efficient manner so as to facilitate identification of and availability of the information. In the case of individual lawyers that cease to practice, Israel's Section 89A of the Bar Association Law provides that the respective district court is able to appoint a member of the bar to be in charge of the affairs of an attorney that has died, retired from the bar or prevented from fulfilling his duties. Israel has indicated that the retention period will apply to the appointed member of the bar. Israel has not provided indication of the rules applicable in the cases of accountants that cease to exist or are unable to perform their duties. The application of the record keeping obligation in cases of individual lawyers or accountants that cease to practice and its impact in the availability of beneficial ownership information will be assessed in the Phase 2 review (see Annex 1. List of in-text recommendations).

103. Lawyers subject to AML obligations are involved in the registration process of companies, with one exception, when a shareholder directly registers the company. Lawyers must hold electronic certificates which helps the Registrar to verify their identity details against the Bar Association's register and to confirm whether they are qualified lawyers, holding active licences and in compliance with AML obligations. If the exception is applied

and the shareholder registers the company without a lawyer, only legal ownership information would have to be filed to the ITA as part of the regular obligations applicable to all legal entities and the entity would be obliged to have a bank account in Israel, subject to AML obligations, including beneficial ownership.

104. Information obtained by AML-obliged persons is only accessible by the AML Authority which can share such information with other domestic agencies, including the ITA but only for purposes of its AML functions. For EOI purposes, the ITA cannot access beneficial ownership information held by AML-obliged persons on requests based on civil tax investigations. For criminal tax investigations it must obtain a court order. This matter is further analysed under Section B.1.

105. Not all relevant entities and arrangements are obliged to engage in a relationship with an AML-obliged person. This lack of coverage may result in beneficial ownership information for certain entities and arrangements not being available. This is to some extent compensated by the requirement of having a bank account in Israel for all entities and arrangements that are registered taxpayers.

106. This means that in Israel, legal entities like companies are not obliged to engage with an AML-obliged person on an ongoing basis all through their existence. This could lead to situations where beneficial ownership information on companies may not be available or may not be accurate and up to date. The practical impact of the lack of legal requirement to engage with an AML-obliged person on an ongoing basis on the availability of beneficial ownership information for legal entities will be analysed in Phase 2 (see Annex 1. List of in-text recommendations).

107. Additionally, as explained above the updating requirements under the AML law are applicable when the identification data or its supporting documents are no longer reliable, or based on the risk level of the customer and there is no specified frequency for updates of beneficial ownership information in the AML legislation either for banks or for business service providers.

108. These are significant gaps considering that the AML law is the only source of beneficial ownership information in Israel. Thus, **Israel should ensure that adequate, accurate and up-to-date beneficial ownership information is available for all relevant legal entities, according to the standard.**

## Nominees

109. A shareholder who acts on behalf of another person shall file a declaration to the company and a record must be made in the register of shareholders kept by the company, indicating the fact that this person acts as a nominee/trustee (s. 131 CL). This information does not cover the identification of the person on whose behalf the nominee/trustee is acting in the case of private companies. The nominee shareholder/trustee is treated as a legal owner of shares and the same tax rules apply.

110. When a company's shares are listed for trading on a stock exchange in Israel, the nominee/trustee is not considered as a shareholder in the company and the shares entered under its name are considered owned by a person for whose benefit the nominee acts. This information – the fact of the trusteeship and the identity of both the nominee/trustee, and the person on whose behalf the trustee acts – has to be entered into the register of shareholders (ss. 132 and 177 CL). Such shareholders must declare the fact of trusteeship and the identity of the beneficiary to the member of Tel Aviv Stock Exchange, which is subject to CDD requirements. A person “holding shares in trust/trusteeship”, according to Israel authorities, means any person holding shares on behalf of another person and it is equivalent to nominee arrangements (see also obligations included in paragraph 57).

111. In Israel, nominee shareholders of private companies are treated as trustees which are subject to AML obligations included in the PMLL and the BSPO for business service providers. Accordingly, when acting as professional nominees, business services providers must apply AML/CDD measures and identify the person on whose behalf they act and keep such information updated. However, there is no legal requirement for non-professional nominee shareholders in private companies to identify the persons on whose behalf they act. The materiality of this gap will be assessed during the Phase 2 review (see Annex 1. List of in-text recommendations).

112. Section 237 of the CL specifies that alternate directors cannot be appointed unless this is permitted by the articles of association. When a corporation is designated as a director in a company, the corporation must nominate an individual to act on its behalf. In this case, the name of the individual will be registered in the company's register of directors and the obligation applicable to a director apply to the corporation and individual jointly. Israel's authorities consider that these provisions mean that nominee directors are not allowed.



## **Beneficial ownership information – Enforcement measures and oversight**

113. All AML-obliged persons are subject to administrative sanctions in the PMLL. This law enables the setting-up of an administrative sanction committee by each competent supervisor, including the Bank of Israel for banks and the Ministry of Justice for Business Service Providers. Each Committee is empowered to impose financial sanctions for breaching the AML obligations of the PMLL and the AML regime and its orders. The AML requirements of the PMLL cover the reporting obligations, record keeping obligations, secrecy obligations, and the general customer identification, including BO identification. For AML-obliged persons who fail to comply with these requirements, the Committee can issue a financial sanction for an amount up to ten times the amount of the fine specified in section 61(a)(4) of the Criminal Code: NIS 2 260 000 or approximately EUR 528 000 (s. 14(a) PMLL). These sanctions can be imposed on the individual or the employing corporation.

114. The amount of the administrative fine is determined by different factors, e.g. whether it is a first, further or continuing violation, the seriousness and extent of the breach and the violator's co-operation.

115. Other sanctions are available to the various supervisors through their sectoral laws and ordinances. For example, where the supervisor has been granted supervisory powers over the supervised body by another law, then he shall also be entitled to exercise them when discharging his supervisory functions pursuant to the PMLL. The practical implementation of these enforcement measures will be analysed during the Phase 2 review.

### **A.1.2. Bearer shares**

116. Israel used to allow for the issuance of bearer shares in the past and the CL was amended to cancel the possibility of issuing bearer shares after September 2016, as noted in the 2016 Supplementary Report. That report also noted that there was still a possibility for holders of bearer shares to remain anonymous for a potentially unlimited period of time (para. 60). In such case, the shareholder is not entitled to receive dividends retrospectively for the period after September 2016, when the person was not considered a shareholder.

117. According to the amendment of the CL on the bearer shares regime, all holders of bearer shares who do not convert these shares into registered shares by 17 September 2016 cease to be considered shareholders in the company. A person holding a bearer share is required to submit the bearer share to the company. Upon submission of the bearer share, the person will be entered into the register of shareholders and receive a registered share

in the company. A holder of a bearer share may also ask the company to convert his/her bearer shares in registered shares after 17 September 2016. The shareholder will be entered in the register of shareholders but will not be entitled to receive dividends retroactively for the period after 17 September 2016.

118. The 2016 Supplementary Report included an in-text recommendation for Israel to take measures to restrict the possibility of holders of bearer shares to remain anonymous for a potentially unlimited period of time. Israel has not taken any action to close this gap and has indicated that the risk arising from this gap is limited, considering that currently there are only 4 companies with bearer shares, compared to 11 that existed back in 2014. The latter indicates that the number of companies is reducing over time, which according to Israel, does not justify a general policy towards addressing this gap. However, Israel should take measures to restrict the possibility of holders of bearer shares to remain anonymous for a potentially unlimited period of time. The practical impact of this gap will be examined further in the Phase 2 review (see Annex 1. List of in-text recommendations).

### **A.1.3. Partnerships**

#### *Types of partnerships*

119. Partnerships are governed by the Partnership Ordinance (PO) 5735-1975, which defines it as “a body of persons engaged in a partnership relationship”. A partnership relationship is defined as “the relationship between persons managing a business together for the production of profits, excluding the relationship between members of a corporation incorporated under any law”. Three types of partnerships can be distinguished in Israel:

- **General partnerships:** A general partnership is one where all of the partners are liable for the obligations of the partnership, jointly and severally. As of December 2020, there were 5 100 general partnerships registered in Israel.
- **Limited partnerships:** A limited partnership is one where limited partners who brought capital into the partnership are not liable for the obligations of the partnership in excess of their contribution; however, the partnership must include at least one general partner. As of December 2020, there were 5 012 limited partnerships registered in Israel.
- **Foreign partnerships:** A foreign partnership is one established outside of Israel. As of December 2020, there were 179 foreign limited partnerships and 74 foreign general partnerships registered in Israel.

120. All partnerships established for business purposes (e.g. carried out with the objective of generating profits without distinction between civil or commercial purposes) are required to be registered in the Register (s. 4 PO) and are subject to the same rules and obligations described above concerning companies. Although their legal personality does not depend on their registration, partnerships that fail to register cannot operate for business purposes.

### *Identity information*

121. The main legal regulations ensuring availability of identity information are the PO and the ITO. According to the PO and the Partnerships Regulations, upon registration, the partnership is required to provide the details of the general partners for General Partnerships and Limited Partnerships; and the details of the limited partners and the funds that are invested in the partnership for limited partnerships.

122. Registration of general and limited partnerships with the Registrar must be done within one month from the date of formation. Identification of all partners in limited and general partnerships has to be provided upon registration with the Registrar and all partners must sign the registration notice. In case of change in the registration details, a notice signed by all partners must be sent to the Registrar within seven days of the change. Generally, the same filing rules apply in respect of foreign partnerships. Identification of all partners in foreign partnerships conducting business in Israel must be provided upon registration and any change in the provided information must be reported to the Registrar within 14 days.

123. As indicated in the 2016 Supplementary report, registered partnerships obtain a certificate of incorporation which is required by banks, government authorities and some private entities (such as real estate agents) before they establish a business relationship with the partnership. Additionally, changes in ownership of a partnership do not have legal effect unless entered into the Register and published by the Registrar.

124. As it was also stated in the 2016 Supplementary Report, partnerships are considered as transparent for tax purposes, which means that the partners are taxed separately for their share in the partnership's income. Nonetheless, partnerships are obliged to register with the tax authorities no later than on the date they start operating and one of the partners, resident in Israel, is required to file the annual return on the partnership's income. If the partnership does not have an Israeli resident as a partner, the partnership must appoint a representative to file the annual return. This representative does not have to be an AML-obliged person. The annual tax return must contain information on name and addresses of all other partners

and the amount of participation to which each partner is entitled. These provisions apply equally to foreign partnerships becoming tax residents or carrying out business in Israel through a permanent establishment.

125. As stated in section A.1.1, partnerships' information is also publicly available in the Partnership Register.

126. There has been no change in Israel's legal framework since the 2016 Supplementary review that would have impact on the availability of identity information concerning partnerships, thus the conclusion remains that the availability of this type of information is in line with the standard.

### *Beneficial ownership*

127. The main source of beneficial ownership information for partnerships is the AML legislation. As indicated above concerning legal entities, all partnerships undertaking business in Israel are required to register as taxpayers and must have a bank account in Israel. As stated by Israel's authorities, partnerships normally also use a lawyer for their registration with the Partnership Register, who is obliged to obtain and keep updated beneficial ownership information, pursuant to the PMLL. However, as with companies, partnerships can be registered by one of the partners, without the intervention of a lawyer.

128. Israel considers that beneficial ownership information on partnerships is available in the ITA upon registration and via the annual returns to be filed and in the Partnership Register. As stated in the previous section, partnerships are required to be registered in the ITA and file an annual return, which must contain information on name and addresses of all partners, and the amount of participation to which each partner is entitled. This information, however, only covers partners. Accordingly, beneficial ownership information may be available with ITA whenever the beneficial owners are the partners of the partnership. However this is not in line with the beneficial ownership identification requirements of the standard, as beneficial owners under other criteria, e.g. control by other means, are not required to be identified.

129. The PMLO includes partnerships within the "corporation" definition, which means that all AML obligations with regards to beneficial ownership described in Section A.1.1 regarding corporations are applicable to partnerships. The latter includes the obligation for banks and business service providers to apply CDD measures when providing services to partnership, in order to identify the beneficiary, including the controlling persons when the beneficiary is a corporation, as described previously. However, access to beneficial ownership information held by banks and other business service providers as to partnerships is limited for the tax authority for exchange

of information purposes, when it comes to requests based on civil tax purposes, as described in section B.1.1.

130. In conclusion, partial beneficial ownership information is available with the ITA via the initial registration of partnerships that are legal entities and their annual returns. Information on the identity of partners and beneficial owners is available when the partnership is registered through a lawyer, who is subject to AML.

131. However, not all relevant partnerships are obliged to engage with a professional service provider subject to AML obligations or to have a bank account in Israel, subject to AML. Additionally, as stated in section A.1.1, neither the AML legislation nor the AML regulation provide a specified frequency for updating beneficial ownership information on partnerships. These are significant gaps considering that the AML law is the main source of beneficial ownership information for partnerships in Israel. Thus, **Israel should ensure that adequate, accurate and up-to-date beneficial ownership information is available for all relevant partnerships, according to the standard.**

### *Oversight and enforcement*

132. For identity information concerning partners in a partnership, the ITA carries out the same supervisory and enforcement measures in respect of partnerships as for companies. The tax database automatically identifies partnerships which fail to register with the tax administration or fail to submit their returns in time. If the registration or tax return is not filed within the statutory deadline, the tax office issues a notice informing the taxpayer about his obligation and if the information is not submitted, sanctions are applied. The on-site and off-site tax audit programme also includes partnerships on a risk-based approach.

133. The PO set out nominal fines for failure to register and file reports with the Registrar. As in the case of companies, the compliance rate of filing obligations with the Registrar remains low with regard to partnerships and does not ensure that updated information on all partners in a partnership is available with the Registrar in all cases. No updated statistical information on compliance of partnerships with the Registrar was made available by Israel. Ownership information is generally available with the tax authority; however, an in-text recommendation was made in the 2016 Supplementary Report for Israel to continue taking steps to improve the availability of ownership information with the Registrar, including striking off non-compliant partnerships. For the 2016 Review, Israel informed that it was preparing new legal regulations on partnerships that included strike off provisions. However, so far, these draft regulations have not yet been adopted, thus the

recommendation is kept in this report for Israel to continue taking steps to improve the availability of ownership information with the Registrar, including striking off non-compliant partnerships (see Annex 1. List of in-text recommendations). The practical impact of this issue in practice will be examined further in the Phase 2 review.

134. For beneficial ownership information, the same enforcement measures and oversight which is described under A.1.1. Beneficial ownership information – Enforcement measures and oversight for companies, apply to partnerships.

#### *Availability of partnership information in EOI practice*

135. A couple of peers provided input on information requested to Israel with regard to partnerships and informed to be satisfied. The practical implementation of the legal and regulatory framework on the availability of identity and beneficial ownership information in practice will be analysed in the Phase 2 review.

