GLOBAL FORUM ON TRANSPARENCY AND EXCHANGE OF INFORMATION FOR TAX PURPOSES

# Peer Review Report on the Exchange of Information on Request

# LEBANON

**2019** (Second Round)

OECD

# Global Forum on Transparency and Exchange of Information for Tax Purposes: Lebanon 2019 (Second Round)

PEER REVIEW REPORT ON THE EXCHANGE OF INFORMATION ON REQUEST

July 2019
(reflecting the legal and regulatory framework as at May 2019)

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**Please cite this publication as:**
OECD (2019), *Global Forum on Transparency and Exchange of Information for Tax Purposes: Lebanon 2019 (Second Round): Peer Review Report on the Exchange of Information on Request*, Global Forum on Transparency and Exchange of Information for Tax Purposes, OECD Publishing, Paris, *https://doi.org/10.1787/939f334e-en*.

ISBN 978-92-64-62251-7 (print)
ISBN 978-92-64-82660-1 (pdf)

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

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# Reader's guide

**The Global Forum on Transparency and Exchange of Information for Tax Purposes (the Global Forum)** is the multilateral framework within which work in the area of tax transparency and exchange of information is carried out by over 150 jurisdictions that participate in the Global Forum on an equal footing. The Global Forum is charged with the in-depth monitoring and peer review of the implementation of the international standards of transparency and exchange of information for tax purposes (both on request and automatic).

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

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

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

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

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

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

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

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

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

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

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

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

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

## More information

All reports are published once adopted by the Global Forum. For more information on the work of the Global Forum on Transparency and Exchange of Information for Tax Purposes, and for copies of the published reports, please refer to www.oecd.org/tax/transparency and http://dx.doi.org/10.1787/2219469x.

# Abbreviations and acronyms

| | |
|---|---|
| **2010 Terms of Reference** | Terms of Reference related to EOIR, as approved by the Global Forum in 2010. |
| **2016 Assessment Criteria Note** | Assessment Criteria Note, as approved by the Global Forum on 29-30 October 2015. |
| **2016 Methodology** | 2016 Methodology for peer reviews and non-member reviews, as approved by the Global Forum on 29-30 October 2015. |
| **2016 Terms of Reference** | Terms of Reference related to EOIR, as approved by the Global Forum on 29-30 October 2015. |
| **AEOI** | Automatic Exchange of Information |
| **AML** | Anti-Money Laundering |
| **AML/CFT** | Anti-Money Laundering/Countering the Financing of Terrorism |
| **BCC** | Banking Control Commission |
| **BDL** | Banque Du Liban/Central Bank |
| **CDD** | Customer Due Diligence |
| **COC** | Code of Commerce |
| **CRS** | Common Reporting Standard |
| **DTC** | Double Tax Convention |
| **EOIR** | Exchange Of Information on Request |
| **FATF** | Financial Action Task Force |
| **Global Forum** | Global Forum on Transparency and Exchange of Information for Tax Purposes |
| **MOF** | Ministry of Finance |

| | |
|---|---|
| **Multilateral Convention (MAC)** | Convention on Mutual Administrative Assistance in Tax Matters, as amended in 2010 |
| **PRG** | Peer Review Group of the Global Forum |
| **SIC** | Special Investigation Commission |
| **TIEA** | Tax Information Exchange Agreement |
| **TPC** | Tax Procedure Code |
| **VAT** | Value Added Tax |

# Executive summary

1. This report analyses the implementation of the international standard of transparency and exchange of information on request in Lebanon on the second round of reviews conducted by the Global Forum against the 2016 Terms of Reference. It assesses both the legal and regulatory framework as at 6 May 2019 and the practical implementation of this framework, in particular in respect of EOI requests received and sent during the review period from 1 January 2015 to 31 December 2017. This report concludes that Lebanon is rated overall **Largely Compliant** with the international standard. The first round of review ended in 2016 with the adoption of the supplementary Phase 1 peer review report which allowed Lebanon to move to Phase 2. The mentioned report noted encouraging progress, having regards to the challenging political climate, although these were insufficient.

**Ratings for the Second Round Report**

| Element | | First Round Report (Supplementary) (2016) | Second Round EOIR Report (2019) | |
|---|---|---|---|---|
| A.1 | Availability of ownership and identity information | in place but needs improvements | in place | PC |
| A.2 | Availability of accounting information | in place but needs improvements | in place | LC |
| A.3 | Availability of banking information | in place | in place | LC |
| B.1 | Access to information | in place but needs improvements | in place | LC |
| B.2 | Rights and Safeguards | in place but needs improvements | in place | LC |
| C.1 | EOIR Mechanisms | in place but needs improvements | in place | C |
| C.2 | Network of EOIR Mechanisms | in place but needs improvements | in place | C |
| C.3 | Confidentiality | in place | in place | C |
| C.4 | Rights and safeguards | in place | in place | C |
| C.5 | Quality and timeliness of responses | not applicable | not applicable | LC |
| | **OVERALL RATING** | not applicable | not applicable | **LC** |

**C** = Compliant; **LC** = Largely Compliant; **PC** = Partially Compliant; **NC** = Non-Compliant

## Progress made since previous review

2. Since its last review, Lebanon has amended many of its laws towards compliance with the international standard on exchange of information on request (EOIR).

3. Lebanon prohibited the issuance of new bearer shares from 3 November 2016 by Law 75/2016 and existing shares had to be converted to nominal shares by 3 November 2018. The assessment team considers that the Ministry of Finance (MOF) adequately supervised the conversion and as of 1 April 2019; 83% of the companies concerned were in compliance with the law. The 19 companies (17%) found in breach of the law have been sanctioned. However, the procedure of transfer of shares (not yet converted to nominal shares) to the State, even after the imposition of sanctions, is still being discussed at the State Council.

4. Access to banking information was critical in the 2012 and 2016 reports. Lebanon amended its law on access to information for exchange of information and removed restrictions in accessing banking information. The new law nº 55/2016 came into force in November 2016. In practice, as bank secrecy was in place for part of the peer review period, Lebanon was unable to exchange banking information in three cases. Law 55/2016 allows for the lifting of bank secrecy for periods before its adoption.

5. Legal obligations to maintain reliable accounting records, including underlying documentation, for foreign trusts which are administered in Lebanon or in respect of which a trustee is resident in Lebanon, were included by Law nº 74 dated 27 October 2016. However, there has been no monitoring of these new legal obligations and therefore, Lebanon is now recommended to ensure that trustees resident in Lebanon abide by their obligations.

6. The procedure of prior notification for banking information now takes into account the exceptions in line with the standards. Similarly, the procedure on gathering banking information is now setting up some confidentiality requirements.

7. Lebanon signed the Multilateral Convention on 12 May 2017, which was immediately ratified through the ratification authorisation provided in Law 55/2016, and came in force on 1 September 2017.

8. In practice, timeliness of response to requests improved towards the end of the period under review, due to better procedures and a better knowledge of the standard.

9. Lebanon has recently introduced EOI procedures on confidentiality in practice in order to ensure that letters from competent authorities are not provided to the Special Investigation Commission (SIC), which is the

authority responsible for collecting banking information on behalf of the Competent Authority for exchange with treaty partners.

10. Although the timeliness in answering EOI requests during the peer review period was not always adequate, it improved significantly towards the end of the period. Lebanon improved its organisation and internal procedures to ensure timely and effective EOI through setting up of procedures, issuance of an EOI Manual and training provided to auditors and EOI staff. It should be noted that a secure encrypted electronic platform between the SIC and the EOI Unit at MOF was set up and is expected to expedite the process and ensure timeliness of responses.

## Key recommendation(s)

11. Since the 2016 report, Lebanon has made several changes to its legal framework, particularly with regards to recommendations made on elements A.1 to B.2. The changes have largely contributed to ensuring that legal ownership information be available on bearer shares holders and foreign trusts administered by Lebanese trustees, and that banking information is exchanged with treaty partners.

12. In respect of the new aspects of the 2016 ToR, Lebanon's legal framework is very recent and therefore its effective implementation could not be assessed in practice. It is therefore recommended that Lebanon monitors the effective implementation of all recent measures taken to maintain information on beneficial ownership through the new Tax Procedure Code and through the new AML Circular 498. The 2016 ToR now evaluates the quality of requests made. In this regard, Lebanon has made three requests during the review period on which no issues were raised. It has the framework to ensure that its requests meet the requirements of its EOI mechanisms.

## Overall rating

13. Lebanon has made significant improvements in the areas of availability of banking information and ownership information on bearer shares holders through two major legal amendments implementation of which has produced positive effects at the end of the period under review. However, the very recent enactment of the beneficial ownership legislation does not allow for an assessment of its effective implementation in practice. On balance, Lebanon is rated overall Largely Compliant with the EOIR standard.

14. Lebanon has in place appropriate legislation requiring availability of all relevant information, including beneficial ownership information, of relevant entities and arrangements as required under the 2016 ToR. Although

Lebanon carries out adequate supervisory and enforcement measures to ensure that the legal ownership and accounting information is available in practice as required, beneficial ownership requirements are new and the supervision of those requirements has not started yet. Over the reviewed period, Lebanon has received 77 requests of which a minority was responded to within 90 days and the majority taking within a year or more. Combined to the procedure to collect banking information, the lack of experience and understanding of the standards explains the majority of the delays. However, improvement towards the end of the period under review were acknowledged by the principal treaty partner of Lebanon, evidencing that issues are no longer systemic and should be resolved through more practice.

15. This report was approved at the PRG meeting on 25-28 June 2019 and was adopted by the Global Forum on 29 July 2019. A follow-up report on the steps undertaken by Lebanon to address the recommendations made in this report should be provided to the PRG no later than 30 June 2020 and thereafter in accordance with the procedure set out under the 2016 Methodology.

**Summary of determinations, ratings and recommendations**

| Determinations and Ratings | Factors underlying recommendations | Recommendations |
|---|---|---|
| Jurisdictions should ensure that ownership and identity information, including information on legal and beneficial owners, for all relevant entities and arrangements is available to their competent authorities *(ToR A.1)* | | |
| **The legal and regulatory framework is in place.** | | |
| **Partially Compliant** | The obligation of beneficial ownership identification exists in AML Legislation since 2001 for banks and since 2015 for accountants, but no definition of beneficial ownership existed before June 2018. The supervision of the implementation of the new beneficial ownership definition started for banks in June 2018. For accountants, supervision has not yet started and sanctions have not been imposed for either group as of yet. | Lebanon is recommended to supervise that the the Circular on beneficial ownership issued to banks and certified accountants, and all CDD requirements for accountants, are effectively implemented to ensure that beneficial ownership on companies and legal arrangements is available in all cases. |

| Determinations and Ratings | Factors underlying recommendations | Recommendations |
|---|---|---|
| | Although Law 106/2018, ministerial decisions No. 1472/1 dated 27/09/2018 and nº 2045/1 dated 31/12/2018 introduced the obligation for all taxpayers to declare their beneficial ownership information in line of the standard in their tax returns, and to keep this information updated at all times, there has been no implementation in practice yet. In addition, although the tax administration prepared a draft of the guidance to taxpayers on how to determine beneficial ownership, this guidance has not been officially published. | Lebanon is recommended to monitor the implementation of the new tax requirements on beneficial ownership of taxpayers to ensure that adequate, accurate and up-to-date beneficial ownership information is available in all cases. |
| | Ministerial decision nº 1857/1 dated 30 November 2018 introduced an obligation for all companies that ceased to exist to send their records and accounting documents related to years that are still required to be maintained as per the provisions of the 10 year retention period to the Ministry of Finance. Prior to that, there was no clear legal requirement to retain ownership records for companies that ceased to exist. | It is recommended that Lebanon supervise the application of this new obligation to ensure the availability of ownership information of companies that ceased to exist. |
| | Lebanon abolished bearer shares with full effect from November 2016 and full implementation by November 2018. However, there are still 547 730 shares still not transferred to the State. | Lebanon is recommended to ensure that all bearer shares that are not converted are transferred to the State in accordance with the law. |
| Jurisdictions should ensure that reliable accounting records are kept for all relevant entities and arrangements *(ToR A.2)* | | |
| **The legal and regulatory framework is in place.** | | |

| Determinations and Ratings | Factors underlying recommendations | Recommendations |
|---|---|---|
| **Largely Compliant** | Ministerial decision nº 1857/1 dated 30 November 2018 introduced an obligation for all companies that ceased to exist to send their records and accounting documents related to years that are still required to be maintained as per the provisions of the 10 year retention period to the Ministry of Finance. | It is recommended that Lebanon monitors the application of this new obligation to ensure the availability of accounting information of companies that ceased to exist. |
| Banking information and beneficial ownership information should be available for all account-holders *(ToR A.3)* | | |
| **The legal and regulatory framework is in place.** | | |
| **Largely Compliant** | Although the concept of beneficial ownership was included in the CDD requirements applicable to banks since 2001, the beneficial ownership definition and the CDD approach to identify beneficial ownership were introduced only recently in Circular 498 of June 2018. | Lebanon is recommended to continue monitoring the implementation of Circular 498 applicable to banks introducing the definition of beneficial owner and the steps to be taken for CDD purposes to verify the beneficial ownership of their customers and to ensure that such information is available for accounts created prior to June 2018. |
| 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 legal and regulatory framework is in place.** | | |

| Determinations and Ratings | Factors underlying recommendations | Recommendations |
|---|---|---|
| **Largely Compliant** | During the peer review period, Lebanon introduced legislation in line with the standard to lift bank secrecy with effect from November 2016. Although Lebanon could answer requests related to taxable years prior to November 2016, some implementation issues created delays in response times, which resulted in one request being withdrawn by an EOI partner. The situation improved towards the end of the peer review period with an average response time being substantially reduced at the end of the peer review period and thereafter. | Lebanon should monitor the implementation of the procedure to access banking information in practice to ensure timeliness of responses in all cases. |
| 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 legal and regulatory framework is in place.** | | |
| **Largely Compliant** | The procedure for collecting information to answer incoming requests regarding banking information, including the prior notification procedure, its exceptions, and the appeal procedure, are recent and Lebanon's experience in applying those procedure is limited. | Lebanon should monitor the application of the exceptions to the prior notification and the appeal procedures in practice to ensure that it is applied in accordance with the standard. |
| Exchange of information mechanisms should provide for effective exchange of information *(ToR C.1)* | | |
| **The legal and regulatory framework is in place.** | | |
| **Compliant** | | |

| Determinations and Ratings | Factors underlying recommendations | Recommendations |
|---|---|---|
| The jurisdictions' network of information exchange mechanisms should cover all relevant partners *(ToR C.2)* | | |
| **The legal and regulatory framework is in place.** | | |
| **Compliant** | | |
| The jurisdictions' mechanisms for exchange of information should have adequate provisions to ensure the confidentiality of information received *(ToR C.3)* | | |
| **The legal and regulatory framework is in place.** | | |
| **Compliant** | | |
| The exchange of information mechanisms should respect the rights and safeguards of taxpayers and third parties *(ToR C.4)* | | |
| **The legal and regulatory framework is in place.** | | |
| **Compliant** | | |
| The jurisdiction should request and provide information under its network of agreements in an effective manner *(ToR C.5)* | | |
| **Legal and regulatory framework:** | **This element involves issues of practice. Accordingly, no determination on the legal and regulatory framework has been made.** | |
| **Largely Compliant** | During the peer review period, Lebanon only started with exchange of information on request, and yet, committed sufficient resources and put in place sound organisational processes to handle inbound EOI requests in a timely manner. Nevertheless, Lebanon experienced delays in responding to some EOI requests received, which is largely attributable to a lack of experience and some implementation issues, resolved towards the end of the period. Peers reported that timeliness improved at the end of the peer review period and afterwards. | Lebanon should ensure that it sends timely responses to the EOI requests received by its Competent Authority, and monitor that it maintains at all times sufficient resources to do so. |

| Determinations and Ratings | Factors underlying recommendations | Recommendations |
|---|---|---|
| | Although at the end of the peer review period the EOI unit started sending status updates, it was not a common practice during the peer review period. | Lebanon should ensure that it provides status updates to EOI partners within 90 days when it is unable to provide a substantive response within that time. |

# Overview of Lebanon

16. This overview provides some basic information about Lebanon that serves as context for understanding the analysis in the main body of the report. This is not intended to be a comprehensive overview of Lebanon's legal, commercial or regulatory systems.

17. Lebanon is located in the Middle East and is divided into eight provinces. The population is around 6 million as of 2017. Lebanon's official language is Arabic, although French and English are widely spoken. The national currency is the Lebanese Pound (LBP).

18. Lebanon has a developing economy with a gross domestic product (GDP) of EUR 47.62 billion in 2017. The services sector (commerce, transportation, financial sector, tourism, etc.) represents about two thirds of the national product. Banking and tourism are the main growth sectors. The Lebanese economy is also an open economy with a large banking sector with banking assets equivalent to EUR 223 billion. Due to its tightly regulated financial system and the highest gold reserve in the Middle East, Lebanese banks largely avoided the financial crisis of 2007-10. The most important industries are: foodstuffs, textile, chemicals, cement, wood, metals and jewellery, in addition to other natural products such as limestone, iron ore and salt. Lebanon's main exports are jewellery, machinery and base metals, and its major countries of destination are Switzerland, the United Arab Emirates, France, Saudi Arabia and Iraq. Lebanon's main imports come from the United States, China, Italy, France and Germany.

19. Lebanon is a member of the International Monetary Fund, Arab Monetary Fund, the Group of 24 (G24), the League of Arab States, the United Nations and the World Customs Organisation.

## Legal system

20. The Constitution as amended in 1990 stipulates that Lebanon is a parliamentary democracy, with a special system known as confessionalism, a power-sharing mechanism for its religious communities. This system is intended to deter sectarian conflict and attempts to fairly represent the

demographic distribution of the 18 recognised religious groups in government. Lebanon's national legislature is the unicameral Parliament of Lebanon. Its 128 seats are divided equally between Christians and Muslims, proportionately between the 18 different denominations and proportionately between its 26 regions. The Parliament is elected for a four-year term by popular vote.

21. The executive branch consists of the President, who is the head of State, and the Prime Minister, the head of government. The Parliament elects the President for a non-renewable six-year term by a two-third majority. The President appoints the Prime Minister, following consultations with the Parliament.

22. The laws approved by Parliament must be promulgated by the President of the Republic within one month (or five days if the Parliament has declared the law to be urgent) after it is sent to the government.

23. The highest legal instrument in the Lebanese legal system is the Constitution. The Parliament may issue Codes, Laws, Regulations and Decrees. The Council of Ministers may issue binding sanctionable resolutions. In addition, the Central Bank may issue binding sanctionable instruments, often called Circulars. In the hierarchy of norms, international treaties have a higher standing than any laws, but not the Constitution.

24. The Lebanese court system consists of three primary types of courts – civil, commercial and criminal – all of which have three levels: first instance, appeal, and cassation. Moreover, administrative courts have recently been established. Tax matters are initially heard by the tax administration and appeals or objections are sent to objections committees established on a temporary basis until the administrative courts are operational. At a final level, taxpayers and the tax administration can file appeals to the Lebanese State Council. The Constitutional Council rules on constitutionality of laws and electoral frauds. There is also a separate Military Court system as well as Personal Status Courts, constituted of members of the clergy. The rulings of the Personal Status Courts and their decisions are subject to the review of the higher Civil Courts.

## Tax system

25. Income tax is territorial in general. Foreign source income of Lebanese taxpayers (legal entities and individuals) is not subject to tax, with the exception of income from movable capital (e.g. interest and dividends).

26. Companies and individuals are subject to income tax. Employers in Lebanon must pay social security and other contributions with respect to employees. Since 2002, value-added tax (VAT) is levied (at 11% as of

1 January 2018) on all goods and services, subject to certain exemptions, such as medical and educational services. In January 2003, Parliament adopted the 2003 Budget Law, pursuant to which interest paid in respect of bonds issued by the Lebanese Republic after 31 January 2003, and by private entities, as well as interest from bank deposits and other interest bearing assets, is subject to a withholding tax (of 7% as of 1 January 2018).

27. The Income Tax Act (ITA) defines three categories of income which are taxed separately: (i) tax on business profits, including royalties, rent, income from the exercise of independent professionals and capital gains; (ii) tax on salaries, wages and pension benefits; and (iii) tax on income from movable capital, including interest, dividends and director's fees paid out of profits.

28. Business profits tax is applicable to persons undertaking business activity in Lebanon (whether resident or not in Lebanon), including incorporated companies, sole proprietorships and professions. Entities exempt from business tax are listed in the ITA (Art. 5). They generally include non-profit organisations and public entities that do not compete with private companies. The tax rate depends on the legal status of the taxpayer. Corporations and limited liability companies are subject to a flat rate of 17% as of 1 January 2018. Other non-corporate entities, such as sole proprietorships and liberal professionals, are subject to progressive rates. Profits of partnerships are taxed in the hands of the partners, even though the income tax is defined as a liability of the partnership until the settlement of the tax by the partners.

29. The main types of income subject to the tax on income from movable capital are dividends, interest, and any payments that can be considered as equivalent (in substance) to interest and dividends. Capital gains that arise from the disposition of stocks are exempt from tax except when they are held by individuals (Law No. 283/93). However, the disposition of stocks can be subject to the business profit tax if the investment is not passive. Non-resident corporations carrying on business activities in Lebanon are deemed to have distributed all their after-tax profits at the end of the tax year. This income is taxed at a 10% flat rate.

30. Specific rules apply to joint stock companies that are holding companies and offshore companies. Offshore companies are only subject to an annual fixed tax of LBP 1 million (EUR 518). They are exempt from fiscal stamp duties on contracts and all signed documents relating to activities conducted abroad. Holding companies enjoy tax exemptions on profits and dividend distribution. The taxation of holding companies is limited to certain items of income and an annual tax on the value of the company's capital and reserves capped at LBP 5 million (EUR 2 590).

31. Lebanese tax law provides a definition of the concept of resident since 2016. All companies and other legal persons which are incorporated in Lebanon and those with a place of effective management in Lebanon, are resident there. Non-residents without permanent establishment in Lebanon are subject to a withholding tax on their Lebanese source income. Taxable income of non-residents is 15% of their total revenues generated in Lebanon, or 50% if the revenues arise from providing services in Lebanon (Art. 42). Exchange of information for tax purposes is governed by the provisions of Double Taxation Conventions (DTC) and the MAC. Currently, Lebanon has 137 EOI relations among which 29 DTCs in force.

## Financial services sector

32. Lebanon hosts one of the most important banking and financial centres in the Middle East. The financial sector includes banks, financial institutions, financial intermediation institutions, leasing companies, exchange institutions/money dealers and collective investment schemes. Banking activities are subject to both the Code of Commerce (1942) and the Code of Money and Credit (1963). Although the banking system provides strict banking secrecy (1956 Banking Secrecy Law), banking information can be accessed under specific circumstances including exchange of information with a treaty partner, money laundering, drug trafficking, illicit enrichment, terrorism financing activities in addition to other predicate offences specified in AML Law 44/2015.

