

GLOBAL FORUM ON TRANSPARENCY AND EXCHANGE
OF INFORMATION FOR TAX PURPOSES

Peer Review Report
Phase 1
Legal and Regulatory Framework

QATAR



September 2010
(reflecting the legal and regulatory
framework as at May 2010)

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About the Global Forum

The Global Forum on Transparency and Exchange of Information for Tax Purposes is the multilateral framework within which work in the area of tax transparency and exchange of information is carried out by over 90 jurisdictions which participate in the work of the Global Forum on an equal footing.

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

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

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

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

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

Executive Summary

1. This report summarises the legal and regulatory framework for transparency and exchange of information in Qatar.
2. Qatar is one of the wealthiest nations in the world, with the 2nd highest GDP per capita of more than USD 70 000 on the strength of oil and natural gas exports. In 2005, Qatar established the Qatar Financial Centre to attract international financial services and multinational corporations to grow and develop the market for financial services in the region. Over the next 5 years, the QFC estimates that it will provide access to over USD 140 billion of investment in Qatar as well as to over USD 1 trillion planned investment across the Gulf Cooperation Council states (Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, and the United Arab Emirates).
3. Invited to join the Global Forum as a “relevant jurisdiction” in 2008, Qatar joined the new Global Forum in December 2009 and committed to implementing international standards of transparency and exchange of information.
4. Qatar’s legal and regulatory framework for the availability of information is in place, but certain aspects of the legal implementation of the element need improvement. Qatar has a wide network of double taxation conventions with 33 jurisdictions, including many OECD and G20 countries as well as important regional partners. These DTCs generally include the old wording of article 26 of the *OECD Model Tax Convention*. Qatar’s DTCs with France, UK and Singapore contain the current version of article 26. These agreements apply equally to Qatar generally as well as to the QFC.
5. The only concerns identified by the assessment team related to access to information. Where information is required from a QFC entity, Qatar’s tax authorities can obtain such information through the QFC tax authorities, which have their own broad powers to access information that are unhindered by any bank secrecy or domestic tax interest requirements. Therefore, Qatar can provide effective exchange of information regarding QFC entities through its treaty network. The situation is less clear with regard to information held outside the QFC. This is because the power of Qatar’s tax authorities to access information refers to circumstances related to the “assessment of tax”. Qatar’s officials are of the view that these access powers are not limited to the assessment of Qatari tax under the income tax laws and that there

are no circumstances in which information could not be obtained where such information related to the assessment of tax of a non-resident under a foreign tax law. On its surface, however, these powers suggest that information cannot be obtained where Qatar's tax authorities do not require the information for their own assessment purposes. This is particularly relevant in respect of information related to wages, salaries and inheritances, as these items of income are outside the scope of Qatar's income tax law.

6. A second issue regards access to bank information (outside the QFC). Qatar's bank law prohibits disclosure of any customer account information without a court order unless required by law. As a treaty has the force of law in Qatar, then the requirement to exchange bank information under the treaty should satisfy the bank law requirement (since disclosure is required by law). However, the access powers contained in the *Income Tax Law* make reference to obtaining a court decision where bank information is concerned. Qatar's officials take a strong view that a court decision is in no circumstances required, however, the assessment team remained concerned about the apparent ambiguity in the statutory language. In the event that a court order is required in order to obtain bank information, this would not necessarily lead to the conclusion that effective exchange of information could not be achieved under Qatar's existing legal and regulatory framework, although Qatar has not provided any information identifying the procedure for obtaining such an order, or the conditions on which it would be granted or denied.

7. These issues appear to arise because the relevant rules were not necessarily designed to be applied in an exchange of information context. While Qatar's commitment to the standards is not in doubt, it is simply unclear how an individual case would be affected and effective exchange of information may be hindered. These doubts concerning the existence of a domestic tax interest requirement and the exact nature of the powers to obtain bank information warrant close attention by the Global Forum in the context of Qatar's Phase 2 review of its information exchange practices, and Qatar should quickly address the recommendations to clarify these ambiguities.

Introduction

Information and methodology used for the peer review of Qatar

8. The assessment of the legal and regulatory framework of Qatar was carried out in accordance with the international standards for transparency and exchange of information as described in the Global Forum's *Terms of Reference*, and was prepared using the Global Forum's *Methodology for Peer reviews and Non-Member Reviews*. The assessment was based on the laws, regulations, and exchange-of-information mechanisms as at May 2010, other materials supplied by Qatar, and information supplied by partner jurisdictions.

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

10. The assessment was conducted by an assessment team consisting of one representative of the Global Forum Secretariat and two expert assessors: Rowena Bethel, Legal Advisor, The Bahamas Ministry of Finance; Fabio Seragusa, Guardia di Finanza, Public Finance Office, International Co-operation; and Andrew Auerbach from the Global Forum Secretariat. The assessment team assessed the legal and regulatory framework for transparency and exchange of information and relevant exchange-of-information mechanisms in Qatar.

Overview of Qatar

11. Qatar has been ruled by the al-Thani family since the mid-1800s and has transformed itself from a poor British protectorate noted mainly for pearling into an independent state with significant oil and natural gas revenues. Despite the global financial crisis, Qatar has maintained its economic growth of the last several years. The drop in oil prices in late 2008 and the global financial crisis reduced Qatar's budget surplus and slowed the pace of investment and development projects in 2009, but GDP

growth still registered more than 9% for the year. Economic policy is focused on developing Qatar's natural gas reserves and increasing private and foreign investment in non-energy sectors, but oil and gas still account for more than 50% of GDP, roughly 85% of export earnings, and 70% of government revenues. Oil and gas have made Qatar the second highest per-capita income country - following Liechtenstein - and the world's second fastest growing - following Macau, China. Proved oil reserves of 15 billion barrels should enable continued output at current levels for 37 years. Qatar's proved reserves of natural gas exceed 25 trillion cubic meters, about 14% of the world total and third largest in the world.

12. Qatar became a member of the Global Forum on Transparency and Exchange of Information for Tax Purposes in December 2009.

Legal System

13. Qatar has a civil law based legal system. The hierarchy of laws is as follows:

- Constitution,
- laws (and decree-laws),
- decrees, and
- Ministerial resolutions.

14. Under the Constitution international agreements have the same status as laws (*Qatar Constitution*, art. 68). Moreover, Qatar's constitution explicitly provides that Qatar "shall respect international pacts and execute all international agreements, pacts and treaties to which it is a party" (*Qatar Constitution*, art. 6). Consequently, although the Constitution gives treaties the status of laws, the Constitutional requirement that they be respected and executed means that in the case of a conflict between a treaty and the domestic law, the treaty will prevail. Qatar is not a federation and so there is no relevant sub-national legislation. However, the Qatar Financial Centre applies its own legal regime (see below under "*The Qatar Financial Centre*"). Qatar's income tax law is generally a territorial system and applies only to income from business activities. Notably, income such as wages, salaries and inheritances are not subject to the income tax law.

15. There is a *Commercial Companies Law*, which governs the formation and operation of corporate entities and partnerships. In addition, there is a *Commercial Law*, which imposes obligations on traders including the maintenance of accounts. Associations and private foundations as well

as private foundations of public interest are also governed by specific statutes.

The Qatar Financial Centre

16. The Qatar Financial Centre (QFC) is a financial and business centre established by the government of Qatar in 2005 to attract international financial services and multinational corporations to grow and develop the market for financial services in the region. The QFC Authority estimates that it will provide access to over USD 140 billion of investment in Qatar over the next 5 years as well as to over USD 1 trillion planned investment across the GCC.

17. The QFC consists of a commercial arm, the QFC Authority and an independent financial regulator, the QFC Regulatory Authority. It also has an independent judiciary which comprises a civil and commercial court and a regulatory tribunal. The QFC Authority is responsible for the organisation's commercial strategy and for developing relationships with the global financial community and other key institutions both within and outside Qatar. The QFC Regulatory Authority is an independent statutory body and authorises and supervises businesses that conduct financial services activities in, or from, the QFC. It has powers to authorise, supervise and, where necessary, discipline regulated firms and individuals.¹

18. The QFC has its own legal regime, based on common law. QFC Regulations have been enacted under the QFC Law covering a wide variety of subjects, including: financial services, companies, anti-money laundering, contracts, insolvency, data protection, partnerships, arbitration, employment, trusts and taxation.

¹ http://www.qfcra.com/who/about_index.php

Compliance with the Standards

A. Availability of Information

Overview

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

20. Companies formed under Qatar's *Commercial Companies Law (CCL)* must generally be registered and maintain an up-to-date shareholders or members register. This rule ensures that legal ownership information is available. The exceptions to this are the case of the particular partnership company and the equities partnership company. The equities partnership company is not required to maintain a shareholders register, however, it must be registered with the Commercial Register. Under Qatar's *Anti-money Laundering Law (the Qatar AML Law)* there are requirements on many service providers to maintain ownership information (both legal and beneficial) in respect of their clients as well as a system whereby the competent commercial register system maintains this information for entities incorporated or established in Qatar.

21. Particular Partnership Companies are not subject to registration requirements and are not obligated to maintain ownership information. However, the particular partnership company does not have separate corporate personality and may best be described as a type of joint venture. It does not appear that the particular partnership company is able to carry out acts in its own name, for example, maintain a bank account or own

property. As the owners of the particular partnership company would have to transact in their own name, the lack of information on such companies *per se* should not be relevant to the determination of whether Qatar's legal and regulatory framework allow for effective exchange of information.

22. In the QFC all companies must be registered and maintain up-to-date shareholder information.

23. In respect of partnerships, both the joint company and the limited partnership company, which are formed under the *Commercial Companies Law* but possess the characteristics of partnerships, are required to maintain information regarding the identity of the partners with the Commercial Registry. QFC Law allows for the creation of general partnerships, limited partnerships and limited liability partnerships (which are in fact bodies corporate). Limited partnerships and limited liability partnerships must be registered and provide information on the identity of their partners to the registrar. General partnerships are not subject to a registration requirement but must register for tax purposes, although the information provided in the registration form does not include ownership information. Foreign partnerships carrying on activities in the QFC must register and provide the names of each partner, however, there does not appear to be a requirement that this information be kept up-to-date.

