GLOBAL FORUM ON TRANSPARENCY AND EXCHANGE OF INFORMATION FOR TAX PURPOSES

Peer Review Report Phase 2 Implementation of the Standard in Practice

BELIZE

OECD

Global Forum on Transparency and Exchange of Information for Tax Purposes Peer Reviews: Belize 2014

PHASE 2:
IMPLEMENTATION OF THE STANDARD IN PRACTICE

October 2014
(reflecting the legal and regulatory framework
as at April 2014)

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About the Global Forum

The Global Forum on Transparency and Exchange of Information for Tax Purposes is the multilateral framework within which work in the area of tax transparency and exchange of information is carried out by over 120 jurisdictions, which participate in the Global Forum on an equal footing.

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

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

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

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

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

Executive Summary

1. This report summarises the legal and regulatory framework for transparency and exchange of information in Belize as well as the practical implementation of that framework. The international standard, which is set out in the Global Forum's Terms of Reference to Monitor and Review Progress Towards Transparency and Exchange of Information, is concerned with the availability of relevant information within a jurisdiction, the competent authority's ability to gain timely access to that information, and in turn, whether that information can be effectively exchanged on a timely basis with its exchange of information partners The assessment of effectiveness in practice has been performed in relation to a three year period (1 July 2010 to 30 June 2013).

2. Belize is located on the north eastern coast of Central America. Its economy is primarily based on services, cultivation and trade in agricultural and marine products. The tourism sector has grown in recent years and the international financial service sector is also important for the economy.

3. Belize committed to the principles of transparency and exchange of information in March 2002 and joined the Global Forum on 1 September 2009. Belize has entered into information exchange relationships via three Double Taxation Conventions (DTCs), a regional tax agreement under the framework of the Caribbean Community (CARICOM) and 18 Tax Information Exchange Agreements (TIEAs). Since 2009, Belize has sought to rapidly expand its treaty network and has signed and ratified the Convention on Mutual Administrative Assistance in Tax Matters ("the Multilateral Convention") which entered into force in Belize on 1 September 2013. Belize now has EOI relationships with 108 jurisdictions of which 77 are in force.

4. Belizean law has provisions that allow for the availability of identity and ownership information in respect of companies, trusts and foundations. Although Belize law allows IBCs to issue bearer shares, such shares have been immobilised since 2001. The physical possession of bearer shares certificates together with KYC information must be kept by the registered agent of the company in Belize. However, practice has revealed that some registered agents do not have their own registered office in Belize but merely use

the registered office of another registered agent. The practice is in compliance with Belizean laws. However, when it comes to the relationship between the "absentee" registered agent and its foreign professional intermediaries, there is no certainty on how the obligations of the "absentee" registered agent would be enforced by Belizean supervisory authority and the bearer shares certificate are transferred by the foreign intermediary to the absentee's back office registered agent in Belize. Following legal amendments in October 2013, domestic companies can no longer issue share warrants to bearer and the existing ones must be converted into registered shares. The one company that had issued share warrants to bearer has converted those shares into registered shares. In general, some deficiencies were identified in the monitoring of the ownership and identity information keeping requirements. Further, for the very few service providers which were inspected during the review period, sanctions for non-compliance were not sufficiently enforced in practice.

5. Significant gaps were also identified regarding the availability of accounting information and the holding of underlying documentation in the case of various entities. Further, the law in Belize did not put an obligation upon persons that are not taxpayers, such as international business companies, to retain accounting documentation for a period of at least 5 years. Following the enactment of the Accounting Records (Maintenance) Act, 2013, all entities in Belize are now required to keep accounting records and the underlying documentation for a period of not less than five years. However, the new legislation is very recent and has not been tested in practice although Belize effectively provided accounting information once during the review period. The laws and regulations of Belize impose appropriate obligations to ensure that banking information is maintained and the enforcement of the legislation is sufficiently monitored in practice by the Central Bank of Belize.

6. As regards access to information, Belize does have powers to access information and is able to exchange all types of information, except under its DTC with Austria where there are limitations as regard banking information. The competent authority under the DTCs can use all the access powers available to the Commissioner of Income Tax under the Income and Business Tax Act, for purposes of EOI. The Competent authority also has specific information gathering powers for TIEA purposes.

7. During the three years under review (1 July 2010 to 30 June 2013), six requests were sent to Belize by five EOI partners. Belize has provided information for the six requests. Three requests were answered within 90 days and one within 180 days. Another request was answered after more than two years Peers were generally satisfied with the quality of the responses from Belize.

8. No dedicated EOI unit was in place during the review period. The requests are handled personally by the Director General of IFSC with

the assistance of a monitoring officer and a computer officer. Belize has developed an EOI database to record and monitor incoming EOI requests. However, there are no exchange of information tools (manual or guidelines on the handling of requests, check list etc.) and there are also no specific procedures for the verification of the validity of the requests. There are three different competent authorities in Belize (the Minister of Finance, the Financial Secretary and the Commissioner of Income Tax) for different EOI agreements and some communication difficulties were encountered with EOI partners which may be attributed to the lack of clarity about the correct competent authority.

9. Belize has been assigned a rating for each of the 10 essential elements as well as an overall rating. The ratings for the essential elements are based on the analysis in the text of the report, taking into account the Phase 1 determinations and any recommendations made in respect of Belize's legal and regulatory framework and the effectiveness of its exchange of information in practice. On this basis, Belize has been assigned the following ratings: Compliant for elements A.3, B1, B.2, C1, C.2, C.3 and C.4, Largely Compliant for elements A.2 and C.5 and Partially Compliant for element A.1. In view of the ratings for each of the essential elements taken in their entirety, the overall rating for Belize is Largely Compliant.

Introduction

Information and methodology used for the peer review of Belize

10. The assessment of the legal and regulatory framework of Belize and the practical implementation and effectiveness of this framework was based on the international standards for transparency and exchange of information as described in the Global Forum's Terms of Reference to Monitor and Review Progress Towards Transparency and Exchange of Information For Tax Purposes, and was prepared using the Global Forum's Methodology for Peer Reviews and Non-Member Reviews.

11. The assessment has been conducted in two stages: Phase 1, carried out in 2013, and Phase 2, carried out in 2014.

12. The 2013 Phase 1 Report of Belize was adopted by the Global Forum in March 2013. The assessment was based on the laws, regulations, and exchange of information mechanisms in force or effect as at January 2013, other materials supplied by Belize, and information supplied by partner jurisdictions.

13. The Phase 2 assessment looked at the practical implementation of Belize's legal framework, as well as any amendments made to the legal and regulatory framework since the Phase 1 review. The assessment was based on the laws, regulations, and EOI mechanisms in force or effect as at April 2014. It also reflects Belize's responses to the Phase 1 and Phase 2 questionnaires, other information, explanations and materials supplied by Belize during and after the Phase 2 on-site visit that took place in Belize City and Belmopan from 14-17 April 2014 and information supplied by partner jurisdictions. During the on-site visit, the assessment team met with officials and representatives of Belize's Ministry of Finance, the Income Tax Department, the International Financial Services Commission, the Registrar General and Registrar of Companies, the Central Bank of Belize, the Financial Intelligence Unit and the Association of Services Providers.

14. The following analysis reflects the Phase 1 and Phase 2 assessments of the legal and regulatory framework of Belize in effect as at April 2014 and the practical implementation and effectiveness of this framework during the three-year review period of 1 July 2010 to 30 June 2013.

15. The Terms of Reference break down the standards of transparency and exchange of information into 10 essential elements and 31 enumerated aspects under three broad categories: (A) availability of information; (B) access to information; and (C) exchange of information. This review assesses Belize's legal and regulatory framework against these elements and each of the enumerated aspects. In respect of each essential element a determination is made that either: *(i)* the element is in place; *(ii)* the element is in place but certain aspects of the legal implementation of the element need improvement; or *(iii)* the element is not in place. These determinations are accompanied by recommendations for improvement where relevant. In addition, to reflect the Phase 2 component, an assessment is also made concerning Belize's practical application of each of the essential elements and a rating of either: *(i)* compliant, *(ii)* largely compliant, *(iii)* partially compliant, or *(iv)* non-compliant is assigned to each element. An overall rating is also assigned to reflect Belize's overall level of compliance with the standards.

16. The phase 1 and phase 2 assessment were conducted by teams comprising expert assessors and representatives of the Global Forum Secretariat: for the phase 1 assessment, they were: Ms. Shelley-Anne Carreira, Manager, International Development and Treaties, South African Revenue Service; Ms. Alexandra Storckmeijer Sansonetti, State Secretariat for International Financial Matters, Federal Department of Finance, Switzerland; and Ms. Gwenaelle Le Coustumer, Mr. Bernd Person and Mr. Bhaskar Goswami from the Global Forum Secretariat. In the Phase 2 assessment, the assessment team comprised the same expert assessors; and Mr. Ervice Tchouata and Mr. Bhaskar Goswami from the Global Forum Secretariat.

Overview of Belize

17. Belize is a country on the north eastern coast of Central America with an area of 8 867 square miles. It is bordered to the North by Mexico, to the South and West by Guatemala, and to the East by the Caribbean Sea. As a former British colony (British Honduras), Belize is the only country in Central America where English is the official language (Spanish is also widely spoken together with some indigenous languages). The population of Belize is 349 728 and the capital of Belize is Belmopan.