## AML framework

33. Lebanon's compliance with the AML/CFT standard is assessed by the Middle East and North Africa Financial Action Task Force (MENAFATF), the regional body responsible for the review. The most recent review was conducted in 2009 and the recommendations on Transparency and Beneficial Ownership of Legal Persons and Arrangements were respectively rated Partially Compliant and Largely Compliant. As a result, Lebanon was placed under a regular follow-up process. The 9th follow-up report, published in April 2017, concluded that Lebanon could move from the follow-up procedure to biennial updates, because deficiencies identified with regards to customer due diligence were addressed by the entry into effect of the Law 44/2015 and deficiencies with regards to identification of holders of bearer shares were addressed with the entry into force of the Law 75 of 2016 which abolishes the bearer shares.

34. Immediate Outcome concerning implementation of rules ensuring availability of beneficial ownership information in respect of legal persons and arrangements has not been reviewed by MENAFATF yet and the review is planned to be launched in 2020-21.

## Recent developments

35. Amendments to the Code of Commerce were published on the Official Journal on 1 April 2019, and will enter into effect on 1 July 2019. The changes amend article 26 of the Code of Commerce and require the registration of beneficial ownership information in the Commercial Registry for all types of companies. The amended article 101 of the Code of Commerce requires the publication in the Commercial Register of several documents, including the auditors' reports, the board's report, the presence sheet of the annual regular assembly and the names of the board members. The amended article 101 also increased the burden of penalties for violation of these publication requirements by imposing a fine of LBP 100 000 per year and per document not published.

# Part A: Availability of information

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

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

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

37. The prior report found that legal ownership information for relevant entities and arrangements was generally available in Lebanon through commercial, financial and tax legislations, with the exception of companies that were allowed to issue bearer shares and "to order shares"[1] issued by joint stock companies and partnerships limited by shares. In addition, a legal gap was identified with regards to Lebanese resident trustees of foreign trusts, as they were not required to keep ownership information on the settlors and beneficiaries of the trusts. The element was therefore determined to be in place but some aspect of the legal implementation needed improvement.

38. Since then, the laws have been amended to address these deficiencies.

39. Lebanon issued in October 2016 Law 75/2016 abolishing bearer shares and granting companies two years from its entry into force to ensure that no bearer shares exist in Lebanon. The implementation of this law is monitored by the tax authority, which has imposed sanctions where conversion of existing bearer shares into nominal shares has not been done within the time granted (i.e. by 3 November 2018). The supervision demonstrated that 19 out 110 companies did not comply as of 1 April 2019; these

1. Article 265 of the CoC establishes that a "to order" security is established by endorsement expressed "asset in pledge" or by equivalent wording. The transfer is made by means of endorsement in the instrument itself and no information is available to the tax authorities concerning the ownership of those securities, including "to order shares".

19 companies represent 547 730 shares that have not yet been transferred to the State.

40. The 2016 Terms of Reference requires jurisdictions to ensure that beneficial ownership information is available on legal entities and arrangements. With respect to the legal framework, beneficial ownership information on legal entities and arrangements is available in two ways:

- The AML/CFT framework under which financial institutions and relevant service providers must carry out customer due diligence (CDD) procedures. However, prior to June 2018, there was no definition of beneficial owners in the AML/CFT legislation and CDD requirements to identify the beneficial owner were not prescribed for service providers other than banks. Although banks have been subject to CDD requirements since 2001, supervision and monitoring by the Special Investigation Commission (SIC) of the Central Bank, the Circulars defining beneficial ownership to banks and certified accountants for the purpose of CDD requirements were recently issued in June 2018.
- The tax framework now requires companies and legal arrangements to provide beneficial ownership information in their tax returns. This obligation was implemented for the tax year 2018 (returns to be filed in 2019).

41. In respect of the coverage of the AML/CFT framework, the Code of Commerce provides that all Lebanese companies and partnerships must engage a Lebanese certified accountant and a Lebanese lawyer. These two service providers must carry out CDD on their clients in certain cases. However, the definition of beneficial owners only applies from 2018 and the implementation of the CDD requirements only started in 2017 following the expansion of the AML scope to service providers other than banks in 2015.

42. In respect of the tax requirements on beneficial ownership information, the implementation is recent and could not be assessed. For the same reason, Lebanon has not yet implemented compliance strategies. Lebanon is recommended to monitor the implementation of the new requirements on beneficial ownership information under the tax framework, to ensure that adequate, accurate and up-to-date beneficial ownership on companies and legal arrangements is available in all cases.

43. Regarding companies that have ceased to exist, Ministerial decision nº 1857/1 dated 30 November 2018 introduced an obligation for these companies to send their records and accounting documents (which include ownership information) related to years that are still required to be maintained as per the provisions of the 10 years retention period to the Ministry of Finance. Instruction No. 928/S1 issued on 11 April 2019 provides details of

implementation of the Ministerial decision. Prior to that, there was no clear legal requirement to retain ownership records for companies that have ceased to exist. It is recommended that Lebanon monitors the application of this new obligation to ensure the availability of ownership information of companies that have ceased to exist.

44. During the current peer review period, Lebanon received 77 requests for information, of which 37 related to ownership and identity information. Requests concerning beneficial ownership information were received but not all of them could be replied to, due to the absence of legal requirements in Lebanon. The authorities confirmed that if it was a banking information request coming after October 2016, and beneficial ownership information was required, the Competent Authority would request this information as part of the CDD documents to be maintained by the bank and provide it to its treaty partners. With respect to one request, the Lebanese Competent Authority did not attach the supporting documents due to a lack of EOI practice and not because of issues on the availability of the said supporting documents.

45. In light of the above, the recommendation on amending the legislation on bearer shares is removed but replaced with a recommendation on ensuring that Lebanon monitors that the non-converted bearer shares be transferred to the State in practice. No other recommendations are included with respect to the legal framework, which is now in place. As the legal framework regarding beneficial ownership information has been established only from mid-2018 and 2019, its implementation in practice could not adequately be assessed. It should be noted that the monitoring recommendation is quite broad as it encompasses nearly all sources of beneficial ownership information under both the AML/CFT and the tax frameworks. Additionally, there is a monitoring recommendation concerning recent legislation with regard to companies that have ceased to exist. In light of these three broad recommendations on proper implementation of the legal and regulatory framework, element A.1 is rated Partially Compliant.

46. The new table of recommendations, determination and rating is as follows:

| Legal and Regulatory Framework |
| --- |
| **Determination: The element is in place.** |

| Practical Implementation of the standard | | |
|---|---|---|
| **Deficiencies identified** | **Underlying Factor** | **Recommendations** |
| | The obligation of beneficial ownership identification exists in AML Legislation since 2001 for banks and since 2015 for accountants, but no definition of beneficial ownership existed before June 2018. The supervision of the implementation of the new beneficial ownership definition started for banks in June 2018. For accountants, supervision has not yet started and sanctions have not been imposed for either group as of yet. | Lebanon is recommended to supervise that the Circular on beneficial ownership issued to banks and certified accountants, and all CDD requirements for accountants, are effectively implemented to ensure that beneficial ownership on companies and legal arrangements is available in all cases. |
| | Although Law nº 106/2018, ministerial decisions No. 1472/1 dated 27/09/2018 and nº 2045/1 dated 31/12/2018 introduced the obligation for all taxpayers to declare their beneficial ownership information in line with the standard in their tax returns, and to keep this information updated at all times, there has been no implementation in practice yet. In addition, although the tax administration has prepared a draft guidance to taxpayers on how to determine beneficial ownership, this guidance has not been officially published. | Lebanon is recommended to supervise the implementation of the new tax requirements on beneficial ownership of taxpayers to ensure that adequate, accurate and up-to-date beneficial ownership information is available in all cases. |
| | Ministerial decision nº 1857/1 dated 30 November 2018 introduced an obligation for all companies that ceased to exist to send their last 10 years of records and accounting documents to the Ministry of Finance. | It is recommended that Lebanon supervise the application of this new obligation to ensure the availability of ownership information of companies that ceased to exist. |
| | Lebanon abolished bearer shares with full effect from November 2016 and full implementation by November 2018. However, there are still 547 730 shares still not transferred to the State. | Lebanon is recommended to ensure that all bearer shares that are not converted are transferred to the State in accordance with the law, |
| **Rating: Partially Compliant** | | |

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

47. The Code of Commerce provides for the following types of companies:

- Limited liability company, which is formed by three to twenty members. They may not perform banking, financial operations or insurance. The liability of each member is strictly limited to the value of interest held by the member. There were 8 693 Limited liability companies registered with the Commercial Registry during the review period.
- Joint stock company, composed of a minimum of three shareholders. The liability of each shareholder is strictly limited to the value of the shares held. The majority of the members of the board of directors must be Lebanese citizens. There were 3 636 (excluding offshore and holding companies) joint stock companies registered during the review period.
- Partnerships limited by shares, formed by one or more managing partners, who are traders and are indefinitely and jointly liable for the partnership's debts, and limited partners who are shareholders and liable for losses only up to the amount of their contributions. There were 17 partnerships limited by shares in Lebanon as at 31 December 2017, of which none was registered during the review period.
- Civil companies, which are used for artistic, literature, educational, art or liberal professions purposes. They must register at the Civil Companies Register at the Court of First Instance where the office of the company is usually located (Law 420/2001). Statistics on the number of civil companies registered with the commercial registry could not be provided. The Lebanese authorities advise that, for tax purposes, civil companies are treated as partnerships and the owners of those companies are required to include in their returns their share of the civil company's profits. Should the civil company has a profit making purpose, it follows the registration procedure as other domestic companies.
- Offshore companies have to be established in accordance with the rules applicable to joint stock companies. They are governed by the code of commerce with special rules set out under Decree No. 46/1983 as amended. They cannot engage in banking operations, insurance or any other commercial activity in Lebanon and/or make any profits or revenues through movable or immovable assets in Lebanon, or through providing services to companies located in Lebanon, except for the interests on its bank accounts. There were

1 684 offshore companies registered with the commercial registry in Lebanon during the review period. Offshore companies benefit from tax exemptions since they are only subject to an annual flat tax of LBP 1 000 000 (Approx. EUR 570)

- Holding companies are a special type of joint stock company and are governed by the code of commerce, Decree No. 45/1983 amended by Law No. 772/2006. The minimum capital for establishing a holding company is LBP 30 000 000 (approximately USD 20 000). The chairman can be a non-Lebanese citizen, provided he/she is resident abroad and can practice without a work permit. Members of the board and shareholders can be non-Lebanese as well. Board and shareholders' meetings can be held outside Lebanon. The company must be registered on a special register for holding companies in the Commercial Register. There were 875 holding companies which registered with the commercial registry during the review period in Lebanon. Holding companies benefit from tax exemptions and advantages.
- Foreign companies wishing to do business in Lebanon have the possibility of opening a local branch or a representative office. All branches and representative offices have to register with the Companies Department at the Ministry of Economy and Trade according to High Commissioner's Order No. 96 of 30 January 1926 and Legislative decree No. 34 dated 5 August 1967.Statistics on the number of foreign companies registered with the commercial registry during the review period is not available. .

48. As described in the 2012 Report in section A.1 (see paras. 46 to 67), legal ownership and identity requirements for companies are found under commercial, tax and financial legislations. The following table[2] shows a summary of the legal requirements to maintain legal ownership information in respect of companies.

2. The table shows each type of entity and whether the various rules applicable require availability of information for "all" such entities, "some" or "none". "All" in this context means that every entity of this type created is required to maintain ownership information for all its owners (including where bearer shares are issued) and that there are sanctions and appropriate retention periods. "Some" in this context means that an entity will be required to maintain information if certain conditions are met.

**Legislation regulating legal ownership of companies**

| Type | Company law | Tax law | AML Law |
|---|---|---|---|
| Limited Liability Company | All | All | Some |
| Joint Stock Company | All | All | Some |
| Civil Company | All | All | Some |
| Offshore Company | All | All | Some |
| Holding Company | All | All | Some |
| Foreign companies (tax resident) | All | All | Some |
| Partnerships limited by shares | All | All | Some |

### *Legal ownership and identify information requirement*

49. Legal ownership information is available in Lebanon with the Commercial Register the tax authorities and the companies themselves.[3]

### Information available with Commercial Register

50. In accordance with the COC, all merchants, companies, commercial establishments, including foreign companies and partnerships with their place of business in Lebanon must be registered in the Commercial Register within one month of the starting date of their constitution, regardless of whether they have started operations or not. Unregistered companies are void (Art. 44 c.c.).

51. Offshore companies and holding companies are established under decree-law n°46 and 45 of 24 June 1983. They are subject to the same rules as the joint stock companies in terms of registration with the Commercial Register.

52. Companies must provide the following information:

- the notarised articles of association/bylaws
- name and type of the entity
- object (type of business) and term of the company
- locations of branches

3. The Central Bank also maintains ownership information of all financial institutions. Further, shares of banks must be in registered form and registered with Midclear, the custodian and clearing centre for financial instruments in Lebanon (99% owned by BDL) and any changes in ownership information must be disclosed to Midclear (see 2012 Report, para. 51-52).

- names of partners or shareholders, date of birth, place of birth and nationality
- names of the managers or directors or representatives
- capital and composition.

53. Information in the Commercial Register must be constantly updated by the person or entity registered (with supporting documentation). Any changes in any registered information, including on the identity of owners, managers and directors, and decisions declaring bankruptcy, have to be submitted to the registrar (Art. 27 COC). The register is public and all files on companies are readily available at the Commerce Registry.

### Information available in Tax law

54. Ownership information is also available with the tax administration as any person undertaking a taxable business or bound by tax obligations, including persons exempted from the Income tax on commercial, industrial or non-commercial profits must register with the tax administration within two months of the date of business start-up. During the review period, the following entities were registered with the Tax Administration:

- limited liability companies (LLCs): 6 632
- joint stock companies (JSC) (excluding holding and offshore companies): 2 903
- partnerships limited by shares: none registered with the tax authority during the review period
- foreign company: 99
- Holding: 707
- Offshore: 1 364
- civil companies: 109

55. When registering, the documents to be submitted include copies of: the articles of association registered in the commercial register, identity documents of shareholders or partners (individuals), the registration certificate of shareholders who are legal entities (Art. 42 Ministerial Decision 453/1/2009).

56. Stamp duties have to be paid on the articles of association before being deposited to the commercial register. In practice, stamp duties are settled at the indirect tax department. Once the articles of association is presented to the indirect tax department, a temporary "under incorporation/establishment" registration number is allocated to the company. After final registration at the commercial register, the company must register at the tax

administration and in this case the "under incorporation/establishment" statement is changed to the legal status of the company under the same registration number.

57. After the registration at the commercial register, the registration with the tax administration is not automatic. The registration documents required for the tax registration (including the name of shareholders/partners and the percentage of shareholding) must be presented by the taxpayer or by an authorised representative at the counter of the Taxpayer's Service Unit. If the employee has a doubt on the real existence of the entity, the unit will transfer the file to the head of the department who will study the case and may propose to send it back to this unit for more investigations and an onsite visit will be arranged to check the existence of the entity. Once these procedures are accomplished, the registration certificate which contains the registration number will be issued and all the documents presented by the taxpayer are scanned and registered electronically.

58. In case the company did not perform the registration process at the tax administration, the compliance department checks all temporary registration numbers "under incorporation/establishment" available on the tax system, follow up their status, register these companies if necessary and apply related penalties according to the Tax Procedures Code (TPC).

59. The Taxroll department and Compliance department monitor the compliance of taxpayers regarding the obligation to register with the tax administration; their mission is based on information received (automatically or on request) from other administrations (according to article 23 of the TPC) and from other tax departments. In addition, the Compliance department has access to several databases that can help in monitoring failure in tax registration such as customs database, social security database in addition to the systems available within the tax administration.

60. Tax returns also contribute to the availability of ownership information. In the case of joint stock companies, the annual tax return includes details about the identity of the shareholders in the statement of shareholders equity (Statement 35 of the tax return form).

61. Finally, any modification in ownership must be reflected in the articles of association and the Tax Administration has to be informed (article 32 of the TPC) through filing of a form related to the amendment. This form should be accompanied with minutes of meeting of the general assembly deciding the modification (related contracts, form to register the new shareholder, ID and title deed).

### Information available with the companies themselves

62. Joint stock companies, offshore companies and holding companies have the tax obligation to keep a shareholders book, with up-to-date information on their shareholders holding registered shares (Art. 29 TPC). The shareholders book must include all information and details related to registered shares since the establishment of the company (purchase, transfer, increase, cancellation, etc., as well as all the amendments made to registered shares) (Art. 28 Ministerial Decision 453/1/2009).

63. Interest in a limited liability company can only be transferred to third parties with prior approval of members representing at least 75% of the company's capital (Art. 15(1)). Transfers of ownership must be notified to the company's manager and each of its members (Art. 15(2)). No such requirements exist for joint stock companies, whose shares are freely negotiable and transferable.

### Information available on foreign entities

64. Legal ownership information on foreign companies in Lebanon is available with the Ministry of Finance under tax law. In addition, information is also available with the Commerce Registry and the Ministry of Economy and trade since any foreign company that wants to operate in Lebanon has to set up a branch or a representative office in Lebanon and register with the Commerce Registry (see 2012 Report, para. 61-63). Information is also available with BDL when the foreign entity is a financial institution.

65. In 2016, the tax law was not clear on whether foreign companies without established Lebanese branches and representative offices would still have tax obligations. Law 60 dated 27 October 2016 added the definition of "Resident" to the general tax definitions and clarified that any foreign companies having their place of effective management in Lebanon would be considered tax resident of Lebanon and therefore liable to lodge tax returns and register with the Ministry of Finance.

66. Ownership information is thus available at all times. There are currently 750 foreign entities in Lebanon, which are all registered for tax purposes with the Ministry of Finance and with the Commerce registry. All documents to be filed upon registration with the tax authority are in line with Decision 453/2009 (implementing the TPC). Lebanon reported that these entities comply with their obligations, and provided the following compliance rates: 88% in 2015; 86% in 2016 and 86% in 2017.

### Information on nominees

67. The concept of nominees does not exist in Lebanon and should a person act as a legal owner on behalf of a real owner, the law in Lebanon would only recognise the legal owner who will have all legal rights and obligations. The closest concept is *mandataire*. However, this function is strictly restricted to banks or financial institutions registered with BDL and financial intermediation institutions that meet certain legal requirements (article 1 of the Law No. 234 of June 2000). In accordance with the AML framework, the persons allowed to act as *mandataire* have to conduct CDD on their customer and therefore identify their customer and beneficial owners of their customer.

### Information on companies that ceased to exist

68. In Lebanon, a company ceases to exist when it is liquidated, whether voluntarily, because of bankruptcy or when it stops definitely from having an activity. Information on companies that ceased to exist is available with the Ministry of Finance, including information regarding ownership information. Ministerial Decision nº 1857/1 dated 30 November 2018 introduced an obligation for all companies that ceased to exist to send their records and accounting documents related to the past 10 years to the Ministry of Finance. Instruction 928/S1 of April 2019 recently set the details of implementation of the Ministerial Decision from a procedural point of view. Prior to that, there was no clear legal requirement to retain records for companies that ceased to exist. It is recommended that Lebanon monitors the application of this new obligation to ensure the availability of accounting information of companies that ceased to exist.

69. There is no general legal requirement to engage an AML obliged person to be in charge of the liquidation process and therefore the AML regime cannot fully compensate the absence of retention requirements before Decision 18571/1.

70. Regarding all Joint-Stock companies, including Offshore and Holding companies, the general assembly meeting deciding the strike-off and liquidation of the company assigns the person responsible for the liquidation. When no person is appointed under the articles of association, the person assigned is likely to be a Lebanese Certified Public Accountant, a Lebanese Lawyer, or one of the executive Board Members. However, if the general assembly fails to reach a decision, the court takes over the procedure and appoints a liquidator from where the head office is located (article 220 of the Code of Commerce). In case of bankruptcy, the court that declares the bankruptcy assigns the person responsible for the management of the assets of the insolvent companies. This person is responsible for the liquidation and book keeping obligations.

71. When a company ceases to exist because it definitely ceases from having an activity, the company must declare the work cessation and present the "no-practice" declaration on a yearly basis after the completion of the liquidation process and until the delisting from the commercial or civil registry or from the syndicate.

72. As mentioned above, before December 2018, there was no legal requirement for companies that have ceased from operating to keep information after the date they stopped from operating. According to article 19 of COC, every company is obliged to keep records for ten years. In addition, article 30 of the TPC requires that all documents related to taxpayers account available at the tax administration are saved in the tax administration for ten years. In practice though, the Lebanese authorities advised that the information could also be available with the taxpayer's certified accountant, who is required to keep the accounting records under the commercial law. In addition, according to decision 1857/1 dated 30 November 2018, taxpayers declaring work cessation, are obliged to deliver to the tax administration all their accounting records and documents regarding the years that are still within the "10 years period as per commercial law", either in soft or hard copy within 15 days after being notified from the tax administration of the acceptance of cessation.

73. In December 2018, an amendment was brought to article 53 of decision 453/1 dated 22 April 2009 (implementing Law nº 44 dated 11 November 2009 – TPC). This decision obliges the taxpayer ceasing to operate definitely to submit all its books and records to the Ministry of Finance, which acts as an archive system. Every company which is dissolved undergoes a comprehensive audit exercised by the tax administration. Once the audit is completed, a certificate of good standing (*quitus*) is issued to the company and all documents are passed on to the tax administration. The information is to be kept indefinitely on the systems and documents are kept for 10 years in paper.

## Legal ownership information – Enforcement measures and oversight

74. The availability of legal ownership information is enforced through the supervision of the Commercial Register which monitors the application of the commercial law requirements and the tax administration which monitors the application of the tax requirements.

## Supervision by the Commercial Register

75. The Commercial Register carries out limited oversight activities (excluding onsite visits since the Commercial Register does not have powers to perform any onsite visits), to verify the existence of different elements of a

commercial enterprise upon its registration at the register; and application of penalties for late filing of general assembly minutes of meeting.

76. In case of non-registration of companies and partnerships with the Commercial Register, the articles of association of those entities are considered void (Art. 44 CoC) and the company is punished under article 37 of the COC by a fine amounting LBP 100 000.

77. Submitting false information during registration with a commercial register can be sanctioned with a fine between LBP 25 000 and LBP 500 000 (EUR 14 to 285) or a term of imprisonment from one to six months (Art. 38 combined with Art. 30(1) of Law 89/1991).