24. Trusts are not provided for under Qatari law, however, trust service providers are subject to the *Qatar AML law* and must conduct customer due diligence and in particular identify the settlor and major beneficiaries of a trust. In the QFC trusts are not subject to specific registration or record-keeping obligations under the *QFC Trust Regulations*, however, the *QFC Anti-money Laundering Regulations* require service providers, including trustees, to maintain records regarding the identity of settlors and beneficiaries. It is also necessary for persons providing professional trust services as well as other service providers such as accountants and financial institutions, to identify the settlor and beneficiary of a trust and maintain these records. Therefore, information is maintained regarding the identity of the beneficiaries and settlors of a trust, including with respect to trust protectors, administrators and other persons having control of trust assets of trusts formed in the QFC and those created under foreign law but operating in the QFC. There is no clear indication in the QFC tax rules whether a trust is itself a taxpayer, or whether the trustee must file on its behalf or how the income of the trust is treated for tax purposes.

25. Foundations must maintain records identifying their founders, but there is no systematic requirement under the Foundations law that information on their beneficiaries or members of the foundation council are maintained. Foundations are not subject to tax registration requirements as

they are not subject to tax under the *Income Tax Law*. Under the *Qatar AML Law* there are requirements on many service providers to maintain ownership information (both legal and beneficial) in respect of their clients as well as a system whereby the competent commercial register system maintains this information for entities incorporated or established in Qatar.

26. There are no specific enforcement provisions relating to the maintenance of shareholder information under the *CCL*, however, there is a general penalty that applies in respect of the failure of a person to comply with any obligation under the act other than those for which a penalty is otherwise provided for. The penalty is a prison sentence of not more than 2 years and/or a fine of between QAR 10 000 and QAR 100 000 (approximately EUR 2 000 to 20 000). In addition, Qatar's anti-money laundering law provides for penalties for failure to maintain information as required by that law. The effectiveness of these provisions will be evaluated in the context of Qatar's Phase 2 review.

27. Bank information must be maintained for all account-holders. Accounting information must be maintained to international standards for all entities pursuant to commercial law, tax law and anti-money laundering law requirements.

A.1. Ownership and identity information

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

Companies (ToR² A.1.1)

Qatari Law

28. Qatar's *Commercial Companies Law* (Law No. (5) of 2002) (*CCL*) provides rules for the incorporation of a variety of different companies and partnerships. Under the *CCL* a registrar is mandated to maintain a Commercial Registry. Six specific types of companies are possible (*CCL*, art. 4). These are:

- Joint Company
- Limited Partnership Company

² *Terms of Reference to Monitor and Review Progress Towards Transparency and Exchange of Information*

- Particular Partnership Company
- Shareholding Company
- Equities Partnership Company
- Limited Liability Company

29. The *CCL* also applies to any foreign companies that practice activities in Qatar (*CCL*, art. (17)).

30. The information provided upon incorporation differs among the various companies and partnerships governed by the *CCL*. Joint companies and limited partnership companies have separate legal personality from their owners, but the owners are each jointly and severally liable for the debts of the company. As these entities have both corporate and partnership characteristics it was unclear how they should be characterized, and they have been treated as partnerships and are dealt with below.

31. The particular partnership company is a concealed company whose existence can be substantiated by any means including presumption (*CCL*, art. (52)). A particular partnership company has both corporate and partnership characteristics and it is not clear under what heading it should be considered. It does not have a separate legal personality, but neither are its owners jointly and severally liable for its debts. It might best be described as a type of joint venture. There are no requirements for particular partnership companies to maintain ownership information, nor is there any requirement that a particular partnership company register with the Commercial Registry. However, it does not appear that the particular partnership company is able to carry out acts in its own name, for example, maintain a bank account or own property. As the owners of the particular partnership company would have to transact in their own name, the lack of information on such companies *per se* should not be relevant to the determination of whether Qatar's legal and regulatory framework allow for effective exchange of information.

32. A shareholding company must be established by 5 or more founder shareholders (*CCL*, art. (66)) who must be Qatari nationals (*CCL*, art. (67)). Once the shareholding company is established the public must underwrite further shares, as the founders should only hold a maximum of 45 per cent of the shares in the capital of the company (*CCL*, art. (76)). The founders must inform the Ministry of Economy and Commerce of the shares underwritten and the name of each shareholder (*CCL*, art. (87)). The shareholding company is also required to maintain a shareholders' register holding the names, nationalities and countries of the shareholders as well as

the portion of the shares held (*CCL*, art. (159)). Ownership of shares is transferred upon registration in the shareholders register (*CCL*, art. (160)).

33. A private shareholding company must have a minimum share capital of QAR 2 million and its shares shall not be floated for public underwriting. The rules above regarding the maintenance of a shareholders register apply also to private shareholding companies (*CCL*, art. (204)).

34. An equities partnership divides ownership between at least one partner who is liable for the debts of the company “in all their assets” (the joint partner(s)) and at least four shareholding partners who are responsible for the debts of the company only to the extent of their shares in the capital (*CCL*, art. (206)). The public may underwrite shares in an equities partnership in accordance with the rules that apply to shareholding companies (*CCL*, art. (211)), which includes the requirement for the founders to inform the Ministry of Business and Trade³ of the names of the shareholders that have underwritten the share issue (*CCL*, art. (87)). The company statute shall mention the names, residence and nationalities of the joint partners. However, there is no express provision for the maintenance of a record of the identity of the shareholding partners. The rules regarding company incorporation that apply to shareholding companies also apply to an equities partnership (*CCL*, art. (223)). Accordingly, information on the founding partners must be maintained with the Ministry of Economy and Commerce and with the Registrar. In addition, the *Qatar AML Law* imposes additional requirements on the Registrar to maintain ownership information for all companies incorporated in Qatar (see para. 57).

35. A limited liability company (LLC) must have at least two and no more than 50 members (*CCL*, art. (225)). An LLC may not undertake the business of banking, insurance or investment (*CCL*, art. (227)). The contract of the LLC must contain the name nationality, residence and address of the partners (*CCL*, art. (229)). In addition, the LLC must keep a special ledger containing details of the shareholders’ identity and their shares in the company (*CCL*, art. (234)). Any transfer of shares must be registered in the ledger as well as in the commercial register (*CCL*, art. (235)).

36. The provisions of the *CCL* also apply to foreign companies that practice activities in Qatar, excluding the provisions pursuant to the articles of association (*CCL*, art. 17). It is not clear what the scope of the term “practice activities in” Qatar covers or what precise obligations this rule

³ The name of the Ministry of Economy and Commerce was changed to the Ministry of Business and Trade following May 2010 (the date as of which material in the report is current, as indicated in paragraph 8 of this report) but the new name has been included to avoid confusion.

imposes on non-Qatari companies regarding the maintenance of ownership information. However, under the *Qatar AML Law* there are requirements on many service providers to maintain ownership information (both legal and beneficial) in respect of their clients as well as a system whereby the competent commercial register system maintains this information for entities incorporated or established in Qatar.

Qatar Financial Centre rules

37. The *QFC Companies Regulations 2005* provide for the creation of limited liability companies (LLC). Upon incorporation of an LLC, the full name and address of each of the incorporators and the number of shares subscribed by each of them as well as the name, address, date of birth, nationality and occupation of each of the first directors of the LLC must be provided to the Companies Registration Office (CRO) (*QFC Companies Regulations*, art. 17). The original incorporators are deemed to become members of the LLC and are entered into the LLC's register of members (*QFC Companies Regulations*, art. 19). Other persons wishing to become members of the LLC must have their name entered in the LLC register of members. The LLC register of members also includes information about the number of shares held by each member, the date the person was registered as a member and the date on which a person ceased to be a member (*QFC Companies Regulations*, art.19). In order to transfer shares of an LLC, the transferee must provide a written instrument of transfer duly executed by the transferor (*QFC Companies Regulations*, art. 24).

38. The LLC must at all times have a registered office that is situated in the QFC and must carry on its principal business activity from the registered office unless otherwise permitted by the QFC Authority (*QFC Companies Regulations*, art. 42). Article 44 provides that every LLC must maintain the following internal registers at its registered office:

- a register of Members as provided for in Article 19(6);
- a register of directors and secretary, including Name, Address, nationality, date of birth and business occupation;
- a register of transfers of Shares, including Name and Address of transferor and transferee, date of transfer and number and class of Shares transferred; and
- a register of allotments of Shares, including Name of applicant, date of application and allotment and number and class of Shares.

39. Articles 47 and 48 provide that every LLC must deliver to the Company Registration Office an annual return containing the following information:

- In respect of each class of members, the Name and Address of each Member of the LLC holding more than 1% in nominal value of all the issued shares of that class;
- the Name, Address, nationality, date of birth and Business occupation of each of the directors and the secretary of the LLC;
- the registered office of the LLC;
- the authorised and issued share capital of the LLC;
- the principal Business activities of the LLC in the year in question;
- the Name and Address of the auditor of the LLC; and
- any other information as may be prescribed by the CRO.

40. Protected Cell Companies (PCCs) are specialized entities used to segregate assets for liability purposes. The use of PCCs is restricted to insurance and Collective Investment Funds (*QFC Companies Regulations*, art. 101). In order for a person to register a company as a PCC the person must make an application for the incorporation of the PCC in accordance with the regulations dealing with LLCs. Therefore, the provisions described above in respect of LLCs apply also to PCCs (*QFC Companies Regulations*, art. 93(4)).