#### **A.1.4. Trusts**

##### *Requirements to maintain identity information in relation to trusts and implementation in practice*

136. Israel's law regulates the establishment of trusts under the Trust Law 5739-1979 of 1980 (TL) and the ITO. A trust is defined as a relationship to any property by virtue of which a trustee is bound to hold the property, or act in respect thereof, in the interest of a beneficiary or for some other purpose (S. 1 TL). Several types of trusts can be distinguished:

- Public Trusts: a trust established with the purpose to promote a public interest. As of December 2020 there are 3 274 public trusts
- Israeli Residents Trusts: a trust where one or more of the settlors is an Israeli tax-resident. As of August 2021, there are 3082 Israeli Residents Trust
- Trusts by Will: a trust where the settlor of the trust is an Israeli tax-resident at the time of passing. As of August 2021, there are 81 Trust by Will
- Foreign Residents Trusts: a trust where all settlors and beneficiaries are foreign tax-residents. As of August 2021, there are 34 Foreign Trusts
- Foreign Resident Beneficiary Trusts: a trust where the settlor is an Israel tax resident and all the beneficiaries are foreign tax resident individuals (not entity), and the trust is classified as irrevocable. As of August 2021, there are 70 Foreign Resident Beneficiary Trusts

- **Relatives Trust:** a trust where the settlor is a foreign tax-resident and there is at least one beneficiary which is an Israeli tax-resident, and between the two is a family connection as defined by Israeli law. As of August 2021, there are 139 Relatives Trusts
- **Israeli Resident Beneficiary Trusts:** a trust where the settlor is a foreign tax-resident, but there is at least one beneficiary who is an Israeli tax-resident, and between the two of them, there is no family connection. As of August 2021, there are 46 Israeli Resident Beneficiary Trusts.

### *Identity information*

137. As indicated in the 2016 Supplementary Report, the availability of identity ownership information in respect of trusts is mainly ensured through tax obligations. Tax return filing obligations apply to all types of trusts having income or assets in Israel, including Foreign Resident Trusts and Foreign Resident Beneficiary Trusts. Information on the settlors, trustees and beneficiaries must be also filed in a separate form attached to the tax return. Tax reporting requirements apply to all beneficiaries and settlors resident in Israel except for new immigrants and veteran returning residents. Further, a reporting trustee of a foreign resident beneficiary trust must submit information on the trust, despite not being obliged to file a tax return.

138. The AML rules were amended in September 2014 to also cover attorneys and accountants. The amendment requires attorneys and accountants to identify their customers when they provide or are asked to provide a business service for a customer as part of their professional activities. Provision of a business service explicitly includes establishment or management of trusts (s. 8B PMLL). Identification of a customer includes carrying out of CDD measures which in the case of trusts requires the obligated persons to identify the beneficial owners of the trust (s. 1 PMLL). This requirement should ensure that information on settlors, trustee and beneficiaries of a trust is available with the obligated service provider. The CDD documentation is required to be kept for at least five years since end of the business relation (s. 8A PMLL). In case of breach, sanctions are applicable (s. 11 PMLL).

139. The 2016 Supplementary Report reproduced a recommendation included in the Round 1 Phase 2 report of Israel. It was found that there is no tax filing or reporting requirements in case of foreign resident trusts that have no assets or income in Israel. In addition, the tax law exempts the Israeli settlor of trusts, who are new immigrants or veteran returning residents, from reporting obligations for the first ten years if such a trust has no income or assets in Israel.

140. Consequently, the 2016 Supplementary Report contained an in-box recommendation for Israel to ensure the availability of identity information in



respect of the settlors, trustees and beneficiaries of foreign resident trusts having a trustee resident in Israel and for trusts created by new immigrants and veteran returning residents which are vested with assets or income from assets abroad for a period of ten years if the trust is operated by a resident trustee who is not an attorney or an accountant covered by AML obligations. In light of the 2016 ToR, this issue also limits availability of beneficial ownership information in the said types of trusts. **No progress was reported by Israel to address this issue so that the recommendation is maintained. In addition, Israel should ensure that adequate, accurate and up-to-date beneficial ownership information is available for all relevant trusts, according to the standard, without exception.**

### *Beneficial ownership requirements*

141. Beneficial ownership information on trusts is available under the requirements of the AML legislation (PMLL, PMLO, BSPO and the Proper Conduct of Banking Business Order 411 in the case of banks) and partly with the ITA. However, under both sources, the information available does not entirely comply with the definition of beneficial owner according to the standard. The 2016 Terms of Reference define the beneficial ownership of trusts to include “information on the identity of the settlor, trustee(s), protector (if any), all of the beneficiaries or class of beneficiaries, and any other natural person exercising ultimate effective control over the trust”. The combination of AML and Tax rules covers the identification of the settlor(s), the protector(s) and the beneficiaries, as the beneficial owner(s) of trusts and other similar legal arrangements, but does not include the residual clause “any other natural person exercising ultimate effective control”, as required by the standard.

### **Tax law requirements**

142. The ITA maintains a database of trusts obliged to register and report before the ITA. The information on trusts kept by the ITA is held in a single database, which is available to its investigators and for sharing with other authorities upon request, including EOIR requests.

143. Pursuant to section 75p1 ITO, the creator of a trust must submit an initial notice to the ITA, informing of the creation of the trust, and the particulars of the creator, the trustee, the beneficiaries, and the protector, if there is one. Additionally, as indicated above, the trustee is obliged to file annual returns pursuant to section 131 of the ITO, where it must include the updated information concerning the trust.

144. Accordingly, relevant beneficial ownership information on trusts is held by the ITA, including names and residency of settlors, trustees, protectors, and beneficiaries. In this regard, the TOR refer to Recommendation 10



of FATF for the definition of beneficial owner in legal entities and arrangements. The interpretative note for this recommendation expressly states that, for trusts, the definition of BO must also cover any other natural person exercising ultimate effective control over the trust, including through a chain of control/ownership. The ITO does not expressly cover “other natural persons exercising ultimate effective control over a trust” in line with footnote 12 of the TOR. Accordingly, the information on beneficial owners of trusts available with ITA is not fully in line with the standard in all cases.

### AML requirements

145. Beneficial ownership information over a trust is available pursuant to AML requirements where:

- A bank account is opened with an Israeli financial institution, which accordingly would gather the beneficial ownership information under the CDD requirements on its customer (see Section A.1.1 for the CDD requirements). Israel has stated that for tax assessment purposes; registration with the ITA requires opening a bank account for the trust, which subject the trustee and the trust to CDD procedures. However, as for companies and partnerships, there are some exceptions for registration and reporting before the ITA (i.e. trusts of new residents or veterans returning residents).
- The trust is managed by, or otherwise engaged with, an Israeli-resident trustee which is a bank subsidiary, lawyer or accountant obliged to obtain beneficial ownership information as part of its CDD obligations, pursuant to the PMLL, the PMLO and the BSPO.

146. The AML law requires attorneys, accountants and banks that act as professional trustees to identify their customers when they provide a business service as part of their professional activities, including explicitly the establishment or management of trusts. The identification information required includes the identity of the settlor, the trustee, the protector, the beneficiaries, but not *any other natural person exercising ultimate effective control over the trust* (including through a chain of control/ownership). The PMLO and the Proper Conduct of Banking Business Order 411 (Banking Order 411) have similar requirements for banks to identify the settlor, the trustee, the protector and the beneficiaries of accounts held by trusts, but these too do not include the residual clause to require the identification of *any other natural person exercising ultimate effective control over the trust*. Banks are additionally required to verify the protector’s identity, but this obligation is not expressly applicable to lawyers and accountants acting as professional trustees under the BSPO. The documentation is required to be kept up to date and for at least five years since the end of the business relation.

147. Accordingly, the AML requirements do not include the “identification of any other natural person exercising ultimate effective control over the trust” in line with the standard.

148. In relation to trustees which are lawyers and accountants, the form of CDD affidavit prescribed under the respective AML Order contains a requirement for the client to update the trustee in relation to any change in the information provided.

149. In the 2016 Supplementary Report, Israel was also recommended to monitor the implementation in practice of the AML requirements introduced in September 2015 (i.e. AML obligations for lawyers and accountants). As this report is based only on a Phase 1 review, an assessment of Israel’s compliance with the recommendation included in the 2016 Supplementary report will be carried out in the Phase 2 review (see Annex 1. List of in-text recommendations).

150. In summary, relevant beneficial ownership information on trusts is kept both under the tax laws and the AML legislation and regulations (trustee, settlor, beneficiaries, and protector). However, they do not include “any other natural person exercising ultimate effective control over the trust, including through a chain of control/ownership”. Not all trusts are required to have a relationship with an AML-obliged person or bank and some exceptions to registration with the ITA are also applicable (i.e. trusts of new residents or veteran returning residents), which entails that beneficial ownership information may not always be available for all trusts in Israel. Additionally, the gaps identified in respect of availability of beneficial ownership information in A.1.1 are also applicable to trusts.

**151. Israel should therefore ensure that adequate, accurate and up-to-date beneficial ownership information is available for all relevant legal arrangements, according to the standard, without exception and also ensure that the definition of beneficial ownership for trusts and other legal arrangements is in line with the standard.**

### *Oversight and enforcement*

152. Compliance with tax reporting obligations on trusts is monitored and supervised by the ITA in the same way as in the case of companies. The ITA routinely uses information from the ICA and is provided with the ICA’s public records at the end of each day. The validation checks include making enquiries of third parties such as banks and other authorities. The tax data base automatically identifies trusts which fail to register or submit their returns in time. Same as with legal entities, if the registration or tax return is not done within the statutory deadline, a notice informing the taxpayer is issued and sanctions are applied. Failure to provide information to the ITA is subject to up

to one year's imprisonment or a fine of NIS 29 200 (EUR 6 820) or both; and a trustee of a public trust is liable to a maximum of a year's imprisonment or a nominal fine if he does not submit the reports to the Registrar.

153. Concerning AML obligations, administrative fines (of up to a high level of fine of NIS 2 260 000 (EUR 528 000)) are provided for under the PMLL in relation to failure to grant to competent authorities' timely access to information regarding the trust.

154. Trustees who are lawyers, accountants, and banks are subject to the criminal, administrative and disciplinary sanctions of the PMLL for failures in relation to maintenance of beneficial ownership information and record keeping. Trustees who submit false information to financial institutions or non-financial professionals subject to AML obligations in the course of CDD procedures are subject to the criminal sanctions established in the PMLL.

155. While the ICA has no administrative powers of sanction in relation to public trusts and their trustees, it may apply to the court in order to replace the trustee or request other measure be taken with regard to the public trust/charity (s. 39 of the Trust Law). The practical implementation of the oversight and enforcement powers applicable to trusts will be analysed in the Phase 2 review.

### ***A.1.5. Foundations***

156. The Israeli legal and regulatory framework does not provide for the establishment of foundations.

### ***Other relevant entities and arrangements***

157. Israel's law provides for the establishment of associations. An association is a corporation that has been corporate for a lawful purpose not aimed at the distribution of profits to its members and making profits. Associations are governed by the Associations Law of 1980 (AL).

158. Association's field of activity is usually one of the following: social and political change, health care, religion, volunteer work and philanthropic funds, education, heritage, research and science, environment and wealth fare services, culture and art, international relations, urban development, sport, and professional unions. According to the AL, association are not allowed to distribute profits to the association members.

159. As it was noted in the 2016 Supplementary Report, considering that association cannot be established for the purpose of distribution of profits to its members, there is limited relevance for exchange of information purposes.

## A.2. Accounting records

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

160. The 2016 Supplementary Report concluded that under Israel's law accounting records requirements are mainly in line with the standard, with some exceptions. The main accounting rules are contained in the Company Law and the ITO. Both public and private companies are obliged to prepare financial reports in accordance with the accepted accounting rules in Israel, which are in line with the International Accounting Standards Board. The ITO establishes the obligation for taxpayers to keep account books and supporting documentation. These rules are also applicable to partnerships that are considered legal persons. Concerning trusts, tax return filing obligations apply to all types of trusts having income or assets in Israel

161. As the tax rules are only applicable to persons and companies liable to tax in Israel, gaps were found concerning foreign resident trusts having a trustee resident in Israel, trusts created by the immigrants and veteran returning residents which are vested with assets or income from abroad for a period of ten years, and concerning activities outside of Israel for foreign companies that are managed and controlled in Israel by new immigrants or veteran returning residents for a period of ten years. Israel received recommendations to address these gaps in the 2016 Supplementary Report and no evidence has been provided for it to be considered solved, thus the recommendations are kept.

162. The conclusions are as follows:

**Legal and Regulatory Framework: in place, but certain aspects of the legal implementation of the element need improvement**

Deficiencies identified/Underlying factor	Recommendations
Israeli law does not ensure the availability of accounting records in respect of foreign resident trusts having a trustee resident in Israel and for trusts created by new immigrants and veteran returning residents which are vested with assets or income from assets abroad for a period of 10 years, as well as in respect of activities outside of Israel of foreign companies that are controlled in Israel by new immigrants or veteran returning residents for a period of 10 years.	Israel should ensure that accounting records consistent with the standard are maintained for all relevant legal entities and arrangements, without exception.

**Practical Implementation of the Standard: no rating is assigned on this element, as it involves issues on practice that are dealt with in the Phase 2 review.**

### ***A.2.1. General requirements***

163. The Standard of accounting records in Israel is generally met by a combination of both company law and tax law requirements, which is analysed in this section.

#### ***Company Law***

164. As stated in the Companies Law, private companies are obliged to prepare financial reports in accordance with the accepted accounting rules in Israel, in line with the standard. Similarly, following the Securities Law, public companies are obliged to prepare financial reports in accordance with the accounting rules and must fairly reflect the position of the corporation's business on the balance sheet dates, the result of its activities, the changes in its net worth and its cash flow in the reported years (para. 91 2016 Supplementary Report).

165. Pursuant to Sections 124 and 171 of the CL, private companies are obliged to keep accounting records and prepare financial statements annually. These records shall be kept in the registered office of the company in Israel. The financial statements shall include a balance sheet as of 31 December and a profit and loss statement of the preceding year in accordance with the International Accounting Standards Board (IASB). The company has six months, from the end of the respective fiscal year, to prepare and make available the financial statements according to the CL (s. 172). These CL obligations are not applicable to foreign companies that have a sufficient nexus with Israel.

#### ***Tax Law***

166. Additionally, the Income Tax Rules (ITR) establishes that taxpayers must keep a set of accounting books, depending on the type of business or profession carried out and including a cash book, intake and payments book, stock book, goods of entry book, and an order book.

167. For corporations, the ITR further requires them to attach to their annual tax return a balance sheet as of the last day of the tax year and a profit and loss account for the tax year, together with an auditor's report and an adjustment account of the profit and loss of the income or loss declared in the annual tax return. These obligations also cover foreign companies that are Israel taxpayers.

168. As stated in the 2014 Phase 2 Report, Trust Law determines that the trustee of a trust must keep account books in respect of the affairs of the trust (s. 7 TL). A trustee of an Israeli trust must report to the beneficiaries on the affairs of the trust, annually and upon termination of his tenure, and to

provide them with any other additional information that they may reasonably request (s. 7 TL). Additionally, according to the ITO (s. 131(5b)(1)), trusts are required to file annual tax returns to the ITA, and thus, same obligations applicable to other taxpayers apply, including the obligation of keeping accounting books and supporting documentation.