18. Belize has a stable political environment, and an economy based on services, cultivation and trade in agricultural (e.g. sugar, bananas, and citrus) and marine products. The construction and tourism industries, particularly

ecotourism, are gaining importance in recent years. According to publicly available data, for the year 2012 the contribution to GDP of agriculture was 9.6%, industry was 17% and services accounted for 60.1%[1] Belize is also promoting its oil exploration industry.

19. Belize has a prominent offshore business sector. With the enactment of the International Business Companies Act in 1990, it became an attractive offshore jurisdiction for international investors. An indicator of this is that as against 12 613 domestic companies in Belize, there are 70 614[2] International Business Companies (IBCs). The main requirement of these companies is that they should not pursue business within Belize.

20. Belize's GDP registered 0.3% growth in 2009 after a 3.8% increase in 2008. The real growth rate for 2010 was 3.1%, 2.1% for 2011 and 4.0% for 2012. The currency is the Belize dollar (BZD), which has been pegged to the US dollar since 1976 (2 BZD per 1 USD). Belize's major trading partners are the United States, the United Kingdom, the Caribbean Community (CARICOM), Guatemala, Mexico and Canada.[3]

General information on the legal system and the taxation system

21. Belize gained its independence from the United Kingdom in 1981. It is now a member of the Commonwealth, the United Nations, and the Caribbean Community (CARICOM). The Head of State is Queen Elisabeth II, represented by a Governor General, who must be a Belizean. The Government is divided into executive, legislative and judicial branches.

1. www.gfmag.com/gdp-data-country-reports/317-belize-gdp-country-report.html#axzz2FJm745mL.
2. The Belizean authorities explained that the IBC Registry maintains two figures for IBCs: (1) Total number of IBCs registered up to a particular date and (2) "active" IBCs i.e. IBC's actually on the Register on that date after removing "struck off" companies. As at December 2012, 126 254 IBCs had been registered since the IBC Act came into force, but only 66 841 were actually on the Register, as others had been struck off for non-payment of annual fees or otherwise (an IBC which is struck off for non-payment of fees can be restored to the Register within 3 years on payment of all the fees and penalties – see section 108 of the IBC Act). Unfortunately, an error was made at the time of supplying information for the Phase 1 report. The number of IBCs actually on the Register (active) as on December 2012 was 66 841. The error was noticed at the time of Phase 2 review. As at December 2013, the number of "active" IBCs (i.e. IBCs actually at Register) was 70 614 (disregarding struck off companies).
3. Data are taken from US Intelligence Agency, The World Fact Book; IMF Public Information Notice (Data released on February 2012), Statistical Institute of Belize and Belize International Financial Services Commission (IFSC).

The executive branch comprises an elected Prime Minister, a Deputy Prime Minister and the Cabinet Ministers. The legislative branch is a bicameral National Assembly comprising 12 members of the Senate appointed by the Governor General, and 31 elected members of the House of Representatives. General elections are held every five years. The judicial system comprises the Magistrate Courts, the Supreme Court and the Court of Appeal. Legislation was enacted in April 2010 making the Caribbean Court of Justice the country's final appellate court to replace the Judicial Committee of the Privy Council in London.

22. Belize has a written constitution which is the supreme law of the country. The Constitution establishes the legislature, the executive and the judiciary. It also provides for the protection of certain fundamental rights and freedoms. The Constitution of Belize is the highest law and the basis for enacting other laws. Any law inconsistent with the Constitution (whether case law or statute law) is void to the extent of inconsistency and has no effect. Beneath the Constitution is statute law and case law. International agreements after incorporation into domestic law by legislation, share the position of statute law. Belize has advised that in the event of a conflict between the provisions of an EOI agreement and any other law, the provisions of the EOI law shall prevail, being a special enactment. Belize has also stated that it follows the principle that a law that is later in date shall prevail over an older law.

The taxation system

23. Belize's tax revenue comes from indirect and direct taxation. The tax regime is administered by the Income Tax Department, the Department of General Sales Tax and the Department of Customs & Excise. Direct taxation in Belize is governed by the Income and Business Tax Act (IBTA). Taxes are applied on income and profits, property, and goods and services.

24. Individuals and companies resident in Belize pay income tax on their income accruing in or derived from Belize, whether received in Belize or not. To qualify for residency, an individual must be present in Belize for 183 days or more during a calendar year (IBTA, s 16(6)). The residence of corporate entities is determined on the basis of where their management and control is situated. Section 9(3) of the Act (on Business of shipping by non-residents) specifically addresses the concept of residence in the case of international shipping: "For the purposes of this section a company shall be deemed to be resident in that country in which the central management and control of the business is situated".

25. In the case of trusts, which are not legal entities but merely arrangements, the law does not specifically address the issue of their residence. The Belizean authorities indicate that as trust property is vested in the trustee,

the tax authorities will seek to establish the residence of the trustee, the situs of the assets, the objects of the trust and the places where the objects are to be fulfilled. A domestic trust or foreign trust in receipt of income in Belize is assessed to local tax. An international trust (or offshore trust) as set out in section 64(1) of the Trusts (Amendment) Act, 2007 is exempt from tax. Section 64(2) of this Act further provides that the word "resident" has the same meaning as given in the Income & Business Tax Act. The definition of "resident" shall apply in cases of all trusts.

26. Belize's personal income tax rate is a flat 25% and applies only to employed persons. The business tax is payable by any person practicing a profession and by firms carrying on a business in Belize, and it applies to both resident and non-resident individuals, partnerships, companies, consultants and any other person who is in the business of providing goods and services (IBTA s. 105 and The Business Tax Guide). The tax rates vary according to the source of the income and range from 0.75% in respect of receipts from radio, on-air television and newspaper business to 25% in respect of management fees, rental for plant and equipment paid to non-residents.

27. Payments made to non-residents as dividends, insurance premiums, interest on loans, management fees, rental of plant and equipment, technical services and commissions are liable to a withholding tax at specified rates of 15% and 25%. Payments in the form of dividends, interests, royalties and management fees to persons from a CARICOM member state that is a signatory of the CARICOM agreement are liable to withholding tax at specified reduced rates of 0% and 15%. Non-residents are assessable and chargeable in respect of any income arising through or from any attorneyship, factorship, agency, receivership, branch, or management and the income is assessable and chargeable in the name of the mentioned professions (IBTA, s. 25(3)).[4]

28. A General Sales Tax which was introduced on 1 July 2006 is currently charged at a rate of 12.5% on the supply of most goods and services in Belize. Other taxes in Belize are social security, contributions, hotel tax, environmental tax, land tax, stamp duty, property tax, customs duties, and revenue replacement duties (levied on certain specified goods by applying a prescribed rate on the cost, insurance and freight value of imported goods and the import duty).

29. Belizean law allows the creation of several types of offshore entities which are exempted from most types of taxes. These include International

4. All laws dealing with income and business tax, as well as explanatory information around tax liability and registration can be found at the website of the Income Tax Department at www.incometaxbelize.gov.

Business Companies (IBC), international trusts and international foundations or International Limited Liability Companies (ILLC).

30. Specific to the shipping industry, section 9(1) of the IBTA states that gains or profits arising from the business of shipping carried on by a person not resident in Belize shall be exempted from tax provided that the Minister is satisfied that an equivalent exemption from income tax is granted by that country in which the person is resident, to persons resident in Belize. This principle does not apply to the United Kingdom. Separately, in Belize the Merchant Ships (Registration) Act, 2010 deals with international ship registration.

31. Belize also offers a number of tax free regimes that are broken down into two types: Export Processing Zones (EPZ) and Commercial Free Zones (CFZ). There is one CFZ and three EPZs operating in Belize. The EPZ regulated in the EPZ Act was established to attract both local and foreign investments to boost production for export markets with a focus on manufactured goods and non-traditional agricultural products. EPZ companies enjoy various benefits including a tax holiday of 20 years with an option to extend and deduct losses from profits following the tax holiday period. After the expiry of the exemption period, they are liable to pay business tax at the rate of 2% or such other rate as may be prevailing at the relevant time. The CFZ was established to attract foreign investment in various activities including manufacturing, processing, packaging, warehousing and distribution of goods and services. CFZ companies are exempted from various taxes during the first 10 years of operation. Thereafter, they pay business tax at the rate of 2% or such other rate as may be prevailing at the time. It follows that EPZ businesses and CFZ businesses will register with the Income Tax Department after the expiry of the tax exemption period. Belize has stated that there are at present 56 EPZ businesses and 300 CFZ businesses. The amount of capital for EPZ businesses is USD 5.4 million. The capital for CFZ businesses is USD 7 million.

32. Belize has reported that all EPZ and CFZ companies are formed under the Companies Act of Belize. To operate within an EPZ or CFZ, they would need to apply for designation as "EPZ business" or "CFZ business" as the case may be. The procedure for designation of EPZ business is set out in the Export Processing Zone Act and the Regulations made thereunder. These businesses are regulated by the EPZ Committee set up under section 3 of the Act. CFZ businesses are designated under the Free Zones Act of 2005. They are regulated by the National Free Zone Authority (NFZA) established under section 4 of the Free Zones Act. CFZ businesses are exempt from taxation for the first 10 years of their operation. It should be noted that as EPZ and CFZ businesses are local companies, they remain subject to the Companies Act in

the matter of filing annual returns and other matters including the requirements related to maintenance of accounting records.