41. The *QFC Companies Regulations 2005* also make provision for non-QFC entities. A non-QFC company cannot engage in or carry or purport to carry on any trade or business in or from the QFC unless it is registered as a branch with the CRO (*QFC Companies Regulations*, art. 117). The company establishing the branch must provide the name, address, date of birth, nationality and occupation of each director of the company, but does not require any information regarding the shareholders of the company (*QFC Companies Regulations*, art.118). The CRO, however, may in their absolute discretion require any other documents or information. Under its access powers, the QFC Tax Department will be able to obtain such information either by opening an enquiry into a return (*QFC Tax Regulations, Part 18*) or by using the more general information powers (see below under *Access to Information*).

42. Under the *QFC Limited Liability Partnerships Regulations* a limited liability partnership (an LLP) may be formed (*QFC LLP Regulations*, art. 6). An LLP is a body corporate having a separate legal capacity from its members (*QFC LLP Regulations*, art. 7) and so is considered under the companies heading rather than in the context of partnerships. The application for incorporation of an LLP must include the full name, address, date of birth, nationality and business occupation of all of the persons who are to be members of the LLP on incorporation (*QFC LLP Regulations*, art. 9). An LLP must notify the Companies Registration Office within 28 days of any changes to its membership, including a change of name or address of any member (*QFC LLP Regulations*, art. 16). An LLP must have a registered office situated in the QFC (*QFC LLP Regulations*, art.25).

43. In addition to the information provided in the incorporation document of an LLP, every LLP must deliver to the CRO an annual return. The annual return must contain the name, address, nationality, date of birth, and business occupation of each of the members (*QFC LLP Regulations*, art. 31).

Bearer shares (ToR A.1.2)

44. The *QFC Companies Regulations 2005* expressly prohibit an LLC from issuing bearer shares (*QFC Companies Regulations*, art. 27(4)). Schedule 1 to the regulations provides a US\$5000 fine for the violation of this article. Under the *CCL* ownership of shares can only be completed when the transfer is registered in the shareholders register (*CCL*, art. (160)).

Nominees

45. There are no specific provisions in the *CCL* dealing with nominee shareholding. However, under *Qatar AML Law* there are requirements on many service providers to maintain ownership information (both legal and beneficial) in respect of their clients as well as a system whereby the competent commercial register system maintains this information for entities incorporated or established in Qatar (see below, para. 57). The *QFC AML Rules* do provide that persons subject to the rules establish and verify the identity of both the customer and any other person on whose behalf the customer is acting or appears to be acting, including verification of the beneficial owner of the person and/or of any relevant funds. For these purposes a “beneficial owner” is (see definitions, *QFC Anti-Money Laundering Regulation No. 3 of 2005*):

- the natural person(s) who own(s) or control(s) directly or indirectly 10% or more of the shares of a legal person, not being a company listed on an official stock exchange;

- the natural person(s) who directly or indirectly is beneficiary to 10% or more of the property of a legal person or trust, not being a company listed on an official stock exchange; or
- the natural person(s) on whose behalf a transaction or activity is being conducted.

Partnerships (ToR A.1.3)

46. Under the *Commercial Companies Law* two of the companies that may be created are best described as partnerships. These are the joint company and the limited partnership company. Joint companies must provide the registrar with a contract for the joint company setting out the name, occupation, title, designation, nationality, date of birth and native place of every partner (*CCL*, art. (22)). All the partners in a joint company must be individual citizens of Qatar (*CCL*, art. (21)). The articles of association and any subsequent amendments must be entered in the Commercial Registry and a summary of these should be published in a local newspaper (*CCL*, art. (24)).

47. The limited partnership company consists of joint partners responsible for the management of the company and silent partners who share in the capital of the company and are limited in liability to their contribution to the company (*CCL*, art. (44)). Joint partners must be individual citizens of Qatar (*CCL*, art. 45). The articles of association must specify the name of the joint and silent partners (*CCL*, art. (46)). The rules applicable to joint companies regarding maintaining the currency of their articles of association and providing updates to the Commercial Registry also apply to limited partnership companies (*CCL*, art. 51).

48. In the QFC partnerships are governed by the *QFC Partnership Regulations* (Regulation No. 13 of 2007) and the *QFC Limited Liability Partnership Regulations* (Regulation No. 7 of 2005). The *QFC Partnership Regulations* provide for both general and limited partnerships. The *QFC Limited Liability Partnership Regulations* apply to limited liability partnerships, however, as an LLP is treated as a body corporate having distinct legal personality, these are dealt with above in the discussion of companies.

49. The *QFC Partnership Regulations*, which govern general partnerships and limited partnerships, require that any person dealing with a partnership is entitled on request to the partnership or a partner to be informed of the name and address for service of each partner (*QFC Partnership Regulations*, art. 29). However, this rule does not apply to

limited partnerships that are collective investment funds. Limited partnerships are required to register with the CRO (*QFC Partnership Regulations*, art. 37(5)), which requires filing an incorporation document and a limited partnership agreement. The incorporation document must contain the full name, address, date of birth, nationality and business occupation of all of the persons who are to be general or limited partners of the limited partnership (*QFC Partnership Regulations*, art. 46). A limited partnership must notify the Companies Registration Office within 28 days of any changes to the membership of the limited partnership, including a change of name or address of a general or limited partner (art. 48). Limited partnerships must have a registered office situated in the QFC (art. 50). In addition to the information provided in the incorporation document of a limited partnership, every limited partnership must deliver to the CRO an annual return. The annual return must contain the name, address, nationality, date of birth, and business occupation of each of the partners (*QFC Partnership Regulations*, art. 61).

50. General partnerships are not required to register under the *QFC Partnership Regulations*, but must register for tax purposes. This registration is done in the partnerships' name, but does not include information concerning the identity of the partners. Tax is calculated at the partnership level and chargeable to the partnership. However, if the tax remains unpaid after six months then it may be collected from the partners according to their share of the partnership income. Consequently, the identity of the partners may be relevant to the collection of tax. Furthermore, every partnership tax return must contain a statement of the allocation of taxable profits between the partners (*QFC Tax Law*, s. 98(2)) and so the QFC tax authorities will generally have information on those partners that have a share in the profit of a partnership. In addition, Qatar's authorities report that the QFC Tax Department would expect partnership accounts submitted in support of a QFC tax return to clearly identify all the members of the partnership (including those not in receipt of a profit share), and if they do not the QFC Tax Department would be likely to open an enquiry into the return (*QFC Tax Regulations, Part 18*), and use their enquiry information powers (Article 113), to obtain membership information, including the identity of any members not in receipt of a profit share.

51. Under the *QFC Partnership Regulations* a non-QFC partnership is not entitled to engage in or carry on or purport to carry on any trade or business activity in or from the QFC unless it is registered as a branch with the CRO (*QFC Partnership Regulations*, art. 75). The registration requirements include the obligation to provide a list of the full name, address, date of birth, nationality and business occupation of each partner of the non-QFC partnership (*QFC Partnership Regulations*, art. 76). There is

no provision that requires changes to the identity information regarding the partners of such partnerships to be notified to the CRO or maintained by the partnership, however such partnerships would be subject to the tax rules described above in respect of QFC partnerships generally.

Trusts (ToR A.1.4)

52. The *QFC Trust Regulations* (Regulation No. 12 of 2007) govern the creation of trusts, the duties and powers of a trustee, relations among trustees and the rights and interests of beneficiaries (*QFC Trust Regulations*, art. 6). These regulations are supplemented by the common law of trusts and principles of equity applicable in England and Wales (*QFC Trust Regulations*, art. 8). The *QFC Trust Regulations* do not provide for the registration of QFC trusts or the maintenance by QFC trusts of records relating to the identity of settlers or beneficiaries of trusts. Accordingly, the availability of information regarding trusts formed in the QFC depends on the application of tax registration and filing requirements as well as the application of AML rules.

53. In the case of QFC AML rules, it is necessary for persons within the scope of the rules, which include persons providing professional trust services as well as other service providers such as accountants and financial institutions, to identify the trustees, settlors and beneficiaries of a trust. Specifically, the service provider must identify the natural person(s) who directly or indirectly is beneficiary to 10% or more of the property of a trust.

Foundations (ToR A.1.5)

54. The creation of a Private Institute of Public Benefit is possible pursuant to the *Private Institutions of Public Benefit Law* No. (21) of 2006. All such institutions are registered with the Administration of Real Estate Registration & Authentication. Private foundations are governed by the *Associations and Private Foundations Law* No. (12) of 2004. Private foundations must register with the Ministry of Social Affairs and provide information concerning founders (name, age, address and nationality). The following documents must be submitted in support of the registration application: 3 copies of the contract of establishment of the foundation and its statutes approved and signed by the founders, the agreed minutes of the founders' meeting and a determination of a temporary committee to run the foundation until a board is elected. There does not appear to be a requirement that information on the identity of beneficiaries or members of the foundation council must be maintained systematically.

Anti-money laundering legislation

55. For the most part, identity information on the entities discussed above is maintained pursuant to relevant commercial laws. There are some exceptions in the case of trusts in the QFC and equities partnerships in Qatar generally. In these cases, the application of AML obligations on entities and their service providers appear to fill any gaps in the commercial legislation.

Qatar AML Rules

56. Qatar issued new anti-money laundering laws that came into force in April 2010 (Law No. 4 of 2010) (*Qatar AML Law*) and article 22 provides for the following:

Adequate, accurate and current information on the beneficial owner, ownership and organizational structure of legal persons incorporated or otherwise established in the State shall be maintained by the competent commercial register systems.