169. As accounting records obligations are only applicable to persons liable to income tax in Israel, and tax law does not cover trusts created under foreign laws that have no taxable income in Israel, there is a gap concerning foreign resident trusts with an Israeli trustee that have no assets or income in Israel. Additionally, there is no obligation of any income tax filing on trusts created by new immigrants or veteran returning residents with assets or income from assets abroad, thus it is unclear whether accounting records are kept for those trusts. Foreign companies managed and controlled in Israel by new immigrants or veteran returning residents are exempt from taxation in respect to foreign source income, thus the availability of accounting records for such companies is not ensured in Israel.

170. Additionally, legal entities incorporated in the Register that are not compliant with their tax registration and filing obligations with the ITA are considered as “inactive companies” by the ITA. The availability of accounting records for these non-compliant companies in practice will be analysed in Phase 2 (see Annex 1. List of in-text recommendations).

171. Thus, the recommendations are kept for **Israel to ensure that accounting records consistent with the standard are maintained (1) for foreign resident trusts having a trustee resident in Israel, (2) for trusts created by new immigrants and veteran returning residents which are vested with assets or income from assets abroad and (3) in respect of activities outside of Israel of foreign companies that are managed and controlled in Israel by new immigrants or veteran returning residents.**

### *Companies that ceased to exist and retention period*

172. According to the tax rules, account books are required to be kept by the company for seven years from the end of the tax year to which they refer, or for six years after the day of the return for that tax year was submitted, whichever the latest. The same retention period is applicable to partnerships and trusts according to the ITO. CL contains a minimum retention period of seven years for accounting records, which shall be kept at the registered office of the company.

173. Concerning companies that cease to exist, legal requirements exist to ensure that all records are available for a 7-year record retention period following the liquidation. The CL states that a company shall exist from the date of its incorporation until its termination upon dissolution. When

dissolving a Company by mandate of law, the court shall order how to conduct the documents of a liquidated corporation, provided that they are kept for at least seven years. In a voluntarily dissolution, the General Assembly shall order how to conduct the documents and if no decision is taken, they will be retained by the trustee, or anyone authorised. As indicated in paragraph 75, the law does not provide for an indication of where the information must be kept when a company ceases to exist, but Israel has indicated that the information must be kept in a way that is accessible to the authorities.

174. As it was already concluded in the 2016 Supplementary Report and considering that no change took place in Israel's laws, the rules regarding retention period and record keeping obligations for companies that cease to exist in Israel law is in accordance with the standard.

### ***A.2.2. Underlying documentation***

175. Tax rules require all taxpayers to keep account books, including documentation such as receipts, a daily intake ledger, cash register, delivery notes, invoices, and an inventory list. This applies both to companies, partnerships, and trust subject to tax return filings. Further, VAT taxpayers must fulfil particular requirements and, among others, keep all documents from which flows of goods and services can be traced and all invoices.

176. Following the exemption applicable to trusts created by new immigrants or veteran returning residents with assets or income from assets abroad and foreign companies managed and controlled in Israel by new immigrants or veteran returning residents, there is no obligation to keep underlying documentation in these cases (para. 97-99, 2016 Supplementary Report).

177. The 2016 Supplementary Report concluded that accounting records including underlying documentation are required to be kept for at least five years as required under the standard and there has been no change in the relevant rules. For tax purposes, account books are required to be kept for seven years from the end of the tax year to which they refer, or for six years after the day on which the return for that tax year was submitted, whichever is later (s. 25(c) ITR). The CL contains a minimum retention period of seven years for accounting records (s. 124 and 173 CL). The same retention period is also prescribed under the VAT Law (s. 75 VAT Law). For companies that cease to exist, the same retention period applies and, according to Israel's authorities, underlying documentation must be kept in a way that is accessible to authorities, as described above in paragraphs 75 and 173.

***Oversight and enforcement of requirements to maintain accounting records***

178. The tax administration conducts desk audits, onsite inspections and uses computer software's to detect discrepancies in the provided accounting information or accounting books kept by the taxpayers when inspected. These bookkeeping requirements are overseen by three departments in the ITA: the bookkeeping department, the assessment department, and the VAT department.

179. Both the ITO and the VAT Law allow the ITA to reject the books not managed as required by the regulations, in cases where deviations or defects are found in the account books that are material to the ascertainment of a taxpayer's income. If the taxpayer is not compliant with accounting obligations, his/her accounting records will be disregarded, and the tax assessment shall be based on the assessing officer estimate.

180. When the taxpayers or the practitioners' books have been rejected, the following sanctions are applicable:

- non-recognition of expenses
- freezing tax returns
- no reduction for Tax advanced payments
- cancellation of benefits for Encouragement Law
- penalties under VAT Law
- no allowing reduced tax rates for individuals.

181. Further, section 216(5) ITO establishes that a taxpayer who did not keep account books in accordance with the tax law is liable to one year imprisonment and/or a fine as established under section 61(a)(2) of the Penal Law. This article of the Penal Law (7737-1977) sets the pecuniary fine at NIS 29 200 (approx. EUR 8 400). Sanctions under s. 95 of the VAT law are also applicable, in which include a fine equal to 1% of the total price of his transactions or of the total amount of his wages and profits, for the tax year in which books or records were not kept as prescribed. In any case, the fine shall not be less than NS 316 (approx. EUR 90).

182. The compliance and implementation of the accounting records rule in practice will be analysed in the Phase 2 Review.



### A.3. Banking information

Banking information and beneficial ownership information should be available for all account holders.

183. The 2016 Supplementary Report concluded that Israel's legal requirements to maintain banking information were in line with the standard. Nevertheless, it was found that access powers in respect of banking information might have limited provision of certain types of requested information and also some delays with providing timely banking information to peers. These matters were further analysed in sections B and C of the last review.

184. There have been no changes in the legal framework for banks to maintain financial and transaction information. However, the standard was strengthened in 2016 to specifically require that beneficial ownership information be available in respect of all account holders.

185. In Israel, banks are required to obtain and verify beneficial ownership information upon account opening and update such information regularly, depending on the risk profile of customers. This is regulated by the PMLL, the PMLO and the Proper Conduct of Banking Business Order 411. However, neither the AML legislation nor the AML regulations provide a specified frequency for updating beneficial ownership information. Thus, Israel is recommended to ensure that up-to-date beneficial ownership information held by banks for all legal entities and arrangements is available at all times, in line with the standard.

186. As expressed in section A.1, the definition of beneficial ownership for legal entities is in line with the standard. However, for trusts and other legal arrangements, the AML legislation and regulations do not require the identification of any other natural person exercising ultimate effective control over a trust. Thus, Israel is recommended to address these gaps and to ensure that up-to-date beneficial ownership information held by banks for all legal entities and arrangements is available at all times, in line with the standard.

187. Regarding peer input, some peers reported that they were satisfied with banking information request, though a couple of peers reported delays in obtaining this type of information and one peer reported that in the beginning of the review period it did not receive CDD documents for three banking information requests due to "legal constraints" according to Israel's authority. After consulting with Israel, it was confirmed that this was due to a legal gap that does not allow the ITA to access CDD information from a bank or any other information obtained under AML legislation, unless it is a criminal case. This gap is analysed in sections B.1, C.1.3, C.1.5 and C.1.6 of this report.

188. The conclusions are as follows:

**Legal and Regulatory Framework: In place, but certain aspects of the legal implementation of the element need improvement**

Deficiencies identified/Underlying factor	Recommendations
The combination of AML and Tax rules covers the identification of the settlor(s), the protector(s) and the beneficiaries, as the beneficial owner(s) of trusts and other similar legal arrangements, but does not include the residual clause “any other natural person exercising ultimate effective control”, as required by the standard.	Israel should ensure that the definition all of beneficial owners of trusts and other legal arrangements is in line with the standard.
Although there is a general obligation to update customer due diligence based on the risk profile of the customer and in certain other circumstances, there is no specified frequency of carrying out Customer Due Diligence to update beneficial ownership information.	Israel should ensure that up-to-date beneficial ownership information of all account-holders is available at all times, in line with the standard.

**Practical Implementation of the Standard: no rating is assigned on this element, as it involves issues on practice that are dealt with in the Phase 2 review.**

### **A.3.1. Record-keeping requirements**

#### *Availability of banking information*

189. As indicated in the 2016 Supplementary Report, all records pertaining to the identity of the account holders are kept by all banks operating in Israel. All transactional documentation on transactions carried out by the bank in the course of business relationships must be kept regardless of any threshold. Identification documents and documents attesting transactions must be kept by banks for at least seven years after the account is closed or a transaction has been carried out (s. 7 and 14 PMLO and s. 35 Banking Directive 411). However, Israel confirmed that the 7-year retention period is also applicable to banks – including foreign banks in Israel – which cease to exist or cease operations. In these cases, the information must be kept by the trustee that is required to be appointed as part of the liquidation process of the bank. There has been no change in these requirements since the 2016 Supplementary Report.

### *Beneficial ownership information on account holders*

190. The standard was strengthened in 2016 to specifically require that beneficial ownership information be available in respect of all account holders.

191. In Israel, the PMLL, the PMLO and the Banking Order 411 govern banking obligations with regard to CDD and AML matters. Pursuant to Section 7 PMLO, banks are required to keep all records obtained through CDD measures and other information. This includes beneficial ownership information, pursuant to section 2(d) (2) of the PMLO. Further, section 4 of the PMLO states that when opening an account, the bank shall require the applicant wishing to open the account to give a declaration on whether there exists a beneficiary of the account and, in such case, it shall obtain the name and identification number of each beneficiary pursuant to section 2(b) of the PMLO. If the applicant is opening the account on behalf of a third party, the same declaration must be obtained both from the applicant and the real account holder on whose behalf the applicant is acting. Whenever the account holder is a corporation, the bank shall obtain information on the beneficiaries of the corporation, including the controlling persons.

192. The PMLO and the Banking Order 411 also require the banks to adopt reasonable measures to authenticate the identifications of the beneficiaries and the holders of the controlling interest by use of relevant information or data received from a reliable source, including the Population Registry, among others. This information should be kept for seven years from the date of the transaction regarding transactional information and from the closure of account in case of identification documents and CDD documentation. As indicated in section A.1, although there is a general obligation to update customer due diligence based on the risk profile of the customer and in certain other circumstances, there is no specified frequency of carrying out Customer Due Diligence to update beneficial ownership information. Thus, **Israel is recommended to ensure that up-to-date beneficial ownership information of account – holders is available at all times, in line with the standard.**

193. As described in previous section A.1, the cascade approach to identify the beneficial owner of a legal entity is in line with the standard. However, the combination of AML and Tax rules covers the identification of the settlor(s), the protector(s) and the beneficiaries, as the beneficial owner(s) of trusts and other similar legal arrangements, but does not include the residual clause “any other natural person exercising ultimate effective control”, as required by the standard. Accordingly, beneficial ownership information on legal arrangements, i.e. trusts that are customers of a bank is not in line with the standard and **Israel is recommended to ensure that the identification of beneficial owners of accounts held by trusts or other legal arrangements includes the identification of any person**

**exercising ultimate control over the arrangement, according to the standard.**

194. The information described in paragraphs 191 and 192 above is obtained under the CDD measures applicable to AML, based on the PMLL and, thus, are only accessible to the Competent Authority for AML (“The Money Laundering and Terror Financing Prohibition Authority” (IMPA)). The IMPA is authorised to disseminate this information, subsequent to a request, or based on its own initiative, to a closed list of authorities stipulated in the law, including the ITA (for tax-related predicate offices, for criminal investigations). The ITA can however access CDD banking information, which includes beneficial ownership information, by issuing a court order to banks to obtain CDD information (including beneficial ownership information) for criminal matters, under the Criminal Procedures Law.

195. Additionally, as indicated in paragraphs 89 and 90, the PMLO allows for a partial exemption (s. 5(b)), i.e. simplified due diligence, applicable also to banks. It covers an exhaustive list of specific potential customers of low risk, which are expressly covered by the FATF standard (Interpretative Note to Recommendation 10) and corresponds to some of limited exceptions under the standard. However, there is one case “another type of accounts specified by the Supervisor of Banks in a directive” that could allow the application of this provision to other types of accounts. Israel clarified this exception was intended to be used for accounts with numerous beneficial owners – for example and account of a “kibutz” (Israeli communal settlement, based on egalitarian and communal principles in a social and economic framework). The second example of an intended use for this exception is an account of an embassy, which inherently does not have beneficial owners. Although the exception regarding “another type of account specified by the Supervisor of Banks in a directive” is being applied in line with the standard, Israel should continue to ensure that the limited exceptions to identifying the beneficial ownership information under the simplified CDD is applied in line with the standard (see Annex 1. List of in-text recommendations). Additionally, the analysis on whether this could create risks to the availability of beneficial ownership information for relevant entities will be done in the Phase 2 review.

### *Oversight and enforcement*

196. As stated in the 2016 Supplementary Report, the implementation of the AML rules by banks is supervised by the Bank of Israel, by the Banking Supervision Department. Each bank is subject to ongoing monitoring through off-site checks and onsite inspections are programmed as follow up to the offsite monitoring and on a risk based approach. Additionally,

the Banking Supervision Department carries out annual assessments of compliance risk, including AML/CFT risks.

197. Banks are subject to financial sanctions and corrective sanctions in case of non-compliance with obligations to keep banking information and record keeping in accordance with the PMLL and the Banking Ordinance, as described previously in Section A.1.1. Israel has indicated that, particularly for banks, and according to the PMLL, the sanctioning committee has the authority to impose financial sanctions on banks that violate their obligations pursuant to the AML laws and regulations.

198. The availability of banking information in practice, including beneficial ownership information that shall be held by banks, oversight and enforcement activities, will be assessed in the Phase 2 review.



## Part B: Access to information

199. Sections B.1 and B.2 evaluate whether competent authorities have the power to obtain and provide information that is the subject of a request under an EOI arrangement from any person within their territorial jurisdiction who is in possession or control of such information, and whether rights and safeguards are compatible with effective EOI.

### 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).

200. The 2016 Supplementary Report concluded that Israel's Tax Authority (ITA) has broad powers to access relevant information from any person and other public authorities for the tasks of the tax administration. These powers include requiring a person to provide different types of information upon request and also for the ITA to enter any place in which business is carried out to access information or to summon persons related to an assessment. Non-compliance can be sanctioned with administrative and criminal penalties.

201. At the time of the 2016 Supplementary Report, Israel had improved its legal framework substantially concerning access powers for the ITA for the sole purpose of exchanging information under any types of international tax agreements. Israel's Income Tax Ordinance (ITO) was amended to make clear that the tax authority's domestic information gathering powers can also be used for exchange of information purposes, regardless of domestic tax interest and for requests under all agreements providing for EOI, regardless of their type. The amendment came into force in January 2016 and, thus, its practical implementation could not be assessed during the last review and a monitoring recommendation was included. As this is a recommendation related to the implementation in practice, the Global Forum will assess whether Israel has addressed it in the Phase 2 review (see Annex 1. List of in-text recommendations).