78. Failure to update information is also punished under article 37 of the COC. In practice, the Registrar explained that since they conduct limited oversight activities, the information may not be up to date and changes may only be known when the company needs to perform certain acts with the registry which necessitate the reopening of the company's file. However, it is likely to be the case for the joint stock companies, as they have the obligation to file their balance-sheet yearly and to comply with this obligation, the company has to register the minutes of the decision by the Assembly General for the adoption of the balance-sheet. In these minutes, there is an attendance sheet with the name of the shareholder present, which would give at least partial ownership information.

### Supervision by the tax administration

79. The tax administration applied sanctions and monitored adequately the registration of companies and the filing of tax returns by companies, such that the supervision can be considered adequate.

80. Failure to register with the tax administration triggers the imposition of a penalty between LBP 1 million (EUR 571) for limited liability companies, partnerships and tax-exempted entities and LBP 2 million (EUR 1 142) for joint stock companies (Art. 107(1) TPC). During the review period, 5 972 sanctions have been applied and the tax administration collected around LBP 3 billion fines in total.

81. As information can be found in tax returns, the tax administration monitors the compliance on tax filing, and in case a person does not submit its tax return within the deadline, on conviction, a penalty of 5% of the tax due for each month of delay is imposed but should not be less than (i) LBP 750 000 (EUR 428) for joint stock companies; (ii) LBP 500 000 (EUR 285) for limited liability companies, partnerships and tax-exempted entities; and (iii) LBP 100 000 (EUR 57) for individuals (Art. 109). During the period under review, 132 524 sanctions have been applied for failure to lodge tax returns, and the tax administration collected around LBP 103 billion in fines in total.

82. Correctness and completeness of information in tax returns are also audited and false and omitted information are sanctioned with a penalty, on conviction, of (i) LBP 200 000 (EUR 114) for joint stock companies; (ii) LBP 100 000 (EUR 57) for limited liability companies, partnerships and tax-exempted entities; and (iii) LBP 50 000 (EUR 28) for individuals. The penalty is applied in relation to each return that was not complete (Art. 111 TPC). Lebanon authorities advised that during the period under review, sanctions for incorrectness have been applied in 115 instances.

83. Joint stock companies which fail to keep a book of shareholders in accordance with Article 29 of the TPC are subject, on conviction, to a minimum penalty of LBP 750 000 (EUR 428) (Art. 114 and 115 TPC). During the period under review, 82 270 sanctions have been applied and the tax administration collected more than LBP 559 billion.

84. Article 32(2) of the TPC requires to update any change occurring on the status of the taxpayer within two months; in this case, any update (including ownership information update) must be made by submitting the required documents for this update to the Taxpayers' services department. Any failure in notifying the tax administration with taxpayer's update is subject to the penalty mentioned in article 107(2) of the TPC. Offshore and holding companies benefiting from a tax exemption remain subject to these updating requirements. Non-compliance is detected during audits and sanctions of the same amount as for incorrectness and incompleteness of information submitted in tax returns are applicable as explained in paragraph 82. Penalty imposed in relation to breach of article 107(2) of the TPC are EUR 20 500 in 2015, 17 500 in 2016 and 19 900 for 2017. During the review period, the tax office conducted the following audits:

**Number of audits conducted during the review period**

| | 2015 | 2016 | 2017 |
|---|---|---|---|
| Desk audits | 15 572 | 15 975 | 16 732 |
| Field audits | 4 955 | 8 057 | 7 603 |

## Information on inactive companies

85. Tax and company laws do not address the situation of inactive companies. There is no definition of inactive companies in Lebanese laws and no requirements concerning the same under the CoC. The only source of ownership information on the number of inactive companies is therefore the Ministry of Finance through tax requirements for registered taxpayers.

86. The Ministry of Finance which is responsible to ensure that all registered taxpayers comply with their tax filing requirements set a list of inactive taxpayers categorisation criteria used to update the database of taxpayers (memorandum No. 2651/1 issued by the Director General of the Ministry of Finance on 20 July 2018):

- the abstention of the taxpayer, who has an obligation to present income or value added tax declarations, to present these declarations for three consecutive years
- the presentation of inactivity declaration, or the presentation of the annual income declaration free of any revenue or expenses
- the presentation of a temporary or permanent work discontinuation declaration
- notifying the Tax Administration of a bankruptcy declaration
- exercising an activity from an address different from the one declared to the Tax Administration or the declared address is fictive.

87. These classification criteria have been programmed into the tax system in a manner to be applied to all registered taxpayers. This classification process is updated in December of each year.

88. After applying these criteria, and after issuing the list of inactive taxpayers (152 812 for tax years periods related to 2014, 2015 and 2016), the tax administration verifies in all means available that these taxpayers are inactive. This involves desk audits and onsite visits to verify whether the taxpayer is operating and understand the reasons for non-compliance. A sample of inactive taxpayers is selected on a yearly basis (for the year 2018, about 14.6% of the inactive taxpayers i.e. 22 383 inactive taxpayers) and distributed to concerned tax units for field visits to check the actual status of these taxpayers.

89. Following the onsite visit, a report is drafted by the auditor and signed by the taxpayer. When the taxpayer is not engaging, the auditor registers the person in a study programme to assess its tax liability.

90. In practice, 26% of the 22 383 taxpayers checked during the review period were no longer at the address registered with the tax administration; 37% of this sample were still operating and audits are then performed to assess taxes and impose penalties and the rest were either dead, or moved in another jurisdiction, or ceased operating or have wrong address. Once a company is found inactive, import and export operations of the inactive taxpayer are blocked, the payments of any amounts due to it by the ministries, public institutions and administrations are suspended until the arrangement of its status with the tax administration, and the taxpayer does not have the right to any reimbursement of the value added tax. If any transaction is made in the name of the inactive taxpayer, this taxpayer is required to fix its tax status with the tax administration.

91. Accounting records and documents must be kept by inactive taxpayers who also have to file tax returns.

92. There have never been any EOI requests on an inactive taxpayer. Lebanese authorities' monitoring of the inactive companies ensures a satisfying level of supervision which is likely to ensure that inactive companies abide by their legal obligations to file tax returns and maintain accounting records in line with the standards.

## Availability of legal ownership information in practice in relation to EOI

93. Lebanon has been asked legal ownership information in 37 instances. The requesting jurisdictions were generally satisfied with the responses. Two peers found that supporting documents were not attached to the response. The Lebanese authorities clarified that the lack of attached evidence was not related to availability of information but rather to lack of awareness on how to answer an EOI request in practice. Since 2017, the Lebanese Competent Authority exchanges supporting documents with their response.

### *Availability of beneficial ownership information*

94. Under the 2016 ToR, a new requirement of the EOIR standard is that beneficial ownership information on companies should be available. In Lebanon, this aspect of the standard is met through new tax requirements introduced in 2018 and AML requirements. Although Lebanese banks have been subject to CDD requirements and AML/CFT monitoring since 2001, the term "beneficial owner" has only been defined in Int. Circ. 498 issued in June 2018. In addition, although the obligation to conduct CDD to identify the beneficial owner exists for certified accountants since 2015, the actual implementation of CDD obligations only started in 2017 and the concept of beneficial owner was only defined in June 2018 through a Circular. Each of these legal regimes is analysed below.

**Legislation regulating beneficial ownership of companies**

| | Commercial law | Tax law | AML |
|---|---|---|---|
| Limited Liability company | None | All | Some |
| Joint Stock company | None | All | Some |
| Civil company | None | All | Some |
| Offshore company | None | All | Some |
| Holding company | None | All | Some |
| Foreign company | None | All | Some |
| Partnership limited by shares | None | All | Some |

### *Anti-money laundering requirements*

95. Beneficial ownership information on companies is available with AML obliged persons that these companies engage, particularly certified accountants and banks. The Code of Commerce provides that all Lebanese companies must at all times engage a Lebanese certified accountant (who has to be a member of the Lebanese Association of Certified Public Accountants LACPA) and a Lebanese lawyer (who has to be a member of the Bar Association), and both must have their offices in Lebanon (Law 364 on Accountancy Profession Act and Law 8/1970). The certified accountant is appointed for a period of minimum one year (Corporation) or three years (for the joint stock companies, including offshore and holding companies, and LLC if the number of partners exceeds 20, or the capital exceeds LBP 30 million or a partner with more than 1/5 of the capital so requires). The Commercial Register confirmed that after the initial period, new certified accountants should be appointed or existing certified accountants renewed, and this, for the entire duration of the company.

96. However, only some marginal services provided by certified accountants and lawyers to companies would trigger AML obligations, and therefore, although a company has to engage a certified accountant, it is not established that this accountant would always be an AML obliged person.[4]

97. Before 2015, the obligation to identify beneficial owners was on banks, financial institutions and financial intermediation institutions only. Lebanese commercial law provides that joint-stock companies, partnerships limited by shares and limited liability companies incorporated in Lebanon need to have their capital amount deposited in a bank account to be able to carry out the issuance of shares. There is no requirement for this bank account to be a Lebanese bank account and it is not mandatory either to maintain the bank account after the shares are issued. However, in practice, the Lebanese authorities confirm that most companies will open and maintain a Lebanese bank account since they work in the Lebanese market and deal with customers living or operating in Lebanon, but no statistics are available.

4. Since 2015, professionals such as notaries, certified accountants and lawyers must carry out customer due diligence to identify and verify beneficial ownership of their clients and retain records of customer identification and operations with such customers upon performance of certain activities including the management of customers' movable and immovable assets, management of bank accounts and securities accounts, organisation of contributions for the establishment or management of companies, establishment or management of legal persons or unique legal arrangements, and buying and selling of single person enterprise or companies (article 5 of Law 44/2015).

98. The requirement on AML obliged persons to identify and verify the beneficial owner of a customer is set out under article 4 of Law 44/2015 which reads in combination with Article 3 of the Circular 498/2018 and imposes on AML obliged persons:

- to determine the identity of the economic right owner and take the steps needed to verify this identity on the basis of reliable documents, information or data
- to retain copies of related documents of all operations and to retain information or data or copies of the beneficial owner identification documents for at least five years after performing the operations or ending the business relationship, whichever longer
- to continuously monitor and review the business relationship.

99. The 2015 law and circular do not define the term "economic right owner" but the Lebanese authorities explain that it is understood as a synonym for beneficial owner. The SIC further indicates that for the period 2015-18, banks were referring to the FATF standard and its beneficial ownership requirements under Recommendation 10 to apply the due diligence requirements set out in Law 44/2015.

100. Circular 498, issued on 13 June 2018, applies to banks and AML obliged persons, and provides for the definition of beneficial owner. Beneficial owner is "any individual who ultimately owns or who exercises ultimate effective control, whether directly or indirectly, over the customer and/or the individual on whose behalf a transaction is carried out. Ultimately owns or controls or ultimate effective control refer to situations where the ownership and/or control is exercised through a chain of ownership or by means of control other than direct control."

101. Circular 498/2018 further prescribes the steps to be followed to verify the identity of the beneficial owner. Article 9Bis which amends Circular 83/2001 reads as follows:

> With respect to a customer that is a legal person, the beneficial owners shall be identified and reasonable measures taken to identify them in the following manner:
>
> 1. Identify each individual who holds, whether directly or indirectly, 20% or more of the capital of the legal person.
>
> 2. In case of doubt as to whether the individual identified pursuant to Subparagraph 1 above is (are) the beneficial owner or when no individual holds 20% or more of the Customer's capital, the individuals who exercises control over the legal person through other means (e.g. holding a majority of voting rights or the

rights to appoint or dismiss the majority of the administrative or regulatory body at affiliate entities…)

3. When no individual is identified pursuant to Subparagraphs (1) and (2) above, reasonable measures shall be taken in order to identify and verify the identity of the persons holding senior management positions.

102. This three tier approach is in line with the standard. However, there is no guidance on how to implement the second tier, in case the identification of the beneficial owner through ownership cannot be achieved. For instance, it seems unlikely that the identification of the beneficial owner in cases of personal connections with controlling shareholders for instance would be captured. The BDL explained that the notion of control is defined in Circular 132 of March 2015 and includes particularly control through direct influential effect on the management, however this would not capture the whole concept of control through other means. During the onsite visit, it was confirmed by all the professionals that more training and education were needed to fully implement their legal obligations and that this work was ongoing.

### Beneficial ownership information – Enforcement measures and oversight

103. Supervisory authorities depend on the type of AML obliged persons to be supervised. In application of article 17 of Law 44/2015, notaries are under the authority of the Ministry of Justice, accountants under the authority of the Lebanese Association of certified public accountants (LACPA) and lawyers under the authority of Beirut and Tripoli Bar Associations. Banks and financial institutions are supervised by the Special Investigation Commission (SIC).

104. Under AML Law 44/2015, regulated persons who do not comply with customer identification and due diligence provisions can be sanctioned with imprisonment between two months and one year and by a fine not exceeding LBP 100 million (EUR 57 000) or either (Art. 13).

105. Bankers abide by all BDL circulars that include all treatments and compliance criteria toward all Lebanese laws and international conventions on monetary, financial and taxation level.

106. Professionals such as certified accountants abide by and work in compliance with local and international standards, laws and regulations which in several stages address and highlight all matters in connection with related parties' transactions. Besides, under Art. 158 of the Lebanese Code of Commerce the certified accountants are obliged to write a special report that highlights all transactions made with related parties.

107. However, no sanctions have been applied and all stakeholders met during the meeting confirmed that supervision has only started in 2017 to 2018 and focused more on educating the members before imposing sanctions for non-compliance.

### Certified accountants

108. The Lebanese Association of Certified Public Accountants (LACPA) is the body in charge of supervising the effective implementation of Law 44/2015 by the accountants and auditors. Of the 1 587 practicing members in the association, 94% are sole practitioner offices. Under LACPA internal bylaws, all professional accountants must abide by AML Law 318/1 and Law 44/2015 which updated and precisely defined the concept of beneficial owner.

109. LACPA issued Memo 347/2016 dated 5 October 2016 to all its members announcing the inception of an AML/CFT Compliance committee. In addition, to comply with their mandate, in 2016 the association started an AML/CFT training programme through forums, seminars, and awareness campaigns focusing on both the importance of complying with the requirements and the know-how. To supplement the training sessions, a guide was also distributed to its members to help establish a mechanism that will facilitate the implementation of effective procedures in alignment with the provisions of Law 44/2015. More recently, in partnership with SIC, the Ministry of Finance, Ministry of Justice, Beirut Bar Association and public notaries, LACPA organised a Forum in April 2019 where it launched and distributed the procedures guide for certified public accountants in Lebanon in implementation of the Provisions of the Law on Fighting Money Laundering and Terrorist Financing No. 44 of November 24, 2015 and related Regulatory Provisions.

110. In order to ascertain the number of accountants that were providing the services that triggered an obligation under Law 44/2015, the LACPA drew up a self-declaration to be filled by the accountants confirming whether any service provided by them triggered AML obligations. If so, the accountant was determined as an AML obliged person to be monitored. If the LACPA does not receive this confirmation, and is informed, by either the Special Investigation Commission, Ministry of Finance, Real Estate Administration or any court or body that a Certified Public Accountant is performing any transaction related to the above mentioned items, the LACPA takes necessary legal action against this violation in addition to the sanctions specified in Law 44/2015. From March 2019 to May 2019, around 25% of the certified accountants have filled in the form. No sanctions have been imposed yet since the members of LACPA have until December 2019 to make this declaration. However, LACPA intends to make it compulsory to lodge the

self-declaration to renew the annual registration. In addition, the association is working on launching a quality control programme whereby compliance with AML law will be checked automatically for all members and their offices.

111. The LACPA, in collaboration with the SIC, has organised one workshop in 2015, two in 2017 and four in 2018 at various locations in Lebanon with a focus on AML and AEOI. 80% of LACPA members were present. Further, the professional diploma launched by the LACPA for their members was amended in 2016 to add a module on the AML/CFT Law 44/2015.

112. Although an intensive education campaign has been implemented, it only started in 2017. Inspections are scheduled to start in 2019 since the LACPA are currently educating their members and publishing all the tools required. It was noted that before Circular 498/2018 came into force, no clear requirements existed and therefore, LACPA representatives considered appropriate to start inspections after the professionals are well engaged and understand their obligations.

### Banks

113. The SIC is the authority in charge of ensuring that banks comply with their AML obligations. The supervision is explained in A.3 below.

### Professionals that are not key to the availability of beneficial ownership information

114. Lawyers are clearly set out as subject to AML obligations when they carry out certain activities. However, in Lebanon, it is illegal for a lawyer to manage a company; the only role that the lawyer can have is to be a member of the board of the company it acts for. In practice, the practitioners met during the onsite visit confirmed that no lawyers would put a company under their own names. In general, the only involvement a lawyer has is upon the establishment of the company, but some companies will appoint a lawyer for the period of their entire existence. Most of the time, it is therefore very likely that up-to-date beneficial ownership information is not available, as a lawyer-company would rarely constitute an ongoing relationship. In practice, it is not difficult to find the attorney in charge of a company – the ID of the lawyer is registered with the commerce registry under the file of the company. In addition, the tax authority generally knows the name of the lawyer through tax filings.

115. In order to comply with their mandate to supervise lawyers, the Beirut and Tripoli Bar Associations issued Guidelines immediately after the promulgation of Law 44/2015 and established an AML compliance

committee. The committee follows a risk-based approach and audits lawyers – all clients should fill in a different KYC form depending on whether there are natural or legal persons (the forms were published in 2017).

116. Three training sessions on how to implement the manual have been organised, covering 500 out of 8 000 lawyers. These sessions are mandatory only for the *stagiaires*; experienced lawyers are exempted.

117. However, due to the recentness of the programme, the inspection part of the compliance programme has not been implemented yet, thus the compliance level is not ascertainable.

118. The 167 notaries of Lebanon are considered public officers and obey the rules set out by the Ministry of Justice.

119. In order to ensure the highest rate of compliance, the Ministry of Justice follows a strategy in three steps: the education phase started in June 2018 (with training, circulars, instructions and a guide), the inspection phase by a committee of three judges started in July 2018, and the sanctioning phase has not yet started.

120. From July 2018, the Ministry of Justice performed 10 onsite inspections. The committee keeps records of the findings for each visit and a report is prepared in order to make recommendations and propose sanctions. This report is published. So far, the Committee has not imposed any sanctions. In most cases, the findings were that the notaries where aware of the AML/CFT laws and requirements. They were applying due diligence.

### Virtual office service providers

121. For the purpose of the Terms of Reference, a jurisdiction is expected to ensure that ownership information is available with respect to a foreign company that has a sufficient nexus with the jurisdiction. A sufficient nexus includes being resident there for tax purposes.

122. In Lebanon, "virtual office services" consist for a service provider (generally a lawyer) to supply work centres through mail, telephone, secretary, internet, conference room, or training centres for natural or legal persons. These services are not constitutive of a place of effective management for the person to whom services are delivered. However, the person is considered as starting a business in Lebanon and becomes then a tax resident. These virtual services are regulated by the tax administration through Decision 474/1 issued in May 2014. Each person who wishes to start a business and chooses a virtual office as the centre of his/her business should complete a business start declaration, including all the registration information required when a taxpayer starts a business.

123. In practice, and as mentioned in Decision 474/1:

> "Each real or legal person who wishes to start a business and chooses a virtual office as the center of his business, should abide by the following:
>
> To come in person to the concerned Tax administration Unit to complete his "Business Start" declaration.
>
> To include (…) the supporting documents related to his residential address and an introduction letter from the local mayor of his address.
>
> To include a commercial circular certified from the commercial register, if his activity is commercial, and proofs of having a location to exercise his activity (warehouse, point of sale…) if he deals with the sales and purchasing of goods and merchandise.
>
> To print the expression 'virtual offices' on all his commercial documents along with his address."

124. There are no specific obligations to obtain a licence to provide such services. Generally, it will be provided by lawyers who are AML obliged persons subject to the rules described above. Hence, the beneficial owner would be known. However, as this would not be an ongoing relationship, the information would not be updated. This said, since the virtual office would be considered as starting business, there will be tax obligations to be complied with, including the filing of returns containing the names of the beneficial owners. The fact that a person choses to start business through a virtual office makes that person a tax resident subject to filing obligations with the tax office.

## Conclusion

125. Although banks have been required to identify beneficial owners of their customers since 2001, the CDD requirements and the definition of beneficial owner only came into force in 2018. The SIC indicated that there has been some supervision conducted to ensure that under the 2001 law, banks were complying with their obligation on beneficial ownership. However, no sanctions pertaining to failure to maintain beneficial ownership information have been applied. In addition, it is only in 2015 that the certified accountants, lawyers and notaries have been legally compelled to identify the beneficial owners of their customers. Since the definition of beneficial owner and the CDD requirements were not clearly set out, these professionals only started implementing their obligations in 2017 with education campaigns for their members and failure to comply with the legal requirements was therefore not sanctioned yet. Considering the wide scope of changes since 2001,

Lebanon is recommended to supervise that the the Circular on beneficial ownership issued to banks and certified accountants, and all CDD requirements for accountants, are effectively implemented to ensure that beneficial ownership on companies and legal arrangements is available in all cases.

### Tax law requirements

126. Taxpayers must provide information on their beneficial owners in tax returns, starting from the 2018 taxable year, pursuant to the Ministerial Decision 1472/1 of 27 September 2018 and subsequently the entry into force of Law 106/2018 amending the TPC. To support this new tax requirement, tax return forms have been amended to capture Beneficial Ownership information, but no translation is available yet. The Ministerial decision further requires taxpayers to maintain a register of beneficial owners. Under article 4 of the Decision, all taxpayers must maintain and update a special record of all Beneficial Owners that includes: full name (including the father's name), nationality, date of birth, residence and mailing addresses, ID or passport number for the Lebanese, passport number for foreigners, place of tax residency, tax number and percentage of right in distribution. This decision does not carry out the same legal value as the law. It was necessary to vote a law in November 2018 that gave the ministerial decision a binding effect. The content of the law is the same as the ministerial decision without the implementing procedures which are defined by the ministerial decision.

127. Decision 1472/1 of 27 September 2018 contains a definition of beneficial owner for companies which reads as the definition of the Law 44/2015 (see paragraph 100).

128. The analysis of paragraphs 100 to 102 are therefore the same with regards to the definition applicable by the tax law. However, no guidance have been published to the taxpayers yet, and Lebanon is recommended to supervise the implementation of the new tax requirements on beneficial ownership of taxpayers to ensure that adequate, accurate and up-to-date beneficial ownership information is available in all cases.

129. Decision 1472/1 requires that taxpayers submit beneficial owner information in the annual tax return. The requirement to lodge the tax return on a yearly basis ensures that the beneficial owner will be updated every year.

130. Sanctions for failure to abide by this requirement are the same as for failure to provide information in the tax return (see para. 81 and 82 above).

131. Identification documents must be maintained for 10 years even after the beneficial owner stops being a beneficial owner.