Commercial laws

33. Belize's commercial laws allow for the creation of a wide range of business entities including companies, partnerships (general and limited liability), International Business Companies, International Foundations, International Limited Liability Companies and Protected Cell Companies. Trusts can also be formed under the laws of Belize.

34. In 1990, the International Business Companies Act (IBCA) was enacted, making Belize an attractive offshore jurisdiction for international investors. The legislation was supplemented in 1992 with the enactment of a Trust Act, which provides for onshore and offshore trusts. In 1996 the International Banking Act came into force. Later, the offshore sector was further developed through the International Insurance Act, the Protected Cell Companies Act, the Mutual Funds Act, the International Foundations Act and the International Limited Liability Companies Act.

35. As at December 2013, there were 12 613 domestic companies registered under the Companies Act, 1 718 overseas or foreign companies registered under the Companies Act, 13 Limited Liability Partnerships, 70 614 International Business Companies, 119 Limited Duration Companies, 1829 international trusts, 181 international foundations and 248 International Limited Liability Companies.

Overview of the financial sector and relevant professions

36. The financial sector consists of banks (including offshore banks), credit unions, insurance companies, mutual funds, money transfer providers, trusts and non-bank financial institutions in the offshore sector. The sector is also supported by professionals such as accountants, attorneys and registered agents.

37. The supervision of the financial sector is conducted by separate supervisory authorities – the Central Bank of Belize (CBB), the Supervisor of Insurance (SOI), the International Financial Services Commission (IFSC) and the Supervisor of International Insurance.

38. The CBB regulates domestic and international (i.e. offshore) banks, money transmitters, credit unions and other financial institutions. Currently, Belize has 6 domestic banks, 6 international banks and 12 credit unions. Total assets of international and domestic banks, as at 31 December 2012 were USD 0.7 billion and USD 1.4 billion, respectively. Total deposits in international and domestic banks were USD 0.6 billion and USD 1.1 billion,

respectively. During the same period, Credit Unions had total assets of USD 0.4 billion and deposits of USD 0.3 billion. The CBB periodically updates, on its website,[5] a Warning Circular that lists the names of entities which have been brought to the attention of the CBB through some form of inquiry or complaint. These entities are purported to be conducting banking or financial business from or within Belize without being licensed.

39. The Supervisor of Insurance, which falls within the Ministry of Finance, supervises domestic insurance companies. Currently, there are thirteen insurance companies in Belize and one association of underwriters.

40. The IFSC is responsible for the supervision of Belize's offshore sector (except international banks). The IFSC licenses registered agents and companies offering international financial services, as defined in the International Financial Services Commission Act (IFSCA), except for international banking business which falls under the supervision of the CBB. This includes the formation and management of IBCs, international trusts, and international collective investment schemes. The IFSC supervises all registered agents and companies offering trustee, international insurance, mutual funds and other similar services. All licensed service providers are listed on the IFSC website (www.ifsc.gov.bz).

41. The IFSC is currently responsible for supervising 285 service providers, namely: 101 registered agents for IBCs, 53 trustee Services Providers, 20 providers of international insurance services, 7 mutual funds, 11 providers of international asset protection and management, 65 traders in securities, 8 international money lenders, 6 providers of brokerage/consultancy and advisory services, 1 provider of international safe custody services, 3 traders in foreign exchange, 3 money transmission service providers, 1 money broker, 1 money exchange service provider and 5 payment processing service providers.

42. The Supervisor of International Insurance is responsible for international insurance, and the Registrar of Mutual Funds is responsible for mutual funds. As at December 2013, there were 21 international insurers. As at December 2013, there were 4 public funds and 3 managers and administrators of mutual funds.

43. Mutual funds are regulated in the Mutual Funds Act 2000 (MFA). A mutual fund is defined as a company incorporated, a partnership formed, a unit trust organised or other similar body formed or organised under the laws of Belize or that of any other jurisdiction, which collects and pools funds for the purpose of collective investment; and issues shares (as herein defined) that entitle the holder to receive on demand or within a specified period after

5. www.centralbank.org.bz.

demand an amount computed by reference to the value of a proportionate interest in the whole or in a part of the net assets of the company, the partnership or the unit trust, as the case may be (MFA, s. 2)

44. The Central Bank, the Supervisor of Insurance (SOI) and the IFSC are also the anti-money laundering (AML) authorities in Belize, together with the Financial Intelligence Unit (FIU) and the Ministry of Finance. The FIU is the leading and co-ordinating AML/CFT authority in Belize.

International exchange of information for tax purposes

45. The Government of Belize committed in March 2002 to respect the principles of transparency and exchange of information by 31 December 2005, and Belize became a Global Forum Member on 1 September 2009. To date Belize has 108 exchange of information (EOI) arrangements (DTCs, a regional instrument, TIEAs and the Multilateral Convention) with 89 jurisdictions, 77 of which are in force.

46. The legislation pursuant to which Belize provides assistance under its agreements is integrated into the Income and Business Tax Act. The Income and Business Tax Amendment Act No. 6 of 2009 was specifically enacted to enable and provide a framework for the establishment of bilateral TIEAs having the force of law in Belize with a view to applying the international standard on transparency and effective exchange of information relating to tax matters. This Act provides a framework for exchange of tax information by allowing the issue of Orders in respect of each TIEA signed by Belize. The Orders give wide authority to the Financial Secretary as the competent authority to obtain and supply the information requested in pursuance of a TIEA. The Orders have the same legal effect as the Act itself.

47. The Income and Business Tax Amendment Act No. 6 of 2009 does not cover multilateral agreements. However, Belize has enacted a special law to give effect to the Multilateral Convention which entered into force on 1 September 2013 for Belize.

Recent developments

48. Belize signed a new TIEA in May 2014 bringing the total number of TIEAs to 18. One TIEA entered into force in March 2014 and Belize now has 11 TIEAs in force. Belize also signed and ratified the Convention on Mutual Administrative Assistance on Tax Matters on 29 May 2013. The Convention entered into force on 1 September 2013.

Compliance with the Standards

A. Availability of Information

Overview

49. Effective exchange of information requires the availability of reliable information. In particular, it requires information on the identity of owners and other stakeholders as well as information on the transactions carried out by entities and other organisational structures. Such information may be kept for tax, regulatory, commercial or other reasons. If such information is not kept or the information is not maintained for a reasonable period of time, a jurisdiction's competent authority[6] may not be able to obtain and provide it when requested. This section of the report describes and assesses Belize's legal and regulatory framework for availability of information. It also assesses the implementation and effectiveness of this framework in practice.

50. Belizean law provides for the incorporation of different types of companies primarily classified into domestic companies, overseas companies, international business companies and protected cell companies. By virtue of a combination of information held by different authorities, service providers and sometimes by the companies themselves, Belize has a legal framework that ensures the retention of ownership information in most cases. However, some uncertainties have been identified in practice regarding the retention of

6. The term "competent authority" means the person or government authority designated by a jurisdiction as being competent to exchange information pursuant to a double tax convention or tax information exchange.

bearer share certificates for IBCs when the registered agent is in relationship with a foreign intermediary and uses a back-office in Belize. In respect of partnerships (general and limited) and foundations, identity and ownership information is available in Belize.

51. In Belize, domestic companies can no longer issue share warrants to bearer. Following legal amendments of October 2013 (Companies (Amendment) Act, No. 19 of 2013), existing share warrants to bearer must be converted into registered shares. The only company that had issued share warrants to bearer has converted those shares into registered shares. International Business Companies and Limited Duration Companies can issue bearer shares. However, these bearer shares are immobilised and there are sufficient measures to ensure availability of identity and ownership information on their holders.

52. The law in Belize also allows for the creation of two kinds of trusts – domestic trusts and international (offshore) trusts. The concept of trusts is based on English Law but the law is codified in Belize and trusts in Belize must fall within the parameters specifically laid down by the code. Ownership and identity information is available in respect of all trusts in Belize, whether domestic or international.

53. Belize law provides for enforcement provisions to ensure the maintenance of identity and ownership information. However, in practice, the obligations to maintain ownership information are not efficiently enforced. During the review period, apart from the Central Bank of Belize, the supervisory authorities (the International Financial Service Commission and the Financial Intelligence Unit) did not carry out sufficient inspections of the relevant entities to ensure that the ownership information is properly kept in Belize. No sanctions have so far been levied.

54. The Belizean legal framework now ensures the availability of accounting information for all relevant entities. Accounting records have to be kept in Belize, at the registered office of the entity or at the office of its registered agent for a period of not less than five years. These obligations were created by the legal amendments of October 2013(Accounting Records (Maintenance) Act, No. 18 of 2013) Based on these facts the element A.2 has been determined to be "in place". These new obligations have not been tested in practice.

55. Sufficient legal obligations are in place for banks and financial institutions to maintain all records pertaining to accounts as well as related to financial and transactional information. The Central Bank of Belize effectively supervises banks and financial institutions to ensure that they meet all their obligations in practice.