202. At the time, Israel also demonstrated the implementation of measures to improve access to banking information, such as amending the legal basis to remove banking confidentiality rules towards clients in cases of EOI request and holding regular meetings with banks. According to the Israel authorities, the latter resulted in a significantly better co-operation between the ITA and the banks. The 2016 Supplementary Report recommended that Israel monitors the efficiency of the implemented measures and, if necessary, take additional measures to ensure access to banking information in line with the standard. Since the last review, starting in 2019, Israel indicated that the ITA has implemented further relevant changes in this regard, including that the Competent Authority can now contact the banks directly, without the need for a designated ITA liaison to act on its behalf. The implementation of these changes in practice will be assessed during the Phase 2 review.

203. The 2016 Supplementary Report found that no changes had taken place regarding inadequate powers to access information from new immigrants, veteran returning residents and trustees of foreign resident trusts, having a trustee resident in Israel, in respect of foreign source income. It was recommended that Israel ensure that its competent authorities have powers to obtain information from new immigrants, veteran returning residents and trustees of foreign resident trusts which might be subject of an information request from its EOI partners. Israel has not provided evidence of having addressed this recommendation, such that the recommendation remains.

204. The 2016 Terms of Reference require that Competent Authorities have access to beneficial ownership information. In Israel, beneficial ownership information on legal entities and arrangements and on bank accounts is only available with AML-obliged persons under AML legislation, and with the Money Laundering and Terror Financing Prohibition Authority (IMPA). Competent Authorities have limited access to this information for EOIR purposes:

- The ITA can get access to information held by the IMPA upon request (s. 30(b1) of the PMLL), and upon IMPA's spontaneous initiative (s. 30(e)(2) solely for executing the responsibilities of the ITA under the PMLL, i.e. for the investigation of tax related predicate offences. Accordingly, the IMPA cannot share information with the ITA for purposes of answering EOI requests that are not covered by the PMLL.
- Concerning information held by banks, lawyers, and other AML-obliged persons in application of the PMLL, including CDD and beneficial ownership information, the ITA can only access such information under a court order, for criminal investigations only. Israel's



authorities have indicated that their interpretation of the law is that they can only obtain such court order to access such information when it comes to EOI requests based on criminal tax investigations.

205. Consequently, the ITA as Competent Authority in Israel is not able to access any information gathered under the AML legislation, including CDD and beneficial ownership information to answer EOI requests in civil tax matters. Israel is recommended to address this gap.

206. An in-depth analysis of the practical implementation of Israel's access powers and progress therein will take place during the Phase 2 review, including the extent of the impact that the impediment to access CDD information has in practice

**Legal and Regulatory Framework: in place, but certain aspects of the legal implementation of the element need improvement**

Deficiencies identified/Underlying factor	Recommendations
The tax authorities' powers to obtain information from new immigrants, veterans returning residents and the trustees of foreign resident trusts, having a trustee resident in Israel, in respect of foreign source income are inadequate.	Israel should ensure that its authorities have powers to obtain information from new immigrants, veteran returning residents and trustees of foreign resident trusts which might be subject of an information request from its EOI partners.
The competent authority is only able to access information gathered under the AML framework by AML-obliged persons (e.g. banks and non-financial regulated persons), including CDD and beneficial ownership information of their customers, through a Court order for criminal tax purposes. As beneficial ownership information is mainly available with AML-obliged persons in Israel due to the AML requirements, the Competent Authority is prevented from accessing beneficial ownership information on legal entities and arrangements and bank accounts for EOI requests involving civil tax matters.	Israel is recommended to ensure that its competent authority can access beneficial ownership information and other related documents held by AML-obliged persons, including CDD documentation, in line with the standard in all cases.

**Practical Implementation of the Standard: no rating is assigned on this element, as it involves issues on practice that are dealt with in the Phase 2 review.**

The Phase 2 recommendations issued in the 2016 Report are reproduced below for the reader's information.

Deficiencies identified/Underlying factor	Recommendations
The use of information gathering powers for exchange of information purposes is subject to certain conditions which appear in line with the standard. Nevertheless, as they were introduced only in January 2016, their practical application remains to be tested.	Israel should monitor application of conditions for use of information gathering powers for exchange of information purposes so that the information is exchanged in line with the standard.
Several changes in the legal framework as well as in practice have been made since the Phase 2 review in order to improve access to banking information for tax purposes. These changes however took place only recently and therefore remains to be sufficiently tested.	Israel should monitor access to banking information for exchange of information purposes and if necessary, take further measures to ensure timely access to all banking information as required under the standard.

### ***B.1.1. Ownership, identity and banking information***

#### *Accessing information generally*

207. Israel's Competent Authority for exchange of information for tax purposes is the International Tax Unit of the ITA. The International Tax Unit is part of the Professional Affairs Division of the ITA and has been officially designated by the Ministry of Finance as Competent Authority.

208. In 2016, section 214C was incorporated into the ITO to expressly allow the ITA to use its information gathering powers set out under sections 135 through 140A of the ITO for the purpose of collecting information pursuant to international agreements, in the same manner as for domestic purposes, provided that the information can be exchanged in line with Israel's law and the international agreement.

209. The amendment aims to ensure that the tax authority can use its domestic gathering powers for exchange of information purposes on all Israel's EOI agreements, regardless of domestic tax interest. The use of these powers is subject to certain conditions: i) the information collected can be exchanged pursuant to an international agreement as stipulated in section 214B and ii) the powers shall be exercised in the same manner as they are exercised for implementing the Tax Ordinance for domestic purposes and subject to the same terms, restrictions and prohibitions. Nevertheless, the 2016 Supplementary Report concluded that since the amendments entered into force in January 2016, the practical application of the amended access powers remain to be sufficiently tested and an in-box monitoring recommendation was included. This practical aspect will be analysed in Phase 2.

210. The previous reports also noted that domestic access powers in Israel are limited with respect to information on foreign source income from new immigrants, veteran returning residents and the trustees of foreign resident trusts, having a trustee resident in Israel. A recommendation for Israel to address this issue was kept in the 2016 Supplementary Report and Israel has not provided further evidence that this issue has been addressed, thus this Phase 1 recommendation is kept.

### *Accessing beneficial ownership information*

211. ITA obtains some relevant information from companies obliged to file declarations annually, including ownership information according to the tax law. Israel has stated that it considers this declaration to contain beneficial ownership information, however, such information does not correspond to the definition of beneficial ownership in the standard and merely corresponds to legal ownership, including information on the real owner for nominee shareholders, but does not include identification of beneficial owners under other criteria (e.g. control).

212. The 2016 Terms of Reference require that Competent Authorities have access to beneficial ownership information. As mentioned in sections A.1 and A.3, beneficial ownership information on legal entities and arrangements and on bank accounts is mainly available with AML-obliged persons under AML legislation.

213. Pursuant to section 30 of the PMLL, IMPA is authorised to disseminate, spontaneously and upon request, information and intelligence (including beneficial ownership information), from its database to competent authorities and AML supervisors. As such, IMPA is authorised to disseminate information upon request to the Israel Police (s. 30(b)(1)), the tax authority (s. 30(b1)) and all Security Agencies (s. 30(c) and (c1)), when there are grounds to suspect money laundering or terrorist financing. IMPA is also authorised to spontaneously disseminate information from the database to the ITA and other competent authorities under the law (s. 30(e)) under certain conditions.

214. In the case of the ITA, the IMPA can provide information upon request (s. 30(b1) of the PMLL), and upon spontaneous initiative (s. 30(e)(2)). This sharing of information is solely for executing the responsibilities of the ITA under the PMLL, i.e. for investigation of predicate tax offences listed in the first schedule of the PMLL. As a result, the IMPA cannot share information with the ITA for purposes of answering EOI requests.

215. In addition to not being able to access information held by IMPA, the competent authority is only able to access information gathered by AML-obliged persons (e.g. banks and non-financial regulated persons), including

CDD and beneficial ownership information of their customers, through a Court order and only for criminal tax purposes. As beneficial ownership information is mainly available with AML-obliged persons in Israel, the Competent Authority is prevented from accessing this information concerning legal entities and arrangements and bank accounts for EOI requests involving civil tax matters.

216. Accordingly, the ITA cannot access beneficial ownership information and other CDD documentation held by AML-obliged persons to answer EOI requests, which represents a significant gap in accessing beneficial ownership information in Israel. **Therefore, Israel is recommended to ensure that its competent authority can access beneficial ownership information and other related documents held by AML-obliged persons, including CDD documentation, in line with the standard in all cases.**

### *Accessing banking information*

217. As stated before, banking information is kept by the banking institutions themselves. After receiving an EOI request, Israel has indicated that the ITA contacts the bank directly to provide the information.

218. Thanks to legal amendments adopted in 2016, the ITA can apply the powers contained in sections 135 through 140a of the ITO to directly access banking information for EOI purposes in certain cases. The Phase 2 Report from Round 1 found that Israel had some issues with accessing banking information in civil tax matters, mainly because the Competent Authority had to request the assistance of a contact person in the Intelligence Department of the ITA, who handled all requests for banking information without needing a court order. This practice was found not to be in line with the standard, as it did not ensure timely access to banking information. During the 2016 Supplementary Report, it was determined that Israel implemented several relevant changes to address this issue (para. 134 of the 2016 Supplementary Report). During 2019 the ITA has implemented further changes in its communication with financial institutions: the Competent Authority can now contact the banks directly, without the need for a designated ITA liaison to act on its behalf.

219. As stated previously, sections 135-140 of the ITO, applicable to the ITA in its EOI Competent Authority capacity, gives powers to demand returns and information, enter any place for examinations and seize documents. More precisely, the ITA has the power to directly request relevant tax information from any business and its customers, which includes banks and other financial institutions (s. 135A ITO).

220. The law provides relevant powers, however there are limitations when it comes to requests for CDD information held by banks. In those

cases, as such information is gathered pursuant to the PMLL, the limitations described above in paragraph 215 apply. This means that Israel can only access the CDD information held by banks with a court order, and such court order can only be obtained when the request is based on a criminal tax matter and not for civil tax matters.

221. Several peers reported unjustifiable delays in receiving banking information from Israel and in some cases incomplete banking information. Additionally, one peer reported that in the beginning of the review period, it did not receive CDD documents with respect to requests for banking information due to “legal constraints” according to Israel’s authority. Israel confirmed the shortcoming was due to limitations to access CDD documents held by banks when the request is based on a civil investigation.

222. In conclusion, the ITA is prohibited from accessing CDD documentation held by banks for requests based on civil tax cases. Thus, as stated in paragraph 216, **Israel is recommended to ensure that its competent authority can access beneficial ownership information and other related documents held by banks, including CDD documentation in line with the standard in all cases.**

223. The practical implementation of the existing procedures for accessing banking information in Israel and the practical aspects of this gap will be assessed during the Phase 2 review.

### ***B.1.2. Accounting records***

224. As it was concluded in the 2016 Supplementary Report, the Competent Authority has direct access to the ITA’s tax data base which includes tax returns, tax assessments, third party reporting and other relevant tax information. The Competent Authority can also access the taxpayer’s file at the local tax office, which includes financial reports and other relevant supporting documentation. Finally, it has the power to contact the taxpayer directly, particularly for accounting underlying documentation not kept in the local tax file, such as invoices, shipment bills, contracts, business correspondence and others.

225. All information in power of the ITA, accessed by the Competent Authority as described above, can be directly provided to the requesting competent authority. If information is not contained in the ITAs database or local files, the Competent Authority uses its domestic gathering powers pursuant to sections 135-140, to request information from taxpayers or other third-party information holders.

226. Israel’s procedures to access accounting information is generally in line with the standard. However, some peers have reported unjustifiable delays in receiving such information in some cases. An analysis of Israel’s access powers for accounting information will take place in the Phase 2 Review.

***B.1.3. Use of information gathering measures absent domestic tax interest***

227. As described previously, in 2016 an important amendment was introduced in the ITO, which established expressly that the ITA as Competent Authority can use the same powers granted for domestic investigations, for purposes of collecting information required under an international agreement and without regard to the existence of a domestic tax interest.

228. The practical implementation of the amendment and the full analysis of Israel's gathering powers will be part of the Phase 2 review.

***B.1.4. Effective enforcement provisions to compel the production of information***

229. According to section 215 and section 216 of the ITO, if a person does not appear, as required by a notification under the ordinance or does not answer a question lawfully put to him is guilty of an offence and is liable to a fine of up to NIS 29 200 (EUR 5 840), to one year imprisonment or to both penalties. Failure to provide the requested information is also considered an administrative offence and subject to additional fines according to the Administrative Offences Regulations.

230. As previously described, Israeli tax administration has powers to access information relevant for the tasks of the tax administration from any person and from public authorities, with certain limitations. These powers are also applicable to the ITA acting in its Competent Authority capacity pursuant to an EOI request. Apart from requesting information directly to taxpayers and related third parties, the information gathering powers provided in sections 134 to 140 of the ITO include power to enter any place in which a business or a vocation is carried on or to summon any person who has business relations with the taxpayer and who he believes can testify on his income. Non-compliance can be sanctioned with administrative as well as criminal penalties. However, these enforcement powers are also affected by the limitations described in Section B.1.1 Ownership, identity and banking information.

### **B.1.5. Secrecy provisions**

#### *Bank secrecy*

231. Secrecy provisions, though, are part of the contractual relationship between the bank and its customers based on the Private Protection Law.<sup>13</sup> Nonetheless, Israel's tax administration has the power to directly request relevant tax information from any business and its customers, which includes banks and other financial institutions (s. 135A ITO). As stated in the 2016 Supplementary Report, the Supreme Court has acknowledged that banking secrecy has a unique standing, but it does not override disclosure obligation stipulated by the law.<sup>14</sup>

232. Further, the tax authority's access powers for exchange of information were clarified through the legal amendment of Article 214b of the ITO.

233. However, as stated previously, an important limitation is found in the AML legislation that prevents the tax authority from accessing CDD information, including beneficial ownership information required under the PMLL, and other CDD information held by banks in certain cases.

#### *Professional secrecy*

234. As described in Paragraphs 137-138 of the 2016 Supplementary Report, the ITO provides for the possibility for legal professionals to decline a request for information when such information is privileged, i.e. protected under professional secret. The definition of professional secret consists of communications between an advocate and its client and other information that is substantively connected to the professional service rendered by the advocate to the client. Israel has stated that this professional service is limited to the services provided as advocate and not to any other services rendered by the same person under other capacities.

235. As it was also concluded in the 2016 Supplementary Report, the professional secrecy provisions are in line with the standard and there has been no change in Israel's legal framework since then.

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13. Israel indicates it is common to see the origin of this obligation in the contract between the bank and the customer, both explicitly and implicitly, in combination with the right to privacy in the Privacy Protection Law, which was given the status of a fundamental right in Section 7 of the Basic Law: Human Dignity and Freedom; Another legal source of this right is the case law, which incorporated the rules of English case law in the form of the principles established in the judgment *Tournier v National Provincial and Union Bank of England* [1924] 1 KB 461 (hereinafter the *Tournier* case). Another source of the banking confidentiality obligation is the banking trust obligation.
14. Supreme Court decision – Civil Appeal, 1917/92 Jacob Skholer vs. Bank Hamizrachi.