132. In practice, these requirements have not been implemented yet, since the 2019 tax return is due only by the end of May 2019. During the

period under review, no obligations existed for any taxpayers to identify their beneficial owners for tax purposes.

133. The audit strategy, with desk and field audits, has not yet been fully implemented since tax periods under audit are years 2014 to 2017 and the law on beneficial owners only came into effect in 2018. The Lebanon authorities explain that compliance with beneficial ownership requirements is checked for the companies that started operating in 2018, and for companies on which complaints from third parties have been made to the tax office.

134. Although Law 106/2018 and Decisions 1472/1 of 27 September 2018, and 2045/1 of December 2018 introduced the obligation for all taxpayers to declare their beneficial ownership information in line with the standard in their tax return, and to keep this information updated at all times, there has been no implementation in practice yet. In addition, the tax administration has not yet published officially guidance to taxpayers on how to determine beneficial ownership. Lebanon is recommended to supervise the implementation of the new tax requirements on beneficial ownership of taxpayers to ensure that accurate and up-to-date beneficial ownership information is available in all cases.

### *Availability of beneficial ownership information in practice in relation to EOI*

135. The availability of beneficial ownership information was not evaluated under the 2010 ToR. Lebanon advises that it received several requests related to beneficial ownership information during the current review period, but could not specify how many.

136. The Lebanese authority explained that due to the absence of legal requirement on companies themselves to identify and keep information on beneficial owners, the Competent Authority did not reply to requests for beneficial ownership information. In practice, one peer which asked for beneficial ownership information reported that the documents provided did not allow the Competent Authority to identify the beneficial owners. However, the authorities confirmed that if it was a banking information request coming after October 2016, and beneficial ownership information was required, the Competent Authority would request this information as part of the CDD documents to be maintained by the banks.

137. Lebanon Competent Authority confirmed that they would write to the treaty partner and explain the reason for not providing the information. No other peers raised any concerns.

### *A.1.2. Bearer shares*

138. Since 3 November 2016, companies may no longer issue bearer shares. The legacy issue on existing bearer shares was resolved by their mandatory conversion in nominal shares before 3 November 2018. In case of non-compliant companies, the non-converted shares are transferred to the State. Although the supervision by Lebanon authorities is adequate since they have identified 19 non-compliant companies, the final step to convert the shares under the name of the State is pending because the procedures to be followed to transfer these shares is currently under approval.

#### *Legal framework on the abolition of bearer shares*

139. Before November 2016, bearer shares could still be issued by joint stock companies and partnerships limited by shares and there were no appropriate legal mechanisms to allow the identification of owners of bearer shares. Lebanon was therefore recommended to ensure that appropriate mechanisms to identify owners of bearer shares are in place.

140. To deter the use of bearer shares, Lebanon first prohibited financial institutions from undertaking any operations with companies that had issued bearer shares, through a BDL circular 411 of 29 February 2016. Such customers had until 28 February 2018 to convert their bearer shares into nominal shares, failing which, their bank accounts would be closed (see 2016 Report, para. 36 to 43). This measure was not sufficient, since this would only apply when the company that has issued bearer shares has a Lebanese bank account.

141. The Lebanese parliament then enacted Law 75/2016 on "Abolition of bearer shares and order shares", which entered into force on 3 November 2016. This law prohibits any Lebanese company to issue bearer shares and "to order shares" (established by endorsement). It also compels the conversion of existing bearer shares and "to order shares" into nominal form by 3 November 2018 in accordance with conditions and mechanisms set by this law:

- The conversion must have been advertised in the Official gazette and three local newspapers and on the website of the company, if any.
- The issuing company must have notified and received the approval from the bearer share owner to convert the share into nominal form.
- The issuing company must have amended its articles of association at the latest during the first general assembly meeting following the conversion.

142. Bearer shares that were not converted as of 3 November 2018 and their connected dividends and capital gains are mandatorily transferred to the Lebanese Republic.

143. Law 75/2016 provides for sanctions applicable on the issuing company and the bearer share holders. Companies non-compliant with the notification requirement mentioned above are subject to a fine equivalent to 50% of their capital. Further, companies not complying with the prohibition on dividend payments to bearer share owners after 3 November 2018 are subject to a penalty equivalent to 20% of its capital for each breach and each payment.

144. Non-compliance by bearer share holders results in a prohibition from exercising their shareholder rights and from being appointed as a member of the Board of Directors.

145. Finally, the amendment to the tax return requiring the disclosure of name of shareholders to whom a dividend is distributed was another means to obtain information. This ensures that the identity of the shareholder is known, but this is restricted to cases where dividends are distributed.

### *Bearer Shares in practice: supervision and enforcement*

146. In practice, the supervision on the implementation of the circular and law mentioned above has been followed up carefully.

### Circular issued by the BDL

147. Lebanese banks systematically checked whether the articles of association of potential customer company allowed for the issuance of bearer shares. If this was the case, the bank did not take that company as a new customer.

148. The SIC AML risk-based supervision assesses compliance of banks with the BDL Circular, to ensure that banks are not dealing with companies whose stocks and shares are totally or partially issued in bearer form. SIC examinations did not depict instances of non-compliance and as such, no sanctions were imposed by the SIC.

### Implementation of Law 75/2016

149. In order to ensure that all companies were aware of their obligations to convert the existing bearer shares into nominal shares, the Minister for Finance advertised the abolition of bearer shares through Instruction nº 5152/s1 on 2 December 2016. The Revenue Directorate followed up by sending it to all joint-stock companies and partnerships limited by shares which had

an email known by the tax administration, to the Lebanese Association of Certified Public Accountants, to the chambers of commerce, industry and agriculture and to the traders associations.

150. In order to check that all companies concerned were taking the conversion steps, the tax administration crosschecked companies' advertisement in the Official Gazette with independent data obtained from the Commercial Register and from internal data available in tax returns lodged. From this exercise, 110 companies have been found to have issued bearer shares and 91 to have complied. To date, 547 730 shares for 19 companies have not been converted. Measures were taken and sanctions were applied to those. To date, the tax office imposed for LBP 1 435 648 010 (EUR 816 310) of fines.

151. The audit programme included inactive and non-compliant companies. As a result, a letter signed by the Ministry for Finance was issued to companies instructing them that they would be instructed at a later date on how to proceed with transfer of their bearer shares to the Lebanese Republic in November 2018. All companies replied and agreed to follow the said procedure. In the meantime, a draft of transfer procedures was sent to the State council. No decision has been made yet. Once the State Council approves the issuance of the procedure to transfer and effectively convert bearer shares held by these 19 companies, the Ministry of Finance will address a letter to the Council of Ministers relating to this issue for approval. In the meantime the bearer share holders deprived of their rights do not have any recourses available to claim back their rights.

152. Lebanon abolished bearer shares with full effect from November 2016 and full implementation by November 2018. However, there are still 547 730 shares, the transfer of which has not been completed yet. Lebanon is recommended to ensure that all bearer shares not yet converted be transferred to the State in practice.

### *A.1.3. Partnerships*

153. There are three types of partnerships in Lebanon: general partnership, simple limited partnership and co-partnership. All of them have the legal personality except the co-partnerships. There are currently 6 530 General partnerships, 7 594 Simple Limited Partnerships, 69 co-partnerships registered with the Ministry of Financeas of 31 December 2017. Foreign partnerships can also operate in Lebanon and are subject to the same rule as foreign companies, in accordance with the rules described under part A.1.1.

154. Among these, general partnerships and, simple limited partnerships are relevant for this part. The co-partnership is a contractual arrangement which has neither legal status nor a corporate or business name and cannot own assets. Co-partnerships are nonetheless required to register with the tax

administration in accordance with article 20 of the TPC related to the liability in arrangements without legal personality.

155. The main sources of information regarding partnership's partners are the same as for companies and are generally in line with the standards. The monitoring recommendations regarding the new tax and AML/CFT requirements on beneficial ownership information also apply to partnerships (see A.1.1 Availability of ownership information on companies).

### *Identification of the partners*

156. As other commercial entities, partnerships, including foreign partnerships, have to be registered with the Commercial Register. As part of the registration process, partnerships must file ownership information including the names, first names, nationality, domiciles of all partners as well as a copy of the partnership agreement (Arts. 26, 48 and 49 CoC). The partnership agreement must include:

- names of partners (including limited partners of limited partnerships), their date, place of birth and nationality
- name and purpose of the entity
- places where the entity operates branches or agencies, either in Lebanon or abroad
- names of persons authorised to administer, manage or sign on behalf of the entity (including directors and members of the board of directors).

157. Any transfer of interest in a partnership must be approved by all other partners and registered in the register of commerce, the information available with Commerce Registry is therefore up to date.

158. A second source of information on partners is found in the tax databases. When registering for tax purposes, the documents to be submitted include: certified copy of the partnership agreement, copy of the certificate of registration with the Commerce Registry, copy of the identity document of every partner (Art. 42 Ministerial Decision 453/1/2009).

159. The ownership information provided on registration must be updated. In addition, partnerships must inform the tax authorities of the names of all partners and their shares in the profit or loss of the partnership (annual tax return form, Statement 48).

### *Beneficial ownership*

160. As in the case of companies, the main source of beneficial ownership information for partnerships is in the AML and tax laws. The due diligence requirements for identifying and verifying beneficial owners for partnerships in the AML regime is the same as for the companies described under element A.1.

161. According to Ministerial Decree No. 8089 issued in 1996, all partnerships are subject to an annual audit. This obligation ensures that partnerships engage a Lebanese certified accountant, which may be subject to AML requirements depending on the type of activities it would perform for the partnership.

### *Oversight and enforcement*

162. The same enforcement provisions and oversight procedures as described under Element A.1.1 for availability of legal ownership information on companies are applicable to partnerships. The supervision and enforcement actions exercised on partnerships are therefore adequate.

163. With regards to the identification of beneficial owners, this concept has not been fully implemented in practice, and therefore its effectiveness could not be assessed. Lebanon is recommended to supervise the implementation of the new AML and tax requirements on beneficial ownership to ensure that adequate, accurate and up-to-date beneficial ownership information is available in all cases.

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

164. In practice, Lebanon has not received any request on legal or beneficial ownership information of a partnership.

## *A.1.4. Trusts and fiduciary contracts*

165. The concept of trust does not exist in Lebanon and foreign trusts are not recognised; Lebanon is not a party to the Hague Convention on trusts. However, it is possible to administer a foreign trust from Lebanon. The authorities have not conducted any specific audits in relation to resident trustees and could not provide information on foreign trusts administered in Lebanon. It is therefore not known how many exist and how compliant trustees are.

166. Availability of identity information of foreign trusts is ensured by the recent tax requirements and AML obligations.

### *Tax obligations of the persons undertaking an activity as a trustee*

167. Law 74/2016 of 27 October 2016 determines the tax obligations of the persons undertaking an activity as a trustee: "Pursuant to the provisions of this law, any person resident in Lebanon, and undertaking on a professional or non-professional basis, any activity as a trustee of a foreign trust in any form is required to keep accounting records mentioned in the Tax Procedure Code and to keep underlying documents showing all the information related to the person they deal with (settlor, trustee, protector if any and beneficiary), for a period of 10 years."

168. This new requirement is broad and covers both the professional and non-professional trustees resident in Lebanon. Settlor and beneficiaries, without the application of any threshold, have to be identified and the information must be maintained for 10 years.

169. In addition to the trustees administering foreign trusts, fiduciary contracts can also be created in Lebanon. The settlor gives to the fiduciary the right to manage and dispose of, for a fixed period of time, rights or moveable assets. Only authorised banks, financial and other eligible institutions registered and supervised by BDL can act as fiduciary in one of these arrangements. Acting as a fiduciary without a licence is liable to penal sanctions.

170. The contract must contain the name, residence and profession of the fiduciary, the settlor and the beneficiaries, detailed description of the fiduciary assets, and the auditors of banks entrusted to audit the fiduciary obligations. The retention of records follows the rules laid down under the AML framework.

### *Beneficial ownership identification*

171. Beneficial ownership information on trusts administered from Lebanon is available through the AML legal framework and the recent changes to the tax requirements. A trustee acting on a professional basis (e.g. accountants, notaries and lawyers managing a customer's moveable and immovable assets) would be subject to the AML requirements and be compelled to conduct CDD. Lebanon advised that "*ordre public*" and ethical restrictions such as conflict of interest were limiting the possibility for professionals to act as trustees for their clients. However, no legal restriction is clearly set out. The supervision of trustees under these changes is only just starting and therefore the correct implementation of the new requirements needs to be monitored in practice.

172. According to BDL Intermediate Circular 498 of 13 June 2018 addressed to Banks, Financial Institutions and all Institutions specified in Article 4 of Law No. 44/2015 "in case customers are legal arrangements, the

Beneficial Owners should be determined and the reasonable measures taken to identify these Owners, in the following manner:

> II- With respect to "Customers" that are legal arrangements, the Beneficial Owners shall be identified and reasonable measures taken to identify them, in the following manner:
>
> 1. With regards to trusts, each of the persons below shall be identified:
>
> -The Settlor
>
> -The Trustee
>
> -The Protector
>
> -The Beneficiary; and if the latter's identity is not determined or verified, then the class of beneficiaries on whose behalf the legal arrangement was established.
>
> -Any other natural person exercising an effective control over the trust through direct or indirect ownership or through other means.
>
> The definitions stated in the glossary attached to the FATF 40 Recommendations shall be adopted to identify the persons mentioned in Subparagraph 1 above.
>
> 2. With respect to other types of legal arrangements, including those arrangements similar to trusts, the persons holding positions similar to the positions specified in Paragraph II, Subparagraph 1, shall be identified.

173. Decision 1472/1 issued by the Minister for Finance requires that taxpayers which are legal arrangements know their beneficial owners which are defined in the same manner as the definition used under the BDL Intermediate Circular 498 described above.

174. Fiduciary contracts are considered by Lebanese authorities as legal arrangements, and therefore definition and rules of verification of beneficial owner are the same as above.

175. Both the definition and customer due diligence requirements for AML and tax purposes are therefore in line with the standards and should enable the identification of beneficial owners. The requirement to look through the trustee, settlor, protector and beneficiary should they be a legal person is ensured through the use of the term "any other natural person" and the fact that the beneficial owner is defined at all times as being a natural person. The Lebanese Authorities have also confirmed this interpretation.

176. The rules applicable to availability of beneficial ownership information through the implementation of AML and tax obligations are the same as for companies and partnerships. Similarly, the conclusion reached is that although Law 106/2018 and Decision 1472/1 introduced the obligation for all taxpayers to declare their beneficial ownership information in line with the standard in their tax returns, and to keep this information updated at all times, there has been no implementation in practice yet. Lebanon is recommended to monitor the implementation of the new tax requirements on beneficial ownership of taxpayers to ensure that adequate, accurate and up-to-date beneficial ownership information is available in all cases.

*Oversight and enforcement*

177. Sanctions in case of failure to comply with filing requirements are the same as those described for companies for failure to lodge tax returns. Failure to maintain accounting records and underlying documents is set out under article 114 of the TPC. Beneficial ownership information is part of the information to be submitted in the tax return and forms part of the accounting records to be maintained.

178. During the review period, in order to ensure that the law was effectively implemented, the Revenue Directorate asked the tax departments concerned about the persons undertaking an activity as a trustee who must be registered at the tax administration and must keep accounting records. No such case occurred during the review period. Until September 2018, when tax auditors started checking who was providing trustee services, Lebanon did not have an audit plan to supervise the effective implementation of the new law. It is recommended that Lebanon supervises the implementation of the tax requirements in practice.

179. The supervision of trusts for AML purposes is the same as for companies.

*Availability of trust information in practice*

180. In practice, Lebanon has never received requests concerning trusts.

### *A.1.5. Foundations*

181. The concept of foundations does not exist in Lebanon. However, there are non-profit associations, which are prohibited to carry out an economic activity. Lebanese associations therefore do not fall in the scope of the work of the Global Forum and are not analysed further.

## A.2. Accounting records

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

182. Although the 2012 report found that all forms of companies, partnerships and associations have to keep relevant accounting records, there were no requirements for Lebanese trustees of foreign trusts to keep accounting information with regard to transactions and assets of a foreign trust. Element A.2 was therefore determined to be in place, but certain aspects of the legal implementation of the element needed improvement.

183. Lebanon has addressed the recommendation by adopting Law 74/2016 which compels professional and non-professional trustees of a foreign trust to keep accounting records and underlying documents, showing all the information related to the legal arrangement that they deal with for a period of 10 years.

184. The 2016 Terms of Reference require that accounting records be kept for five years from the moment an entity has ceased to exist. The Ministerial Decision nº 1857/1 dated 30 November 2018 issued by the minister of finance introduced an obligation for all companies that cease to exist to send their accounting records and accounting documents related to the 10 past years to the Ministry of Finance. Lebanon confirmed that in accordance with the TPC, ministerial decisions have force of law. Prior to that requirement, the retention of accounting records applicable to companies that cease to exist was unclear. It is recommended that Lebanon monitors the application of this new obligation.

185. In practice, the oversight activities carried out by the tax authorities is adequate to ensure the availability of accounting information for EOI purposes. Furthermore, each company, whichever its form, must appoint a certified accountant, which must be named in each year's tax return.

186. Lebanon has received 59 requests for accounting information in the period 2015-17. The peers were generally satisfied.

187. The new table of recommendations, determination and rating is as follows:

| Legal and Regulatory Framework |
|---|
| **Determination: The element is in place** |

| Practical Implementation of the standard | | |
|---|---|---|
| **Deficiencies identified** | **Underlying Factor** | **Recommendations** |
| | Ministerial decision nº 1857/1 dated 30 November 2018 introduced an obligation for all companies that ceased to exist to send their records and accounting documents related to years that are still required to be maintained as per the provisions of the 10 year retention period to the Ministry of Finance. | It is recommended that Lebanon monitors the application of this new obligation to ensure the availability of accounting information of companies that ceased to exist. |
| **Rating: Largely Compliant** | | |

### *A.2.1. General requirements*

188. The 2012 report noted that by a combination of tax and commercial laws, all relevant entities (joint stock companies, limited liability company, partnerships limited by shares, general partnerships, simple limited partnerships, co-partnerships, foreign companies and partnerships, offshore companies, holdings), have to keep accounting records in line with the standard.

189. The legal requirements, apart from the amendment to ensure that trustees keep accounting information on the foreign trusts they administer, have not changed and are summarised below.

#### *Commercial law requirements to maintain accounting records and underlying documentation*

190. Pursuant to the Code of commerce (COC) and supporting decrees, all commercial entities registered with the Commercial Register, including partnerships, have to keep daily or, if the nature of the business does not allow such a frequency, monthly records of all their transactions. These records must be sufficient to allow the company/partnership to produce a balance sheet as well as a profit and loss account, both of which have to be included in the annual financial statement, published in the Commercial Register yearly. Holding companies and offshore companies must be set up as joint stock companies and are subject to all provisions applicable to joint stock companies unless otherwise provided in the specific laws governing the Offshore and Holding companies (respectively Decree Laws 46/83 and 45/83), including the obligations to maintain accounting records and file annual financial statements.

191. These requirements legally ensure the availability of up-to-date information directly with the relevant entities. Non-compliant directors may be fined if they do not publish yearly the financial statements of the joint stock company (art. 102 and 101 of COC). The Commercial Register keeps the annual financial statements and the general assembly decisions for an unlimited period of time. Considering the space constraints, there is a project ongoing to digitalise the system and save records electronically. The Commercial Register of Mount Lebanon, which holds around 40% of the total companies registered in Lebanon, has imposed fines for failure to file financial statements in 741 instances from 12 December 2018 to 1 April 2019. Statistics of fines imposed before this were not maintained. In views of the amount of fine that have been imposed in less than six months by the register, it seems the supervision and enforcement actions are adequate.

192. In addition, availability of underlying documentation such as invoices, contracts and business correspondence, is ensured through the legal requirement imposed under the General Accounting Plan. Legal entities have the obligation to maintain documents proving the regularity, the source and the content of any operation recorded. Article 19 of the COC requires all commercial entities including partnerships to keep all their accounting records and underlying documents for a period of 10 years.

193. There are no specific penalties in the Code of Commerce if accounting records are not kept, even if an incentive exists for the companies to maintain them when a dispute arises between several companies. However, the authorities advise that if accounting records are not kept by the company and this company is declared bankrupt, then it may be subject to fraudulent or negligent bankruptcy provisions, which would lead to criminal sanctions. Also, failure to maintain records may lead to losing a lawsuit as records might be taken as proof in a lawsuit.

194. In practice, due to the absence of power to check the information or to impose penalties, the Commerce Register does not make any onsite visits. It becomes aware of breach of obligations only when the companies in breach of this obligation gets in contact with the Commercial Registrar, for instance to file minutes of annual meetings. However, this does not affect the availability of accounting information in Lebanon as the tax law is a more effective source of supervision.

### *Tax law requirements to maintain accounting records and underlying documentation*

195. All entities and foreign trusts administered by resident trustees must register with the tax administration and file an annual tax return. Depending on the return to be lodged, the manner to lodge varies. For corporate tax

returns, all taxpayers for which the electronic lodgement has been approved by the Ministry of Finance have to lodge their return electronically (this will be the case for the offshore companies or large business). This means that such entities are easily identifiable by the tax administration. The others taxpayers may file their return electronically or manually. . For VAT, salaries and wages and property tax returns, all taxpayers have to lodge their returns online.

196. The TPC (Art. 29) as amended by Law 60/2016 and Ministerial Decision 453/1/2009 (Art. 28) requires that accounting records be kept, mainly to support the accuracy of the tax returns that need to be filed (art. 38) when there is an audit. Filing financial statements as part of tax returns is compulsory for all taxpayers that follow the accrual basis accounting, which represent 32% of taxpayers. The taxpayers that follow the cash basis accounting method remain liable to maintain their financial statements and all documents in accordance with article 29 of TPC, even if these do not need to be automatically submitted. However, they are available upon request to the tax administration.

197. Different records are kept depending on the method of taxation of the taxpayer: (i) taxpayers assessed on the basis of the actual profit method; (ii) taxpayers assessed on the basis of the lump sum method; (iii) taxpayers assessed on the basis of the estimated profit method; and (iv) tax-exempt institutions. The following records are required to be kept in all cases by all taxpayers, including holdings and offshore companies:

- a journal recording the total of revenues and expenses, daily
- a fixed assets register
- a salaries and wages register, if there are employees.

198. Pursuant to article 28 of Ministerial Decision 453/1/2009, taxpayers assessed on the basis of the real-profit method (joint stock companies, including holding and offshore companies, partnerships limited by shares and exempt companies) have to keep in addition to these records, a general ledger and records of registered shares.