A.1. Ownership and identity information

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

Companies *(ToR 7 A.1.1)*

Types of companies in Belize

56. Belizean laws allow for the incorporation and registration of a wide variety of companies which are governed by the Companies Act (CoA), the International Business Companies Act (IBCA), the International Limited Liability Companies Act (ILLCA) and the Protected Cell Companies Act (PCCA).

57. The CoA authorises the incorporation of various types of companies: unlimited companies, companies limited by shares, companies limited by guarantee (e.g. non-governmental organisations), joint stock companies and associations not for profit. Companies can also be classified as local companies or overseas (foreign) companies. Before October, 2013, Companies limited by shares could issue share warrants to bearer (s. 38, see section A.1.2 below) but the Companies (Amendment) Act, No. 19 of 2013 repealed the provisions relating to share warrants to bearer. As of December 2013, there were 12 613 domestic and 1 718 overseas companies registered in Belize. Among domestic companies, there were 11 822 Companies limited by share capital and 791 limited by guarantee. Due to limitations in the Companies Registry of Belize, a further breakdown into number of unlimited companies, companies limited by shares, companies limited by guarantee, joint stock companies and associations not for profit, is not available. Companies operating in the tax free zones are domestic companies created under the CoA and subject to all the requirements of the CoA.

58. The International Business Companies Act (IBCA) allows for the incorporation of international business companies (IBCs). The main requirement for an IBC is that it must not pursue business within Belize; it is then not subject to any tax or duty on income or profits. A Belizean IBC may also pursue specific activities subject to licensing obligations, such as trust business, banking, insurance and investment management. An IBC can also own merchant ships and pleasure craft through a licensed shipping agent (IBCA, s. 5(1)). IBCs are required to have in Belize a registered office and a registered agent licensed by the IFCS (and subject to AML obligations, IBCA,

7. Terms of Reference to Monitor and Review Progress towards Transparency and Exchange of Information.

ss. 42 and 43 respectively). As of December 2013 there were 70 614 IBCs (see footnote 2) registered in Belize.

59. The IBCA further allows for the formation of a Limited Duration Company (LDC), a hybrid of IBC and LLC. Unlike the IBC, an LDC has a limited lifespan of up to 50 years which can be extended after the initial 50 years is up. Existing companies can be converted to an LDC and must be registered with the Registrar of International Business Companies (IBCA, s. 147). A member's shares or assets can be protected by having clauses in the articles of association to prevent the transfer of any share of a member. An LDC may be managed by its members and does not require a specific manager (IBCA, s. 150). The LDC enjoys all the advantages and features of the IBC and all requirements in relation to IBCs apply also to these entities. LDCs can also issue bearer shares (see section A.1.2 below). There are 119 LDCs operating in Belize.

60. Public investment companies were governed by Part XI of the IBCA, which was repealed by Act No. 14 of 1995, but the two public investment companies existing at that time were "grandfathered". The Belizean authorities explain that no more public investment companies can be created but the existing two public investment companies will continue to be governed by the IBC Act as if Part XI had not been repealed. The lifespan of the existing PICs, which were authorised for a period of 30 years, will end in or around 2020 and the Belizean authorities indicate that further extensions will not be allowed.

61. International Limited Liability Companies (ILLCs) were introduced by the ILLCA 2011, which came into force on 31 December 2011. Only non-residents are able to form ILLCs (ILLCA, s. 14(1)). Similar to IBCs, an ILLC is not authorised to carry on business in or with persons resident in Belize nor may it own an interest in real property other than a lease in Belize or hold shares, stock, debt obligations or other securities in a company incorporated under the CoA or issue such securities to any person resident in Belize or company incorporated under the CoA. Like IBCs, ILLCs are exempt from taxes.

62. The ILLC is a legal entity with separate rights and liabilities distinct from its members and managers unless they have assumed liability over any or all debts and obligation of the ILLC by written contract (ILLCA, s. 33). Every ILLC must at all times have a registered agent resident in Belize (ILLCA, s. 27), who must be licensed by the International Financial Services Commission (IFSC). As at December 2013, there were 248 ILLCs registered in Belize.

63. The Protected Cells Companies Act (PCCA) governs the incorporation of Protected Cell Companies (PCCs). A PCC is a corporate entity which

holds assets in one or more segregated cells. The purpose of the structure is to separate the assets in each cell from those in other cells. A cell of a PCC is not a separate company or legal person and cannot contract in its own name. The PCC is the contracting party in respect of the relevant cell which must be identified.

64. A PCC may only be incorporated as a mutual fund authorised under the Mutual Funds Act or be registered to conduct international insurance business under the International Insurance Act (PCCA, s. 9). For each business, activity or agreement contracted, the PCC must disclose to any person with whom it is transacting that it is a PCC and the cell in respect of which that person is transacting, or if the entity is committing the core assets, or both core and specific cell assets (PCCA, s. 13). The PCC must use a name which contains the expression "Protected Cell Company" or "PCC" and each cell must also be clearly identified in the formation documents of the entity. The entity must keep accounting books showing the corresponding divisions among the segregated cells and the core cell within the entity. As of December 2013, there were 2 PCCs registered in Belize.

Ownership information held by government authorities

65. The government authorities of Belize maintain certain ownership information on the different types of domestic companies. The Registrar of Companies receives certain ownership information on an annual basis from domestic companies limited by shares and joint stock companies. The Registrar of PCCs also receives full ownership information down to the cell level. The tax authorities also receive a list of registered shareholders of domestic companies and overseas companies with a place of business in Belize. However, IBCs, ILLCs, and PCCs are exempt from taxes and no tax returns or ownership information is held by the tax authorities for such entities.

66. Whereas no governmental authority maintains ownership information on IBCs and ILLCs, the entities themselves and service providers must keep information on the owners of registered shares (see also subsection A.1.2 on bearer shares).

Registration requirements

67. In Belize, there are separate registries for different classes of entities. The Registrar General and Registrar of the Supreme Court is the Registrar of domestic companies, overseas companies,, Limited Liability Partnerships, domestic trusts and associations. The Director General of the International Financial Service Commission (IFSC) holds a number of responsibilities under the IFSC Act, the IBC Act, the ILLC Act, the PCC Act and the

international foundations Act. He is *ex-officio* the supervisor of service providers, the Registrar of IBCs, the Registrar of ILLCs, the Registrar of PCCs, the Registrar of international trusts and the Registrar of international foundations. He has different teams for the registration process of IBCs, trusts, ILLCs and foundations.

Domestic Companies

68. The Registrar General registers and regulates all domestic companies. The provisions of the CoA require the Registrar to maintain a register containing information such as name, mandatory registered office in Belize where all communications and notices may be addressed (CoA, s. 64), names of directors (CoA, s. 77), and Memorandum of Association and Articles of Association (CoA, ss. 10, 15).

69. The name of all the founders of any company must be included in the Memorandum of Association (CoA, s. 4). For companies having share capital (joint stock companies, companies limited by shares), the CoA requires the annual submission to the Registrar of a list with the names, addresses and professions of registered shareholders with the number of shares held at the date of the return, shares transferred since the date of the last return, and the names and addresses of directors at the date of the return (s. 27). Companies without share capital (e.g. companies limited by guarantee) are not obliged to submit membership details annually, but are required to keep a register with membership details (see further below).

70. Information held at the Registry is publicly accessible and the public can inspect all company records retained by the Registrar on the payment of a prescribed fee at the Registrar's place (CoA, s. 221(3)).

Overseas companies

71. A company incorporated outside of Belize, which establishes a place of business within Belize must also register with the Registrar (CoA, s. 251(1)). The Registrar maintains a certified copy of the charter, the statute or memorandum, articles of the company and a list of directors and secretary. The list must include full names, address, nationality, occupation and particulars of any other directorship held by that person (CoA, s. 251(2)); and the name and address of any person in Belize who is authorised to accept service of process and notices required to be served upon the company (CoA, s. 251(1c)). Overseas companies must notify the Registrar within 21 days of any change in information previously submitted to the Registrar (CoA, s. 251(5)).

72. Like domestic companies, foreign companies having share capital do not have to provide a list of shareholders at the time of registration, but must do so in their annual return. Section 251(6) of the Companies Act provides that every overseas company shall, in every calendar year, file with the Registrar such a statement in the form of a balance sheet as would, if it were a company incorporated in Belize and having share capital, be required under this Act to be included in the annual summary. Section 251(9) further provides that if an overseas company fails to comply with any of the foregoing provisions of this section, the company, and every officer of the company who knowingly and wilfully authorises or permits the default, shall be liable on summary conviction to a fine. The Belizean authorities indicated that this statement means that an overseas company, once registered, is equated to a domestic company and must file an annual return in the same manner as is required to be filed by a domestic company with a share capital under section 27 of the Companies Act, whether or not this company has a share capital. The annual return form (Form E appended to the CoA) is to be used only by companies with share capital and requires that the company submit the list of persons holding shares in the company. This obligation therefore does not appear to clearly apply to overseas companies without share capital. Belize states that in any event no overseas commercial companies without share capital have established a place of business in Belize. Belize is of the view that companies limited by guarantee are mostly charitable organisations and voluntary clubs not formed for trade and commerce.

73. In practice, the registration process is the same for all entities under the Companies Act. This is the duty of the Registrar of Companies. Six persons are in charge of the registration of all types of companies in Belize.