236. However, as described previously in the report, the PMLL does not allow ITA to access information gathered by AML regulated persons (i.e. lawyers, accountants, or banks) under the AML framework, to answer requests based on civil tax investigations.

237. The interpretation of professional secrecy and practical application in cases of an EOI request will be examined during the Phase 2 review.

## B.2. Notification requirements, 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.

238. The ITO provides the obligation to the Competent Authority to notify the Israeli tax resident subject to an EOI request unless the requesting jurisdiction asks not to notify the taxpayer. The 2016 Supplementary Report found that the legal framework for notification requirements, rights and safeguards in Israel was in place and, thus, in line with the standard. It concluded, nonetheless, that the implementation of the notification requirement and its procedure should be further monitored in practice. It noted that:

- particular attention had to be given to how the exemption from notification would be applicable in cases where peers might not be yet aware of the existence of the notification rules established in 2016
- the impact of appeal rights to the notification had to be monitored in the context of EOI, as well as the impact of the inclusion of the notification process in the timeliness of responses.

239. As there was no change since 2016 in the legal framework regarding the rights and safeguards of the taxpayer, the element is found to be in place. The analysis of the 2016 changes and their effective implementation in practice will be reviewed during the Phase 2 review.

240. The conclusions are as follows:

### Legal and Regulatory Framework: in place

The rights and safeguards that apply to persons in Israel are compatible with effective exchange of information.

**Practical Implementation of the Standard: no rating is assigned on this element, as it involves issues on practice that are dealt with in the Phase 2 review.**



The Phase 2 recommendations issued in the 2016 Report are reproduced below for the reader's information.

Deficiencies identified/Underlying factor	Recommendations
<p>Under the newly amended Income Tax Ordinance the authorised official is required to notify the Israeli resident taxpayer subject of the request of the intention to supply information concerning the taxpayer at least 14 days prior to the supply of the information unless the requesting jurisdiction requested not to notify the taxpayer. As the amendment came into force only in January 2016 it remains to be tested in practice.</p>	<p>Israel should monitor application of the notification requirement to ensure that it does not unduly prevent or delay effective exchange of information.</p>

### ***B.2.1. Rights and safeguards should not unduly prevent or delay effective exchange of information***

#### ***Pre-exchange Notification and exceptions***

241. As described in paragraphs 141-142 of the 2016 Supplementary Report, Israel introduced in 2016 a notification requirement concerning Israeli tax-residents under Article 214A of the ITO. Article 214B(c) requires the authorised official to notify the Israeli resident taxpayer subject of the request of the intention to supply information concerning the taxpayer at least 14 days prior to the supply of the information, unless the requesting jurisdiction requested not to notify the taxpayer. Accordingly, the notification requirement does not apply to non-resident taxpayer or to information holder if such information holder is not a resident taxpayer subject of the request.

242. The template notification shared by the Israel authorities includes language indicating that Israel has received an EOI request from a specified jurisdiction and that the Competent Authority is to answer it within 14 days, unless a court stay order is granted. Under Section 96(h) of the Civil Law Regulations, in the case of temporary relief, Israel indicates the processing should be fast and the court hearing the case would be obliged to decide within 14 days from the date of hearing the request. Under the tax law, there is no timeframe for the court to render a decision and whether such decision would have suspensive effects that could unduly delay EOIR. The impact of this issue will be analysed in the Phase 2 review (see Annex 1. List of in-text recommendations). The notification template does not contain any sensitive information of the EOI request nor as to the type of information to be exchanged.

243. Section 214B(c) establishes the notification obligation, allowing the Competent Authority not to comply with such regulation when the requesting jurisdiction expressly requests Israel to refrain from notification, which is consistent with the standard.

244. The 2016 Supplementary Report pointed out that a few aspects of the notification requirement should be monitored, in particular:

- the notification was newly introduced and not tested in practice with respect to the communication with the requesting jurisdictions
- the impact of the notification on the appeal rights in the EOI context and the information to be disclosed to the taxpayer during the notification or subsequently was to be tested
- the possible impact of the notification requirements on timeliness of responses was to be tested.

245. Israel has stated that, up to now, EOIR requests have not been challenged. The monitoring of the practical implementation of the notification requirements indicated above, will be assessed in the Phase 2 review (see Annex 1. List of in-text recommendations). Further, according to Israel legislation the notice for request of information to third parties does not include any reference to the fact that it is based on an EOI request, nor to the requesting jurisdiction. Therefore, the risk that the holder of the information may inform the person concerned of the existence of a request is limited, since the holder himself is not formally informed of the existence of the EOI request.

### *Post-exchange notification*

246. There are no provisions for post-exchange notification in Israel. When an exception to the pre-exchange notification is granted, no notification is provided post-exchange either.

### *Appeal rights*

247. The Civil Law Order Regulation (article 253) grants general appeal rights to taxpayers to apply to the court against any request, decision, or action of the authorities. These appeal rights provide the usual safeguards against unlawful action and appear in line with the standard. The practical aspects of the appeal rights will be further analysed in the Phase 2 review.

## Part C: Exchange of information

248. Sections C.1 to C.5 evaluate the effectiveness of Israel's network of EOI mechanisms – whether these EOI mechanisms provide for exchange of the right scope of information, cover all of Israel's relevant partners, whether there were adequate provisions to ensure the confidentiality of information received, whether Israel's network of EOI mechanisms respects the rights and safeguards of taxpayers. In this particular report, element C.5 – whether Israel can provide the information requested in an effective manner – is not revised considering that this is only a Phase 1 report.

### C.1. Exchange of information mechanisms

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

249. Jurisdictions generally cannot exchange information for tax purposes unless they have a legal basis or mechanism to do so. In Israel, the legal authority to exchange information derives from international agreements providing for the exchange of information given effect through domestic law.

250. Israel has an extensive EOI network covering 150 jurisdictions through 60 DTCs and the Multilateral Convention. Since the 2016 Supplementary Report, bilateral treaties with Germany and North Macedonia entered into force in December 2016 and December 2018, respectively. Additionally, Israel negotiated and signed nine bilateral treaties: Albania, Armenia, Australia, Austria, Azerbaijan, Canada, Serbia, United Kingdom, and United Arab Emirates. These nine bilateral treaties have already entered into force. The Multilateral Convention also entered into force on 1 December 2016, which now provides for a broad EOI network of 150 jurisdictions. In five DTCs (Belarus, Ethiopia, Chinese Taipei, Uzbekistan and Viet Nam), the concept of foreseeable relevance is not expressly included in the language of the article pertaining to exchange of information. As stated in the 2015 Report for Israel, it was clarified by Israel that the language used instead of “foreseeable relevant”, i.e. “pertinent”, is

interpreted in line with the standard. According to Israel, for the DTCs where the term contemplated is “necessary”, it is interpreted according to the “foreseeable relevant” definition and, thus, in line with the standard.

251. The 2016 Supplementary Report kept the Phase 2 report recommendation under which Israel should take measures to bring its exchange of information agreements into force expeditiously. At the time, it had taken Israel more than 36 months in some cases to bring its signed EOI agreements into force. Since then, Israel has signed nine new treaties and, in all of these cases, brought them into force in less than 24 months. Additionally, Israel signed the Multilateral Convention on 24 November 2015 and deposited the instruments of ratification on 31 August 2016, bringing the Convention in to force on 1 December 2016. Israel has now a broad EOI network based on the Multilateral Convention, which was expeditiously brought into force after the signature. Additionally, Israel has no outstanding bilateral treaty to bring into force. Thus, the recommendation can be now considered addressed.

252. Israel’s agreements providing for exchange of information are given effect through the ITO. In 2016, Israel amended its ITO to clarify the Competent Authority’s power to exchange information pursuant to an EOI Agreement. However, as mentioned in Section B.1 Competent authority’s ability to obtain and provide information, while beneficial ownership information is mainly available with AML-obliged persons in Israel, the ITA is not able to access such information on civil matters in any case. The ITA is also unable to access CDD information (including beneficial ownership information) held by banks to comply with requests based on civil tax purposes. Thereby Israel is unable to give full effect to its EOI agreements. Israel is recommended to ensure that its competent authority can access beneficial ownership information and other related documents, as well as CDD documentation on bank accounts, in line with the standard in all cases in order to give full effect to its EOI agreements.

253. Israel rules for group requests are in line with the standard, as well as the rules governing the application of the standard of foreseeable relevance. Israel is allowed to exchange information regarding all persons.

254. The conclusions are as follows:

**Legal and Regulatory Framework: In place, but certain aspects of the legal implementation of the element need improvement**

Deficiencies identified/Underlying factor	Recommendations
<p>Several exceptions limit access to ownership and accounting records information from new immigrants, veteran returning residents and the trustees of foreign resident trusts, having a trustee resident in Israel, in respect of foreign source income. Additionally, while beneficial ownership information is mainly available with AML-obliged persons under the AML framework, Israel is not able to access information (e.g. CDD information including beneficial ownership information) gathered by AML-obliged persons under the AML requirements for civil tax matters. Thus, Israel is unable to give full effect to its EOI agreements, as the competent authority is not able to obtain all types of information.</p>	<p>Israel is recommended to ensure that its competent authority has access to all types of information from information holders, including beneficial ownership information and other related documents held by AML-obliged persons, in line with the standard in all cases, in order to give full effect to its EOI agreements.</p>

**Practical Implementation of the Standard: no rating is assigned on this element, as it involves issues on practice that are dealt with in the Phase 2 review.**

*Other forms of exchange of information*

255. In addition to exchange of information on request, Israel is committed to the AEOI Standard since 2018. First exchanges under the Common Reporting Standard took place in 2019. Moreover, since the Multilateral Convention is in effect since 2016, all EOI relationships provide for spontaneous exchange of information.

**C.1.1. Standard of foreseeable relevance**

256. The standard for exchange of information envisages information exchange on request to the widest possible extent but does not allow speculative requests for information that have no apparent nexus to an open inquiry or investigation. The balance between these two competing considerations is captured in the standard of “foreseeable relevance. It does not allow “fishing expeditions”.

257. As Israel is a party to the Multilateral Convention, most EOI relationships are covered by the Convention’s provision on foreseeable relevance and, in those cases are in line with the standard. However, in five DTCs (Belarus, Ethiopia, Chinese Taipei, Uzbekistan, and Viet Nam) the concept of foreseeable relevant is not expressly included in the language of the

article pertaining to exchange of information. As stated in the 2015 Report for Israel, it was clarified by Israel that the language used instead of “foreseeably relevant” in the DTC with Ethiopia (i.e. “pertinent”) is interpreted in line with the standard. For the other four treaties (Belarus, Chinese Taipei, Uzbekistan, and Viet Nam), the treaties with the Philippines and the United States, the term included is either “necessary” or “pertinent” instead of “foreseeably relevant”, which, according to the standard, is consistent with the scope covered by the term “foreseeably relevant”. Further, Israel has confirmed that it interprets the terms in line with the standard.

258. In the 2016 Supplementary review, Israel was encouraged to continue monitoring consistent approach to requests for clarification and to take measures to ensure that reasons for clarification are in all cases properly communicated to the requesting jurisdiction, considering that the percentage of requests where clarification is needed was relatively high. Israel has indicated that the EOI-unit now provides guidance to its officers and field teams in order to allow for a smoother flow of information and less clarifications. In the peer input received, only one peer indicated that Israel continued to frequently seek for clarification. Since this a matter of practical implementation, the Phase 2 will analyse whether this recommendation has been addressed (see Annex 1. List of in-text recommendations).

### *Group requests*

259. None of Israel’s EOI instruments nor domestic law prohibit group requests. Israel, however, indicated it requires substantiated supporting evidence or arguments that show for patterns of behaviour that make the group request relevant. Israel has indicated that the supporting evidence they require relate to examples that can clearly explain the pattern of behaviour of the group under investigation, authentication of the supporting documentation provided and clarifications as to the scope of the request.

260. The provisions applicable to group requests are in line with the requirements mentioned in Article 26 of the OECD Model Convention and, thus, in line with the standard.

261. The assessment of the practical implementation of the standard of group requests will take place during the Phase 2 review.

### ***C.1.2. Provide for exchange of information in respect of all persons***

262. As mentioned before, the Multilateral Convention is in force and covers most of the EOI bilateral relationships of Israel. It allows Israel to exchange information on all persons regardless of their nationality or

residence with all of its EOI partners, in line with the standard. No limitation has been identified in the domestic legal framework to restrict Israel from exchanging information concerning all persons regardless of their nationality or residence. The five bilateral relationships not covered by the Multilateral Convention (Belarus, Ethiopia, Chinese Taipei, Uzbekistan, and Viet Nam) are also in line with the standard.

263. The assessment of the practical implementation of this element will take place during the Phase 2 review.

### ***C.1.3. Obligation to exchange all types of information***

264. As stated in section B.1.5 Secrecy provisions, Israel's domestic law does not contain express restrictions in respect of access to information solely because it is held by a financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interest in a person. Nevertheless, the 2016 Supplementary Report found that some of Israel's DTCs<sup>15</sup> with partners having domestic restrictions on access to information restricted the type of information to be exchanged, as they lacked a provision equivalent to Article 26(5) of the Model Double Taxation Convention. Since the 2016 Supplementary Report, the Multilateral Convention is in force for Israel, such that Israel has now an EOI relation in line with the standard with such partners as well.

265. As described previously in the report, Israel does have a significant limitation to access CDD information, including beneficial ownership information obtained under AML laws by AML obliged persons, when such information is sought to comply with EOI requests based on a civil tax investigation. Accordingly, in those cases the Competent Authority will not be able to exchange beneficial ownership information and CDD documentation, thereby not being able to give full effect to its EOI agreements. **Israel is recommended to ensure that its competent authority has access to all types of information, including CDD information and beneficial ownership information by AML-obliged persons, in line with the standard in all cases.**

266. Israel has never declined a request because the information was held by a bank, other financial institution, nominees, or persons acting in an agency or fiduciary capacity or because the information related to an ownership interest.

267. According to the 2016 Supplementary Report, Israel authorities had stated that the timeliness of provision of banking information and the co-operation between the tax authority and banks had significantly improved. Nevertheless, as there was not enough evidence to confirm it,

15. DTCs with Luxembourg, Singapore and Switzerland.

it was recommended that Israel monitors efficiency of the recently taken measures and if necessary, take further measures to ensure timely access to banking information as required under the standard. The assessment on whether this recommendation has been addressed will take place in the Phase 2 review (see Annex 1. List of in-text recommendations).

268. Additionally, as stated previously, in the peer input received, one peer reported three cases at the beginning of the review period, where banking information was not provided due to “internal legal constraints”. The latter appears to be related to the impossibility of Israel’s competent authority to access banking information, and other types of information gathered under AML legislation, in cases where the request is based on a civil tax investigation. The assessment of the practical implementation of the standard will take place during the Phase 2 review (see Annex 1. List of in-text recommendations).