199. For all taxpayers, including foreign companies having a branch in Lebanon, accounting records have to be kept at the taxpayer's place of business or residence and must be accessible to the Ministry of Finance tax auditors upon request (Art. 30 TPC). The competent tax division personnel may therefore inspect the accounting registers and documents belonging to the taxpayer or to any other person that is connected to the latter. Article 30 of the TPC requires that all accounting records and documents are kept for a period of 10 years.

200. Tax law provides for effective penalties in case of failure to comply with accounting records requirements. The TPC provides in article 114 for a penalty of 50% of the net undeclared tax, but no less than LBP 750 000 (EUR 427) for joint stock companies; LBP 500 000 (EUR 285) for limited liability companies, partnerships and tax-exempt entities; and LBP 100 000 (EUR 57) for individuals.

### Foreign trusts

201. The 2016 report found that there was no legal requirement for Lebanese trustees of foreign trusts to keep accounting information.

202. Law 74/2016 of 27 October 2016 introduced tax reporting requirements on Lebanese residents for their activities as trustees of foreign trusts. These obligations include the maintenance of accounting records mentioned in the Tax Procedures Code and underlying documents showing all the information related to the person they deal with, for a period of 10 years. The underlying documents to be maintained include the documents relating to the activities of the trust. The Lebanese authorised clarified that in addition to declaring the income of its trusteeship activity in an annual return, the trustee is also compelled to maintain records of the foreign trust activity. Since the trustee has to deduct at source any taxes due in Lebanon by the foreign trusts, the income of the trust also needs to be declared to the tax administration. Trustees that fail to comply with these obligations are subject to the general penalties set out in the Tax Procedures Code. The scope of these obligations is broad, as it encompasses professional and non-professional trustees.

203. In practice, since the introduction of the new law, the tax administration has not registered any Lebanese-resident trustees of foreign trusts. The Lebanese authorities report that regional offices and income tax department started running investigations in the course of their audits to identify the existence of any trustee in Lebanon. None were identified for now. This started very recently and Lebanon is recommended to monitor the practical implementation of these obligations.

### *Supervision by the tax authority*

204. Compliance with regards to filing requirement during the review period was relatively high: 93% for 2015; 88% for 2016 and 86% for 2017. Compliance rate for offshore companies was in average higher than 89% during the review period (as extracted from September 2018 data).

205. In the course of conducting an audit, tax auditors always verify the existence of accounting books and records related to the audited years. In

case of failure, specific sanctions for failure to maintain accounting records registers are applied (article 114 TPC). In addition, failure to provide information in the tax return is also sanctioned (articles 110 or 111 TPC). Statistics related to application of sanctions are detailed in the table below. These sanctions have been applied during the audits (desk and field) carried out during the review period. Each year, 10% of the total tax population (around 400 000 taxpayers) were audited, which represents a high audit rate.

| | 2015 | 2016 | 2017 |
|---|---|---|---|
| Number of sanctions applied (articles 114 and 115 of TPC) | 17 128 | 19 244 | 45 898 |
| Amount of these sanctions in LBP | 178 922 932 000 | 163 510 555 000 | 216 688 749 000 |
| Amount in EUR | 101 986 071 | 93 201 016 | 123 512 587 |

206. A sharp increase is noted in 2017, resulting from an additional audit tax programme, which includes taxpayers that failed to submit their tax returns.

### *Companies that ceased to exist*

207. As outlined under Part A.1.1, in Lebanon, a company ceases to exist when it is liquidated, whether voluntarily, because of bankruptcy or when it stops definitely from having an activity. The ministerial decision nº 1857/1 dated 30 November 2018 issued by the minister of finance introduced an obligation for all companies that cease to exist to send their accounting records and accounting documents related to the 10 past years to the Ministry of Finance. Lebanon confirmed that the Ministerial decision has force of law in Lebanon. Prior to that, there was no clear legal requirement to retain accounting records for companies that ceased to exist.

208. In December 2018, an amendment was brought to article 53 of Decision 453/1 dated 22 April 2009 (implementing the TPC). This decision obliges the taxpayer ceasing to operate definitely to submit all books and records kept to the Ministry of Finance which acts as an archive system. Every company which is dissolved undergoes a comprehensive audit exercised by the tax administration. Once the audit is completed, a certificate of good standing (*quitus*) is issued to the company and all documents are passed on to the tax administration. The information is to be kept indefinitely on the systems and documents are kept for 10 years in paper.

209. In addition, the Lebanese authorities have advised that some transactional information could be obtained from the main suppliers of the taxpayer, as income tax returns contain a schedule showing the first 10 suppliers and 10 customers the taxpayer is dealing with, and which are bound

by the obligation to keep accounting records. In practice, Lebanon has not received any requests related to a company that had ceased to exist.

210. It is recommended that Lebanon monitors the application of this new obligation to ensure the availability of accounting information of companies that cease to exist.

### *A.2.2. Availability of accounting information in EOIR practice*

211. In practice, Lebanon has received 59 requests for accounting records. Peers confirmed that accounting information was always provided, but some peers noted that the response did not contain underlying documentation in three instances.

212. Lebanon authorities explained this was not due to the unavailability of the information but to a lack of knowledge on how to respond to a request. Lebanon has received technical assistance, and since 2017 it sends all necessary supporting documents.

213. Out of 59 accounting information requests, the Competent Authority collected the accounting information from desk audits in 78% of the cases, from field audits in around 19% of the cases. In the 3% remaining cases, clarifications were sought from Lebanon to the requesting jurisdictions but no answer was provided. Accounting information is available in Lebanon and easily accessible from internal data. This data is likely to be up to date, thanks to the level of supervision exercised by the tax authority on tax filing compliance.

## A.3. Banking information

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

214. The 2012 Report concluded that banking information was available in Lebanon. No changes were made to the legal framework of Lebanon and banking information is still available through commercial and AML requirements.

215. The EOIR standard now requires that beneficial ownership information (in addition to legal ownership) in respect of accountholders be available. In Lebanon the availability of beneficial ownership information is guaranteed through the AML framework.

216. The requirement to identify and verify the beneficial owner has existed since 2001; the comprehensive framework which defines beneficial owner and prescribes the procedures on how to identify the beneficial owners

however only came in force in June 2018. The definition and the customer due diligence procedures are in line with the notion of ultimate ownership and effective control, whether direct or indirect; consistent with the standard. Lebanon is therefore recommended to monitor the implementation of the 2018 circular introducing the definition of beneficial owner by banks, and to ensure that such information is available for new accounts as well as accounts created prior to June 2018.

217. The level of supervision seems adequate with a wide coverage. The SIC is the authority responsible to supervise the banking sector with regard to AML obligations. During the period under review, the SIC has supervised a large part of the banking sector (43% in 2017). It also conducted in 2018 several training sessions to ensure correct implementation in practice of the new definition of beneficial owner.

218. During the previous review period Lebanon received 27 banking information requests to which Lebanon replied in 22 cases. However, inability to reply in five cases is not caused by some issues related to the availability of banking information, but rather caused by access powers constraints (see element B.1)

219. The new table of recommendations, determination and rating is as follows:

| Legal and Regulatory Framework | | |
|---|---|---|
| **Determination: The element is in place** | | |
| **Practical Implementation of the standard** | | |
| **Deficiencies identified** | **Underlying Factor** | **Recommendations** |
| | Although the concept of beneficial ownership was included in the Customer Due Diligence requirements applicable to banks since 2001, the definition of beneficial ownership and the CDD approach to identify beneficial ownership were introduced only recently in Circular 498 of June 2018. | Lebanon is recommended to continue monitoring the implementation of Circular 498 applicable to banks introducing the definition of beneficial owner and the steps to be taken for CDD purposes to verify the beneficial ownership of their customers and to ensure that such information is available for all accounts. |
| **Rating Largely Compliant** | | |

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

220. Banks are compelled by commercial law and banking law to maintain accounting records in line with the standards for a period of minimum five years. The requirement to maintain beneficial ownership information on all account holders comes from the recent amendment to the AML framework and therefore needs to be supervised in practice.

221. Banks are companies established under the COC and have to obtain a licence with the Central Bank (BDL) to conduct banking business in Lebanon. As such, banks are required to maintain accounting records as described under element A.2. The commercial books are to include records pertaining to accounts and related financial and transactional information. The commercial books must be kept for a period of 10 years. Banks must also retain copies of all operation-related documents (including transaction records), as well as copies of official documents relating to the identity of concerned parties for a minimum of five years after completing the operation or closing the accounts (Art. 4(4) of Law 44/2015 amending Law 318/2001).

#### *Beneficial ownership information on account holders*

222. The 2016 ToR specifically require that beneficial ownership information be available in respect of all account holders.

223. In Lebanon, the obligation to identify beneficial owners of accounts has existed since 2001 and was embodied in article 3 of the Regulations on the control and financial and banking operations for fighting money laundering and terrorist financial (AML/CFT) which stated the CDD requirements for banks.

224. However, it is only since 2018 that the definition of beneficial owner and procedures to identify and verify the identity of same were included in the Lebanese legal framework. Law 44/2015 and Banque du Liban Circular No. 498 of 2018, amending Circular No. 83/2001, require banks to determine the identity of the beneficial owner and take the steps needed to verify this identity, on the basis of reliable documents, information or data. Banks are in addition required to retain copies of related documents of all operations, and of all information or data or copies of the customers' identification documents, for at least five years after performing the operations or ending the business relationship, whichever is longer.

225. Under Article 2 of Circular No. 498, banks must apply due diligence, including verifying the identity of their permanent or transient customers upon account opening, and identify the beneficial owner.

226. In case where the customer is a legal person, the beneficial owner must be identified and its identity verified. Article 9Bis is drawn upon by the

Circular No. 498 of 13 June 2018 amending the BDL Basic Circular 83 states as follows:

> With respect to a customer that is a legal person, the beneficial owner shall be identified and reasonable measures taken to identify them in the following manner-
>
> 1. Identify each individual who holds, whether directly or indirectly, 20% or more of the capital of the legal person.
>
> 2. In case of doubt as to whether the individual identified pursuant to Subparagraph 1 above is (are) the beneficial owner or when no individual holds 20% or more of the Customer's capital, the individuals who exercises control over the legal person through other means (e.g. holding a majority of voting rights or the rights to appoint or dismiss the majority of the administrative or regulatory body at affiliate entities…)
>
> 3. When no individual is identified pursuant to Subparagraphs (1) and (2) above, reasonable measures shall be taken in order to identify and verify the identity of the persons holding senior management positions.

227. The three tier approach stated in the Lebanese law since June 2018 to identify and verify the beneficial owner is in line with the standard. The exercise of ultimate ownership via shareholding rights is set at a threshold of 20% which is in line with the Standard and control through other means includes the control through appointment or dismissal of board members. However, there is currently no guidance (considered to be issued in 2019) on how to apply the notion of control through other means apart from these cases specified under article 9bis, e.g. how is the control via personal relationship captured and finally, in cases where no individual can be identified, the senior manager has to be identified as contemplated by the three-tier method. BDL advises that the notion of control is defined in Circular 132 issued in 2015 and includes the direct influential effect on the management of the legal persons. This provides for some guidance but does not capture the whole concept of control through other means.

228. In addition, and as analysed under element A.1, the notions of ultimate ownership and effective control are reflected in the definition of beneficial owner which is referred to under article 9Bis above. This ensures that the procedures followed to identify the beneficial owner are in line with the standard for both customers which are legal persons and legal arrangements (see paragraph 172 above).

229. The obligation stated under the Article 3 of Circular 498/2018 imposes that the AML obliged persons determine the identity of the

economic right owner and take the steps needed to verify this identity on the basis of reliable documents, information or data. It is therefore legally ensured that beneficial ownership information is accurate.

230. In Lebanon, there is no simplified CDD that can be carried out by AML obliged persons. Beneficial owners at all times must be identified and verified according to the same due diligence process, regardless of the risk involved with the customer.

231. Section V, Final Provisions of the BDL Basic Circular 83/2001 allows for third party reliance but indicates that the ultimate responsibility for the accuracy of statements or information for customer's identification and verification is with the Lebanese bank relying on the third party. In addition, the information required under the due diligence principle must be immediately obtained from the third party except the underlying document that should be made provided upon request. The section also requires that banks should only deal with third party who meets the criteria required from banks and financial institutions towards their customers. These criteria should be aligned with the AML legal requirements of Lebanon. Even if it is possible to deal with jurisdictions that do not apply the FATF recommendations, the requirement to be dealing with persons who apply the same criteria as the Lebanon banks would not be met. This is in line with the EOIR standard.

232. In order to ensure that beneficial ownership information is as up to date as possible as prescribed by the standard, article 6 of BDL Basic Circular 83, requires "Banks to permanently apply due diligence measures towards all customers, in order to modify or add any information on the adopted KYC (know your customer) form, due to any changes in the customer's status, especially in case of doubts about the veracity or accuracy of previously provided information, or in case of subsequent changes in the customer's or the Beneficial Owner's identity."

233. The authorities advised that the updating of the information is in accordance with a risk-based approach. However, all customers' accounts are subject to ongoing monitoring via dedicated AML Software and the CDD updating is based on the risk classification of customers which determines the frequency of the updates (duration between two updates), which is typically shorter for high risk customers, i.e. updates for high risk customers are more frequent and within shorter intervals. Article 9 of the BDL Circular 83 establishes a list of high-risk customers that comprises among others offshore companies, companies established in countries considered low-tax jurisdictions (which are identified by the banks through their risk-based approach procedures, relying on open source information), the non-face to face customer of the bank (for example non-resident account holders), customers dealing through intermediaries, fiduciary contracts and trusts, and companies with a capital totally or partly constituted of bearer shares. From this list, it

seems that most relevant entities and arrangements for the standard are considered as high-risk customers and up-to-date information would be available in Lebanon on account holders subject to an EOI requests, except those that are Lebanese residents. In addition, Circular 498 also provides for the creation of a register of beneficial owners to be held by all banks internally. This register has been effective since June 2018 and should be up to date with the name of the beneficial owners that were identified with respect to all customers, ensuring that all beneficial ownership information of bank account holders is up to date.

### *Implementation of obligations to keep banking information, including beneficial ownership in practice*

234. As mentioned, the requirement to keep accounting records for banks are the same as described under A.2. However, there are no penalties applicable under the Code of commerce for failure to maintain such commercial books. Article 206 of the Code of money and credit lists sanctions in case of non-compliance with accounting record keeping requirements. The Lebanese authorities indicated that no sanctions on this aspect needed to be imposed as of yet, considering that all banks are compliant due to audit requirements.

235. With regards to the obligation to maintain identification and verification records on customers and beneficial owners, Law 44 provides for the sanction of two months to one year imprisonment and a fine not exceeding LBP 100 million, or either penalties. This sanction has not been applied to date in practice. In addition, Circular 498 is too recent, and no sanctions have been applied yet.

236. Two main authorities supervise the banking sector in Lebanon: the BCC and the SIC, both part of the BDL.

237. The Banking Control Commission (BCC) of Lebanon is the prudential supervisor of the banking and financial sector. It ensures the compliance of banks and financial institutions with applicable laws and regulations, including the maintaining of accounting records. The BCC evaluates the conduct of banks' activities and their financial soundness through both offsite analysis and onsite inspections, including analysis of financial statements and monitoring banks' implementation of the applicable provisions of the Code of Money and Credit; BDL regulations (known as "Circulars" containing "Basic" or "Intermediate Decisions"); BCC circulars and instructions; International Financial Reporting Standards (IFRS) and Basel Directives.

238. The BCC supervises around 415 institutions, among which 65 banks. The team is made of 40 onsite examiners and 49 offsite examiners. The banks to be audited are chosen in accordance with an audit plan established on risk. Within the bank itself, BCC focuses its efforts on the sections that are higher risk.

239. When deficiencies are found by BCC, it has the authority to lay down a corrective action plan. If a bank does not comply with the corrective action plan, then the case is in severe situation escalated to the Higher Banking Council, which is the only judicial body with power to impose administrative sanctions. The sanctions vary from warning to the revocation of the bank's operating licence, including prohibiting the bank from engaging in certain activities and appointing an administrator (Art. 208 and 209 Code of Money and Credit).

240. It was not possible to know the details of the main shortfalls found in relation to the application of the AML/CFT legislation nor for the corrective action plans implemented. The authorities explained that this is because the corrective actions are too numerous and do cover many more aspects than only AML/CFT.

241. The Special Investigation Commission (SIC) is the authority responsible to supervise the correct implementation of the AML legal framework by AML obliged persons, including banks. In case of non-compliance by banks, the SIC may issue warnings and request periodic reports on corrective measures taken. If the breach is not adequately addressed, the parties are referred to the Higher Banking Council which may impose monetary administrative fines. These fines are collected for the benefit of BDL. To date, no fines have been applied for failure to identify beneficial owners.

242. The compliance Unit in the SIC assesses effectiveness of AML/CFT compliance programmes, CDD measures and controls adopted to monitor, detect and report suspicious transactions. The team is composed of 16 persons dedicated to onsite and offsite examinations. One or two persons spend between one to two months onsite examining compliance of the bank. Once the examination is over, an action plan is sent to the bank which has a certain period of time to address the shortfalls. The actions taken are followed up via offsite examinations. Banks that have shortfalls immediately prepare an action plan to take remedial actions as required by the SIC. Due to the recent issuance of Circular 498 of June 2018, no sanctions on its implementation were applied to date. The table below shows the results of the work of the compliance unit during the period under review.

| | Total number | 2015 | 2016 | 2017 |
|---|---|---|---|---|
| Banks | 65 | 22 | 22 | 28 |
| Percentage | 100% | 33.8% | 33.8% | 43% |
| Finance Institutions | 51 | 17 | 14 | 18 |
| Reprimand letters | 10 | 5 | 1 | 4 |

243. With 43% of the banks and other financial institutions supervised in 2017, and measures taken in case of non-compliance, the supervision is adequate and ensures that beneficial ownership information is maintained.

244. In order to prepare the banks to the legal changes that occurred in June 2018 on how to implement the requirements on identification and verification of beneficial owners, the SIC has organised two training sessions with banks. One in October 2018 was organised in collaboration with the Union of Arab Banks. A second one was organised in November 2018 with EBRD.

245. In addition to actions led by government agencies, stakeholders also play a role in ensuring compliance. The Association of Banks in Lebanon (ABL) acting as a support for its members, explained that priority had been put on setting compliance standards in order to achieve market harmony especially in the area of compliance. In this spirit, it created a compliance committee. Its main role is to implement the directions of the ABL Board, convey and explain applicable rules (local and international) and to help banks in the implementation of those rules. This committee suggests rules and guidelines which the banking sector should follow. The Association works closely with the authorities and provides comments on regulatory and supervisory related draft circulars. It also proposes training and conferences for the banks' compliance employees. They have drafted manuals regarding the implementation of laws and procedures in the banks, including on FATCA and CRS in collaboration with an audit firm. Since 2015, there has been a conference every year on compliance-related issues and eight workshops among which four focused on update of KYC forms, tax evasion and exchange of information. Since the entry into force of Circular 498/2018, no training has been organised yet on the requirements on beneficial ownership.

246. Through amendments brought with Law 44 and Circular 498 in 2018, Lebanon's definition of beneficial owner and procedures of verification of the beneficial ownership information are in line with the standard. However, although the concept of beneficial ownership was included in the CDD requirements applicable to banks since 2001, the definition and the CDD approach were introduced only recently in June 2018. Lebanon is recommended to continue monitoring the implementation of Circular 498 and to ensure that such information is available for all accounts.

### *Exchange of banking information in practice*

247. Lebanon received 27 requests for banking information and replied to 22. In the other five cases, three were declined due to bank secrecy principle that was notified to the requesting jurisdiction. One case was subject to a request for clarification and not responded to, and one was withdrawn by the requesting jurisdiction due to statute of limitation. However, as outlined

under elements B.1 and C.5, the issues are not caused by the availability of information, and rather by the access powers that were limited, the lack of resources and misunderstanding on the implementation in practice of the standard during the review period.

248. The Lebanese authorities indicate that in 2018, all bank requests have been responded to in line with the procedures implemented in order to address the gaps that existed in accessing banking information as explained under part B. Banking information is available in Lebanon.

# Part B: Access to information

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

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

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

250. The 2016 Report concluded that the EOI Law adopted in 2015 granted access to information (including banking information) for tax purposes, but this access was subject to restrictive conditions that were not in line with the standard.

251. With the entry into force of Law 55/2016 of 27 October 2016, Lebanon's Competent Authority has acquired broad access powers to obtain all types of relevant information including ownership, accounting and banking information from any person in order to comply with its obligations under Lebanon's EOI agreements, as confirmed by Lebanon's practice since the entry into force of the law in November 2016. In case of failure to provide the requested information, the tax administration has adequate powers to compel the production of information. The scope of information protected from disclosure is now in line with the standard. These changes are fully in line with the standard. Law 55/2016 has repealed and replaced EOI Law 43/2015 of 24 November 2015; it notably:

- abolishes restrictive conditions to access information for EOI purposes
- clarifies that the right of access to information by the Competent Authority prevails over any confidentiality obligation or other restrictions imposed by any other law, upon the disclosure of information.

252. The procedure to access information works without notification, except for access to banking information (see element B.2 regarding the notification procedure). In practice, as the legal framework was in place from November 2016, Lebanon could answer requests only thereafter, but it nevertheless answered requests related to taxable years prior to November 2016. However, some implementation issues created delays in response times. The situation improved towards the end of the peer review period with an average response time being substantially reduced. Lebanon is recommended to monitor the implementation of the procedure to access banking information in practice to ensure timeliness of responses in all cases.

253. In practice, peers have indicated improvements in timeliness during the peer review period and thereafter, which is due to the access procedure working efficiently. During the period under review, Lebanon received 77 requests, including 27 requests for banking information. Lebanon replied to all requests except in five cases – three that have been declined due to bank secrecy before the issuance of Law 43/2015, one that was withdrawn and one on which clarifications were sought to the requesting competent authority and which was not responded to. After the entry into force of Law 55/2016, peers have noted meaningful progresses and banking information requests were successfully responded to. All banking information requests that were still pending at the entry into force of Law 55/2016 were answered. Information was obtained retrospectively and exchanged only for pending requests which were not answered and for which Lebanon had a DTC in place.

254. The new table of recommendations, determination and rating is as follows:

| Legal and Regulatory Framework | | |
|---|---|---|
| **Determination: The element is in place** | | |
| **Practical Implementation of the standard** | | |
| **Deficiencies identified** | **Underlying Factor** | **Recommendations** |
| | During the peer review period, Lebanon introduced legislation in line with the standard to lift bank secrecy with effect from November 2016. Although Lebanon could answer requests related to taxable years prior to November 2016, some implementation issues created delays in response times, which resulted in one request being withdrawn by an EOI partner. The situation improved towards the end of the peer review period with an average response time being substantially reduced at the end of the peer review period and thereafter. | Lebanon should monitor the implementation of the procedure to access banking information in practice to ensure timeliness of responses in all cases. |
| **Rating: Largely Compliant** | | |

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

255. Since the last report which concluded that there were too broad legal restrictions to the access powers of the Competent Authority, amendments were brought up to the legal framework, particularly on access to banking information. The legal and regulatory framework for access to information is now in place in line with the standard.