57. In addition, financial institutions, non-profit organizations and non financial businesses and professions shall identify their customers whether permanent or occasional, and whether natural or legal persons or legal arrangements, verify their identities using reliable, independent source documents, data or information, when establishing business relationships, during a domestic or international transfer of funds; when doubts exist about the veracity or adequacy of previously obtained customer identification documents, data or information; when there is a suspicion of money laundering or terrorism financing; when carrying out occasional transactions, with a value equal to or above QAR 55 000, or an equivalent amount in a foreign currency, or a lesser amount as set out by the supervisory authorities, whether conducted as a single transaction or several transactions that appear to be linked (*Qatar AML Law*, art. 23). Designated non financial businesses and professions are:

- real estate brokers when they carry on selling and/or buying real estate transactions on behalf of clients;
- merchants of precious metals when they are involved with their clients in transactions of at least QAR 55 000;
- lawyers, notaries and other persons carrying on independent legal professions and accountants, whether they carry on their activity independently or as partners or specialized employees in specialized

companies, when they prepare, perform or carry on transactions for their clients concerning any of the following activities:

- buying and selling real estate;
 - management of client's money, securities or other assets;
 - management of banking, saving or securities accounts;
 - organization of participations in incorporation, operation or management of companies and other entities;
 - incorporation, operation and management of legal persons and arrangements;
 - buying or selling commercial entities.
- Companies and trusts service providers, when they prepare or carry on transactions for the client on a commercial basis. These services include:
 - Acting as a founder's agent for legal persons;
 - Acting as a director, a company's trustee, a partner in a partnership or a similar position in other legal entities, or arranging for another person to act in any of these capacities.
 - Providing a registered office, a place of business, a mailing or administrative address to a company, a partnership or any other legal entity or arrangement;
 - Acting as a direct trustee or arranging for another person to act in this capacity;
 - Acting as a shareholder's agent or arranging for another person to act in this capacity
 - Any other business or activity determined and organized by a decision of the Council of Ministers, upon a proposal from the Committee.

58. The ambit of these rules are quite broad, particularly given that they cover lawyers, notaries, and accountants as well as company and trust

services providers. It is noted, however, that such service providers must conduct specific, identified services in order to be brought within the scope of the rule. For example, it does not appear that an accountant that provides only accounting services would be subject to the customer due diligence requirements. This gap is likely to represent only a small portion of service providers. Persons that enter into a “business relationship” with service providers covered by these rules will be required to provide “adequate, accurate and current” information concerning not just their legal but also beneficial ownership. Failure to maintain such information is subject to a punishment of 3 years in jail and/or a fine of QAR 500 000 (*Qatar AML Law*, art. 3, 72).

59. Furthermore, on its surface, it appears that article 22 requires that, regardless of the incorporation requirements imposed by the applicable company law or other provisions, the competent commercial registration system must maintain legal and beneficial ownership information for all entities that are incorporated or established in Qatar. However, the scope of the term “competent commercial register system” is not defined under the law, nor is the term “established”. Furthermore, there is no procedure or mechanism specified to ensure that this is accomplished. While there are penalties that apply where a person has failed to maintain information as required by the law, in this instance the requirement appears to be imposed upon the registrar and so it is unclear how this obligation is enforced in respect of third parties. It should be noted that most legal entities in Qatar must provide legal ownership information to the registrar or at least maintain such information internally and ensure that it is up-to-date under applicable commercial law. However, there are exceptions (*e.g.*, equities partnership companies and foreign companies that must register in Qatar) and there do not appear to be any provisions regarding the identification of a beneficial owner where the interest in an entity is held by a nominee. Consequently, the *Qatar AML Law* provides a framework within which information in these cases would be maintained. As this is a newly introduced law, and the mechanics of its implementation are not spelled out, the Phase 2 review should examine closely the operation of this rule in practice.

QFC AML Rules

60. The QFC anti-money laundering rules impose wide-ranging obligations on service providers to maintain client identity information. Under QFC Regulation No. 3 of 2005 (*QFC Anti Money Laundering Regulations*), a Relevant Person must:

- (1) *Establish and verify the identity of any Customer with or for whom the Relevant Person acts or proposes to act.*

(2) In establishing and verifying a Customer's true identity, a Relevant Person must obtain sufficient and satisfactory evidence having considered:

(A) its risk assessment under Article 15 in respect of the Customer; and

(B) the relevant provisions of the AML Rulebook.

(3) A Relevant Person must update as appropriate any Customer identification policies, procedures, systems and controls.

(4) Whenever a Relevant Person comes into contact with a Customer with or for whom it acts or proposes to act, it must establish whether the Customer is acting on his own behalf or on the behalf of another person.

(5) A Relevant Person must establish and verify the identity of both the Customer and any other person on whose behalf the Customer is acting or appears to be acting. This includes verification of the Beneficial Owner of the person and/or of any relevant funds, which may be the subject of a Transaction to be considered. In such cases the Relevant Person must obtain sufficient and satisfactory evidence of all of their identities.

61. For these purposes a "relevant person" is:

a person who carries on any Regulated Activities and/or a person who conducts, and in so far as they conduct, any of the following activities:

(A) the business of providing the professional services of audit, accounting, tax consulting, legal and notarisatation;

(B) the provision, formation, operation and administration of trusts and similar arrangements of all kinds; and

(C) company services including, the business of provision, formation, operation and management of companies.

62. Records relating to customer identification must be maintained for six years from the end of the relationship (*QFC Anti-money laundering Regulations*, art. 10).

63. The regulations are supplemented with a rulebook (*Anti-Money Laundering and Combating Terrorist Financing Rules 2010* (QFCRA Rules 2010-2)). In the case of trusts, the rulebook specifies (rule 4.6.11) that the following must be established in respect of a client that is a trust:

- the trust's full name;

- the nature and purpose of the trust;
- Examples of the nature of trusts
- discretionary, testamentary, bare
- the jurisdiction where the trust was established;
- the identity of the settlor;
- the identity of each trustee;
- the identity of any protector;

if the beneficiaries and their distributions have already been decided—the identity of each beneficiary who is to receive at least 25% of the funds of the trust (by value);

if the beneficiaries or their distributions have not already been decided—the class of persons in whose main interest the trust is established or operated as beneficial owner.

Tax Rules

64. All entities operating in the QFC are required by the *QFC Tax Regulations* (Regulation No. 14 of 2007) to register for tax purposes and file an annual tax return. The QFC tax registration form does not require disclosure of ownership and identity information. Similarly, the QFC income tax return does not ask for details of ownership and identity information.

65. Qatar’s tax law requires that every taxpayer who carries on an activity or derives a taxable income shall register with the tax authorities and must notify the authorities of any change that may affect his tax obligations within thirty days from the date of occurrence of the change (*Income Tax Law*, Law No. 21 of 2009, art.12). Every taxpayer carrying on an activity in Qatar shall submit an application to the tax authorities for a tax card within thirty days from the commencement of the activity. An activity is defined as “any profession, vocation, service, trade, industry, speculation, contractual work or any business carried on to derive a profit or an income including the exploitation of a movable or immovable property” (*Income Tax Law*, art. 1). The registration requirement covers all persons and entities within the scope of the tax whether required to pay the tax or exempt from tax. This obligation does not concern entities that are outside

the scope of the tax such as QFC entities, associations, charities and foundations (*Income Tax Law*, art. 2). The information that must be provided upon registration includes the names of all partners.

66. The scope of the *Income Tax Law* is limited however, as it does not cover QFC entities and excludes the following entities and sources of income (*Income Tax Law*, art. 2):

- private associations and foundations and private foundations of public interest constituted in accordance with the provisions the laws governing each of them.
- private bodies registered in the State or registered in another State and authorized to operate in the State, provided that they do not aim to achieve profits.
- Salaries, wages, allowances and the like.
- Gross income from legacies and inheritances.

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

67. Chapters XI and XII of the *CCL* provide for monitoring of companies and punishments for certain violations of the law. There are no specific enforcement provisions relating to the maintenance of shareholder information under the *CCL*, however, there is a general penalty that applies in respect of the failure of a person to comply with any obligation under the act other than those specifically enumerated. The penalty is a prison sentence of not more than 2 years and/or a fine of between QAR 10 000 and QAR 100 000 (approximately EUR 2 000 to 20 000 euros). Failure to maintain information as required by the *Qatar AML Law* is subject to a punishment of 3 years in jail and/or a fine of QAR 500 000 (approximately EUR 105 000) (*Qatar AML Law*, art. 3, 72).

68. Under the *Income Tax Law*, failure to file a return as required is subject to a financial penalty of QAR 100 (approximately EUR 20) per day to a maximum of QAR 36 000 (approximately EUR 7 500) (*Income Tax Law*, art. 40). In addition, failure to pay the tax due carries a penalty of 1.5 percent per month of the amount due (*Income Tax Law*, art. 40). Every person who fails to register with the tax authorities is subject to a fine of QAR 5 000 (approximately EUR 1 000) (*Income Tax Law*, art. 41).

69. The *QFC Companies Regulations* provide for a fine of USD 2 000 for a failure to maintain internal registers, failure to lodge annual return, or a non-compliant transfer of shares. Article 130 of the *QFC Companies Regulations* grants the CRO the power to direct any person to correct the failure to do anything required by the regulations. The failure to comply with such a direction of the CRO carries a fine of USD 15 000. Providing false or misleading information to the CRO carries a fine of USD 50 000.

70. The effectiveness of these provisions will be evaluated in the context of Qatar’s Phase 2 review.

Determination and factors underlying recommendations

Determination
The element is in place.

A.2. Accounting records

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

General requirements (ToR A.2.1)

Qatari Law

71. The *Commercial Law* provides that all traders must maintain accounting records. The term “trader” means a legally capable individual who carries on commercial acts in his own name as a profession. In addition, all commercial companies are considered traders (*Commercial Law*, art. 12). All traders are required to hold such account books as are necessary to reflect their financial standing precisely according to the nature and importance of their business (*Commercial Law*, art. 21). At a minimum, traders are required to have a general journal, a general ledger and an inventory book (*Commercial Law*, art. 22). The account books must be submitted to the Commercial Register within two months of the end of the fiscal year (*Commercial Law*, art. 26). Traders must also keep duly certified copies of all correspondence, telegrams and any other type of communication used for the business, as well as all correspondence, telegrams and invoices received and all other documents related to the business (*Commercial Law*, art. 27). The account books must be maintained for 10 years, and the underlying documentation must be maintained for 5 years (*Commercial Law*, art. 28).