#### **C.1.4. Absence of domestic tax interest**

269. Israel’s domestic law provides access powers for exchange of information purposes regardless of domestic tax interest under all Israel’s EOI agreements. The 2016 Supplementary Report indicated that the use of these powers, amended in 2016, was nevertheless linked to certain conditions, which remained to be sufficiently tested in practice, such that a monitoring recommendation was introduced. The analysis on whether this recommendation was addressed will be part of the Phase 2 Review (see Annex 1. List of in-text recommendations).

270. The entry into force of the Multilateral Convention provides for an international legal framework in line with the standard with most of its partners, concerning Israel’s ability to provide information to its peers without regard to whether there is a domestic tax interest. It is noted that in five bilateral agreements (Belarus, Ethiopia, Chinese Taipei, Uzbekistan, and Viet Nam), there is no express language requiring the requested country to use its information gathering powers to obtain the requested information without the need of domestic tax interest, i.e. paragraph 26(4) of the Model Tax Convention. However, as discussed under element B.1, there are no limitations in Israel’s laws with respect to access to information regardless of domestic tax interest and therefore the absence of such provision in the EOI agreement may restrict exchange of information only if such restriction exists in the domestic law of Israel’s treaty partner.

#### **C.1.5 and C.1.6. Civil and criminal tax matters**

271. There is no dual criminality provision in any of Israel’s EOI agreements. Accordingly, there has been no case where Israel declined a request because of a dual criminality requirement as has been confirmed by peers.



272. Under the Multilateral Convention, Israel is able to exchange information in both civil and criminal tax matters. In addition, as indicated in the 2016 Supplementary Report, Israel requires an indication from the requesting jurisdiction whether information is sought for criminal or civil tax purposes only when banking information is requested. If the requesting party requires information held by an AML-obliged person for criminal tax purposes, the tax administration uses a court order to obtain the requested information (see section B.1.5). However, as stated previously in the report, Israel interprets that the law does not allow the ITA to obtain a court order for civil matters, and thus access CDD information including beneficial ownership, when such information is sought for answering a request based on civil tax purposes (see section B.1.1). Thus, the Multilateral Convention allows for exchanging information both in civil and criminal tax matters, however this gap in Israel domestic legislation limits Israel capacity to exchange information in civil tax matters.

**273. Israel is recommended to ensure that its competent authority has access to CDD information, including beneficial ownership information and other related documents held by AML-obliged persons, both for criminal tax matters and civil tax matters in line with the standard.**

### ***C.1.7. Provide information in specific form requested***

274. There are no restrictions in Israel's domestic law that would prevent it from providing information in a specific form, as long as it is consistent with its own administrative practices.

275. The 2016 Supplementary Report noted the situation with a peer that reported some cases where Israel provided only incomplete supporting documentation and incorrect reference numbers. Israel stated that it was due to a misunderstanding by the competent authority concerning the scope and relevance of the information requested and it took measures to improve the communication with the peer to avoid such situations in the future. Nevertheless, it was recommended that Israel monitors quality of its responses to ensure that all requested information is properly documented and provided in the form requested as far as possible under Israel's administrative practices. The Phase 2 report will analyse whether Israel has addressed this recommendation (see Annex 1. List of in-text recommendations).

### ***C.1.8 and C.1.9. Signed agreements should be in force and be given effect through domestic law***

276. In order to bring the EOI agreement into force in Israel, it must be given notice by order of the Minister of Finance upon its signature and ratification by the Knesset.

277. Since the Supplementary Report of 2016, the DTCs with Germany and North Macedonia, entered into force in December 2016 and December 2018, respectively. Additionally, Israel negotiated and signed nine bilateral treaties: Albania, Armenia, Australia, Austria, Azerbaijan, Canada, Serbia, United Kingdom and United Arab Emirates, which are now in force. Since its last report, the Multilateral Convention also entered into force on 1 December 2016, broadening the Israel's network and bringing all of its EOI relationships in line with the standard.

278. The 2016 Supplementary Report kept the Phase 2 recommendation for Israel to take measures to bring its exchange of information agreements into force expeditiously, because in some cases of bilateral treaties it took Israel more than 36 months to bring them into force. Since then, Israel has signed nine new treaties and, in all of these cases, brought them into force in less than 24 months. Israel also signed and has in effect the Multilateral Convention; thus, the recommendation is considered to be addressed.

### EOI mechanisms

<b>Total EOI relationships, including bilateral and multilateral or regional mechanisms</b>	<b>150</b>
In force	141
In line with the standard	141
Not in line with the standard	0
Signed but not in force	9
In line with the standard	9
Not in line with the standard	0
<b>Total bilateral EOI relationships not supplemented with multilateral or regional mechanisms</b>	<b>5</b>
In force	5
In line with the standard	5
Not in line with the standard	0
Signed but not in force	0
In line with the standard	0
Not in line with the standard	0

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

The jurisdiction's network of information exchange should cover all relevant partners, meaning those jurisdictions who are interested in entering into an information exchange arrangement.

279. Israel has an extensive network covering 150 jurisdictions through 60 DTCs and the Multilateral Convention. This EOI network encompasses all of its major trading partners, all EU member states and all OECD members.

280. No Global Forum member indicated in the preparation of this report that Israel refused to negotiate or sign an EOI instrument with it. As the standard ultimately requires that jurisdictions establish an EOI relationship up to the standard with all partners who are interested in entering into such relationship, Israel should continue to conclude EOI agreements with any new relevant partner who would so require (see Annex 1. List of in-text recommendations).

281. The conclusions are as follows:

#### **Legal and Regulatory Framework: in place**

The network of information exchange mechanisms of Israel covers all relevant partners.

**Practical Implementation of the Standard: no rating is assigned on this element, as it involves issues on practice that are dealt with in the Phase 2 review.**

### **C.3. Confidentiality**

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

282. All of Israel's EOI instruments, including new DTCs and the Multilateral Convention now in force include confidentiality provisions to ensure that the information exchanged will be disclosed only to persons authorised by the agreements. The ITO establishes that international treaties that provide for the easement of double taxation (i.e. DTCs) prevail over domestic legislation. Thus, information exchanged under DTCs is treated in line with the standard concerning confidentiality provisions.

283. However, the ITO does not expressly establish that bilateral agreements other than DTCs, such as TIEAs or the Multilateral Convention prevail over domestic legislation. The information exchanged under these agreements is treated according to Israel's domestic legislation that allows the use of information for other than tax purposes without requiring prior authorisation of the partner jurisdiction that provided the information and, therefore, go beyond the standard.

284. In light of the aforementioned, the 2016 Supplementary Report included a recommendation establishing that Israel should ensure that confidentiality rules concerning information received under agreements which do not provide for relief from double taxation are in line with the standard.

285. Israel has not addressed the recommendation included in the 2016 Supplementary Report. Further, the Multilateral Convention entered into force in Israel since the Supplementary Report, covering most of Israel's EOI relationships (145 out of 150). The latter means that information exchanged under the Multilateral Convention would not be covered by the Convention's confidentiality provisions and rather by the domestic legislation that allows the use of information for other than tax purposes and therefore goes beyond the standard. Considering the latter, the materiality of the issue has increased, with a potential significant effect on the exchange of information in practice. Israel indicates that regardless of this gap, ITA will not share information received under the Multilateral Convention in these cases.

286. **Nevertheless, Israel is recommended to ensure that confidentiality rules concerning information received under agreements which do not provide for relief from double taxation, including the Multilateral Convention, are in line with the standard.**

287. The conclusions are as follows:

**Legal and Regulatory Framework: in place, but certain aspects of the legal implementation of the element need improvement**

Deficiencies identified/Underlying factor	Recommendations
Information received under agreements that do not provide for relief from double taxation, including the Multilateral Convention, will be treated only pursuant to Israel's domestic confidentiality rules which allow use of information beyond the standard.	Israel should ensure that confidentiality rules concerning information received under agreements which do not provide for relief from double taxation, including the Multilateral Convention, are in line with the standard.

**Practical Implementation of the Standard: no rating is assigned on this element, as it involves issues on practice that are dealt with in the Phase 2 review.**

### ***C.3.1. Information received: disclosure, use and safeguards***

#### ***Agreements for the exchange of information***

288. Israel's confidentiality provisions on its EOI mechanisms are fully in line with the standard. Most relationships are covered now by the Multilateral Convention, thus, in line with the standard. Further, all bilateral EOI instruments (DTCs) have confidentiality provisions modelled on Article 26(2) of the OECD Model Tax Convention: information exchanged will 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, or the oversight of the above.

### *Domestic legislation*

289. The 2016 Supplementary Report includes a recommendation for Israel to ensure that confidentiality rules concerning information received under agreements which do not provide for relief from double taxation are in line with the standard. This recommendation was because information exchanged under certain agreements on Israel's EOI network was treated only pursuant to Israel domestic confidentiality rules, which allow the use of information beyond the standard.

290. Israel domestic law requires officials, taxpayers and third parties to keep confidential all information concerning other persons, which they learned in the course of a tax procedure. A person who breaches confidentiality is liable to six-month imprisonment or a fine of NIS 12 900 (approx. EUR 2 580), pursuant to section 234 of the ITO. Israel indicated this obligation continues to apply following the termination of the employment relationship.

291. However, section 235 of ITO provides exceptions to the confidentiality rules, allowing for information to be disclosed to the National Insurance Institute under the National Insurance law and in bankruptcy cases following a Court Order. The National Insurance Institute does not have direct access to information held by the ITA and needs to file a request with ITA for such information.

292. Further, section 31 of the PMLL allows for the IMPA to request information to the ITA, when it requires it to enforce the PMLL and the Counter-terrorism Law, subject to the authorisation of the Ministry of Finance, as follows :

The competent authority shall be entitled to apply to a tax authority for information which it requires in order to enforce this Law and the Counter-Terrorism Law; the Minister of Finance, within the framework of his authority under the tax law confidentiality rules, shall review the application as soon as possible in the circumstances, and information which he decides to pass on shall be forwarded to the authority without delay.

293. Section 31 of the PMLL concerns information on ML/TF only. The PMLL sets very strict provisions concerning secrecy and confidentiality regarding the information (s. 25 and 31A of the PMLL) and is authorised to disseminate information to the authorities listed in s. 30 of the PMLL only.

As such, any information received by IMPA from the ITA is bound by strict confidentiality rules and does not infringe on the ITA's confidentiality rules.

294. In Israel, bilateral agreements that provide for relief of double taxation, i.e. DTCs, prevail over the ITO or any other domestic law and, thus, information exchanged under DTCs is covered by the confidentiality provisions of such agreement, in line with the standard (s. 196 ITO). However, this approach is not applicable for bilateral treaties that do not provide for double taxation relief, such as bilateral TIEAs and the Multilateral Convention. When information is exchanged under these agreements, domestic confidentiality provisions are applicable (Refer to para. 184 in 2016 Supplementary Report). Under the domestic confidentiality provisions, Israel is not expressly required to request authorisation from the requested jurisdiction. Israel indicates that regardless of this gap, ITA will not share information received under the Multilateral Convention in these cases.

295. Israel has indicated that so far there has been no case where information received from an EOI partner was shared with another public authority. This recommendation has not been addressed by Israel and the problem grew with the entry into force of the Multilateral Convention, which is one of the instruments affected by this gap, and with the existence of further exceptions to the confidentiality rules provided for in the PMLL. Accordingly, **Israel should ensure that confidentiality rules concerning information received under agreements which do not provide for relief from double taxation, including the Multilateral Convention, are in line with the standard.**

296. The Terms of Reference, as amended in 2016, clarified that although it remains the rule that information exchanged cannot be used for purposes other than tax purposes, an exception applies where the EOI agreement provides that the information may be used for such other purposes under the laws of both contracting parties and the competent authority supplying the information authorises the use of information for purposes other than tax purposes. The Multilateral Convention provides for this possibility, but not the five bilateral agreements with jurisdictions not participating in the Multilateral Convention (with Belarus, Ethiopia, Chinese Taipei, Uzbekistan, and Viet Nam).

297. Israel reported that there were no requests during the years 2018 to 2020 for which the requesting partner sought Israel's consent to utilise the information for non-tax purposes and similarly Israel did not request its partners to use information received for non-tax purposes. In Israel, according to the domestic legislation, information obtained for tax purposes can also be used for other purposes and provided to other authorities, without authorisation to the Requested Jurisdiction, which goes beyond the standard.

### *Measures taken to ensure confidentiality of information exchanged*

298. Since the last review, Israel has indicated that they have implemented additional good practices in this regard, such as the requirement for all staff to sign a cyber-security protocol including key-card protocols, system permissions and “clean-desk policy”. Lectures and training on confidentiality are regularly provided for the ITA staff and constant monitoring of the compliance with confidentiality and security protocols are undertaken. Violations to the application of these protocols can be automatically detected and repeating offences can result in termination of employment and criminal sanctions.

299. Israel has in place operating procedures particularly regarding the Exchange of Information Procedure, applicable to the International Tax Division. The document contains a diagram of the steps to be taken when a request is received and guidance on how to encrypt files with answers to EOI requests before sending them. It also states that the information must be kept in a particular server that is separated from the data base that holds domestic data.

300. Paragraph 186 of the 2016 Supplementary Report included an in-text recommendation stating that Israel should monitor the scope of information provided to banks in a request, so that only the necessary information is disclosed. Israel has stated that, following the review, the Competent Authority acts according to the standard and does not provide unnecessary information to financial institutions. The correct implementation of this practice and whether the in-text recommendation has been addressed will be assessed during the Phase 2 review (see Annex 1. List of in-text recommendations).

301. As described in section B.2 and in paragraph 187 of the Supplementary Report, Israel has notification obligations to the Israeli tax resident when receiving an EOI request. In the last review, it was concluded that the content of the notification appeared to be in line with the standard and no change has taken place in this regard.

### **C.3.2. Confidentiality of other information**

302. The confidentiality rules and procedures described in the previous section also cover other information, such as the information provided in the request itself, all information transmitted in the response to a request and any background information and documents thereof.

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

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

### C.4.1. Exceptions to the requirement to provide information

303. The 2016 Supplementary Report concluded that Israel's legal framework concerning rights and safeguards of taxpayers and third parties are in line with the standard. There has been no change in this matter since then.

304. All but one of Israeli EOI instruments contemplate the exemption of Article 26(3) of the OECD Model Tax Convention. With regards to the international legal basis, the 2016 Supplementary Report found issues were in the DTCs with the United Kingdom and Sweden (para. 191). Both relationships are now covered by the Multilateral Convention in force since December 2016, which means that those relationships are now in line with the standard. Additionally, the 2019 Protocol to the DTC with the United Kingdom also resolved the issue as it included the exceptions contemplated in Article 26(3). The five DTCs not covered by the Multilateral Convention are also in line with the standard.

305. As set out in Part B of this report, the scope of protection of information covered by this exception in Israel's domestic law appears to be consistent with the international standard.