256. The Competent Authority under EOI agreements concluded by Lebanon is the Minister of Finance. On 27 November 2014, the Minister of Finance delegated the power to sign incoming and outgoing requests for information to the Revenue Director.

#### *Accessing information generally*

257. The procedure to access information is the same for all types of information, except banking information.

258. Under the general procedure, the Competent Authority can obtain information from different sources without limitations (databases, local tax offices, governmental authorities, taxpayers, third parties, etc.). The Competent Authority indicated that information which is directly available in the tax systems and database encompasses ownership information and some accounting information.

259. Where the information is not available from internal tax systems or databases, it is requested from the concerned local tax Department. It is also possible to obtain the information though onsite visit and search of premises. Lebanon confirmed that in case of non-compliance by a person holding the information to provide the information, the tax auditor in charge of obtaining the information would use this power.

#### Accessing information in the hands of the tax authorities

260. The International Tax Relations Unit has a large amount of information already available internally in the tax systems and databases maintained at regional and national levels. These databases are fed by information collected upon registration and during the life of the taxpayer. If the information is directly at the disposal of the EOI Unit, the EOI request should be processed within this unit taking into consideration the 90 days deadline, as set out in the EOI Manual.

261. Information available in the hands of the tax authorities covers:

- Ownership – registration numbers, identity of shareholders or partners, percentage of shareholding or partnerships

- Accounting – filed returns with all details contained in tax returns, including some accounting information (revenues, expenses, fixed assets, salaries and wages), audits conducted and findings, details on the properties belonging to the taxpayer, amounts of taxes due, and paid by the taxpayer
- Other type – objections from the taxpayer, date of cessation of activity, or whether the taxpayer is active or inactive.

262. When the requested information is available in the International Tax Relations Unit through access to these databases, the unit can process the request directly; otherwise, a tax auditor from the local tax office, where the taxpayer is registered, collects the information. The interaction between the International Tax Relation Unit and the local department responsible for the collection of the information is by internal mail signed by the Revenue Director (stamped confidential, without attaching the EOI request). This Department or regional office has 30 days to provide the requested information.

263. In practice, even if the information requested is available in the database, due to office ressources constraints, the International Tax Relations Unit still requests the assistance of tax auditors to collect the information. In around 54% of cases, information was extracted only from the database (i.e. desk audit was conducted). In all other cases, information was extracted from the database and collected from third parties when needed (i.e. combination of desk audit and field audit were conducted).

### Accessing information from another government agency

264. The co-operation between the Ministry of Finance and other governmental agencies is authorised by article 23 of the TPC, which compels every person to co-operate with the tax authorities and provide it with information it requests for carrying on its mission. Law 55/2016 confirmed that articles 23, 44, 48 and 103 of the TPC ensure clear access powers by the tax administration and may be used to respond to an EOI request.

265. In practice, a letter signed by the General Director of Finance is addressed (by ordinary mail with acknowledgment of receipt) to the government agency in possession of the requested information without indicating that there is an information request from an EOI partner and without attaching the EOI request. Answers to the request are expected within 30 days as expressly mentioned in the EOI Manual.

266. During the review period, the Competent Authority requested information to Commercial Register, Cadastre, General Directorate of the General Security. A representative from the Commercial Register met during the

onsite visit confirmed this practice and no issues were raised. Good communication exists between the different parties involved and responses are submitted within 30 days from the receipt of the request.

267. A project is currently in progress to link the databases from several agencies. The information collected by the Ministry of Finance, the Commercial Register, national security fund and the directorate general of personal status will be shared through a common software. In addition, an office combining the taxpayers' services of the Ministry of Finance and the commercial registry in one location (one-stop shop) has started in Beirut and Mount Lebanon. Currently, the Lebanese authorities in charge of exchange of information will receive information from the Commercial Registrar and check with what they have to ensure consistency.

### Accessing information from a taxpayer or third party

268. Information maintained by taxpayers or third parties, or collection of which requires more investigations, is gathered and provided to the International Tax Relations Unit by the local tax auditors. Once received, the International Tax Relations Unit checks the information against the request to ensure that they match, and asks for additional information if needed. The Lebanese authorities indicated that the local tax office should reply within one month. In practice, this might take three months in case of field audit. Although this process was new and therefore entailed some delays in the beginning, the relationship between the International Tax Relation Unit and the local tax offices works currently efficiently, thanks to the appointment of dedicated EOI officers within the local tax offices and training provided by the International Tax Relation Unit (see section C.5.2).

269. The Income tax Department or regional office will collect information via desk audit or field audit in accordance with article 44 of the TPC related to field and desk audits. Law 55/2016 confirmed that articles 23, 44, 48 and 103 of the TPC ensure clear access powers by the tax administration and may be used to respond to an EOI request.

270. These articles establish the access powers available with the tax administration. In practice, this power is largely used. Out of the 77 requests received, information was obtained via a third party or taxpayer itself in around 74 % of cases (via office desk and field audits). In practice, during the period under review, this power was used to collect banking information that could not be collected from banks themselves due to bank secrecy (see below). Three requests were therefore answered positively.

### *Accessing beneficial ownership information*

271. Beneficial ownership information is mainly available with banks and certain professions (lawyers, certified public accountant and notaries public) that are subject to AML obligations (see A.1.1 for more details). Hence, access powers used for banking information and information maintained by third parties will also apply for accessing beneficial ownership information with such persons.

272. Where this information is available with lawyer, certified public accountant or notary public, the Revenue Director addresses a letter to the Department in charge of collecting the information, who will address a letter to the said service provider, via ordinary mail with acknowledgment of receipt (in closed envelopes stamped confidential). The service provider has at least three days to reply according to TPC. To get information on the identity of the service provider in possession of the information (if not provided by the requesting authority), the Competent Authority will search the tax return lodged by the company on which contact details of the lawyer and accountants are required to be disclosed. Information about notaries is available in the article of association. This ensures a quicker access to the information.

273. Where this information is requested from the Special Investigation Commission (SIC), the Revenue Director addresses a letter to the SIC, via ordinary mail with acknowledgment of receipt (in closed envelopes stamped confidential), in order to provide the tax administration with the requested information, without attaching the EOI request.

274. In addition, beneficial ownership information should be available in the tax returns and directly accessible to the Competent Authority. This requirement is recent, and its effective implementation has not been tested in practice.

275. In practice, the Competent Authority did not request for beneficial ownership information during the review period as the law compelling any persons but banks to keep beneficial ownership information came in force afterwards. Lebanon received more than one request on beneficial ownership information and where the information could not be provided as part of the banking information, no information was provided.

### *Accessing banking information*

276. Access to banking information has been a problem in Lebanon for a long time. The first review of Lebanon conducted by the Global Forum in 2012 highlighted the absence of access to information held by banks for EOI purposes – the information could only be disclosed with the written

authorisation of the account holder. The 2016 report on Lebanon noted progress in the legal framework with the entry into force of the 2015 EOI Law (Law 43/2015), which provided the Competent Authority with a restricted access to information held by banks, but more improvements were needed. Since then, Lebanon introduced the new Law 55/2016 in October 2016, which provides the Competent Authority full access to information held by banks for EOI purposes.

277. During the review period, there were three different periods in respect of access to banking information.

### Before 26 November 2015: no access

278. Until Law 43/2015, there was no power available to the Competent Authority to access banking information held by banks for EOI purposes.

279. Lebanon received eight EOI requests on banking information from January to November 2015. The authorities tried to obtain the information requested from the account holders in three cases and were successful. In the other instances, the Competent Authority informed its EOI partner about its inability to access banking information due to banking secrecy.

### From 26 November 2015 until 27 October 2016: a restricted access

280. Following the entry into force of the EOI Law 43/2015 on 26 November 2015, a procedure to lift bank secrecy in respect of EOI requests was introduced along with sanctions in case of failure. However, this access was subject to restrictive conditions, i.e. an irrevocable judgment convicting the person for tax evasion or tax fraud, or conclusive presumptions or relevant facts that this person has engaged in tax evasion or tax fraud in the requesting jurisdiction. These conditions were not in line with the standard.

281. During that period, Lebanon received ten banking requests and in no case was the bank secrecy lifted, as the restrictive conditions set out in Law 43/2015 were not met. No taxpayer was approached either, since SIC was the authority competent to gather banking information and MOF did not have access power.

### After 27 October 2016: full access

282. Law 55/2016 entered into force on 27 October 2016 has lifted the restrictive conditions to access the information held by banks for EOI purposes. Pursuant to the new law, the Competent Authority can request banking information from the SIC in order to answer an EOI request. The SIC must lift bank secrecy and ask banks to provide it with such information, which it

will transmit to the Competent Authority. Lebanon informed its main treaty partner on the changes in the legal framework by email.

283. In practice, the Minister of Finance delegated to the Revenue Director on 8 September 2016 his power to request banking information from the SIC. Once the validity of a request for banking information has been ascertained, a letter signed by the Revenue Director is addressed to the SIC, via ordinary mail with acknowledgment of receipt (in closed envelopes stamped confidential). Law 55/2016 clarifies that only the Competent Authority has the power to assess the validity of a request for banking information with the EOI Agreement (i.e. formal conditions and foreseeable relevance).

284. The Lebanese authorities have clarified in the EOI Manual issued in February 2018 that the request for banking information to the SIC does not include the EOI request or its content. They assured that it was not the practice to do so even before. A template is also prescribed to facilitate communication between the two authorities.

285. The SIC must obtain the requested banking information and transfer it to the Competent Authority within one month. Should delays occur in collecting the banking information or during the notification process (see section B.2 below), status updates are sent since end of 2017 when no answer is provided after 90 days.

286. The SIC responded to 19 requests. In addition, the Lebanese authorities explained that nine pending requests received before the entry into force of Law 55/2016 were proceeded in line with the provisions of Law 55/2016 and were responded to.

287. The SIC confirmed that EOI has become a priority with the new mandate of the Deputy Director' s unit to oversee the work of the Audit and Investigation Unit in charge of dealing with EOI for tax matters. Statistics show delays in 2017 in the response regarding EOI requests for banking information. The Lebanese authorities indicated delays were caused by misunderstandings regarding the procedure set out in Law 55/2016 between the Competent Authority and the SIC, which were clarified in August 2017. No issues on compliance with the procedure between the two agencies seem to exist anymore.

288. Although Lebanon could answer requests related to taxable years prior to November 2016, some implementation issues created delays in response times, which resulted in one request being withdrawn by an EOI partner and three requests declined. The situation has normalised, with an average response time being substantially reduced (in 2016, the banking information request took more than one year to be responded to, in 2017 they were responded to within more than 6 months and in 2018, between 90 days and 180 days).

289. In total, Lebanon received 27 requests for banking information during the review period. Lebanon declined three requests because of legal restrictions, and was able to answer 22. One was withdrawn by the other jurisdiction and one request was subject to a request for clarification which was not answered by the other jurisdiction.

290. Lebanon should monitor the implementation of the procedure to access banking information in practice to ensure timeliness of responses in all cases.

### *B.1.2. Accounting records*

291. The powers described in section B.1.1 relating to non-banking information can be used to obtain accounting information.

292. During the review period, Lebanon received 59 requests for accounting information. Lebanon authorities confirmed that they used both internal data and access power to request information from third parties and taxpayers. One peer noted that three responses lacked details and two were sent too late (see section C.5.2 below).

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

293. The 2016 report concluded that the provisions on access power in force in 2016 allowed the Competent Authority to access information even if Lebanon would not need it for its own tax purposes. Law 55/2016 also clearly states that the access powers may be used for EOI purposes only.

294. In practice, no peers raised any concerns. In addition, Lebanon confirmed that they have received 10 requests on offshore companies for which there was no domestic interest since Lebanon does not tax these companies. This evidences the absence of domestic interest requirements.

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

295. Penalties applied by the Competent Authority itself concern all requests for information, except banking information. These financial sanctions in the TPC are not less than LBP 750 000 (EUR 439) for joint stock companies; LBP 500 000 (EUR 293) for partnerships, limited liability companies and tax-exempted institutions; LBP 100 000 (EUR 58) for individuals and other taxpayers.

296. In case of banking information request, as explained under paragraph 239, the sanctions are applied at the level of BDL and vary between warning letters to fines to revocation of licence.

297. The Lebanese Authorities never had to impose penalties for failure to provide information for the purpose of an EOI request. Domestically, taxpayers that did not comply were sanctioned under art. 114 and 115 of the TPC (17 128 times in 2015, 19 244 times in 2016 and 45 898 times in 2017, the increase being the introduction of a specific audit programme on taxpayers that failed to lodge their returns).

298. Where the 10 year record retention period has expired, the taxpayer is not responsible for maintaining the information and the provision of the information only depends on the availability of the information in the internal systems and databases of the MOF. In case the requested information is available within the tax administration, it is provided. Lebanon indicated that they never had to request for information older than 10 years either for treaty purposes or for domestic purposes but confirm that if the information is available in the Ministry of Finance database, they would exchange the information with their treaty partner. If it is not the case, they would seek the information with the holder of the information but would not be able to enforce the provision of the information as the holder no longer has the obligation to provide the information.

299. The enforcement provisions and their use in practice have so far been effective to compel the production of the requested information.

### *B.1.5. Secrecy provisions*

300. There are two types of secrecy or confidentiality provisions that are relevant for the purposes of this section: bank secrecy and professional secrecy.

#### *Bank secrecy*

301. The 2016 report concluded that even if all banking information was covered by bank secrecy, secrecy could be lifted in respect of EOI requests, subject to restrictive conditions. Law 55/2016 which details are explained above repealed the restrictive conditions. No bank opposed bank secrecy to a request from the SIC or the Competent Authority.

#### *Professional secrecy*

302. The 2012 Report found that the scope of professional secrecy safeguards appeared to be broader than allowed by the standard and Lebanon was recommended to ensure that its professional secrecy rules do not operate

to prevent exchange of information.[5] Amendments to Law 55/2016 and TPC in October 2016 brought the scope of exceptions to professional secrecy in Lebanon in line with the international standard.

303. Legal professional privilege is laid down in Article 92 of Law No. 8 of 1970 governing the lawyer's profession and Article 14 of the Accountancy Profession Act No. 364/1994 for certified public accountants and auditors.

304. As a result, in October 2016, an amendment to article 23 of the TPC clarified that the professional secrecy was superseded by the tax requirements even in the absence of a domestic tax interest. The amendment reads as follows-

> (…) Further, professional secrecy may not be invoked by anyone in order to prevent the tax administration staff from auditing the accounting registers and documents that help establish whether taxpayers are compliant with all tax obligations, or allowing to reply all incoming tax information requests in accordance with double taxation treaties.

305. The TPC does not refer to the Multilateral Convention, but Law 55/2016 does and states that its object is to "enforce and implement any duly signed and enforced EOI Agreement for tax purposes including the AEOI Agreements; and to require from any person to disclose the requested information in accordance with the said Agreement. The provisions of this law, which shall apply to all enforced EOI agreements in force, prevail in case of inconsistency with the provisions of any other law".

306. Lawyers, notaries andcertified public accountants met during the onsite visit recognised the superiority of the TPC and Law 55/2016 and confirmed that under the new provisions, they would provide the information requested in the EOIR framework. However, in practice, Lebanon explained that they usually do not request information from lawyers or professionals protected by professional secrecy as other sources are available.

307. Peers have not raised any concern regarding the application of the professional secrecy. However, as the clarification in the law is recent, it is recommended that the Lebanese authorities monitor the implementation of the amendment to article 23 of the TPC in practice.

5. The TPC used to provide that "… professional secrecy may not be invoked by anyone in order to prevent the tax administration staff from auditing the accounting registers and documents that help establish whether the tax due was paid". This appeared to limit the exception to condition of domestic tax interest.

## B.2. Notification requirements, rights and safeguards

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

308. The 2016 Report found that there were no exceptions to the procedure of prior notification applicable in case of requests for banking information and Lebanon was recommended to amend its legislation. Through the enactment of Law 55/2016, exceptions to the procedure of prior notification have been introduced in situations where it is demonstrated that the request is of a very urgent nature or likely to undermine the chance of success of the investigation conducted by the requesting jurisdiction. The recommendation from the 2016 report has therefore been addressed.

309. In practice, once notified, a person has 15 days to appeal against the decision of the Competent Authority before the State Council to request the SIC to lift the bank secrecy. An appeal is treated in three months maximum. If no decision is taken during this time, the appeal is considered as rejected. In practice, the procedure was used in three cases and has not obstructed the timeliness of the response.

310. The new table of recommendations, determination and rating is as follows:

| Legal and Regulatory Framework | | |
|---|---|---|
| **Determination: The element is in place.** | | |
| **Practical Implementation of the standard** | | |
| **Deficiencies identified** | **Underlying Factor** | **Recommendations** |
| | The procedure for collecting information to answer incoming requests regarding banking information, including the prior notification procedure, its exceptions, and the appeal procedure, are recent and Lebanon's experience in applying those procedure is limited. | Lebanon should monitor the application of the exceptions to the prior notification and the appeal procedures in practice to ensure that it is applied in accordance with the standard. |
| **Largely Compliant** | | |

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

*Notification and appeal procedure*

311. Law 43/2015, which was applicable between 24 November 2015 and 3 November 2016, set up a specific procedure to lift bank secrecy. The procedure introduced a written notification of the account holder to whom the bank account on which information is requested belongs. This account holder was able to object to the SIC's decision of lifting bank secrecy. Such objection had to take place within 15 days from the notification date. Law 43 did not provide for any exception from this notification.

312. Law 55/2016 has repealed Law 43/2015 and reinstated a procedure of notification in respect of banking information that includes the possibility of exceptions. A person under examination or investigation may object to the Competent Authority's decision to request information to the SIC before the State Council, within 15 days from the date it has received the notification. The procedure of notification is specified under the TPC and includes the following steps:

313. The notification letter is sent to the person by ordinary mail with acknowledgement of receipt.

314. Subject to prior approval of the Lebanese tax administration, in case the person notified is not present after two successive notification attempts, the notification is posted at the premises of the last known address. This notice will also be published in two local newspapers mentioning the necessity to contact the Revenue Director office within 30 days from the publication date, without any detail about the existence of an EOI request, and on the website of the Ministry of Finance. In practice, the Lebanese tax administration never refused a notification to be posted at the premises and at the last known address. The authorities report it is an administrative formality in order to ensure that two visits were made.

315. When the place of business or residence of the person to be notified is unknown, publication in two local newspapers and on the Finance Ministry's website is sufficient.

316. If the person contacts the Competent Authority within the 30-day deadline, it will be notified of the decision to request banking information. Otherwise, the person is considered as having been duly notified.

317. In practice, the letter of request to the SIC is sent at the same time as the notification to the account holder. The SIC which collected the information sends the information to the Competent Authority regardless of the fact that the notification process is complete or not.

318. In case of a group request, the procedure slightly differs. Although it has not been applied in practice, the procedure is provided for in the EOI Manual, which was also agreed on with SIC. The Competent Authority will address first a letter to the SIC informing it about the request content to enable the identification of the members of the group request. Once identified by the SIC, the Competent Authority will notify the group members according to Law 55/2016.

319. The notified taxpayer will have a right to appeal within 15 days from the date the notification is duly made. The Lebanon authorities confirmed that when a group request is received, and an individual objects or appeals the decision of the Competent Authority to request information from SIC, the request can be proceeded for the individuals who have not objected. The State Council will determine whether the legal conditions required to comply with an EOI agreement are met. This includes checking all formal conditions and that the request meets the foreseeable relevance criteria. This may take maximum three months from the submission of the recourse. Following such deadline, if no decision is served by the State Council, or in case the State Council rules in favour of the Competent Authority, the information requested is sent to the requesting partner. The decision of the State Council is irrevocable.

320. During the review period, 3 appeals have been lodged out of 19 notifications sent. In eight cases, no notifications were sent because the competent authority was the SIC and the SIC never exchanged any banking information. Therefore the taxpayer never needed to be notified. In the three instances, the State Council ruled in favour of the Competent Authority in less than three months (36 days, 71 and 88 days).

321. The Lebanese authorities indicated that where the whole notification process must be followed, the EOI Unit is not always in position to answer the EOI request within 90 days. To ensure timeliness in its answers, the Unit answers banking information separately from other requested information. However, since banking information would have been collected at the same time as the notification process would be running, the delay encountered by the decision of the State Council would therefore not impede the timeliness of the response unreasonably.

### *Exceptions to prior notification*

322. Law 55/2016 has introduced exceptions to prior notification in situations where the requesting jurisdiction demonstrates that the request is of a very urgent nature or the notification is likely to undermine the chance of success of the investigation conducted by the requesting State. In these situations, the information is provided to the requesting State without sending

any notification to the person under examination (Lebanon does not have any post-notification procedure). The decision to grant these exceptions cannot be appealed by the taxpayer.

323. The Lebanese authorities have not yet informed their treaty partners. In order to do so, the Minister has approved a draft on 4 April 2019 that will be sent to the State Council before circulation to all treaty partners. In addition, the Lebanese authorities indicated that a special paragraph will be added to the EOI Manual in order to guide the EOI officer in charge of a request that involves such situation.

324. In practice, the Lebanese Competent Authority has never received a request to apply the exception to the notification right.

325. The procedure for collecting information to answer incoming requests regarding banking information is recent and Lebanon's experience in applying it is limited. Lebanon should monitor the application of the exceptions to the prior notification and the appeal procedures in practice to ensure that they are applied in accordance with the standard.

### *Other rights and safeguards*

326. Apart from the specific rights regarding access to banking information as mentioned above, taxpayers have no special rights to intervene against the tax authorities' information-gathering powers, nor do they have any appeals rights. It is possible for the taxpayers to access their own tax information that is contained in their file (filed tax returns, paid taxes). However, information related to EOIR, including the request letter, cannot be inspected by the taxpayer and is not kept in the same file as the taxpayer file.

# Part C: Exchanging information

327. Sections C.1 to C.5 evaluate the effectiveness of Lebanon's network of EOI mechanisms – whether these EOI mechanisms provide for exchange of the right scope of information, cover all Lebanon's relevant partners, whether there were adequate provisions to ensure the confidentiality of information received, whether Lebanon's network of EOI mechanisms respects the rights and safeguards of taxpayers and whether Lebanon can provide the information requested in a timely manner.

## C.1. Exchange of information mechanisms

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

328. Lebanon has signed 33 double tax conventions (DTCs), 29 of which are in force. All of the DTCs are based on the OECD Model Tax Convention. However, none of these agreements could be considered effectively in line with the standards at the time of the 2016 Report, due to the limitations in Lebanon's domestic law with respect to access to banking information and need for a domestic tax interest to access the information.