74. There is a prescribed form for applying for registration. All registrations have to be carried out manually. For a company to be registered, along with the completed application form, the memorandum and the articles of association of the company are submitted to the Registrar, as well as a letter addressed to the Attorney General asking permission to dispense with the word "Limited". When these documents are submitted, a name search is done to ensure its availability, after which, the documents are vetted and payment is made. After payment has been made, it is then passed on to the Registry Clerk who prepares a Certificate of Incorporation. The Certificate is usually prepared within 2 to 3 hours after the application is submitted. The registration takes one working day. When completed, the certificate of incorporation is granted by the Registrar. At the Registry is kept the original Memorandum and Articles of Association and a copy of the Certificate given to the person(s). These documents contain the full names, occupations and addresses of the subscribers.

75. Every registered company, including an overseas company files an annual return with the Registry. The return which is submitted once a year by a company gives an overview of certain information compiled at a particular date (usually the date of incorporation). The information given in the return includes:

- The summary of the share capital and shares issued by the company;
- The names and addresses of directors of the company;
- The names and addresses of shareholders of the company, and how many shares each person holds; and
- A certificate which states that the company has not issued any invitations to the public to subscribe for any shares or debentures of the company.

76. According to the Registrar, the level of compliance by companies, with regard to initial registration is high. When there is a failure to file the annual return, sanctions are levied by the registry. The compliance rate for filing of annual returns for local companies is about 90%. About 1 000 companies were sanctioned during the review period for failure to file returns on time. The fines imposed on the companies for failure to file annual returns on time amounted to BZD 1 930 844 (USD 965 422) during the review period. The sanction for the late filing of a transfer of shares is a fixed penalty of BZD 55 (USD 27), while the penalty for failure to file annual returns, which accrues on a daily basis, is a maximum of BZD 25 (USD 12) per day and continues while the default persists. Practical experience has revealed that when the accumulated penalty reaches a high level, companies request the Registrar to remit a part of the penalty. In some cases, the Registrar did waive about one-third of the penalty as the fine was considered too high. But this practice has since been stopped, as no such power exercised by the Registrar exists in the law.

International Business Companies (IBCs)

77. An IBC must be registered with the Registrar of International Business Companies and obtain a Certificate of Incorporation (IBCA, s. 14(3)). Without such registration, an entity cannot be called an IBC. Each IBC must have a registered office and a registered agent in Belize who is a regulated person licensed by the International Finances Service Commission (IFSC) (IBCA ss. 42, 43). The IBCA requires the submission of the articles and memorandum of association of IBCs to the Registrar who is obliged to retain and register them (IBCA, s. 14(1)).

78. The requested memorandum of association must contain the following (IBCA, s. 12):

- The name of the company and its registered address in Belize as well as the name and full address of the registered agent in Belize; the purpose for which the company was incorporated;
- General information on the capital structure: the currency in which the shares will be issued; the statements of the authorised share capital and the number and classes of shares issued by the company together with a statement of the designation, powers, preferences and right, qualifications and limitations of each class of shares;
- Types of shares: A statement of the issued number of registered and bearer shares; and whether registered shares may be exchanged for bearer shares and vice versa; as well as the manner in which a required notice is issued to the holder of bearer shares. The number of companies that have declared the issuance of bearer shares in Belize is not known.

79. Ownership information is not provided to the Registrar although the IBCA provides an option for an IBC to register its share register and/or register of directors with the Registrar (IBCA, s. 132). Information on directors and shareholders must be kept by the registered agent (licensed by the IFSC and subject to the International Financial Services Practitioners (Code of Conduct) Regulations (IFSPCCR), including the specific duty to keep information on directors and shareholders contained in regulation 13 of the IFSPCCR. Under Belizean law, the registered agents must maintain a registered office in Belize. However, in practice some registered agents do not have their own registered office in Belize but merely use the registered office of another registered agent. The ramifications of this practice for availability of information, especially in respect of bearer shares, are discussed below.

International Limited Liability Companies (ILLCs)

80. An ILLC is formed by executing and delivering articles of organisation to the Registrar of International Limited Liability Companies which is the Director General of the IFSC (ILLCA, s. 28(2)). The articles must include among other items: the name of the ILLC; name, address and signature of the registered agent; and the name and address of the person who signed the articles of organisation. The articles must also indicate whether the management of the ILLC is vested in a manager or the members (ILLCA, s. 20). Ownership information is not provided to the Registrar. This information is kept by the local registered agent (see below).

81. The registration procedure is further set out in the International Limited Liability Companies (Registration) Regulations 2012 (S.I. No. 48 of 2012) which came into force in April 2012. They require a registered agent's affidavit verifying that the person(s) on whose behalf he/she is acting are fit

and proper persons. The affidavit by the registered agent has to be made in respect of all the beneficial and legal owners of the ILLC as well as the directors and other officers of the ILLC (regulation 3 of the International Limited Liability Companies (Registration) Regulations).

Protected Cell Companies

82. A PCC can only be formed upon the consent of the Minister responsible for international financial services (PCCA, ss. 9, 10). The application to the Registrar of Protected Cell Companies (PCCA, s. 8) for incorporation of a PCC or for the conversion of an existing company into a PCC must include a copy of the Minister's consent, two copies of the Memorandum and Articles of Association, a 5 year business plan, details of cell accounts, a statement that the company's shares will be in registered form and that the company will not issue any bearer shares, the registration fee and other documentation required by the Registrar (PCC (Registration) Regulations, s. 5). The details of the cell accounts that are to be provided are prescribed in the fourth schedule of the PCCA. This includes details of the rights, interests and obligations of the owners of the proposed cell accounts, copies of contracts etc.

83. The application form for the Minister's consent for incorporating a PCC (PCC Regulations, Schedule 1) demands the names and biographical affidavits of the directors and shareholders, and particulars of the respective shareholding. Applicants must undertake that any material change in the information provided at the time of registration will be notified forthwith to the Registrar (Schedule 1). Belize has stated that "information" includes information about shareholders and directors of the company and its share capital.

84. After receiving the Minister's consent, the company must apply to the Supervisor of International Insurance or to the Registrar of Mutual Funds for registration. Before obtaining the authorisation to operate a PCC, the applicant must confirm that all due diligence on the account owners and sources of the funds are in line with the Money Laundering (Prevention) Act (MLPA) and Regulations, the Guidance Notes, and all applicable laws currently in force (Schedule 4). It is the duty of the applicant to ensure that the due diligence on the account holders and source of funds etc. has been fulfilled. Controls in regard to anti-money laundering compliance are exercised by the Financial Intelligence Unit, which has overall responsibility for compliance with the MLTPA and the Regulations. A PCC that contravenes or fails to comply with any term or condition of consent granted by the Minister (including the submission of ownership information and updates) commits an offence and is liable on summary conviction to a fine not exceeding USD 25 000 and/or to imprisonment for a term not exceeding six months (s. 27(2)).

Registration procedures for IBCs, ILLCs and PCCs in practice

85. The Director General of the IFSC is *ex-officio* the Registrar of IBCs, ILLCs and PCCs. The registration procedures for ILLCs and IBCs are very similar. In each case, a licensed registered agent with "good standing" must present the application. In Belize, a licensed registered agent is said to be in good standing if he has regularly paid the license fees in time and there are no pending complaints from its customers.

86. Prior to a company being incorporated, registry staff verify that the licensed registered agent for the company is in "good standing", with the IFSC's website. The Memorandum & Articles of Association are examined to ensure that the company's objectives do not state any prohibited activities such as dealing with ammunition, or in prohibited drugs. In addition, if a company's name or objectives contain a word that requires a special license, the registry checks with the office of the IFSC to see if the Registered Agent had obtained a license before they proceed. Companies with names that would require a license include Banking, Insurance, Trust, Fund, Investment Management, Foreign Exchange, Forex, Brokerage, Fiduciary, Foundation and Money lending. A company would not be incorporated if the company's proposed name is already registered with someone else in Belize or is similar to an existing company or is misleading in any way. Additionally, when the share capital of a company is unusually high the Registrar might seek supporting documentation to rule out any fraudulent activity at any one time.

87. Once the required documents for registration are provided (the application form with the identity of directors and shareholders, the memorandum and articles of association and details of the registered agent) and the fees are paid, an electronic registration number is generated automatically. The certificate of incorporation is then delivered by the Registrar. The registration of an IBC or an ILLC is normally completed within 24 hours. But it can take two days, depending on the number of applications received.

88. Although the Director General of IFSC is the Registrar of IBCs and ILLCs, the ILLC Registry is distinct from that of IBCs. For the registration process of IBCs, the Registrar is assisted by a Deputy Registrar who manages the day-to-day responsibilities. The registry has a staff of eight persons, including one administrator, three registration officers, three registration clerks and one receptionist. Two staffs are assigned to the registration of ILLCs. There are two persons dealing with ILLCs and Foundations.

89. As at December 2013, there were 70 614 IBCs and 248 ILLCs registered in Belize. None of the IBCs had so far taken the option of registering its share register and/or the register of directors with the Registrar.

90. The process for forming a PCC is much different, as it involves obtaining ministerial consent and extensive due diligence both as to the ownership of

the PCC and the source of its funds. An application for registration is accompanied by the documents mentioned in section 5 of the Protected Cell Companies (Registration) Regulations, 2008. As a PCC can be formed only for registration as a Mutual Fund or as an international insurer, it must apply to the Supervisor of International Insurance or the Registrar of Mutual Funds (who is the same person, i.e. Director General, IFSC) for an appropriate licence.