306. The conclusions are as follows:

#### Legal and Regulatory Framework: in place

No material deficiencies have been identified in the information exchange mechanisms of Israel in respect of the rights and safeguards of taxpayers and third parties.

**Practical Implementation of the Standard: no rating is assigned on this element, as it involves issues on practice that are dealt with in the Phase 2 review.**

## C.5. Requesting and providing information in an effective manner

The jurisdiction should request and provide information under its network of agreements in an effective manner.

307. The 2016 Supplementary Report issued a "Partially Compliant" rating to Israel on this element of the standard, highlighting several issues



that in practice affected Israel's capacity to provide information without unnecessary delays.

308. Israel has a functional EOI Unit, with staff devoted particularly to process incoming and outgoing requests. This process is set out in The EOI Procedure of the International Tax Division. The procedure includes general guidelines for handling requests, a diagram of the steps in the process of handling inbound requests and instructions on how to file the related information, among other. Further, Israel has indicated that:

- it has amended its procedures to ensure swift access to banking information and established a good practice of providing regular updates to the requesting jurisdiction when a complete answer has not been provided within 90 days from the date the request is received.
- Israel also amended its practices to ensure better communication with its EOI peers.

309. However, peer input received mention instances where Israel did not provide timely updates and some cases with substantial delays in the provision of information, especially concerning banking information. As requesting and providing information in an effective manner is a matter of practice, conclusions and determinations will be drawn in the course of the Phase 2 review of Israel.

### Legal and Regulatory Framework

This element involves issues of practice. Accordingly, no determination has been made.

**Practical Implementation of the Standard: no rating is assigned on this element, as it involves issues on practice that are dealt with in the Phase 2 review.**

The Phase 2 recommendations issued in the 2016 Report are reproduced below for the reader's information.

Deficiencies identified/Underlying factor	Recommendations
<p>Israel provided the requested information within 90 days in 12%, and within one year in 48% of requests received over the period under review. It is also noted that response times increased since the Phase 2 review where 32% of requests were responded within 90 days and 54% within one year.</p>	<p>Israel should ensure that internal deadlines for obtaining and providing the requested information are respected to enable it to respond to EOI requests in a timely manner.</p>

Deficiencies identified/Underlying factor	Recommendations
The new EOI database allowing automatic monitoring of deadlines and generating of status updates became fully operational in September 2015 and therefore its impact on handling EOI requests remains to be sufficiently tested.	Israel should monitor provision of status updates so that the requesting authority is updated on the status of the request in cases where Israel is not in position to provide the requested information within 90 days.
Israel has recently made several changes to improve its resources and streamline its processes which remain to be tested in practice. However, certain improvements still need to be done especially in respect of communication between Israel and EOI partners so that the relevant information is provided in time and in the requested quality in all cases.	Israeli should monitor recently made changes and take further measures as necessary to facilitate effective exchange of information.

### ***C.5.1. Timeliness of responses to requests for information***

310. For EOI to be effective, it needs to be provided within a period that allows the requesting authorities to use the information for the relevant investigations. If the response is provided within a significant period, after too long, the information may no longer be useful for the requesting authorities. This is particularly important in the context of international co-operation.

311. The 2016 Supplementary Report noted that Israel was facing difficulties in providing a timely response to many of its peers, particularly concerning accounting or banking information, because the information holders usually took a long time to respond to the Competent Authority. Frequent requests for clarification also affected the time needed to answer the requests. Additionally, it was concluded that Israel did not systematically provide updates on the status of requests where information was not provided within 90 days.

312. Israel indicates that since the last review in 2016, it has implemented new procedures, including mechanisms that allow for internal monitoring of deadlines, to ensure that officers in charge of EOI requests remember to follow up on requests made to third parties if needed and to provide updates to the requesting jurisdiction, when applicable. Further, as described in section B.1 Israel notes the Competent Authority is now allowed to request banks to provide accounting and banking information, which should improve the timeliness of responses for those types of information. Finally, Israel indicates the Competent Authority has implemented as regular practice to hold teleconference with its main EOI partners and keep constant e-mail communication, thereby providing regular status updates.

313. During the period from 1 January 2018 to 31 December 2020, Israel received 372 EOI requests, mainly from France, the United States, Germany, Latvia, and Belgium, and sent 252 EOI requests to its partners.

314. Several peers however noted significant delays in providing EOI responses from Israel, especially concerning accounting and banking information. The aforementioned will be considered during the Phase 2 review, which will include a complete analysis of the practical implementation of Israel's EOI measures to timely respond to requests with the respective conclusions and ratings.

### ***C.5.2. Organisation processes and resources***

#### *Organisation of the Competent Authority*

315. The Competent Authority in Israel is the International Tax Unit of the ITA. The competent authority's offices are located and operate, as part of the Professional Division (CPA) of the ITA. The team in charge of EOI consists of the manager of CPA, the EOI Manager and five EOI advisors. Contact information of the Competent Authority is updated when changes take place, via email sent to partner jurisdictions and the Global Forum's secure site for competent authorities. The competent authority's work consists of regular contact with Israel's EOI partners, and includes regular e-mail correspondences, occasional phone meetings and in-person meetings on major matters.

#### *Resources and training*

316. The Phase 2 report of Israel identified several areas where improvement was recommended and in the 2016 Supplementary Report Israel was able to provide evidence of important amendments addressing the areas for improvement. Mainly, Israel had implemented a new EOI database that became operational in September 2015. Israel increased the number of staff dedicated to EOI, formalised internal guidelines with the EOI process for incoming requests, and established new tools and practices for a more efficient communication with its EOI partners, including to undertake regular meetings and video conference with its main EOI partners (Refer to para. 199-201 of the 2016 Supplementary Report). These important changes made by Israel took place later in the review period for the 2016 Supplementary Review, thus they were still to be tested in practice.

317. Further, Israel has stated that it has no particular limitation in the resources devoted to the EOI work and is currently working to habilitate the use of upload-links to receive EOI requests, while still managing exchanges of information via encrypted e-mails, USB drives sent via courier and regular post.

### *Incoming requests*

318. For incoming requests, the process involves that each request is split and classified into separate requests considering the type of information requested and the source of information. The ITA counts further requested information on the same taxpayers as the same request when the background story is the same. If the request is linked to the same taxpayer, but refers to a different case or background, it will be registered as a new request.

319. The EOI Manager evaluates each request and verifies the fulfilment of the respective EOI treaty provisions, before assigning the request to an EOI employee. Upon receiving the request, the EOI staff sends an email with confirmation of receipt to the requesting jurisdiction and provides a parallel reference number. If a request is received with two elements and there are gaps in the information needed to process it, or the foreseeable relevance aspect is unclear for one of the elements, the EOI staff asks for clarification with the requesting jurisdiction without delaying the processing of the remaining requested information. The EOI Procedure also includes precise instructions for the EOI staff for cases when the requesting jurisdictions expressly requests to refrain from notification to the taxpayer.

320. Israel indicates that following recent amendments to the procedures, electronic status updates are sent regularly to partners with outstanding EOI requests. A new IT system is currently being developed whereby an update will be prompted within 90 days automatically.

321. To collect the information internally, the EOI staff collects the information directly from the ITA database or, if necessary, submits a request to the relevant Tax Officer within ITA, to collect the information from the relevant government agency.

322. When a peer requests banking information, certain information is required directly via a letter that the EOI Manager sends to the bank, when it concerns EOI requests based on a civil tax matter. In these cases, CDD information held by the bank, including beneficial ownership information is not obtainable by the ITA, as explained in previous sections of the report. For requests on criminal tax matters, the EOI office must send the copy of the request, together with a summary to the Court, to obtain an order that allows them to access the information. The EOI Procedure does not include any instruction or steps concerning the process applicable when the information required is in the possession of another government agency, a lawyer or accountant, or any other third party.

323. Once information is received, the assigned staff checks whether all questions have been answered completely and that answers do not include any excessive information, before sending the information to the requesting jurisdiction.

### *Outgoing requests*

324. The ITA counts outgoing requests that have more than one taxpayer as one request, regardless of the number of linked taxpayers in the single request. To initiate an outgoing request, the assessment offices in the ITA are to fill out a template to be sent to the Competent Authority to ensure all requirements are fulfilled according to the standard. Israel has indicated that the template and all procedures applicable are based on the EOI Procedure that is to be studied by all staff of the Competent Authority.

325. All communications are done electronically, with the occasional phone-calls for clarifications, if needed. After confirming that all requirements are met, the Competent Authority of Israel forwards the request to the requested jurisdiction.

326. During the review period, Israel sent 252 requests to its peers. Peers in initial peer input have not raised any concerns as to the quality and completeness of Israel's requests. An analysis of Israel's practice in sending EOI request will be done in the Phase 2 Review.

### ***C.5.3. Unreasonable, disproportionate or unduly restrictive conditions for EOI***

327. There are no factors identified in Israel's EOI agreements or domestic laws that could unreasonably, disproportionately, or unduly restrict the effectiveness of exchange of information.

328. The Phase 2 review will include an analysis of the organisation procedures, resources, processes for incoming and outgoing requests in practice.



## Annex 1: List of in-text recommendations

The Global Forum may identify issues that have not had and are unlikely in the current circumstances to have more than a negligible impact on EOIR in practice. Nevertheless, the circumstances may change, and the relevance of the issue may increase. In these cases, a recommendation may be made; however, it should not be placed in the same box as more substantive recommendations. Rather, these recommendations can be stated in the text of the report. A list of such recommendations is reproduced below for convenience.

- **Element A.1.3:** Israel should continue taking steps to improve the availability of ownership information with the Registrar, including striking off non-complaint partnerships (paragraph 133).
- **Element A.3:** AML legislation allows banks to apply simplified CDD regarding “another type of account specified by the Supervisor of Banks in a directive”. Although this provision seems to be applied in line with the standard, Israel should continue to ensure that the limited exceptions to identifying the beneficial ownership information under the simplified CDD is applied in line with the standard (see paragraph 195).
- **Element C.2:** Israel should continue to conclude EOI agreements with any new relevant partner who would so require (paragraph 280).

Moreover, the Global Forum may identify some aspects of the legal and regulatory framework to follow-up in the Phase 2 review, some of which remain from the 2016 Supplementary review. A non-exhaustive list of such aspects is reproduced below for convenience:

- **A.1.1:**
  - Ownership information on non-compliant entities that are incorporated in the Register, but not registered before the ITA (i.e. inactive”) may not be available in Israel. The interaction between status of a legal entity in the Register and its registration before the ITA, and the practical impact of inactive entities

and companies in violation of the law in the availability of ownership information will be analysed in the Phase 2 review (paragraph 74).

- **Element A.1.1:** Israel should continue taking steps to improve the availability of ownership information with the Registrar, including striking off non-complaint legal entities (paragraph 79).
- AML legislation allows banks to apply simplified CDD regarding “another type of account specified by the Supervisor of Banks in a directive”. Although this provision seems to be applied in line with the standard, Israel should continue to ensure that the limited exceptions to identifying the beneficial ownership information under the simplified CDD is applied in line with the standard (see paragraph 90).
- To determine beneficial owners in legal entities, the AML legislation does not include expressly the reference to “the natural persons exercising control through other means”. Instead, it covers “[the person] who has the ability to direct the disposition, whether directly or indirectly”. The implementation in practice of the definition of beneficial owner in Israel in line with the standard will be assessed in the Phase 2 review (paragraph 93).
- The PMLO requires banks to obtain, authenticate and verify the identity information of beneficial owners. However, the legislation does not expressly require banks to verify whether the beneficial owner(s) has been correctly identified. The implementation of the verification obligation in practice and its impact in the availability of accurate and up-to-date beneficial ownership will be reviewed under the Phase 2 report (paragraph 94)
- Legislation in Israel is unclear as to the record keeping obligations for information held by accountants that cease to exist. The impact of the application of the record keeping obligations both for lawyers and accountants in the availability of beneficial ownership information will be assessed in the Phase review (paragraph 102).
- In Israel, legal entities are not legally obliged to engage with an AML-obliged person on an ongoing basis all through their existence. The practical impact of the lack of legal requirement to engage with an AML-obliged person on an ongoing basis on the availability of beneficial ownership information for legal entities will be analysed in Phase 2 (paragraph 106).



- In Israel there is no legal requirement for non-professional nominee shareholders in private companies to identify the persons on whose behalf they act. The materiality of this gap in practice will be assessed during the Phase 2 review (paragraph 111).
- **Element A.1.2:** Israel is recommended to take measures to restrict the possibility of holders of bearer shares to remain anonymous for a potentially unlimited period of time (paragraphs 49 and 118).
- **Element A.1.4:** Israel is recommended should monitor the implementation of the new AML requirements (i.e. AML obligations for lawyers and accountants) (paragraph 149).
- **Element A.2:** Legal entities incorporated in the Registrar that are not compliant with their tax registration and filing obligations with the ITA are considered as “inactive companies” by the ITA. The availability of accounting records for these non-compliant companies in practice will be analysed in Phase 2 (paragraph 170).
- **Element B.1:** Israel should monitor the implementation of the amendment to the ITO from January 2016 that extended the domestic information gathering powers of the ITA to be used for the sole purpose of EOI under any type of international agreement (paragraph 201).
- **Element B.2.1:**
  - Israel should ensure that the notification requirements of Section 214A of the ITO does not unduly delay or prevent the exchange of information in practice (paragraphs 242 and 245).
- **Element C.1.1:** Israel should continue monitoring consistent approach to requests for clarification and to take measures to ensure that reasons for clarification are in all cases properly communicated to the requesting jurisdiction (paragraph 258)
- **Element C.1.3:** Israel should monitor the efficiency of the recently taken measures and if necessary, take further measures to ensure timely access to banking information as required under the standard (paragraph 267).
- **Element C.1.4:**
  - Israel should continue to monitor the implementation of the amendment introduced concerning access powers for exchange of information regardless of domestic tax interest (paragraph 268).

- One peer indicated that Israel did not provide banking information at the beginning of the review period. The latter appears to be related to the impossibility of Israel's competent authority to access banking information, and other types of information gathered under AML legislation, in cases where the request is based on a civil tax investigation. The assessment of the practical implementation of the standard for exchanging all types of information will take place during the Phase 2 review (paragraph 269)
- **Element C.1.7:** Israel should monitor the quality of its responses to ensure that all requested information is properly documented and provided in the form requested as far as possible under Israel's administrative practices (paragraph 275)
- **Element C.3.1:** Israel should monitor the scope of information provided to banks in a request, so that only the necessary information is disclosed (paragraph 300).