329. Since then, Lebanon adopted Law 55/2016, which allows for access to banking information in line with the standard and removes domestic tax interest as a precondition to answer an EOI request. The recommendation is therefore removed.

330. Lebanon has also signed the multilateral Convention on Mutual Administrative Assistance in Tax Matters as amended (MAC) on 12 May 2017, which entered into force on 1 September 2017 in Lebanon, i.e. four months before the end of the review period. In practice, no requests were made under the MAC during the review period. To date, Lebanon has EOI Relationships to the standard with 137 jurisdictions. Lebanon has not signed new bilateral EOI instruments since 2005 .

331. The Lebanon's interpretation of "foreseeable relevance" is in line with the standard as confirmed by Lebanon's laws and practice.

332. The EOIR standard now includes a reference to group requests. Despite the fact that Lebanon has never received any group requests, it adheres to the Commentary to the OECD Model Tax Convention.

333. The new table of recommendations, determination and rating is as follows:

| Legal and Regulatory Framework |
|---|
| **Determination: The element is in place** |
| **Practical Implementation of the standard** |
| **Compliant** |

*Other forms of exchange of information*

334. Lebanon exchanges information on request, and automatically according to the Common Reporting Standard since September 2018.

### *C.1.1. Foreseeably relevant standard*

335. Exchange of information mechanisms should allow for exchange of information on request where it is foreseeably relevant to the administration and enforcement of the domestic tax laws of the requesting jurisdiction. Lebanon's DTCs follow the OECD Model Tax Convention. The EOI Manual states that "the term foreseeably relevant is intended to provide information to be exchanged to the widest possible extent". Nevertheless, it does not allow for "fishing expeditions or requests that are unlikely to be relevant to the tax affairs of a given taxpayer".

336. The Lebanese authorities indicated that they apply the OECD commentary to Article 26 of the OECD Model Tax Convention to determine whether a request meets the foreseeable standard. It is considered that the term "foreseeably relevant" for information covers all the requested information that is needed by an EOI partner to carry out an audit or an investigation related to tax affairs. It is therefore a broad interpretation. It was also confirmed that although some Lebanon's exchange of information agreements provide for exchange of information that is "necessary" or "relevant" for carrying out the provisions of the said agreements or the domestic laws of the contracting Parties, Lebanon interprets them as having the same meaning and scope as the term foreseeably relevant has. During the review period, Lebanon exchanged information under EOI agreements that did not contain the terms "foreseeable relevant".

337. During the review period, Lebanon did not refuse to answer any EOI requests on the basis that the request lacked foreseeable relevance and there were no cases where it requested clarification on belief that the request was overly broad or vague, as confirmed by peers.

*Group requests*

338. Lebanon did not receive group requests during the review period. However, Lebanon indicates that its procedures to deal with group requests are very similar to those used for dealing with an individual request and are detailed in the EOI Manual (see element C.5 for details).

339. The main difference relates to the information that must be included in the request as per paragraph 5.2 of the Commentary to Article 26 of the OECD Model Convention, which includes the following information that the requesting jurisdiction should provide: (i) a detailed description of the group, (ii) the specific facts and circumstances that have led to the request; (iii) an explanation of the applicable law and why there is reason to believe that the taxpayers in the group for whom information is requested have been non-compliant with that law supported by a clear factual basis; and (iv) a showing that the requested information would assist in determining compliance by the taxpayers in the group.

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

340. None of Lebanon's EOI agreements restricts the jurisdictional scope of the exchange of information provisions to certain persons, for example those considered resident in one of the contracting parties. The EOI Manual expressly states that the information requested "may cover information in respect of all persons (e.g. not limited to persons that are resident in either contracting state or nationals thereof) (…)". The Lebanon authority advised they have already exchanged information on non-Lebanon residents, but not yet on a person who was neither a resident from Lebanon nor a resident from the requesting treaty partner. However, no issues should arise in this regard.

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

341. The 2016 Report concluded that due to uncertainties in the application of the provisions to access banking information, it was uncertain whether the EOI instruments concluded by Lebanon could be given effect for the exchange of banking information. Since then, and as set out in element B.1, Lebanon adopted Law 55/2016 which provides for broad access powers, including for banking information under a specific procedure. Access to

banking information is therefore granted to the Competent Authority when an EOI agreement exists.

342. None of the DTCs concluded by Lebanon contained provisions similar to Article 26(5) of the OECD Model Tax Convention.[6] This does not automatically create restrictions on exchange of banking information, and Lebanon exchanged banking information with treaty partners under DTCs that do not include Article 26(5).

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

343. The 2016 Report found that conditions to access information were very restrictive, causing uncertainty as to whether the Competent Authority would be able to exchange information in the absence of domestic tax interest.

344. The situation has been clarified with the entry into force of Law 55/2016 repealing the condition of a domestic tax interest. The Competent Authority can exchange information even when there is no domestic interest.

345. None of the DTCs concluded by Lebanon contains Article 26(4). Although most of them are covered by the Multilateral Convention, ten are not. The Lebanese Authorities confirmed that despite the absence of Article 26(4), the interpretation they have is that they can exchange information that has no domestic tax interest for them. This interpretation is illustrated by six requests to which Lebanon answered even if the information was not domestically relevant (concerned banking information of non-residents of Lebanon). No peers have raised any issues.

### *C.1.5. Absence of dual criminality principles and C.1.6 Exchange information relating to both civil and criminal tax matters*

346. All Lebanon's exchange of information agreements provide for exchange of information in both civil and criminal tax matters and no condition of dual criminality applies. The EOI Manual specifically states that information covered by the EOI agreements is information required "in both civil tax matters and criminal tax matters, such as tax fraud and evasion". Lebanon received only requests related to civil tax matters.

6. Today, Lebanon is a Party to the Multilateral Convention, which covers 70% of its bilateral EOI partners. The ten remaining DTCs are with Algeria, Belarus, Cuba, Egypt, Iran, Jordan, Oman, Sudan, Syrian Arab Republic and Yemen.

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

347. There are no restrictions in the exchange of information provisions of Lebanon's EOI agreements that would prevent Lebanon from providing information in a specific form, as long as this is consistent with its own administrative practices.

348. This was confirmed with the Competent Authority during the onsite visit and no peers raised any issues on this. Lebanon has not received requests where the information was to be provided in a specific form.

### *C.1.8. Signed agreements should be in force*

349. Since the last report, Lebanon has signed and deposited the instruments of ratification of the Multilateral Convention on 12 May 2017. The MAC entered in force on 1 September 2017.

350. The 2016 report noted that 4 of the 33 DTCs concluded by Lebanon were not in force, but Lebanon had ratified three of them. Since then, the situation has not changed. Lebanon sent letters via diplomatic channels in order to receive an update in July 2018, to Cuba, Gabon, and Sudan. Cuba explained that due to constitutional reforms, it was impossible to continue negotiations now. Gabon confirmed its willingness to amend the DTC signed where Sudan expressed its willingness to reopen negotiations. Concerning the DTC with Canada signed in 1998, the ratification is pending on Lebanon's side, and the authorities are checking the domestic situation. However, this DTC is now complemented by the Multilateral Convention so exchange is possible with Canada.

**EOI bilateral mechanisms**

| | | | Total | Total bilateral instruments not complemented by the MAC |
|---|---|---|---|---|
| A | Total number of DTCs/TIEAS | (A=B+C) | 33 | 10 |
| B | Number of DTCs/TIEAs signed (but pending ratification), i.e. not in force | (B=D+E) | 4 | 2 (Cuba, Sudan, ratified by Lebanon) |
| C | Number of DTCs/TIEAs signed and in force | (C=F+G) | 29 | 8 (Algeria, Belarus, Egypt, Iran, Jordan, Oman, Syria and Yemen) |
| D | Number of DTCs/TIEAs signed (but pending ratification) and to the Standard | | 0 | |
| E | Number of DTCs/TIEAs signed (but pending ratification) and not to the Standard | | 4 | |
| F | Number of DTCs/TIEAs in force and to the Standard | | 0 | |
| G | Number of DTCs/TIEAs in force and not to the Standard | | 29 | 7 |

### *C.1.9. Be given effect through domestic law*

351. Lebanon has in place the legal and regulatory framework to give effect to its EOI mechanisms. The Multilateral Convention was signed and ratified simultaneously on 12 May 2017 in accordance with article 8 of Law 55/2016, pursuant to which the Council of Ministers was authorised to ratify it without going before the Parliament.

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

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

352. The 2016 Report found that Lebanon's network of EOI instruments was in place but needed certain improvement due to legal uncertainties regarding the access power of the Competent Authority that caused all EOI Agreements to be ineffective (see elements B1 and C1 above). Since then, Lebanon has made the necessary changes and can access information and provide it to all treaty partners.

353. Lebanon has an extensive EOI network covering 137 jurisdictions through 33 DTCs and the Multilateral Convention.

354. Lebanon has never refused to enter into an EOI agreement, as confirmed by the absence of peer concerns on this matter. However, Lebanon had to suspend negotiations of DTCs due to banking secrecy before Law 55/2016 and lack of personnel to negotiate DTCs since most of it was preparing the second round of review. Lebanon has not negotiated any DTCs during the review period. Preparatory work was done though and countries were approached to start negotiations in the upcoming months, mainly those with which Lebanon has an AEOI relationship.

355. It is recommended that Lebanon continues to conclude EOI agreements with any new relevant partner who would so require.

356. The new table of recommendations, determination and rating is as follows:

| Legal and Regulatory Framework |
|---|
| **Determination: The element is in place.** |
| **Practical Implementation of the standard** |
| **Rating: Compliant** |

## C.3. Confidentiality

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

357. The applicable treaty provisions and the statutory rules that apply to officials with access to treaty information regarding confidentiality are in accordance with the standard.

358. Lebanon's good practices and confidentiality safeguards ensure a high level of protection of the information exchanged under EOI agreements.

359. The table of determination and rating is as follows:

| Legal and Regulatory Framework |
|---|
| **Determination: The element is in place** |
| **Practical Implementation of the standard** |
| **Rating: Compliant** |

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

360. All exchange of information instruments have confidentiality provisions modelled on Article 26(2) of the OECD Model Tax Convention. Pursuant to these provisions, information provided by foreign tax authorities can only be used for the purpose for which they are required and can be disclosed only in judicial proceedings.

361. Moreover, pursuant to article 25 of the TPC, current or former employees of the Lebanese tax administration must adhere to professional secrecy with regard to the information they have received as employees. Information must not be disclosed except to certain parties, strictly for carrying their functions. These parties are all involved with the assessment, collection of, enforcement, or prosecution in respect of the determination of appeals in relation to taxes. Furthermore, Article 3 of the TPC states that article 25 takes precedence over any other inconsistent domestic laws. Lebanon confirmed that despite the fact that the SIC may request some tax information to the tax administration for domestic purposes, this does not capture information received from a treaty partner.

362. Law 55/2016, dedicated to EOI reiterates that information exchanged with the Competent Authority of a treaty partner must be treated as secret.

363. The Decree implementing the Tax Procedures Code punishes any violation of professional secrecy by any working persons/employee at the Ministry of Finance. Civil sanctions may be disciplinary measures such as reprimand, deduction in salary, downgrading in rank, termination of service,

or discharge without pension or retirement allowances. Penal sanctions go to a maximum of one year imprisonment in combination with a fine of maximum LBP 400 000 (EUR 255).

364. All employees have to sign a pledge upon taking up their duties. This pledge reiterates their confidentiality obligations and the risk endured in case of breach of this obligation, including after termination of employment. All rights to access the different systems are granted in accordance with the role of the officers. The rights attributed to all users are reviewed on a yearly basis and password on a monthly basis. External contractors sign a non-disclosure agreement which states the obligation of confidentiality and the sanctions in case of breach.

365. Training sessions to raise awareness on confidentiality obligations and on the Code of Public Servant[7] are organised for new recruits and on an ongoing basis to keep all employees up to date. Confidentiality awareness has been set as a priority in the training plan 2017-18. One of the topics of the training is an overview on the commitment of Lebanon towards the Global Forum and for transparency and exchange of information issues. This training was delivered to all employees of the tax administration across Lebanon, including other directorates in the Directorate General of Finance. A more specific training was organised for tax auditors in charge of the collection of the information designated in each department and regional office.

366. Security is ensured from a system perspective and from a physical structure. The Ministry of Finance is equipped with cameras and security officers. The EOI unit is located in a secured office; the entrance of the building is kept by a military officer.

367. Safeguards exist to ensure that the information is kept confidential within the EOI Unit – EOI requests are received as hard copies stored in a locked room in locked cabinets only accessible by the staff working in the Unit. Documents are kept in sealed envelopes stamped as confidential and written that it is treaty information that should be kept secret.

368. The head of the International Tax Relations Unit is the only responsible person for scanning all EOI documents. Scanned Data are stored in a location with user ownership access only granted to the person in charge of the file and the head of the EOI unit. Finally, USB and removable media are disabled for all end users.

7. The Code of Public Servant contains all regulations concerning the employment in the public administration, such as employees' duties and sanctions. Articles 14 and 15 highlight the importance of maintaining confidentiality and information security.

369. The 2016 Terms of Reference clarify that, although it remains the rule that information exchanged cannot be used for purposes other than tax purposes, an exception applies where the EOI agreement provides for the authority supplying the information to authorise the use of information for purposes other than tax purposes and where tax information may be used for other purposes in accordance with their respective laws with the prior approval of the providing partner. None of the DTCs in force in Lebanon provide for this exception. However, with the entry into force of the Multilateral Convention, this situation may arise. The Competent Authority explains that should the requesting Competent Authority demonstrate that it is allowed under its domestic law to share information with other agencies, then Lebanon would not object sharing the information.

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

370. The confidentiality provisions in the agreements and in Lebanon' s domestic law do not draw a distinction between information received in response to requests and information forming part of the requests themselves. As such, these provisions apply equally to 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. In practice, Lebanon does not draw any distinction either.

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

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

371. Each of the Lebanon's exchange of information mechanisms ensures that its parties are not obliged to provide information which would disclose any trade, business, industrial, commercial or professional secret, information which is the subject of attorney client privilege or information the disclosure of which would be contrary to public policy. This is in line with the standard. In practice, Lebanon never had to apply these provisions during the review period.

372. The table of determination and rating is as follows:

| Legal and Regulatory Framework |
|---|
| **Determination: The element is in place** |
| **Practical Implementation of the standard** |
| **Rating: Compliant** |

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

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

373. In order for exchange of information to be effective, jurisdictions should request and provide information under their network of EOI mechanisms in an effective manner. In particular:

- Responding to requests: Jurisdictions should be able to respond to requests within 90 days of receipt by providing the information requested or provide an update on the status of the request.
- Organisational processes and resources: Jurisdictions should have appropriate organisational processes and resources in place to ensure quality of requests and quality and timeliness of responses.
- Restrictive conditions: EOI assistance should not be subject to unreasonable, disproportionate, or unduly restrictive conditions.

374. Lebanon became a member of the Global Forum in 2016. Before that, the Competent Authority did not have a detailed understanding of the standard and did not introduce all the tools and procedures necessary to ensure timeliness and the sending of status updates. However, the situation improved substantially towards the end of the review period and continues improving. This was confirmed by Lebanon's main EOI partner. Yet, as this practice was implemented mainly after the review period, Lebanonshould ensure it provides status updates to EOI partners within 90 days when it is unable to provide a substantive response within that time.

375. Lebanon received 77 requests during the review period, i.e. from 1 January 2015 to 31 December 2017. The organisation and procedures are expanding and are becoming more coherent with the experience acquired of these last three years. Peers were generally satisfied with the good co-operation and communication offered by Lebanon, albeit one peer noted some deficiencies at the beginning of the peer review period, which were later resolved. Two peers noted that incomplete responses were sent. In one instance, a peer had to withdraw its request due to statutory time limitations.

376. In light of the above, Lebanon should ensure that it sends timely responses to the EOI requests received by its Competent Authority, and monitor that it maintains at all times sufficient resources to do so.

377. The new table of recommendations and rating is as follows:

| Legal and Regulatory Framework |
|---|
| **This element involves issues of practice. Accordingly, no determination has been made.** |

| Practical Implementation of the standard | | |
|---|---|---|
| **Deficiencies identified** | **Underlying Factor** | **Recommendations** |
| | During the peer review period, Lebanon only started with exchange of information on request, and yet, committed sufficient resources and put in place sound organisational processes to handle inbound EOI requests in a timely manner. Nevertheless, Lebanon experienced delays in responding to some EOI requests received, which is largely attributable to a lack of experience and some implementation issues, resolved towards the end of the period. Peers reported that timeliness improved at the end of the peer review period and afterwards. | Lebanon should ensure that it sends timely responses to the EOI requests received by its Competent Authority, and that it maintains at all times sufficient resources to do so. |
| | Although at the end of the peer review period the EOI unit started sending status updates, it was not a common practice during the peer review period. | Lebanon should ensure it provides status updates to EOI partners within 90 days when it is unable to provide a substantive response within that time. |
| **Rating: Largely Compliant** | | |

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

378. Over the period under review (1 January 2015-31 December 2017), Lebanon received 77 requests for information. The information requested related to (i) ownership information (37 cases), (ii) accounting information (59 cases), (iii) banking information (27 cases) and (iv) other types of information (14 cases).

379. The entities for which information was requested is broken down to (i) companies (37 cases) and (ii) individuals (40 cases). Lebanon's most significant EOI partner for the period under review (by virtue of the number of exchanges with them) is France. For these years, the number of requests where Lebanon answered within 90 days, 180 days, one year or more than one year, are tabulated below.

**Statistics on response time**

| | | 2015 | | 2016 | | 2017 | | Total | |
|---|---|---|---|---|---|---|---|---|---|
| | | Num. | % | Num. | % | Num. | % | Num. | % |
| Total number of requests received | [A+B+C+D+E] | 17 | 22 | 25 | 32.5 | 35 | 45.5 | 77 | 100 |
| Full response: ≤ 90 days | | 3 | 18 | 6 | 24 | 4 | 11 | 13 | 17 |
| ≤ 180 days (cumulative) | | 9 | 53 | 11 | 44 | 26 | 74 | 46 | 60 |
| ≤ 1 year (cumulative) | [A] | 11 | 65 | 21 | 84 | 35 | 97 | 67 | 87 |
| > 1 year | [B] | 6 | 35 | 3 | 12 | 0 | 0 | 9 | 12 |
| Declined for valid reasons | | 0 | 0 | 0 | 0 | 0 | 0 | 0 | |
| Outstanding cases after 90 days | | 14 | | 19 | | 31 | | 64 | |
| Status update provided within 90 days (for outstanding cases with full information not provided within 90 days, responses provided > 90 days) | | 0 | 0 | 0 | 0 | 12 | 39 | 12 | 19 |
| Requests withdrawn by requesting jurisdiction | [C] | 0 | 0 | 1 | 4 | 0 | 0 | 1 | 1 |
| Failure to obtain and provide information requested | [D] | 3 | 8 | 0 | 0 | 0 | 0 | 3 | 4 |
| Requests still pending at date of review | [E] | 0 | 0 | 0 | 0 | 0 | 0 | 0 | |

*Notes:* a. Lebanon counts each request with multiple taxpayers as one request, i.e. if a partner jurisdiction is requesting information about 4 persons in one request, Lebanon counts that as 1 request. If Lebanon received a further request for information that relates to a previous request, with the original request still active, Lebanon will append the additional request to the original and continue to count it as the same request.

b. The time periods in this table are counted from the date of receipt of the request to the date on which the final and complete response was issued.

380. Lebanon explained that before becoming a member of the Global Forum and receiving technical assistance, the timeframe within which the relevant agencies had to gather the information was flexible, particularly if the information had to be collected from outside the internal tax system.

381. Lebanon's Competent Authority also explained that the difficulties faced in accessing banking information were also causing delays.

382. The situation noticeably improved after Lebanon joined the Global Forum. Thanks to the technical assistance received from 2017, enhanced communication with the main treaty partners, and participation in training seminars, the awareness of the standard and exchange of information expanded and became a national priority. This had positive effects on the co-operation between the parties involved. The tax auditors met during the onsite visit noted the good communication that now exists between the head of the International Tax Relations Unit and the tax auditors collecting the information when it is not available internally.

383. In the period under review, Lebanon sent four requests for clarification (representing 5% of all EOI requests received) on the identity of the individuals involved. In three cases, they have received the clarifications and could proceed with the request. In one case, the request for clarification is still pending. The requests for clarification seemed to be used appropriately and are not used as a mean to prevent an efficient EOI.

384. The Competent Authority developed procedures and tools to streamline the EOI process. In February 2018, the Revenue Director issued an EOI Manual describing the steps to be followed when receiving a request for EOI. Follow up of all requests made to agencies in charge of providing the information is done through an excel spreadsheet maintained by the officer in charge of treating the EOI request and supervised by the head of the International Relations Tax Unit. This provides statistics on the performance of the unit and different agencies involved.

385. With the entry into force of Law 55/2016, access to banking information must follow a very strict procedure. The SIC is the ultimate responsible agency allowed to collect banking information to remit it to the Competent Authority for sending to treaty partners. This procedure had never been tested in practice before Law 55/2016 and adjustments had to be made. Delays took place (which took much more than the two months prescribed in the procedure) due to some misunderstanding of the process. However, in August 2017, the situation was sorted and major improvements were noticed as the SIC responded to requests from the Competent Authority between one and two months. The Lebanon authorities added that timeliness will improve further with the setting up of a secured channel between the SIC and the Competent Authority.

386. In addition to this procedure, the exception to the prior notification and appeal possibility in case of banking information requests also started at the end of 2016. Although in practice, the number of appeals has been limited, and the State Council has been efficient in handling the appeals, the procedure described in element B.2 is recent and its implementation could delay exchange. It is therefore recommended that Lebanon monitor that the procedures do not impede the timely exchange of information in practice.

387. During the period under review, no banking information was responded within 90 days. After the issuance of Law 43/2015, the Competent Authority decided to send partial responses with any other information but banking information that the partners had requested, to improve the timeliness of responses.

388. Statistics show a decrease in the proportion of responses provided within 90 days in the last year, but improvement in the proportion of responses provided within 180 days and within a year, with no request taking more than a year to be answered. This mix result is due to a one-off issue: in

2017, a decree was prepared to grant the International Tax Relations Unit with wider access powers, i.e. no intermediary (tax auditors) would be needed to collect information from the taxpayer or from third parties. The Competent Authority decided not to start collecting information under the current procedure, but instead to wait for the new decree to take effect. However, the approval process took longer than expected due to the political situation (Lebanon did not have an appointed government) and to date the decree is still not signed. As soon as it became evident that the decree would not be signed quickly, the Competent Authority got back to the former procedure, and caught up with the backlog efficiently as no request is currently pending.