91. As at May 2014 there were only 2 PCCs in Belize, both of which are licensed by the IFSC for international insurance services. The Director General of the IFSC, as Registrar of Mutual Funds, is the Registrar for these PCCs. He is assisted by his Secretary. In accordance with the regulations, the ownership information for each of these PCCs has been provided to the Registrar. Under the PCC Regulations, the two PCCs have to renew their registrations annually on payment of a fee of USD 500.00. At the time of renewal, the PCCs show that they are currently licensed under the International Insurance Act or the Mutual Funds Act, they are in good standing and they are following their business plans submitted along with their applications for registration. They also notify any changes made in the corporate or management structure since the last registration to the registrar. For the renewal of the licences which is annual, the PCCs show that they are complying with the conditions of their licences and are currently in good standing.

Taxation requirements

92. Domestic and foreign companies doing business in Belize must register with the Income and Business Tax Department, except companies operating in the tax free zones. The registration form for companies[8] requires the disclosure of the company name, business address, bank account information, and certificate of incorporation, memorandum and articles of association, ownership information including name, home address, tax identification number and shareholding percentage for each owner. If the company does not provide the required information on registration, then the applicant may not be registered for tax purposes.

93. Belize law does not require domestic and foreign companies to provide an annual update on shareholders to the tax authorities. However, these companies provide annual updates to the Companies Registry (see above).

94. IBCs, international trusts, international foundations and ILLCs are exempted from most types of taxes. Also all Belize-registered international offshore mutual funds and any investors in such funds, as well as companies in the tax free zones, are exempt from any of the provisions of the Income and Business Tax Act and the Stamp Duties Act.

8. Non-individuals Form TR121A.

95. The IBTA has four Parts and tax return filings are required under each Part. Part 1 deals with Personal Income Tax, Part II pertains to companies which are involved in Petroleum Operations, Part III is the Business Tax for all other self-employed persons and Part IV pertains to the Petroleum Surcharge assessed on the same persons assessable under Part II.

96. Personal Income Tax returns are required to be filed annually before the 31st of March, for the previous year. However, a return is required to be filed only under the following circumstances: *(a)* where the taxpayer owes taxes, *(b)* where the taxpayer has overpaid and is seeking a refund or *(c)* where the Commissioner requests such person to do so. Persons who owe and fail to file are usually assessed by the Department anywhere from 6 months to 9 months after the due date. The filing compliance under Personal Income Tax was above 90% for the review period.

97. Companies filing under Part II (Petroleum Income Tax) are few as there are eight active Petroleum Operators (although only one company is in production). They are required to file annually and the compliance rate is 100%. The one producing company required to file quarterly returns under Part IV (Petroleum Surcharge) has done so regularly.

98. Business Tax is assessable under Part III and returns are required to be filed monthly for the most part (except for persons licensed under the Domestic Banks and Financial Institutions Act who file quarterly and those persons whose only source of income is rental income only, who are required to file bi-annually). According to the income tax department, the general compliance rate was approximately 84% during the review period. In case of the top 100 taxpayers, the filing compliance rate was 100%.

99. The Belize Income Tax Department requires that any person or entity that registers with it must supply the Department with personal or corporate identification. These include Social Security cards and/or passports for individuals and corporate identity (Certificate of Incorporation or Limited Liability Partnership Certificate for Companies and other entities). Non-profit organisations are generally not subject to income tax but are required to register because of other tax obligations (contract withholding, P.A.Y.E. (pay as you earn) obligations, etc.). They must supply their certification of incorporation, as well. General partnerships are treated as entities for tax purposes and the identity information on the individual partners are maintained similar to sole proprietors. Income of domestic trusts is assessable in the hands of the trustees, if the trust has taxable income. The trustee is required to provide all relevant information in relation to the trust (particular arrangements, settlor, beneficiary, etc.) as provided by section 27 of the Income and Business Tax Act. The Commissioner of Income Tax has the power to define the extent of information that is to be provided by the trustee, on request.

100. Under the self-assessment system, returns are filed periodically and supporting records are made available on request. Information with regard to payments made to employees is submitted annually. In addition, returns are made to the Income Tax Department for contract payments made to third parties.

101. The Income Tax Department regularly conducted taxpayer audits during the review period (1 717 in 2011, 1 059 in 2012 and 1 618 in 2013). Of these, none was related to exchange of information requests under the TIEAs or the DTCs.

Ownership information held by other governmental authorities

102. The Central Bank requires annually from banks and financial institutions a list of their shareholders and directors. This is provided for in the International Banking Act (IBA) in ss. 31(2), 32(20) and the Domestic Banks and Financial Institutions Act (DBFIA), in s. 12. The Central Bank must also approve the sale of shares equivalent to 10% or more in international banks (IBA, s. 11(2)).

Ownership information held by the companies

Domestic Companies

103. All types of domestic companies are required to maintain a register in their registered office (CoA, s. 26). The provision of s. 26 of the Companies Act has been amended in 2014 to include the "beneficial owner". However, this term was not specifically defined by the amended law. The register must include the names and addresses of the members and any beneficial owners and their occupations, as well as the dates at which each person was entered in the register as a member or beneficial owner and ceased to be a member. In the case of a company with share capital, the company must also register the number of shares held by each member or beneficial owner as well as the amount paid for the shares by each member. A transfer of shares does not become effective until it is entered in the share register held by a company (sections 26 and 29 of the CoA). Section 29 casts a duty upon the company to record a transfer at the request of the transferor as if it were a request from the transferee. Section 26 prescribes a penalty for the failure to record any transfer indicating the mandatory nature of this requirement. The register of shareholders can be inspected by any member of the company without charge and by any other person on payment of a sum prescribed by the company (CoA, s. 31).

104. Every company registered under the Companies Act must file an annual return with the Registry. Amongst other information, details on the identity of the shareholders should be provided. Thus, the ownership information in respect of a company would not be available if the company fails to file its annual return. However, the registrar systematically levy sanctions for non-filing of annual returns by domestic or oversea companies (see the analysis below on the enforcement provisions to ensure availability of information).

105. During the review period Belize received two requests for exchange of information which dealt with ownership of domestic companies. The requested information were sent to the partners including the date of registration of the company, the application for incorporation, the incorporation certificate, the names and addresses of beneficial and/or nominee shareholders/principals, the shareholder register, the names and addresses of the directors, the business and registered office address and the annual returns for each company.

Overseas Companies

106. Overseas companies, if they wish to carry on business in Belize, must establish a place of business in Belize (CoA, s. 251(11)). Following this, all obligations imposed on domestic companies under the Companies Act also apply to overseas companies. The Belizean authorities explained that this will include the obligation under s. 27 of the Companies Act to keep at its registered office a register containing the names and addresses of its directors and managers, and to send to the Registrar a copy thereof. It also includes the obligation to keep a register of shareholders.

107. The Registrar confirmed that Belize has always interpreted Section 251(6) to mean that every overseas company shall file with the Registrar an annual return, as is filed by domestic companies containing the names, addresses and occupation of all persons holding shares in the company, and the number of shares held by each. This was found in practice.

108. Belize did not receive any EOI request regarding overseas companies during the three year review period. However, the situation of overseas companies in Belize as regard the availability of ownership information in practice is same as for domestic companies (see above).

International Business Companies (IBCs)

109. IBCs are required pursuant to the IBCA (s. 31) to maintain a share register that must be kept either at the registered office of the IBC or the office of the registered agent (in which case, a copy of it must be kept at the

registered office of the IBC). The register must include the following identity information on the owners of shares:

- The names and addresses of persons who are holders of registered shares in the company; and the number and class of each series of registered shares held by each person; a transfer of shares cannot become effective until it is registered in the share register held by a company. (IBCA, s. 31)
- The total number of each class and series of bearer shares issued; as well as the identification number of certificate, the number and class of shares in the bearer certificate and the date of issue of the certificate (see section A.2 below).

110. Section 31 requires the share register to mention the date on which each person was entered or ceased to be registered on the share register. It further provides that the company may delete information relating to persons who are no longer members. The share register therefore may not be sufficient to trace the transfers of shares made over several years. Belize is of the opinion that even though the information is deleted, it is not lost, as the share register must be kept at the registered office or by the registered agent, which are activities subject to AML obligations. As entities subject to AML obligations must keep "account files and business correspondence in relation to accounts" for five years, information in the share register should be available in Belize.

111. In practice, the obligation to keep a share register was not monitored in Belize, until recently (see section on Ownership information held by nominees and service providers).

112. During the review period, Belize received three EOI requests for ownership and identity information related to IBCs. Two requests were satisfactorily answered. In the case of the third request, Belize could not provide the information (about the shareholders and beneficial owners) because the company was struck off the IBC Register more than six years ago. This was before the enactment of the Accounting Records (Maintenance) Act. At that time, s. 16(4) of the MLTP Act was the relevant law for the keeping of records. Although the information about the shareholders and beneficial owners was no longer available, Belize provided the requesting jurisdiction with a copy of the Memorandum and Articles of Association of the IBC.