72. Foundations are subject to the rules for traders contained in the *Commercial Law*, and so must keep accounting records for 10 years and underlying documentation for 5 years.

73. The *Income Tax Law* requires taxpayers carrying on an activity in Qatar to keep accounting books, registers and documents in accordance with international accounting standards (art. 18) and these must be maintained in the place where the activity is carried on for 10 years (art. 19).

QFC Entities

74. Article 79 of the *QFC Companies Regulations* provides:

Every LLC shall keep proper accounting Records with respect to all sums of money received and expended by the LLC and all sales and purchases of goods and services and other transactions by the LLC and the assets and Liabilities of the LLC. Such accounting Records, shall be sufficient to show and explain all transactions by the LLC and must be such as to:

(1) disclose with reasonable accuracy the financial position of the LLC at any time; and

(2) enable the directors to ensure that any accounts prepared by the LLC comply with the requirements of these Regulations.

75. These records must be maintained at the LLC's registered office and preserved for at least 6 years from the date to which they relate.

76. Every LLC must also prepare accounts financial statements set out in accordance with IFRS, UK GAAP, US GAAP or such other accounting principles and standards as may be prescribed in rules made by the QFC Authority. The accounts shall show a true and fair view of the profit or loss of the LLC for the financial year in question and of the state of the LLC's affairs at the end of such financial year. (art. 82)

77. Under the *QFC Partnership Regulations* limited partnerships are required to maintain accounting records with respect to all sums of money received and expended by the Limited Partnership and all sales and purchase of goods and services and other transactions of the Limited Partnership and the assets and liabilities of the Limited Partnership (art. 62). These records must:

- disclose with reasonable accuracy the financial position of the Limited Partnership at any time; and

- enable the Partners to ensure that any accounts prepared by the Limited Partnership comply with the requirements of these Regulations.

78. Each limited partnership must prepare accounts that include relevant financial Statements set out in accordance with IFRS, UK GAAP, US GAAP or such other accounting principles and standards as may be prescribed in rules made by the QFC Authority. The accounts shall show a true and fair view of the profit or loss of the Limited Partnership for the financial year in question and of the state of the Limited Partnership's affairs at the end of such financial year. (art. 64). The same requirement applies to non-QFC partnerships with a branch in the QFC (art. 81).

79. The same obligations to maintain accounts apply to LLPs under the *QFC Limited Liability Partnership Regulations* (art. 32, 34).

80. Under the *QFC Trust Regulations* a trustee shall keep accurate accounts and records of his trusteeship (art. 43(4)).

81. Under the *QFC Tax Rules* (art. 6) all QFC entities must maintain records of-

- all sums of money received or expended by the QFC Entity and all sales and purchases of goods and services and other transactions of the QFC Entity and the assets and liabilities of the QFC Entity. Such records shall be sufficient to show and explain all transactions by the QFC Entity and must be such as to disclose with reasonable accuracy the financial position of the QFC Entity at any time.
- supporting documents relating to the items mentioned including but not limited to accounts, books, deeds, contracts, vouchers and receipts.

Underlying documentation (ToR A.2.2)

82. All QFC entities must maintain underlying documentation (*QFC Tax Rules*, art. 6). The *Commercial Law* requires that underlying duly certified copies of all correspondence, telegrams and any other type of communication used for the business, as well as all correspondence, telegrams and invoices received and all other documents related to the business (*Commercial Law*, art. 27).

5-year record retention standard (ToR A.2.3)

83. All QFC entities must maintain accounting records until the later of 6 years from the end of the accounting period or the completion of any enquiries into the return for the accounting period. Partnerships must

maintain accounting records for 6 years: LPs – *QFC Partnership Regulations*, art. 62; branches of non-QFC partnerships registered in the QFC – *QFC Partnership Regulations*, art. 81; LLPs – *QFC Limited Liability Partnership Regulations*, art. 34). The *Commercial Law* requires traders (including companies) to maintain accounting records for 10 years and underlying documentation for 5 years.

Determination and factors underlying recommendations

84. Accounting information must be maintained for all entities pursuant to commercial law, tax law and anti-money laundering law requirements.

Determination
The element is in place.

A.3. Banking information

Banking information should be available for all account-holders.
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Record-keeping requirements (ToR A.3.1)

85. Each financial institution in Qatar must maintain all records and documents relating to its activities (*Central Bank Decree-Law No. 33 of 2006*, art. 81).

86. In addition, all QFC Banks and other financial institutions are required, under the QFC Financial Services Regulations and the QFC Anti Money Laundering Regulations, to maintain all the records specified.

87. In accordance with *Qatar AML Law* (art. 23) all financial institutions must determine the identity of their clients, on the basis of documents, data and information from independent reliable sources. This should be done where there is a suspicion that money laundering or terrorism financing occurred or where occasional transactions consisting of one or more financial transactions, which seem to be connected with each other, the value of which equals or exceeds QAR 55 000 (USD 15 000) or its equivalent in foreign currency or is below such limit if decided by supervisory authorities, are carried out. Financial institutions and specified non financial businesses and professions shall also determine the purpose of the commercial relation, its nature and all the information related thereto.

Determination and factors underlying recommendations

Determination
The element is in place.

B. Access to Information

Overview

88. A variety of information may be needed in a tax enquiry and jurisdictions should have the authority to obtain all such information. This includes information held by banks and other financial institutions as well as information concerning the ownership of companies or the identity of interest holders in other persons or entities, such as partnerships and trusts, as well as accounting information in respect of all such entities. This section of the report examines whether Qatar's legal and regulatory framework gives to the authorities access powers that cover the right types of persons and information and whether rights and safeguards would be compatible with effective exchange of information.

89. The ability of Qatar's tax authorities to obtain information for exchange of information purposes is derived from its general access powers under the *Income Tax Law* coupled with the authority provided by the relevant international agreements. While the *Income Tax Law* appears to restrict access to information to circumstances where it is relevant to the assessment of tax under that act (*i.e.*, a domestic tax interest), the interpretation of Qatar's officials is that information held by any person in Qatar can be obtained, whether or not this is related to the assessment of Qatari tax. There remain concerns that interpretive questions about the scope of powers available to Qatar's tax authorities may impede effective exchange of information, and it is recommended that these uncertainties be rectified.

90. In addition, it is unclear in what circumstances Qatar's bank secrecy rule requires that a court order be obtained in order to access bank information for exchange purposes. Qatar's officials take the view that, where bank information is requested pursuant to a tax treaty, no court order is needed. However, the legal support for this contains certain ambiguities. Moreover, no information has been provided regarding the conditions under which a court order would be granted.

91. Qatar's laws in these areas should be revised to remove these uncertainties.

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).

General

92. Qatar's Constitution provides that an international agreement has the force of law in Qatar and imposes on all relevant authorities the obligation to provide assistance in giving effect to the terms of the agreement. Moreover, Qatar's Constitution provides specifically that Qatar shall execute all international agreements to which it is a party. Nevertheless, there are interpretive issues surrounding the application of Qatari authorities' information gathering powers in the context of a request for the exchange of information under a tax treaty. There are no issues concerning the ability of Qatar's tax authorities to obtain information where it is relevant to the assessment of tax in Qatar. Issues do arise in respect of requests for information that is not being obtained for the purposes of determining a tax liability under Qatar's tax laws, that is there may be a domestic tax interest requirement.

93. Overall, the access to information powers in Qatar must be evaluated under four distinct scenarios: where the information is relevant to the assessment of Qatari tax; pursuant to a request for information that relates to income that is exempt from tax under the *Income Tax Law* (e.g. bank interest); a request that relates to information that is not subject to the *Income Tax Law* (e.g. salaries and inheritances); and information regarding entities or persons that are not subject to the *Income Tax Law* (e.g. QFC entities). The first situation is not problematic. The fourth situation appears to be resolved by the fact that income tax treaties have the same status as laws and thus operate in respect of all governmental authorities in Qatar, including the QFC Authority. Therefore, Qatar's tax authorities may require the QFC Authority to provide information pursuant to a request under a tax treaty, in which event the QFC Authority would use its own information gathering powers to obtain the information (discussed below).

94. The Qatari *Income Tax Law* provides (art. 22) that, “for the purposes of assessing tax”, tax authorities have the right to require:

- the presence of the taxpayer or a proxy thereof to provide clarification or information concerning the return.
- the presentation of any data, information or documents required for the assessment of the tax.
- the presentation of the books, registers, accounts or statements relating to the activity for examination within the period specified by the Department to the taxpayer or the proxy.
The Department may make copies of those books, registers, accounts or statements where necessary.

95. The above provision only applies to information sought from the taxpayer. Third parties in possession of information related to the assessment of tax can be required to provide such information to the tax authorities under article 21 of the *Income Tax Law*:

Article 21

Ministries and other governmental bodies, public authorities and institutions and companies shall notify the Department of the contracts, agreements and dealings they entered into if their amount exceeds the limits provided for in the executive regulations of this law.

Subject to the provisions of the sixth paragraph of Article 38 of this law, public authorities and institutions, companies, associations, individual enterprises and any other entity specified in the executive regulations of this law shall notify the Department, upon its request, of any information related to the assessment of the tax due by the taxpayer with whom such companies, associations, authorities, institutions, enterprises or entities entered into transactions.

The notification mentioned in the previous two paragraphs shall be made within thirty days of the date of the Department’s request or the date of commencement of the contract, agreement or dealing, as the case may be.

96. For these purposes a “taxpayer” means “a natural or legal person subject to tax under the provisions of this law” (*Income Tax Law*, art. 1). The term “subject to tax” covers all taxpayers who may be subject to the tax rules, even though they may not have earned gross

income or taxable income (for example, if they have only earned exempt income). This includes all companies and partnerships established under the *Commercial Companies Law*. Certain activities are exempt from taxation under the *Income Tax Law*, however taxpayers carrying on such activities are nonetheless required to file returns along with a balance sheet and audited accounts (*Income Tax Law*, art. 15). However, private associations and foundation and not for profit organizations, in addition to QFC entities are not subject to the tax law, and wages, salaries and inheritances are also excluded from its application (*Income Tax Law*, art. 2).