*Status updates and communication with partners*

389. Lebanon indicated that in 2015 and 2016 they did not send any status updates to their peers when they were not able to reply within 90 days. Nevertheless, the peers noted that it was easy to get in contact with the Lebanon Competent Authority.

390. Lebanon explained that until it received technical assistance, it was not aware of the requirement to provide status updates. There was also no tracking system on the time left to respond until 2017 and when 90 days elapsed, the competent authority would not know when to send status update. . In 2017, the Competent Authority sent 12 status updates to its main EOI partner for whom responses were pending. Although at the end of the peer review period the EOI unit started sending status updates, it was not a common practice during the peer review period. Accordingly, Lebanon must ensure that it sends status updates to its treaty partners each time it cannot answer an EOI request within 90 days.

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

*Organisation of the Competent Authority*

391. According to Law 55/2016 and to DTCs signed by Lebanon, the Minister of Finance is the Competent Authority of Lebanon for EOIR purposes. In practice, there is a delegation of power (issued on 27 November 2014) from the minister to the Revenue Director to sign incoming and outgoing requests of information.

392. The Competent Authority is clearly identifiable to Lebanon's EOI partners. The list of the Lebanese competent authorities is updated and posted on the Ministry of Finance website and in the Competent Authority secure Database maintained by the Global Forum.

393. The handling of exchange of information under DTCs and the Multilateral Convention is centralised within the International Tax Relations

Unit of the Legislation Department in the Revenue Directorate. According to Decree 6740 dated 28 October 2011, five employees in addition to the head of the Unit should serve in this Unit. There are currently two employees – the head of Unit and one staff working on EOIR and responsible for assisting the Revenue Director in treaties negotiations. Four more staff have been recruited but have not yet started. A project to turn the unit into a department is pending at the level of the Council of Ministers since September 2018. This change would enable a direct link with the Revenue Director which follows the logic of giving EOI priority. The reason why the proposed decree is still under discussion is that there are many clarifications requested and exchanges are numerous.

394. Lebanon should ensure that it maintains at all times sufficient resources to answer EOI requests in a timely manner.

### *Resources and training*

395. The International Tax Relations Unit is equipped with the needed technical material.

396. Staff handling the requests and tax auditors who usually assist in collecting information for EOIR purpose are qualified. Training is delivered in-house by the head of the International Tax Relations Unit.

397. During the peer review period, the Competent Authority did not have written guidance or administrative procedures detailing the treatment of incoming and outgoing EOI requests. However, the Revenue Director issued verbal instructions. This led to good practices being established overtime taking into account the small size of the Unit and the close relation with the Revenue Director. In 2018, the tax administration issued an EOI Manual, and disseminated it within the tax administration.

### *Incoming requests*

#### Competent authority's handling of the request

398. When a request is received, it is opened by the Director of Revenue, the delegated Competent Authority. The request is then stamped "CONFIDENTIAL". All the documents related to any EOI request are also stamped with the following label:

> THIS INFORMATION IS FURNISHED UNDER THE PROVISIONS OF A TAX TREATY AND ITS USE AND DISCLOSURE ARE GOVERNED BY THE PROVISIONS OF SUCH TAX TREATY

399. The request is then transferred by hand to the Head of the International Tax Relations Unit in the same day of the receipt of the request. The Head of this Unit registers the request personally on a tracking system serving the Revenue Director and on a separate excel sheet within the Unit for monitoring purposes.

400. The International Tax Relations Unit reviews the requests on receipt for a validity check. The request will be returned to the requesting State if it is not covered by an international tax treaty; deals with periods, or taxes, which are not covered by the international tax treaty; is not signed by an authorised person from the requesting State; or the request should have been sent to a different jurisdiction. None of these circumstances occurred during the review period.

401. If the information provided is insufficient or not clear to process the request, the Revenue Director or the Head of Unit asks the requesting State (by letter or email) to provide more details or clarify why information cannot be provided (i.e. not enough information to identify the taxpayer). Four requests for clarification were sent during the peer review period (see C.1.1).

402. Where a request is considered not valid or incomplete, the Revenue Director notifies the requesting State of the deficiency within 60 days of receipt of the request. If the request is incomplete in part, the Competent Authority will nevertheless respond to the portion of the valid request.

403. For valid requests, and if the information is not available within the Unit, the same procedure as described in element B.1 applies. The letters sent by the Revenue Director and Director General (depending on the party from which the information is collected) are transferred in closed envelopes stamped confidential and sent directly to the person responsible of the relevant Department or agency without attaching the request. Answers should be provided within one month to the Revenue Director or the Director General when he is the person signing the letter of request; he then passes it on to the Revenue Director.

404. In case of banking information requests, the Revenue Director sends a letter to the SIC by ordinary mail with acknowledgment of receipt. Answers should be provided within one month to the Revenue Director. During the review period, this deadline was not respected, but since 2017, with better experience and settled procedures, this has improved and the SIC replied quicker, even if it took more than a month. The Revenue Director is also competent to sign the prior notification to the person under examination or investigation who may appeal this decision before the State Council, within 15 days from the notification date (see element B.2).

405. When the Revenue Director receives the responses from the tax Departments, regional offices, agencies or/and SIC, he transfers them by hand to the Head of the International Tax Relations Unit in the same day. The Head of Unit registers the responses on the tracking system and on the

separate excel sheet for monitoring purposes (dates the requests are sent and the date the responses are received). The EOI officer checks that the response corresponds to the requested information. The Head of Unit checks regularly the database in order to ensure that no deadlines are passed. A system of alert is prepared on excel sheet, and an automatic reminder is sent to the Head of Unit and employees working on a request. The employee in charge of handling the request drafts a response to the partner. This employee is also in charge of collecting the information that is available internally. All information gathered from external sources is checked against the internal data when available to ensure the quality of the information provided by the third party.

406. The draft response to the request is reviewed by the Head of Unit and signed by the Revenue Director.

407. Where it has not been possible to obtain the information requested, a response is prepared to inform the requesting authority, as soon as possible, that the information could not be provided and the reasons for it. This happened only for banking information requests sent before Law 55/2016 and beneficial ownership information requests sent before the entry into force of Law 106/2018 that were not linked to banking information requests.

408. Once signed, the Head of the International Tax Relations Unit sends the letter to the requesting party in a closed envelope by ordinary mail with acknowledgment of receipt. The tracking system and the excel sheet are updated accordingly.

### Practical difficulties Lebanon experienced in obtaining the requested information

409. During the period under review, the main difficulty faced by Lebanon's Competent Authority was the access to banking information. As set out in element B.1.5, with the change of law enabling the Competent Authority to access information through the SIC for exchange purposes, the whole EOI landscape changed in Lebanon and required the setting up of new procedures. These procedures started being implemented and produced positive effects only late during the review period. Nevertheless, the trend is encouraging and Lebanon has no request for banking information pending.

#### *Outgoing requests*

410. During the review period, Lebanon sent three requests to its treaty partners. The authorities explained that they are waiting the last stage of their technical assistance programme to train the employees in order to increase the number of outgoing requests.

411. The 2018 EOI Manual, disseminated to all tax employees, sets the procedures for making outgoing EOI Requests, including a template to follow.

412. All requests for information to a foreign tax administration are addressed in a closed envelope to the office of the Revenue Director through the internal mail. The director then delivers it by hand to the head of the International Tax Relations Unit. The head of unit registers the request on a tracking system and on a separate excel sheet within the unit for monitoring purposes. The International Tax Relations Unit conducts a preliminary examination to see if the request is valid by verifying that the request follows the model in the manual, and that all the conditions for making a request are fulfilled (i.e. an EOI arrangement exists with the requested State; periods or taxes covered by the agreement; background information and facts around the request are sufficient to meet the foreseeable relevance criteria; and the auditor used all possible means available to obtain the information).

413. If the request is valid, the Head of Unit allocates the case to an employee in the unit and records it on the database.

414. The employee of the Unit then prepares the cover letter, ensuring that it is addressed to the Competent Authority of the requesting jurisdiction by using the GF database. Where the situation so requires, all supporting documents and the request should be attached to the cover letter advising the requested State that the taxpayer should not be contacted due to the very urgent nature of the request or that its notification is likely to undermine the chance of success of the investigation conducted by the Lebanese Tax Administration. Once checked by the Head of Unit, the request is forwarded to the Revenue Director for signature.

415. The request is sent via mail with acknowledgment of receipt and the employee in the Unit tracks the progress of the request and asks the foreign competent authority for progress reports.

416. When the outgoing request does not pass the validity check, the tax auditor is informed in writing and requested to provide additional details to allow the request to be sent or to modify it accordingly. The Unit has rejected several draft requests during the review period. However, with the training organised by the International Tax Relations Unit and the technical assistance received, this has improved and the authorities are confident that the number of valid requests will increase as well.

417. The procedure is well outlined in the EOI Manual and no comments were received from peers on the quality of the requests made.

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

418. There are no other factors or issues identified that could unreasonably, disproportionately or unduly restrict effective EOI in Lebanon.

# Annex 1: List of in-text recommendations

Issues may have arisen that have not had and are unlikely in the current circumstances to have more than a negligible impact on EOIR in practice. Nevertheless, there may be a concern that the circumstances may change and the relevance of the issue may increase. In these cases, a recommendation may be made; however, such recommendations should not be placed in the same box as more substantive recommendations. Rather, these recommendations can be mentioned in the text of the report. However, in order to ensure that the Global Forum does not lose sight of these "in text" recommendations, they should be listed in an annex to the EOIR report for ease of reference.

- **Element A.2**: The Lebanese authorities report that regional offices and income tax department started running investigations in the course of their audits to identify the existence of a trustee in Lebanon. None were identified for now. This started very recently and Lebanon is recommended to monitor the practical implementation of these obligations.
- **Element B.1.5**: Lawyers, notaries and certified public accountants recognised the superiority of the Tax Procedure Code (TPC) and Law 55/2016 and confirmed that under the new provisions, they would provide the information requested in the EOIR framework. However, as the clarification in the law is recent, it is recommended that the Lebanese authorities monitor the implementation of the amendment to article 23 of the TPC in practice.
- **Element C.2**: Lebanon has not negotiated any DTCs during the review period. It is recommended that Lebanon continues to conclude EOI agreements with any new relevant partner who would so require.
- **Element C.5.1**: Prior notification and appeal in case of banking information requests started at the end of 2016. Although in practice, the number of appeals has been limited, these procedures are recent and their implementation could delay exchange. It is therefore recommended that Lebanon monitor that the procedures do not impede the timely exchange of information in practice.

# Annex 2: List of Lebanon's EOI mechanisms

## 1. Bilateral international agreements for the exchange of information

| | EOI partner | Type of agreement | Signature | Entry into force |
|---|---|---|---|---|
| 1 | Algeria | DTC | 26/03/2002 | 19/07/2006 |
| 2 | Armenia | DTC | 16/09/1998 | 13/12/2000 |
| 3 | Bahrain | DTC | 07/08/2003 | 13/09/2005 |
| 4 | Belarus | DTC | 19/06/2001 | 29/12/2002 |
| 5 | Bulgaria | DTC | 01/06/1999 | 05/01/2000 |
| 6 | Canada | DTC | 29/12/1998 | |
| 7 | Cuba | DTC | 04/02/2001 | Ratified by Lebanon |
| 8 | Cyprus [a] | DTC | 18/02/2003 | 14/04/2005 |
| 9 | Czech Republic | DTC | 28/08/1997 | 24/01/2000 |
| 10 | Egypt | DTC | 17/03/1996 | 22/03/1998 |
| 11 | France | DTC | 24/07/1962 | 02/01/1964 |
| 12 | Gabon | DTC | 20/02/2001 | Ratified by Lebanon |
| 13 | Iran | DTC | 22/10/1998 | 19/01/2001 |
| 14 | Italy | DTC | 22/11/2000 | 21/11/2011 |
| 15 | Jordan | DTC | 31/10/2002 | 12/12/2003 |
| 16 | Kuwait | DTC | 21/01/2001 | 20/03/2002 |
| 17 | Malaysia | DTC | 20/01/2003 | 10/11/2004 |
| 18 | Malta<br>Amending protocol Malta | DTC | 23/02/1999<br>16/04/2009 | 10/02/2000<br>26/03/2010 |
| 19 | Morocco | DTC | 20/10/2001 | 09/08/2003 |
| 20 | Oman | DTC | 12/04/2001 | 28/10/2001 |
| 21 | Pakistan | DTC | 31/08/2005 | 26/06/2008 |
| 22 | Poland | DTC | 26/07/1999 | 07/11/2003 |

| | EOI partner | Type of agreement | Signature | Entry into force |
|---|---|---|---|---|
| 23 | Qatar | DTC | 23/11/2005 | 01/01/2010 |
| 24 | Romania | DTC | 28/06/1995 | 06/04/1997 |
| 25 | Russia | DTC | 07/04/1997 | 16/06/2000 |
| 26 | Senegal | DTC | 19/10/2002 | 22/09/2004 |
| 27 | Sudan | DTC | 09/03/2004 | Ratified by Lebanon |
| 28 | Syrian Arab Republic | DTC | 12/01/1997 | 10/03/1998 |
| 29 | Tunisia | DTC | 24/06/1998 | 03/06/2000 |
| 30 | Turkey | DTC | 12/05/2004 | 21/08/2006 |
| 31 | Ukraine | DTC | 22/04/2002 | 06/09/2003 |
| 32 | United Arab Emirates | DTC | 17/05/1998 | 21/05/1999 |
| 33 | Yemen | DTC | 29/09/2002 | 20/02/2006 |

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

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

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

The Convention on Mutual Administrative Assistance in Tax Matters was developed jointly by the OECD and the Council of Europe in 1988 and amended in 2010 (the Multilateral Convention).[8] The Multilateral Convention is the most comprehensive multilateral instrument available for all forms of tax co-operation to tackle tax evasion and avoidance, a top priority for all jurisdictions.

The original 1988 Convention was amended to respond to the call of the G20 at its April 2009 London Summit to align it to the international standard on exchange of information on request and to open it to all countries, in

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

particular to ensure that developing countries could benefit from the new more transparent environment. The Multilateral Convention was opened for signature on 1 June 2011.

The Multilateral Convention was signed by Lebanon on 12 May 2017 and entered into force on 1 September 2017 in Lebanon. Lebanon can exchange information with all other Parties to the Multilateral Convention.

As of 6 May 2019, the Multilateral Convention is in force in respect of the following jurisdictions: Albania, Andorra, Anguilla (extension by the United Kingdom), Antigua and Barbuda, Argentina, Aruba (extension by the Netherlands), Australia, Austria, Azerbaijan, Bahamas, Bahrain, Barbados, Belgium, Belize, Bermuda (extension by the United Kingdom), Brazil, British Virgin Islands (extension by the United Kingdom), Bulgaria, Cameroon, Canada, Cayman Islands (extension by the United Kingdom), Chile, China (People's Republic of), Colombia, Cook Islands, Costa Rica, Croatia, Curaçao (extension by the Netherlands), Cyprus,[9] Czech Republic, Denmark, Estonia, Faroe Islands (extension by Denmark), Finland, France, Georgia, Germany, Ghana, Gibraltar (extension by the United Kingdom), Greece, Greenland (extension by Denmark), Grenada, Guatemala, Guernsey (extension by the United Kingdom), Hong Kong (China) (extension by China), Hungary, Iceland, India, Indonesia, Ireland, Isle of Man (extension by the United Kingdom), Israel, Italy, Jamaica, Japan, Jersey (extension by the United Kingdom), Kazakhstan, Korea, Kuwait, Latvia, Lebanon, Liechtenstein, Lithuania, Luxembourg, Macau (China) (extension by China), Malaysia, Malta, Marshall Islands, Mauritius, Mexico, Moldova, Monaco, Montserrat (extension by the United Kingdom), Nauru, Netherlands, New Zealand, Nigeria, Niue, Norway, Pakistan, Panama, Peru, Poland, Portugal, Qatar, Romania, Russia, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, San Marino, Saudi Arabia, Senegal, Seychelles, Singapore, Sint Maarten (extension by the Netherlands), Slovak Republic, Slovenia, South Africa, Spain, Sweden, Switzerland, Tunisia, Turkey, Turks and Caicos Islands (extension by the United Kingdom), Uganda, Ukraine, United Arab Emirates, United Kingdom, Uruguay and Vanuatu.

In addition, the Multilateral Convention was signed by, or its territorial application extended to, the following jurisdictions, where it is not yet in force: Armenia, Brunei Darussalam (entry into force on 1 July 2019), Burkina Faso, Dominica (entry into force on 1 August 2019), Dominican Republic, Ecuador, El Salvador (entry into force on 1 June 2019), Former Gabon, Kenya, Liberia, Mauritania, Morocco (entry into force on 1 September 2019), North Macedonia, Paraguay, Philippines, United States (the original 1988 Convention is in force since 1 April 1995, the amending Protocol was signed on 27 April 2010).

9. See Note a on page 111.

# Annex 3: Methodology for the review

The reviews are based on the 2016 Terms of Reference and conducted in accordance with the 2016 Methodology for peer reviews and non-member reviews, as approved by the Global Forum in October 2015 and the 2016-21 Schedule of Reviews.

The evaluation is based on information available to the assessment team including the exchange of information arrangements signed, laws and regulations in force or effective as at 6 May 2019, Lebanon's EOIR practice in respect of EOI requests made and received during the three year period from 1 January 2015 to 31 December 2017, Lebanon's responses to the EOIR questionnaire, information supplied by partner jurisdictions, as well as information provided by Lebanon's authorities during the on-site visit that took place from 1-7 December 2019 in Beirut.

## List of laws, regulations and other materials received

### *Commercial laws*

Holding company decree Law No. 45

Trustee Law 74 – Annex 8

Law No. 75 dated 27/10/2016 (Abolishment of bearer shares and "to order shares")

Instruction n 5152 dated 2/12/2016

Intermediate Circular No. 411

Law of association 1909

Code of Commerce

Law 85 on offshore companies

### *Taxation laws*

Law 106/2018

Ministerial decisions No. 1472/1 dated 27/09/2018

Ministerial decisions No. 2045/1 dated 31/12/2018

Law 60/2016Income Tax Law

Memorandum no. 2651/1, 2018 on Inactive companies

Decision 453/1 of 2009

Law no. 55 dated 27/10/2016 (Exchange of information for tax purposes)

Law no. 44 of 11/11/2008 [Tax Procedures Code]

### *Banking laws*

*Anti-money laundering laws*

Law No. 44 of November 24, 2015, Fighting Money Laundering and Terrorist Financing

Int. Circ. 498 issued in June 2018

### *Other*

Public Servant Code

Copies of tax treaties

Law organising the profession of lawyer No. 8-70

Penal Code

Circular no. 3385/S1

## Authorities interviewed during on-site visit

Ministry of Finance, HR, IT directorates, Compliance and Income tax Departments and Tax Roll Unit.

Ministry of Justice

Ministry of Interior

Ministry of Foreign Affairs

Central Bank of Lebanon (BDL): Special Investigation Commission (SIC) and Banking Control Commission (BCC)

Lebanese Bank Association (ABL)

Certified Public Accountants (LACPA)

Beirut Bar Association

Public Notaries

## Current and previous reviews

This report is the third review of Lebanon conducted by the Global Forum. Lebanon previously underwent a review of its legal and regulatory framework (Phase 1) in June 2012 and a supplementary review (Phase 1) in September 2016. The Phase 1 review was conducted according to the terms of reference approved by the Global Forum in 2010 (2010 ToR) and the Methodology used in the first round of reviews. The 2016 Report containing the conclusions of the first review was published in November 2016 (reflecting the legal and regulatory framework in place as of 12 August 2016).

## Summary of reviews

| Review | Assessment team | Period under Review | Legal Framework as of | Date of adoption by Global Forum |
|---|---|---|---|---|
| Round 1 Phase 1 | Mr Christophe Leconte of Belgium; Mr Duncan Nicol and Mrs Marlene Carter of Cayman Islands; Ms Renata Teixeira and Mr Beat Gisler from the Global Forum Secretariat | n.a. | April 2012 | July 2012 |
| Round 1 Supplementary Phase 1 | Mr Christophe Leconte of Belgium; Mr Duncan Nicol of Cayman Islands; Ms Séverine Baranger from the Global Forum Secretariat | n.a | August 2016 | November 2016 |
| Round 2 | Mr Ionut Niculae of Romania; Mr Richard Thomas of the United States; Ms Séverine Baranger and Ms Aurore Arcambal from the Global Forum Secretariat | 1 January 2015 to 31 December 2017 | 6 May 2019 | July 2019 |

# Annex 4: Lebanon's response to the review report[10]

Lebanon expresses appreciation to the Global Forum members.

Although Lebanon's political and economic development have been very tough the last years, our authorities have actively worked on complying with international standards on transparency and exchange of information for tax purposes.

Since the beginning of the process, a series of major changes were introduced to the legal and regulatory framework for the exchange of tax information in order to fully implement the recommendations made by the Global Forum.

As the phase 2 report highlights, Lebanon issued several laws which allowed to address the legal framework according to the Terms of reference of 2010.

In order to comply with TOR 2016, and since 2018 several legislative texts mainly related to Beneficial Owner were issued. In this context, any BO information will be available though SIC and at the tax administration.

In addition, we worked also on the practical aspects which must also comply with international standards, mainly:

1- Finalizing the implementation of the abolishment of bearer shares.

2- Improving timeliness in answering requests; in this regard, we would like to emphasize on the fact that during the review period, we acknowledge that in some circumstances there were delays in processing the received information requests due to a lack of experience and understanding of the standard but also the specific circumstances of Lebanon. Our EOI partners will certainly confirm that we processed all the pending requests and show improvements in deadlines and in the completeness of the answers. This improvement will further be noticed since a secure channel to accelerate the

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

processing of banking requests is now established between the tax authorities and the Special Investigation Committee.

3- Enhancing cooperation between the Ministry of Finance and the commercial register to ensure legal and BO information.

We restate that Lebanon is strongly committed to implement the international standards; our EOI partners will progressively notice improvement in processing requests. And as Lebanon is benefiting from the technical assistance provided by the Global Forum, Lebanon will enhance sending EOI requests to our EOI partners which will make the international cooperation reciprocal.

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

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ISBN 978-92-64-62251-7 – 2019

GLOBAL FORUM ON TRANSPARENCY AND EXCHANGE OF INFORMATION FOR TAX PURPOSES

# Peer Review Report on the Exchange of Information on Request LEBANON 2019 (Second Round)

The Global Forum on Transparency and Exchange of Information for Tax Purposes is a multilateral framework for tax transparency and information sharing, within which over 150 jurisdictions participate on an equal footing.

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

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

This report contains the 2019 Peer Review Report on the Exchange of Information on Request of Lebanon.

Consult this publication on line at ***https://doi.org/10.1787/939f334e-en***.

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