International Limited Liability Companies (ILLCs)

113. An ILLC is required to keep a register at the office of its registered agent or at another place which is known to the registered agent at all times. This includes a current list of the full name, last known business and

residence or mailing address of each member and manager, a copy of the initial articles of organisation and all amendments, as well as copies of all operating agreements, copies of agreements relating to capital contributions and copies of all membership certificates issued (ILLCA, s. 9). In addition, a record of all transfer of members' interests is kept with the registered agent (ILLCA, s. 54). As in the case of IBCs, the obligation of keeping the registers for ILLCs was also not monitored until recently.

114. During the review period, Belize received one EOI request for ownership and identity information related to an ILLC. The information was provided and the peer found the response comprehensive.

Protected Cell Companies

115. The PCCA does not include specific requirements for a PCC to keep ownership information. This information is held by the Registrar of the PCCs (see above, under information maintained by governmental authorities). However, the Belizean authorities point to the obligation for PCCs to inform the Ministry in charge of PCCs of any material changes registered, including on ownership, which in practice obliges PCCs to know their ownership structure.

116. In practice, no change can be made in the shareholding or management structure without the prior approval of the Registrar. There is no form prescribed for notifying changes. The normal practice is that the PCC first writes to the Registrar for approval if it intends to make any changes. The Registrar considers each request on its merits and grants or refuses approval, as appropriate. Belize has not received any EOI request concerning PCCs.

Ownership information held by nominees and service providers

Nominees

117. Any person acting as a nominee shareholder, by way of business would need to become a licensed service provider and is subject to AML obligations (First schedule of the MLTPA). The MLTPA imposes AML/CFT obligations on reporting entities which are defined as any person whose regular occupation or business is the carrying on of any activity in the First Schedule of the MLTPA (s. 2), including trust and company service providers acting as a nominee shareholder for another person. As noted in the section below on Anti-money laundering Laws, a reporting entity must verify the identity of its customer by requiring the production of identification documents with the customer's name and address (MLTPA, ss. 15).

118. Specifically, only licensed service providers may act as nominee shareholders for IBCs. According to the Belize authorities, although

section 5(4) of the IBC Act allows a registered agent to hold shares in a nominee capacity, in practice this provision is used only for the purpose of forming IBCs. Soon after the company is formed, the registered agent will transfer the shares to the real owners. Being subject to the AML/CFT obligations, the registered agent will hold the identity information of the persons on whose behalf he holds the shares.

119. In addition, the IFS Practitioners Code (Code of Conduct) Regulations (IFSPCCR) requires that its reporting entities, when collecting ownership information on their customers, especially in the case of corporate shareholders, collect appropriate information regarding the ultimate beneficial ownership, particularly if the shareholders appear to be nominees (IFSPCCR, s. 13(7)). It is clear that non-professional nominees are not covered by any reporting obligations, be it under the AML laws or any other laws. However, this will cover only a small number of persons.

120. Prior to the enactment of the Companies (Amendment) Act, 2013 (No. 19 of 2013), section 4 of the Companies Act (Chapter 250) provided that, a private company may be formed by "any two or more persons". This meant that there must be at least two shareholders for a local company. According to Belizean authorities, this provision encouraged registered agents to act as nominees in domestic companies. The amendment of section 4 of the Companies (Amendment) Act, 2013 provides that a private company may be formed by "any one or more persons". The Belizean authorities explained that this obviated the need for nominee shareholders in domestic companies.

121. With respect to IBCs, non-professional nominees are not covererd by the MLTPA. Thus the ownership information on the shareholder may not be available. However, the deficiency is not material, as only a narrow number of persons can be covered. In practice, Belize is of the view that as a nominee shareholder is akin to a trustee arrangement, the IFSC requires that the person who intends to act as a nominee shareholder for an IBC must obtain a trust licence from the IFSC.

122. During the review period, one peer specifically requested information on the names of the nominee shareholders and the ultimate beneficial shareholder. Belize satisfactorily provided the information.

IBC's registered agents

123. The IBC Act (s. 31) requires IBCs to maintain a share register that must be kept either at the registered office of the IBC or the office of the registered agent (in which case, a copy of it must be kept at the registered office of the IBC).

124. The registered agents who are licensed to provide services for the formation or management of IBCs are on List "A" of the IFSC's website. They are subject to the IFSC (Licensing) Regulations, 2007. Section 3 of the Regulations states as follow: "Except as otherwise provided in the International Insurance Act and the Mutual Funds Act, and the Regulations made under those Acts, any person who intends to provide, carry on, transact or hold himself or itself out as providing, carrying on, or transacting any of the international financial services in or from within Belize shall apply to the Director-General of the Commission for a licence in accordance with the provisions of these Regulations. Every application for a licence under these Regulations shall be routed through an attorney-at-law or a licensed international financial services practitioner resident in Belize, who shall conduct a proper "due diligence" on the application before forwarding it to the Director General of the Commission". The application consist of:

- the completed application form as set out in the First Schedule;
- the biographical affidavit of each director, shareholder and officer of the applicant company in the form set out in the Second Schedule;
- the prescribed application fee (which shall be non-refundable) as contained in the Third Schedule;
- evidence of capital requirements as set out in the Fourth Schedule; and
- any other necessary documentation as may be required by the Commission.

125. Section 5(1) (e) of the IBC Act prohibits an IBC from carrying on the business of providing the registered office for companies. Belize is on the view that this means that only a company incorporated under the Companies Act (CAP. 250) can be licensed as a registered agent in Belize. Persuant to article 64 of the Companies Act (CAP. 250), every company shall have a registered office in Belize to which all communications and notices may be addressed. Notice of the situation of the registered office, and of any change therein, shall be given to the Registrar, who shall record it. Thus, every registered agent providing services for IBCs must be a domestic Belizean company and have a registered office in Belize. As at December 2013, there were 101 registered agents for IBCs in Belize.

126. However, the requirement to have a registered office in Belize does not mean that the registered agent must be physically present in Belize. In practice, 20 of the IBCs' registered agents are not physically established in Belize (so called "absentee" registered agents), but use the office services of other registered agents that are in Belize. As a matter of practice, absentee registered agents enter into a "Corporate Administration Agreement' with the

back-office services provider to keep all the documents and other information which his client (the "absentee" registered agent) is required to keep in Belize. Copies of applications, accompanied with certificates of incorporation were shown to the assessment team by Belize, as well as a copy a "Corporate Administration Agreement'.

127. According to Belize, the 3 onsite inspections of registered agents carried out in 2013 have confirmed that registered agents that use a back-office in Belize do hold the files in Belize and where the files are not physically held, they are electronically available in the back-office. However, that could not be verified by the assessment team, since only three inspections of registered agents were inspected during the review period. Moreover, only one of these inspections related to a registered agent that had a back office agreement with an absentee registered agent. Belize is recommended to ensure that all the registered agents, including those using a back-office in Belize systematically carry out CDD and effectively keep records such that the IBCs ownership information is available in all circumstances.

Anti-Money Laundering Laws

128. The Money Laundering and Terrorism (Prevention) Act, 2008 (MLTPA) and the Financial Intelligence Unit Act, 2002 govern the AML obligations applicable within Belize. The MLTPA provides statutory requirements in relation to customer due diligence, record keeping and reporting.

129. The AML authorities in Belize are the Central Bank, the Supervisor of Insurance (SOI), the IFSC, the Financial Intelligence Unit (FIU) and the Ministry of Finance. The FIU is the leading and co-ordinating AML/CFT authority in Belize. It is a self-standing entity.

130. The MLTPA imposes AML/CFT obligations on reporting entities which are defined as any person whose regular occupation or business is the carrying on of any activity in the First Schedule of the MLTPA (s. 2). This includes (First Schedule, No. 26):

- a trust and company service provider acting as a formation agent for legal persons; as a director or secretary of a company, a partner of a partnership, or in a similar position in relation to other legal persons; as a trustee of an express trust or as a nominee shareholder for another person.
- the provision of a registered office, a business address or accommodation, correspondence or administrative address for a company, a partnership or any other legal person or arrangement (First Schedule, No. 24).

- lawyers, notaries, other independent legal professionals, accountants, auditors and tax advisers, when they prepare for or carry out transactions concerning activities such as buying and selling real estate, managing money, management of bank accounts, organisation of contributions for the creation, operation or management of companies and the creation, operation or management of legal persons or arrangements, and buying and selling of business entities.

131. The MLTPA sets out the Customer Due Diligence requirements and is supplemented by the CDD Guidelines, which outline general customer identification requirements and account opening requirements. The MLTPA requires that the reporting entities verify the identity of their customer by requiring the customer to produce identification documents such as national identity card, social security document, passport or other official identifying document which can adequately identify and verify the identity of a natural person (MLTPA, ss. 15(1), 15(3b)). The IFSC requires reporting entities to obtain passports as the official form of identification. The MLTPA further requires reporting entities to identify beneficial owners of legal entities and take reasonable measures to identify and verify ownership and control structures of such entities in the case of "transactions" (MLTPA, s. 15(3)(c)). Transactions include amongst others the opening of an account and the entering into any fiduciary relationship.