97. While both article 21 and 22 speak of obtaining information for the purposes of or related to “the assessment of tax”, the view of Qatar’s officials is that these provisions allow the Qatar tax authorities access to information in any case where it would be relevant to the assessment of tax, whether or not the income is exempt or an assessment has already been completed. This would include information concerning any aspect of a person’s activities in Qatar (income, expenses, contracts, bank accounts, etc.) whether or not resident in Qatar. This conclusion is based on the fact that a tax treaty has the force of law and imposes on Qatari competent authorities the obligation to provide information requested by the treaty partner pursuant to the exchange of information provisions. Therefore, in the view of Qatar’s officials, the information gathering powers may be used for these purposes. In this context, “competent authorities” means any governmental authority in Qatar and so includes the QFC and other governmental authorities, for example, those responsible for foundations and private associations. Thus, even where Qatari tax authorities do not have direct access to information held by QFC entities or foundations and associations, the treaty provision imposes an obligation on all governmental authorities, including the QFC Authority. In the particular case of the QFC, Qatar tax authorities and the QFC Authority are currently negotiating a memorandum of understanding that will allow Qatar tax authorities direct access to information held by QFC entities.

98. In the case of income that is exempt from tax such as bank interest, the view of Qatar’s officials is that this information is nonetheless relevant to the assessment of tax and therefore there should be no impediment to obtaining the information for exchange purposes, regardless of the fact that the taxpayer in question is not liable to Qatari tax. In respect of income that is not subject to the *Income Tax Law*, such as salaries or wages, Qatar’s officials point out that information concerning such items would be relevant for the assessment of another person’s tax (e.g., the employer in the case of employment income) and

so the information could be obtained from the person on that ground. Moreover, as the obligation to exchange information under a treaty has the force of law, Qatari tax authorities are also able to access information held or obtainable by other governmental authorities for these purposes. For example, the Ministry of Labour maintains details of employment contracts under the *Labour Law*. However, it is not clear that Ministry of Labour officials or other governmental authorities would necessarily be able to obtain information not already in their possession, as their own access to information powers may be limited to specific purposes not consonant with exchange of information in tax matters.

99. Where a request for information relates to a QFC entity, the legal framework is relatively straightforward. The information powers granted to the QFC tax authorities are set out in articles 127 and 128 of the *QFC Tax Regulations*:

Article 127 - Policy Statement on Information Powers

The Tax Department has wide powers in relation to obtaining information, including the examination and retention of documents, and examination of individuals. The powers will generally only be used to tackle serious cases of evasion or noncompliance; they will not be used routinely. Penalties for failing to comply with these provisions are provided for in the Tax Rules (TAX 13).

Article 128 - Notice to Obtain Information

(1) The Tax Department may, by service of a notice in writing, require a person, whether or not liable for tax under these Regulations-

- 1. to produce, including by way of creation of a document, within the time specified in the notice, any information that is described with reasonable certainty in the notice;*
- 2. to attend at the time and place designated in the notice for the purposes of being examined by the Head of Tax, or by an officer of the Tax Department authorised in writing by the Head of Tax, concerning the tax affairs of the person or any other person; or*
- 3. to produce at an examination of the person under (b) and for the purposes of that examination any document in the possession or power of the person that is described with reasonable certainty in the notice.*

100. Notwithstanding the policy statement contained in article 127, the QFC tax authorities appear to have wide power to obtain information held by QFC entities whether or not the information is relevant to a tax liability under the QFC rules. As noted above, the QFC authorities are subject to the terms of a tax treaty just as Qatari authorities generally, and so must exercise these powers in response to a request for information. In addition, the QFC tax authorities have a power to enquire into a tax return (*QFC Tax Rules*, art. 113). However, this power is generally subject to a 12 month time limit from the date the return is filed.

101. It is clear that Qatar's officials take a broad view of the scope of information that would be "related to the assessment of tax" and it is also the case that any information regarding QFC entities is obtainable by QFC authorities, which may cover off an important portion of any information requested. The analysis of Qatar's officials ultimately relies on the assumption that any information sought for foreign tax purposes would also be relevant for Qatar's tax purposes. The assessment team is of the view that, despite the assertions of Qatar's officials, there are some uncertainties regarding the applicability of the information-gathering powers under the *Income Tax Law* for the purposes of the enforcement of a foreign tax law. Although it may be the case that there is generally an overlap between these two concepts, there is the possibility that the power to obtain information for exchange purposes under articles 21 and 22 of the *Income Tax Law* could be challenged. It will be important in the context of Qatar's Phase 2 review to see how these powers operate in practice.

Ownership and identity information (ToR B.1.1)

102. Under Qatar's (and the QFC's) commercial, tax and anti-money laundering laws a great deal of information is held by governmental authorities. In other cases, the access powers described above would be relied upon to obtain ownership and identity information for exchange purposes.

Accounting records (ToR B.1.2)

103. Under the *Commercial Law* accounting records must be provided to the registrar. There is no limit on QFC authorities' ability to access accounting records for exchange purposes.

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

104. See above under “general considerations”.

Compulsory powers (ToR B.1.4)

106. There are no specific compulsory powers in place to ensure that information will be obtained where the person in possession of the information does not cooperate with the authorities. The *Income Tax Law* provides powers of search and seizure, however, these are limited to cases where the assessment decision of tax and financial penalties has become final and the tax and financial penalties have not been paid on the prescribed date (*Income Tax Law*, art. 38). The tax authorities may, however, refuse to issue a tax clearance certificate to a taxpayer if the taxpayer has not responded to the tax authorities’ requests for information.

107. The QFC Tax Department may use its information gathering powers (which are limited to QFC entities) in relation to an exchange of information request (routed via the competent authority). In the event of failing to comply with the request a financial sanction of up to QAR 50 000 (approximately EUR 10 000) may be imposed (*QFC Tax Rules*, art. 13.1).

Secrecy provisions (ToR B.1.5)

Trust Provisions

108. The *QFC Trust Regulations* provide (art. 49(2)) that a trustee shall not be required to disclose to any person any document which:

- discloses his deliberations as to the manner in which he has exercised a power or discretion or performed a duty conferred upon him;
- discloses the reason for any particular exercise of such power or discretion or performance of duty or the material upon which such reason shall or might have been based; or
- relates to the exercise or proposed exercise of such power or discretion or the performance or proposed performance of such duty.

109. It is unclear how extensive this rule is, and specifically whether its application would interfere with the ability of trustees to provide information on the identity of settlors or beneficiaries or the trust's accounting records. In particular, the reference to documents that "relate to" the exercise of a power may be construed very broadly. Qatar's officials point out that the *QFC Trust Regulations* (as with all QFC regulations) only exclude the application of Qatar state law to the extent permitted by the QFC Law (*QFC Trust Regulations*, art. 2). As the provisions of a treaty would override domestic law under the Constitution, and so art. 49(2) could not be invoked to prevent disclosure of information to the QFC authorities.

Bank Information

110. The *Central Bank Law* provides that board members, employees, auditors and advisers of financial institutions may not disclose any information relating to a client unless on the basis of a written approval from the client, a provision of the law or a court decision (art.82). Qatar's officials take the view that this rule is overridden where the information is requested under an effective DTC, as Article 82 does not apply where there is a provision in the law to this effect, which will be the case since a treaty has the force of law. Furthermore, this should be the case whether or not the treaty contains the equivalent of paragraph 5 of article 26 of the *OECD Model Tax Convention*, as the general provision requires the exchange of bank information where it is foreseeably relevant to the administration and enforcement of the requesting state's domestic tax law. In the absence of a tax treaty, the tax authorities require a court decision to obtain the information.

111. However, the access powers in the *Income Tax Law* itself appear to require a court decision in order to obtain bank information. This analysis relies on the application of articles 21 and 38 of the *Income Tax Law*. Article 21 allows the tax authorities to obtain information from any entity (including banks) having transactions with the taxpayer. This information must be related to the assessment of tax and is subject to the provisions of the sixth paragraph of article 38. Article 38, which deals with the collection of a tax liability from debtors of the taxpayers and which applies following the final determination of the tax liability, allows the tax authorities to obtain information from a taxpayer's debtors concerning amounts owed to the taxpayer and to require those amounts to be paid to the treasury, stipulates that a court order is required in the case of amounts owed by a bank. Article 38 provides:

Article 38:

In the case where the assessment decision of the tax and financial penalties related thereto have become final, and the tax and financial penalties are not paid on the prescribed date, the Director shall, upon the approval of the Minister, carry out the procedures of executive seizure on the taxpayer's property required to collect the tax, whether in the possession of the taxpayer or in the possession of others.

The Department may require by a registered letter with acknowledgement of receipt from any person to provide, within thirty days from the receipt of the letter, a statement of the sums due by that person to the taxpayer. The statement shall include:

a- the sums due by the person to the taxpayer and the term of their payment;

b- the sums held by the person and due by a third party to the taxpayer, and whether or not he is authorized to make the payment to the taxpayer on behalf of the third party.

The person referred to in the previous paragraph shall pay to the treasury the amounts due by the taxpayer, up to the amount of tax and financial penalties related thereto within thirty days from the date they come to maturity. Sums that have come to maturity on the date of submission of the statement to the Department shall be paid within thirty days from that date.

Where the statement was not submitted by the person within the specified period or where the amounts were not paid to the Department in accordance with the provisions of the previous paragraph, the Department shall carry out the procedures of executive seizure on the person's property.

For the purposes of implementing paragraphs 1 and 4 of this Article, the Department shall issue a notice to the debtor, and the seizure shall be carried out by the Department in accordance with the provisions of the law.