## Annex 2: List of Israel’s EOI mechanisms

### Bilateral international agreements for the exchange of information

	<b>EOI PARTNER</b>	<b>Type of agreement</b>	<b>Signature</b>	<b>Entry into force (effective date)</b>
1	Albania	DTC	02-05-2020	01-01-2021
2	Armenia	DTC	24-07-2017	01-01-2019
3	Australia	DTC	27-3-2019	01-01-2020
4	Austria	DTC	29-01-1970	26-01-1971
		New DTC	27-11-2016	01-03-2018
5	Azerbaijan	DTC	12-12-2016	01-01-2018
6	Belarus	DTC	11-04-2000	01-01-2004
7	Belgium	DTC	13-07-1972	01-04-1975
8	Brazil	DTC	12-12-2002	21-09-2005
9	Bulgaria	DTC	18-01-2000	01-01-2003
10	Canada	DTC	21-07-1975	27-07-1976
		New DTC	20-9-2016	01-01-2017
11	China (People’s Republic of)	DTC	08-04-1995	01-01-1996
12	Croatia	DTC	26-09-2006	01-01-2008
13	Czech Republic	DTC	12-12-1993	23-12-1994
14	Denmark	DTC	09-09-2009	29-12-2011
15	Estonia	DTC	29-06-2009	28-12-2009
16	Ethiopia	DTC	02-06-2004	01-01-2008
17	Finland	DTC	08-01-1997	01-01-1999
18	France	DTC	31-07-1995	18-07-1996
19	Georgia	DTC	12-05-2010	01-01-2012

	<b>EOI PARTNER</b>	<b>Type of agreement</b>	<b>Signature</b>	<b>Entry into force (effective date)</b>
20	Germany	DTC	09-07-1962	21-08-1966
		New DTC	21-08-2014	01-01-2017
21	Greece	DTC	24-10-1995	06-03-1998
22	Hungary	DTC	14-05-1991	13-11-1992
23	India	DTC	29-01-1996	15-05-1996
24	Ireland	DTC	20-11-1995	24-12-1995
25	Italy	DTC	08-09-1995	01-01-1999
26	Jamaica	DTC	29-06-1984	03-09-1985
27	Japan	DTC	08-03-1993	24-12-1993
28	Korea	DTC	18-03-1997	01-01-1998
29	Latvia	DTC	20-02-2006	01-01-2007
30	Lithuania	DTC	11-05-2006	01-01-2007
31	Luxembourg	DTC	13-07-2004	22-05-2006
32	Malta	DTC	28-07-2011	01-01-2014
33	Mexico	DTC	19-07-1999	01-01-2000
34	Moldova	DTC	19-07-1999	01-01-2000
35	Netherlands	DTC	02-07-1973	09-09-1974
36	North Macedonia	DTC	23-08-2012	01-01-2019
37	Norway	DTC	02-11-1966	11-01-1968
38	Panama	DTC	08-11-2012	01-01-2015
39	Philippines	DTC	09-06-1992	27-05-1997
40	Poland	DTC	22-05-1991	01-01-1992
41	Portugal	DTC	26-09-2006	18-02-2008
42	Romania	DTC	15-06-1997	01-01-1999
43	Russia	DTC	25-04-1994	01-01-2001
44	Serbia	DTC	21-11-2018	01-01-2020
45	Singapore	DTC	19-05-2005	06-12-2005
46	Slovak Republic	DTC	08-09-1999	23-05-2000
47	Slovenia	DTC	30-01-2007	01-01-2008
48	South Africa	DTC	10-02-1978	27-05-1980
49	Spain	DTC	30-11-1999	20-11-2000
50	Sweden	DTC	22-12-1959	22-12-1959
51	Switzerland	DTC	02-07-2003	22-12-2003

	<b>EOI PARTNER</b>	<b>Type of agreement</b>	<b>Signature</b>	<b>Entry into force (effective date)</b>
52	Chinese Taipei	DTC	24-12-2009	01-01-2010
53	Thailand	DTC	22-01-1996	01-01-1997
54	Türkiye	DTC	14-03-1996	01-01-1999
55	Ukraine	DTC	26-12-2003	01-01-2007
56	United Arab Emirates	DTC	30-05-2021	01-01-2022
57	United Kingdom	DTC	26-09-1962	13-02-1963
		Protocol II – DTC	16-9-2019	01-01-2020
58	United States	DTC	26-01-1993	01-01-1995
59	Uzbekistan	DTC	15-09-1998	01-01-2000
60	Viet Nam	DTC	04-08-2009	01-01-2010

## Convention on Mutual Administrative Assistance in Tax Matters (as amended)

The Convention on Mutual Administrative Assistance in Tax Matters was developed jointly by the OECD and the Council of Europe in 1988 and amended in 2010 (the Multilateral Convention).<sup>16</sup> The Multilateral Convention is the most comprehensive multilateral instrument available for all forms of tax cooperation to tackle tax evasion and avoidance, a top priority for all jurisdictions.

The original 1988 Convention was amended to respond to the call of the G20 at its April 2009 London Summit to align it to the standard on exchange of information on request and to open it to all countries, in particular to ensure that developing countries could benefit from the new more transparent environment. The Multilateral Convention was opened for signature on 1 June 2011.

The Multilateral Convention was signed by Israel on 24 November 2015 and entered into force on 1 December 2016 in Israel. Israel can exchange information with all other Parties to the Multilateral Convention.

The Multilateral Convention is in force in respect of the following jurisdictions: Albania, Andorra, Anguilla (extension by the United Kingdom), Antigua and Barbuda, Argentina, Armenia, Aruba (extension by the Netherlands),

16. The amendments to the 1988 Convention were embodied into two separate instruments achieving the same purpose: the amended Convention (the Multilateral Convention) which integrates the amendments into a consolidated text, and the Protocol amending the 1988 Convention which sets out the amendments separately.

Australia, Austria, Azerbaijan, Bahamas, Bahrain, Barbados, Belgium, Belize, Bermuda (extension by the United Kingdom), Bosnia and Herzegovina, Brazil, British Virgin Islands (extension by the United Kingdom), Brunei Darussalam, Bulgaria, Cabo Verde, Cameroon, Canada, Cayman Islands (extension by the United Kingdom), Chile, China (People's Republic of), Colombia, Cook Islands, Costa Rica, Croatia, Curaçao (extension by the Netherlands), Cyprus,<sup>17</sup> Czech Republic, Denmark, Dominica, Dominican Republic, Ecuador, El Salvador, Estonia, Eswatini, Faroe Islands (extension by Denmark), Finland, France, Georgia, Germany, Ghana, Gibraltar (extension by the United Kingdom), Greece, Greenland (extension by Denmark), Grenada, Guatemala, Guernsey (extension by the United Kingdom), Hong Kong (China) (extension by China), Hungary, Iceland, India, Indonesia, Ireland, Isle of Man (extension by the United Kingdom), Israel, Italy, Jamaica, Japan, Jersey (extension by the United Kingdom), Kazakhstan, Kenya, Korea, Kuwait, Latvia, Lebanon, Liechtenstein, Lithuania, Luxembourg, Macau (China) (extension by China), North Macedonia, Malaysia, Malta, Marshall Islands, Mauritania, Mauritius, Mexico, Moldova, Monaco, Mongolia, Montenegro, Montserrat (extension by the United Kingdom), Morocco, Namibia, Nauru, Netherlands, New Zealand, Nigeria, Niue, Norway, Oman, Pakistan, Panama, Peru, Poland, Portugal, Qatar, Romania, Russia, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, San Marino, Saudi Arabia, Senegal, Serbia, Seychelles, Singapore, Sint Maarten (extension by the Netherlands), Slovak Republic, Slovenia, South Africa, Spain, Sweden, Switzerland, Tunisia, Türkiye, Turks and Caicos Islands (extension by the United Kingdom), Uganda, Ukraine, United Arab Emirates, United Kingdom, Uruguay and Vanuatu.

In addition, the Multilateral Convention was signed by the following jurisdictions, where it is not yet in force: Benin, Burkina Faso, Gabon, Honduras, Madagascar, Papua New Guinea, Philippines, Rwanda, Togo, United States (the original 1988 Convention is in force since 1 April 1995, the amending Protocol was signed on 27 April 2010).

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17. Note by the Republic of Türkiye: 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. Türkiye recognises the Turkish Republic of Northern Cyprus (TRNC). Until a lasting and equitable solution is found within the context of the United Nations, Türkiye 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 Türkiye. The information in this document relates to the area under the effective control of the Government of the Republic of Cyprus.

## Annex 3: Methodology for the review

The reviews are based on the 2016 Terms of Reference and conducted in accordance with the amended 2016 Methodology for peer reviews and non-member reviews and the Schedule of Reviews.

Israel's review in this round was initially launched in the fourth quarter of 2019, and the review period for peer inputs and statistics provided by Israel was 1 July 2016 until 30 June 2019. Due to the COVID-19 constraints, this review was relaunched in the second quarter of 2021 and new review period used for this report was set for 1 January 2018 until 31 December 2020. Because of the COVID-19 pandemic and multiple postponements for onsite visit, it was decided to carry out a Phase 1 review.

The evaluation is based on information available to the assessment team including the exchange of information arrangements signed, laws and regulations in force or effective as at 1 August 2022, Israel's responses to the EOIR questionnaire, inputs from partner jurisdictions, as well as information provided by Israel's authorities.

### List of laws, regulations and other materials received

#### *Corporate legislation*

- Companies Law, 5759-1999, as amended
- Companies Ordinance, 5743-1983, as amended
- Companies Regulation Amendment (Reporting, Registration Details and Forms), 5781-2021
- Partnership Ordinance, 5735-1975, as amended
- Trusts Law, 5739-1979, as amended

**AML legislation**

- Prohibition of Money Laundering Law, 5760-2000, as amended
- Prohibition of Money Laundering Order, 5761-2001 (Obligations of Banking Corporations regarding Identification, Reporting and Record-Keeping for the Prevention of Money Laundering and the Financing of Terrorism)
- Prohibition of Money Laundering (Obligations of Business Service Providers regarding Identification, Reporting and Record-Keeping for the Prevention of Money Laundering and the Financing of Terrorism) Order 5775-2014
- Proper Conduct of Banking Business Order 411, Management of Anti-Money Laundering and Countering Financing of Terrorism Risks

**Tax legislation**

- Income Tax Ordinance, 5721-1961
- Income Tax Ordinance Amendment, 201-2016
- Directive for Implementation No. 10-2019, Israel Tax Authority
- Directive for Implementation No. 14-2021, Israel Tax Authority
- Exchange of Information Procedure, International Tax Division, Israel Tax Authority
- Template requests for banking information, Israel Tax Authority

**Current and previous reviews**

- This report analysis Israel's legal and regulatory framework in relation to the international standard of transparency and exchange of information on request against the 2016 Terms of Reference, as part of the second round of reviews conducted by the Global Forum. The assessment of the practical implementation of the legal framework of Israel will take place separately at a later time (Phase 2 review).
- Previously in Round 1, Israel underwent three reviews. In 2013, the legal and regulatory framework of Israel was assessed. In 2014, a combined review analysed both the legal and regulatory framework and its practical implementation and in 2016, a similar assessment took place. These three reviews were conducted according to the 2010 Terms of Reference and Methodology approved by the Global Forum in February 2010.



### Summary of reviews

<b>Review</b>	<b>Assessment team</b>	<b>Period under review</b>	<b>Legal framework as of</b>	<b>Date of adoption by Global Forum</b>
Round 1 Phase 1	Ms Marlene Parker, Director of Legislation and Treaty Services, Ministry of Finance of Jamaica and Ms Sarita de Geus, Senior Tax Policy Advisor, Ministry of Finance of the Netherlands and Mr Sanjeev Sharma, Mr David Moussali and Mr Radovan Zidek for the Global Forum Secretariat	not applicable	April 2013	July 2013
Round 1 Phase 2	Ms Lorraine Welch, Deputy Chief Parliamentary Counsel, Attorney General's Chambers, Bermuda and Ms Melisande Kaaij, Senior Policy Advisor, Ministry of Finance, the Netherlands and Mr Radovan Zidek for the Global Forum Secretariat:	1 July 2011- 30 June 2013	8 August 2014	October 2014
Round 1 Supplementary to Phase 2	Ms Lorraine Welch, Deputy Chief Parliamentary Counsel, Attorney-General's Chambers, Bermuda; Ms. Sarita de Geus, Senior Tax Policy Advisor, Ministry of Finance of the Netherlands and Mr Radovan Zidek for the Global Forum Secretariat	1 July 2013- 1 June 2015	19 August 2016	October 2016
Round 2 Phase 1	Mr David Smith, United Kingdom; Mr Davit Chitaishvili, Georgia; Ms Darma Romero and Ms Séverine Baranger for the Global Forum Secretariat	not applicable	1 August 2022	7 November 2022

## Annex 4: Israel's response to the review report<sup>18</sup>

Israel would like to express its appreciation for the outstanding work done by the assessment team in evaluating Israel for this Phase 1 review and thank the members of the Peer Review Group for their valuable contributions to the Phase 1 review.

Israel agrees with the recommendations and the determinations included in the Phase 1 report, which reflect fairly Israel's current legal framework.

Israel remains fully committed to the global standard for exchange of information for tax purposes and has already a long history of efficient day-by-day cooperation with partner jurisdictions during the review. Israel will take due note of the recommendations that mostly relate to newer parts of the standard, such as beneficial ownership.

Israel looks forward to the Phase 2 review in the coming months, which will assess the effectiveness of Israel's implementation of the standard on Exchange of Information on Request (EOIR) in practice.

In the meantime, the recommendations of this Phase 1 report will be examined carefully to ensure that Israel's legal framework is brought fully in line with the standard.

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18. This Annex presents the Jurisdiction's response to the review report and shall not be deemed to represent the Global Forum's views.

GLOBAL FORUM ON TRANSPARENCY AND EXCHANGE  
OF INFORMATION FOR TAX PURPOSES

**Peer Review Report on the Exchange of Information  
on Request ISRAEL 2022 (Second Round, Phase 1)**

The Global Forum on Transparency and Exchange of Information for Tax Purposes is a multilateral framework for tax transparency and information sharing, within which over 160 jurisdictions participate on an equal footing.

The Global Forum monitors and peer reviews the implementation of international standard of exchange of information on request (EOIR) and automatic exchange of information. The EOIR provides for international exchange on request of foreseeably relevant information for the administration or enforcement of the domestic tax laws of a requesting party. All Global Forum members have agreed to have their implementation of the EOIR standard be assessed by peer review. In addition, non-members that are relevant to the Global Forum's work are also subject to review. The legal and regulatory framework of each jurisdiction is assessed as is the implementation of the EOIR framework in practice. The final result is a rating for each of the essential elements and an overall rating.

The first round of reviews was conducted from 2010 to 2016. The Global Forum has agreed that all members and relevant non-members should be subject to a second round of review starting in 2016, to ensure continued compliance with and implementation of the EOIR standard. Whereas the first round of reviews was generally conducted as separate reviews for Phase 1 (review of the legal framework) and Phase 2 (review of EOIR in practice), the EOIR reviews commencing in 2016 combine both Phase 1 and Phase 2 aspects into one review. Final review reports are published and reviewed jurisdictions are expected to follow up on any recommendations made. The ultimate goal is to help jurisdictions to effectively implement the international standards of transparency and exchange of information for tax purposes.

This publication contains the 2022 Second Round Peer Review on the Exchange of Information on Request for Israel. It refers to Phase 1 only (Legal and Regulatory Framework).



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