The provisions of paragraphs 2, 3 and 4 of this Article shall not apply to banks, except on the basis of a court decision. [emphasis added.]

112. Qatar's officials assert that a court order is not required in order to obtain bank information in any case, and that article 38 is only

related to obtaining information and collecting amounts due in respect of a tax liability. The assessment team is concerned that paragraph 6 of article 38 restricts the application of that article to banks to cases where a court decision has been obtained and, as imported to article 21, this would suggest that, in the case of obtaining bank information, the decision of a court is required. This appears to follow from the fact that article 21 is not limited by the provisions of article 38 generally, but only by the sixth paragraph of that provision. The alternate view is that where the information required from the bank relates to sums due to the taxpayer (such as the account balance), then a court decision is required, whereas for other information such as identity of account-holder (that are not covered by article 38), no court decision is required. In either case, the crucial details of what funds are held in the bank account appear to require a court decision in order to be obtained.

113. Qatar's officials insist that article 38 is not a limitation on article 21, and that they are able to obtain bank information in practice under the latter provision without a court decision. Regardless of the correct interpretation of these provisions, it is clear that (setting aside the question of a domestic tax interest) bank information can nonetheless be obtained pursuant to a court order, although Qatar has not provided any information concerning the conditions and timeframes under which such an order may be granted.

114. In the QFC there are no laws dealing with banking secrecy and no laws that banks or other financial institutions could use to deny the provision of customer or account information required under an exchange of information request pursuant to a tax treaty.

115. Information obtained by the QFC tax department is treated as secret but may be disclosed to the competent authority of the government of another country with which Qatar has entered into an international agreement, to the extent permitted under that agreement (*QFC Tax Rules*, art. 3.2).

Determination and factors underlying recommendations

Determination	
The element is in place, but certain aspects of the legal implementation of the element need improvement.	
Factors underlying recommendations	Recommendations
The power of Qatar's tax authorities to obtain information for exchange purposes is not unequivocally established and may be	The <i>Income Tax Law</i> should be clarified to remove any potential ambiguity as to whether tax authorities have the power to

subject to interpretive issues that could prevent effective exchange of information.	obtain information in response to a request for information under an international agreement.
There are some uncertainties as to whether a court order must be obtained in order for Qatar’s tax authorities to access bank information for exchange purposes, and if so, on what conditions such an order would be granted.	Qatar’s authorities should clarify whether access to bank information for exchange purposes requires a court order, or if a court order is required, ensure that this procedure does not unduly delay or prevent effective exchange of information.
The trust secrecy rule contained in the QFC Trust Regulations may prevent effective exchange of information.	The QFC authorities should clarify whether the secrecy requirement imposed on trustees does not apply in connection with a request for information pursuant to an international agreement.

B.2. Notification requirements and rights and safeguards

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

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

116. Qatar’s tax authorities are not obligated to inform the person concerned of the existence of an information request and there are no rights or safeguards under Qatar’s laws that would prevent or delay exchange of information.

Determination and factors underlying recommendations

Determination
The element is in place.

C. Exchanging Information

Overview

117. Jurisdictions generally cannot exchange information for tax purposes unless they have a legal basis or mechanism for doing so. The legal authority to exchange information may be derived from bilateral or multilateral mechanisms (*e.g.* double tax conventions, tax information exchange agreements, the Joint Council of Europe/OECD Convention on Mutual Administrative Assistance in Tax Matters) or arise from domestic law. Within particular regional groupings information exchange may take place pursuant to exchange instruments applicable to that grouping (*e.g.* within the EU, the directives and regulations on mutual assistance).

118. Qatar has 33 agreements in place that provide for exchange of information in tax matters to the international standards. Some ambiguities exist under Qatar's domestic law regarding access to information for exchange purposes by its tax authorities and it has been recommended that these ambiguities be resolved. A second issue regards access to bank information (outside the QFC). Qatar's bank law prohibits disclosure of any customer account information without a court order unless required by law. As a treaty has the force of law in Qatar, then the requirement to exchange bank information under the treaty should satisfy the bank law requirement (since disclosure is required by law). This should be the case regardless of whether the treaty contains the equivalent of paragraph 5 of article 26 of the *OECD Model Tax Convention*. However, the access powers contained in the *Income Tax Law* make reference to obtaining a court decision where bank information is concerned. Qatar's officials take a strong view that a court decision is in no circumstances required, however, the assessment team remained concerned about the apparent ambiguity in the statutory language. In the event that a court order is required in order to obtain bank information, this would not necessarily lead to the conclusion that effective exchange of information could not be achieved under Qatar's existing legal and regulatory framework. However, Qatar has not provided any information identifying the procedure for obtaining such an order, or the conditions on which it would be granted or denied.

C.1. Exchange-of-information mechanisms

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

Foreseeably relevant standard (ToR C.1.1)

119. The majority of Qatar’s treaties provide for the exchange of information that is “necessary” to the administration and enforcement of the domestic laws of the contracting states. The term “necessary” is interpreted as providing the same scope for exchange of information as “foreseeably relevant”, consistent with the commentary to article 26 of the *OECD Model Tax Convention* (see paragraph 5 of the commentary). The remaining treaties expressly provide for exchange of information that is foreseeably relevant to the administration and enforcement of the domestic tax laws of the contracting states.

In respect of all persons (ToR C.1.2)

120. Exchange of information under Qatar’s treaties is not limited to residents of one or the other contracting states or otherwise excludes any class of persons.

Exchange information held by financial institutions, nominees, agents and ownership and identity information (ToR C.1.3)

121. Qatar’s information exchange mechanisms provide for the exchange of “information” necessary to or foreseeably relevant to the administration of the domestic laws of the requesting state. There are no limitations relevant to a specific type of information. Only three of Qatar’s treaties include the equivalent of paragraph 5 of the *OECD Model Tax Convention*, specifying that the requested party cannot decline to provide 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 interests in a person. As described above under Access to Information, there are some uncertainties surrounding the process necessary to obtain bank information pursuant to a request for information under a treaty and whether a court order is necessary. If a court order is necessary to obtain bank information, this does not necessarily mean that the treaty does not meet the standard in this regard, however, Qatar’s officials have not provided information detailing the conditions on which a court order would be granted.

Absence of domestic tax interest (ToR C.1.4)

122. There are some questions regarding the application of Qatar's information-gathering measures where the information requested does not relate to the assessment of tax under Qatar's tax laws. These same concerns are therefore relevant for the majority of Qatar's tax treaties that do not contain the equivalent of paragraph 4 of the *OECD Model Tax Convention*.

Absence of dual criminality principles (ToR C.1.5)

123. There are no dual criminality provisions in Qatar's tax treaties.

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

124. All of Qatar's information exchange mechanisms provide for exchange of information in all tax matters.

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

125. The provision of information in specific form is not expressly set out in Qatar's information exchange mechanisms, however, there are no impediments in Qatar's laws that would prevent the provision of information in specific form to the extent that such form is recognised or permitted under its law or administrative practice.

In force (ToR C.1.8)

126. Qatar has 33 agreements in force that provide for the exchange of information in tax matters that meet the international standards. In addition, Qatar has signed and ratified agreements with Greece, Luxembourg, Monaco, Switzerland and the United Kingdom, each of which include exchange of information articles equivalent to article 26 of the *OECD Model Tax Convention*.

Be given effect through domestic law (ToR C.1.9)

127. There are some issues concerning the ability of Qatar's tax authorities to use their information gathering measures in order to respond to a request for information.

Determination and factors underlying recommendations

Determination	
The element is in place, but certain aspects of the legal implementation of the element need improvement.	
The power of Qatar's tax authorities to obtain information for exchange purposes is not unequivocally established and may be subject to interpretive issues that could prevent effective exchange of information.	The <i>Income Tax Law</i> should be clarified to remove any potential ambiguity as to whether tax authorities have the power to obtain information in response to a request for information under an international agreement.
It is unclear whether a court order is necessary to obtain bank information for exchange purposes, and if so what the conditions are for such an order to be granted.	Qatar's authorities should clarify whether access to bank information for exchange purposes requires a court order, or if a court order is required, ensure that this procedure does not unduly delay or prevent effective exchange of information.

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

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

128. Qatar has in place a wide network of agreements that provide for the exchange of information in tax matters. In addition, Qatar has signed and ratified agreements with the United Kingdom (ratified by both sides but not yet effective), Greece, Luxembourg, Monaco and Switzerland. Qatar has signed agreements providing for the exchange of information in tax matters with Singapore (Protocol) and Slovenia, and initialled agreements with Austria, Belgium (Protocol), Iceland, Bulgaria and Hungary. Negotiations are ongoing with Brunei and India. There is no indication that Qatar has been unwilling to enter into an agreement for the exchange of information in tax matters with any jurisdiction seeking such an agreement.

Determination and factors underlying recommendations

129. Ultimately, the essential element C.2 requires that jurisdictions exchange information with all relevant partners, meaning those partners who are interested in entering into an information

exchange arrangement. Agreements cannot be concluded only with counterparties without economic significance. If it appears that a jurisdiction is refusing to enter into agreements or negotiations with partners, in particular ones that have a reasonable expectation of requiring information from that jurisdiction in order to properly administer and enforce its tax laws, this should be drawn to the attention of the Peer Review Group, as it may indicate a lack of commitment to implement the standards. No jurisdictions made any comment suggesting Qatar has been unwilling to enter into an agreement for the exchange of information in tax matters. The agreements that Qatar has in place are with a wide variety of important European, Asian and North American countries, as well as important regional partners such as Jordan, Lebanon, Syria and Yemen.

Determination
The element is in place.

C.3. Confidentiality

The jurisdictions' mechanisms for exchange of information should have adequate provisions to ensure the confidentiality of information received.
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Information received: disclosure, use, and safeguards (ToR C.3.1)

130. The information exchange provisions of Qatar's tax treaties contain standard clauses on the confidentiality of information received that are consistent with the international standards: *Any information received by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic law of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes covered by the Agreement. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.*

All other information exchanged (ToR C.3.2)

131. In addition to information directly provided by the requested to the requesting jurisdiction, jurisdictions should treat as confidential in the same manner as information referred to in C.3.1 all requests for

such information, background documents to such requests, and any other document reflecting such information, including communications between the requesting and requested jurisdictions and communications within the tax authorities of either jurisdiction. The obligation to maintain secrecy described above applies to documents and information that come to the knowledge of employees of the tax authorities or to their possession in the course, or by reason, of fulfilling their duties. Therefore, the same considerations apply in this case as with C.3.1.

Determination and factors underlying recommendations

Determination
The element is in place.

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

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

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

132. Consistent with the *OECD Model Tax Convention*, all of Qatar’s information exchange agreements provide exceptions to the disclosure of information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy (ordre public).

Determination and factors underlying recommendations

Determination
The element is in place.

C.5. Timeliness of responses to requests for information

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

Responses within 90 days (ToR C.5.1)

133. In order for exchange of information to be effective it needs to be provided in a timeframe which allows tax authorities to apply the

information to the relevant cases. If a response is provided but only after a significant lapse of time the information may no longer be of use to the requesting authorities. This is particularly important in the context of international cooperation as cases in this area must be of sufficient importance to warrant making a request.

134. There are no specific legal or regulatory requirements in place which would prevent Qatar responding to a request for information by providing the information requested or providing a status update within 90 days of receipt of the request. Moreover, the *Income Tax Law* provides that a person must respond to a request for information within 30 days (*Income Tax Law*, art. 21).

Organisational process and resources (ToR C.5.2)

135. A review of Qatar’s organisational process and resources will be conducted in the context of its Phase 2 review.

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

136. Exchange of information assistance should not be subject to unreasonable, disproportionate, or unduly restrictive conditions. There is no evidence of any such conditions being placed on the exchange of information under Qatar’s information exchange mechanisms.

Determination and factors underlying recommendations

Determination
The assessment team is not in a position to evaluate whether this element is in place, as it involves issues of practice that are dealt with in the Phase 2 review.

Summary of Determinations and Factors Underlying Recommendations

Determination	Factors underlying recommendations	Recommendations
Jurisdictions should ensure that ownership and identity information for all relevant entities and arrangements is available to their competent authorities. (ToR A.1)		
The element is in place.		
Jurisdictions should ensure that reliable accounting records are kept for all relevant entities and arrangements. (ToR A.2)		
The element is in place.		
Banking information should be available for all account-holders. (ToR A.3)		
The element is in place.		
Competent authorities should have the power to obtain and provide information that is the subject of a request under an exchange of information arrangement from any person within their territorial jurisdiction who is in possession or control of such information (irrespective of any legal obligation on such person to maintain the secrecy of the information). (ToR B.1)		
The element is in place, but certain aspects of the legal implementation of the element need improvement.	The power of Qatar's tax authorities to obtain information for exchange purposes is not unequivocally established and may be subject to interpretive issues that could prevent effective exchange of information.	The Income Tax Law should be clarified to remove any potential ambiguity as to whether tax authorities have the power to obtain information in response to a request for information under an international agreement.
	There are some uncertainties as to whether a court order must be obtained in order for Qatar's tax authorities to access bank information for exchange purposes, and if so, on what conditions such an order would be granted.	Qatar's authorities should clarify whether access to bank information for exchange purposes requires a court order, or if a court order is required, ensure that this procedure does not unduly delay or prevent effective exchange of information.

56 – SUMMARY OF DETERMINATIONS AND FACTORS UNDERLYING RECOMMENDATIONS

	The trust secrecy rule contained in the QFC Trust Regulations may prevent effective exchange of information.	The QFC authorities should clarify whether the secrecy requirements imposed on trustees does not apply in connection with a request for information pursuant to an international agreement.
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. (ToR B.2)		
The element is in place.		
Exchange of information mechanisms should allow for effective exchange of information. (ToR C.1)		
The element is in place, but certain aspects of the legal implementation of the element need improvement.	The power of Qatar's tax authorities to obtain information for exchange purposes is not unequivocally established and may be subject to interpretive issues that could prevent effective exchange of information.	The <i>Income Tax Law</i> should be clarified to remove any potential ambiguity as to whether tax authorities have the power to obtain information in response to a request for information under an international agreement.
	It is unclear whether a court order is necessary to obtain bank information for exchange purposes, and if so what the conditions are for such an order to be granted.	Qatar's authorities should clarify whether access to bank information for exchange purposes requires a court order, or if a court order is required, ensure that this procedure does not unduly delay or prevent effective exchange of information.
The jurisdictions' network of information exchange mechanisms should cover all relevant partners. (ToR C.2)		
The element is in place.		
The jurisdictions' mechanisms for exchange of information should have adequate provisions to ensure the confidentiality of information received. (ToR C.3)		
The element is in place.		
The exchange of information mechanisms should respect the rights and safeguards of taxpayers and third parties. (ToR C.4)		
The element is in place.		
The jurisdiction should provide information under its network of agreements in a timely manner. (ToR C.5)		

<p>The assessment team is not in a position to evaluate whether this element is in place, as it involves issues of practice that are dealt with in the Phase 2 review.</p>		
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Annex 1: Jurisdiction’s response to the review report*

The QFC Authorities are currently considering whether the secrecy requirement imposed on trustees does not apply in connection with a request for information pursuant to an international agreement, in accordance with the recommendations in relation to element B1 of the report (see paragraphs 108, 109 and the recommendations on page 29). It is hoped that the opinion of the QFC Chief Legal Officer will support the view that the provisions of Articles 6 and 68 of the constitution of Qatar (see paragraph 14) overrides the trust secrecy provisions contained within Article 49(2) of the QFC Trust Regulations and that, therefore, the trust secrecy provisions are not a barrier to the provision of information pursuant to an international agreement.

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

Annex 2: List of all exchange-of-information mechanisms in Force

	Jurisdiction	Type of EoI Arrangement	Date Signed	Date Entered Into Force
1	Armenia	Double Taxation Convention (DTC)	22.04.2002	01.01.2008
2	Azerbaijan	DTC	28.08.2007	24.02.2008
3	Belarus	DTC	03.04.2007	14.11.2007
4	China	DTC	02.04.2004	21.10.2008
5	Croatia	DTC	24.06.2008	06.04.2009
6	Cuba	DTC	07.11.2006	01.01.2009
7	Cyprus	DTC	11.11.2008	20.03.2009
8	France	DTC	04.12.1990	01.12.1994
9	France (Protocol)	DTC	08.01.2008	01.01.2007
10	Greece	DTC	27.10.2008	
11	India	DTC	07.04.1999	05.01.2000
12	Indonesia	DTC	30.04.2006	19.09.2007
13	Jordan	DTC	12.01.2004	31.12.2008
14	Korea (Republic of)	DTC	27.03.2007	15.04.2009
15	Lebanon	DTC	23.01.2005	01.01.2010
16	Luxembourg	DTC	03.07.2009	04.05.2010
17	Macedonia	DTC	28.01.2008	13.10.2008
18	Malaysia	DTC	28.01.2009	03.07.2008
19	Malta	DTC	26.08.2009	09.12.2009

	Jurisdiction	Type of Eol Arrangement	Date Signed	Date Entered Into Force
20	Monaco	DTC	16.09.2009	
21	Morocco	DTC	17.03.2006	07.04.2009
22	Nepal	DTC	15.10.2007	09.05.2009
23	Netherlands	DTC	24.04.2008	01.01.2010
24	Norway	DTC	29.06.2009	27.12.2009
25	Pakistan	DTC	16.04.1999	28.03.2000
26	Poland	DTC	18.11.2008	30.12.2009
27	Romania	DTC	04.10.1999	04.09.2003
28	Russia	DTC	20.04.1998	19.01.2000
29	Senegal	DTC	10.06.1998	11.01.2000
30	Seychelles	DTC	01.07.2006	06.05.2007
31	Singapore	DTC	28.11.2006	04.09.2007
32	Singapore (Protocol)	DTC	22.09.2009	
33	Sri Lanka	DTC	07.11.2004	02.04.2007
34	Switzerland	DTC	25.09.2009	
35	Syria	DTC	23.10.2003	27.04.2006
36	Tunisia	DTC	08.03.1997	01.01.1999
37	Turkey	DTC	25.12.2001	11.02.2008
38	United Kingdom	DTC	25.06.2009	
39	Venezuela	DTC	28.07.2006	30.07.2007
40	Yemen	DTC	07.08.2000	01.01.2008

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

Fiscal Legislation and Regulations

Income Tax Law, Law No. 21 of 2009

QFC Tax Regulations (Regulation No. 14 of 2007)

Commercial laws dealing with registration of entities and retention of information

Commercial Companies Law, Law No. 5 of 2002

Commercial Law, Law No. 27 of 2006

QFC Companies Regulations (Regulation No. 2 of 2005)

QFC Limited Liability Partnership Regulations (Regulation No. 7 of 2005)

QFC Partnership Regulations (Regulation No. 13 of 2007)

QFC Trust Regulations (Regulation No. 12 of 2007)

Private Institutions of Public Benefit, Law No. (21) of 2006

Associations and Private Foundations, Law No. (12) of 2004

Legislation and regulations for financial services and anti-money laundering/anti-terrorist financing measures

Central Bank Law, Decree-Law No. 33 of 2006

Qatar Financial Markets Authority Law, Law No. 33 of 2005

Qatar Anti-money Laundering Law, Law No. 4 of 2010

QFC Anti Money Laundering Regulations (QFC Regulation No. 3 of 2005)

Anti-Money Laundering and Combating Terrorist Financing Rules 2010 (QFCRA Rules 2010-2)

Other Legislation

Constitution of Qatar

QFC Law, Law No. 7 of 2005