132. The Central Bank of Belize published in June 2010 AML/CFT Guidelines for banks, financial institutions, credit unions and money service providers. The Guidelines lay down the expectations of the Central Bank as regards the minimum standards for AML/CFT practices by all financial institutions. The IFS Practitioners Code (Code of Conduct) Regulations (reg. 3) explicitly requires all IFS Practitioners to comply with all guidelines and directions issued by the Central Bank. For licensees of the IFSC, a breach of any of the provisions constitutes professional misconduct which is liable to any of the penalties or disciplinary action set out in the Third Schedule of the IFSPCCR. (Please see section A.1.6 for details of the sanctions) IFS Practitioners are required to obtain relevant information relating to their clients' identity and maintain a copy of the certificate of incorporation and, where applicable, the certificates of change of name and of good standing of their clients.

133. The IFSC also issued additional AML regulations for its licensees. The IFSPCCR provide that a registered agent is required to maintain identity information of directors and shareholders holding a controlling interest, "as far as practicable", under the IFSPCCR (reg. 13(3)(6)). Section 15(3) of the MLTPA states that reporting entities must take reasonable measures to identify the principal owners and beneficiaries of the client entities and verify its control structure. The registered agent should know the business conducted

by the company and the identity of directors proven by copies of identification documents of at least two directors (IFSPCCR, reg. 13(5)). However, in the case of IBCs, as noted earlier, the service provider performing the functions of registered office or registered agent will keep a copy of the share register.

134. Reporting entities are required to maintain records of all transactions (MLTPA, s. 16(1)(a)) containing particulars sufficient to identify the name, address and occupation and business or principal activity of each person conducting the transaction if known, on whose behalf the transaction is being conducted, as well as the method used by the reporting entity to verify the identity of such person (MLTPA, s. 16(3)).

135. In summary, reporting entities are required to keep relevant ownership and identity information in respect of entities for which they act. When the burden lies upon the registered agents under the IFSPCCR, this is limited to the shareholders with controlling interest. However, it must be borne in mind that the IFSPCCR specifically states (s. 13(6)) that IFS practitioners will, as far as practicable, obtain the register of members or a list of the names and addresses of shareholders holding a controlling interest in the company.

136. The International Financial Services Commission Act, Chapter 272, revised edition 2000-03 (IFSC Act) defines "international financial services" as the "business of providing or holding oneself out as providing all or any of the following services, that is to say, the formation or management of international business companies, the formation and management of offshore trusts, the provision of offshore trustee services, international insurance services, international asset protection and management and international collective investment schemes, where such businesses are conducted within or from within Belize, exclusively with persons non-resident in Belize, and in a currency other than the currency of Belize". But that does not include banking or financial business carried on by banks or financial institutions licensed under Domestic Banks and Financial Institutions Act (DBFIA) 2012 or the International Banking Act, Revised Edition of 2003. The international financial services are carried out by international financial services practitioners (IFS Practitioners) which are the licensed service providers excluding money service providers. As at May 2014, there were 146 service providers licensed by the IFSC. Belize said not all of them are active nor are they required to have a physical presence in Belize (cf. Para.146). They are required to have a registered office in Belize and to maintain certain ownership records under various laws including the IBC Act and are also subject to AML CDD and record keeping obligations.

137. Under Section 5 of the IFSC Act, one of the functions of the IFSC is to provide, with the Minister's concurrence and within the framework of local

legislation and laws, appropriate supervision and regulation of the conduct of international financial services. Further, Section 6.-(1) of the same law states that the IFSC shall have power to do all things necessary for the carrying out of its duties under this Act.

138. Although the law apparently gave it a broad supervisory power, the IFSC felt that it had no specific power to carry out acts like on-site visits and inspections. That resulted to a failure to carry out in-depth controls on registered agents till 2013. The IFSC could only do a "quick check" at the time of the annual renewal of the service provider's license. In so doing, there was no way to ensure that the CDD was properly carried out and the necessary documentation kept by the registered agent.

139. In 2013, Section 6 (2) of the IFSC Act was amended to provide the Commission with the power of "carrying on on-site inspection of any entity carrying on international financial services". After the amendment, the IFSC conducted the first inspections of three registered agents in 2013. The IFSC authorities explained that deficiencies noticed included the non-keeping of records by one of the three registered agents who were inspected. However, Belize considered that there was no need to levy penalties for a first offence. The registered agents were warned and reprimanded.

140. Between 18 June and 28 July 2014, 17 more inspections were carried out. However, these inspections were conducted after the review period. The Belizean authorities stated that the inspection process would be speeded up in the fourth quarter of 2014, since a new on-site examiner joined the IFSC on 1August, 2014 and the aim is to cover all service providers by the end of 2014. It is recommended that Belize set up an effective supervisory programme to ensure that all licensed service providers regulated by the IFSC, carry out CDD and maintain records.

141. The leading and co-ordinating AML/CFT authority in Belize is the Financial Intelligence Unit (FIU). Whereas the Central Bank and the IFSC supervise the financial institutions and service providers, the FIU is in charge of the enforcement of the AML/CFT with regard to all the reporting entities in Belize, including the licensed service providers. A person who intends to carry on or is carrying on a business or profession for which the FIU is specified as the supervisory authority (under the Third Schedule to the MLTPA) as a Designated Non-Financial Business and Profession (DNFBP), is required to apply for registration with the FIU by filling out Form R101. Detailed ownership information is sought. Upon receipt of every application, an FIU Compliance Officer conducts CDD on all persons identified in the application as owning or controlling at least 10% of the shares in the applicant entity. The CDD process includes a check of the FIU data base.

142. Approved applications are assigned a registration number and a letter is sent to the applicant confirming registration. Registration is valid for one year and must be renewed before expiration. The DNFBP must certify that all information that it provides for the FIUs register is correct and up to date.

143. When there is any change in the information provided in the application after a DNFBP has submitted an application or has been registered, the DNFBP is required to complete Form R201. Any change in beneficial owners/shareholders who own or control 10% or more shareholding is subject to CDD measures similar to those in the case of a new application. As at December 2013, 116 entities were registered with the FIU apart from the service providers. That includes 29 car dealers, 7casinos, 17 jewellers and 63 realtors.

Bearer shares *(ToR A.1.2)*

144. IBCs and LDCs can issue bearer shares but since 2001, bearer shares have been immobilised i.e. the bearer shares certificates must at all times remain in the possession of the registered agent. Prior to 2013, domestic companies could issue share warrants to bearer, but there were no appropriate mechanisms in place that allowed the owners of such warrants and shares to be identified.

Domestic Companies

145. Prior to the 2013 amendment, the CoA (s. 38) allowed companies limited by shares, that so provided in their articles of association, to issue "warrants stating that the bearer of the warrant is entitled to the shares or stock therein specified and may provide, by coupons or otherwise, for the payment of the future dividends on the shares or stock included in the warrant". The CoA also indicated that the shares or stock may be transferred by delivery of the warrant (s. 38(2)). Section 38(5) further provided that when a share warrant is issued, the company must strike out of its register of members the name of the concerned member as if he/she had ceased to be a member, and must enter in the register the following particulars: the fact of the issue of the warrant; statement of the shares or stock included in the warrant, distinguishing each share by its number; and the date of the issue of the warrant. The CoA did not include provisions for the identification of the holders of share warrants by the company or any authority or service provider. Share warrants to bearer are similar to bearer shares in operation. Belize stated that only one domestic company had issued warrants to bearer – 10 shares of par value of BZD 1 each. The total amount of warrants to bearer was BZD 10 (US 5).

146. In 2013, the Companies (Amendment) Act was passed to repeal section 38 of the Companies Act relating to share warrants to bearer (Act N°. 19 of 2013). No company incorporated under that Act (including an overseas company) can now issue or have on its register bearer shares or share warrants to bearer (by whatever name called). Companies which had issued bearer shares or share warrants to bearer were given six months to convert such existing shares into registered shares and make the necessary entries in the share register kept by the company, failing which the company's registration would be cancelled by the Registrar. All companies were informed of the new law, and asked to convert any such shares into registered shares within the six months transition period. After this period, investigations carried out by the Registrar of companies has confirmed that only one company had issued warrants to bearer – 10 shares of par value of BZD 10 each (USD 5). That company has already converted those shares into registered shares. Therefore, according to the Belizean authorities, there are no more shares warrants to bearer in Belize.

International Business Companies

147. The IBCA also allows IBCs to issue bearer shares (IBCA, s. 9(1a)) and requires the maintenance of a share register recording the number of each class and series of bearer shares (reference to IBCs include LDCs in this part of the report as well). A copy of such register must be kept either at the IBC's registered office or at the office of the registered agent (IBCA, s. 31(3)).

148. The IBCA provides that bearer shares are transferable by delivery of the related certificate (s. 34). However, regulation 5 of the International Financial Services Commission Practitioners (Code of Conduct) Regulations, 2001 (IFSPCCR) gives the registered agents of IBCs the responsibility for ensuring the immobilisation of the bearer shares either themselves or through professional intermediaries. The IFSPCCR require the bearer share certificates to be held, and identity information to be collected, by a duly licensed registered agent of the IBC or by a professional intermediary client of the registered agent. Pursuant to section 33 of the IFSPCCR, any breach by the registered agent of the Regulations would amount to professional misconduct and he/she shall be liable for penalties and disciplinary action as per the Third Schedule of the Regulations. In turn, the Third Schedule indicates that if after a due process of law, it is found that a registered agent has violated the Regulations, he/she shall be liable for severe reprimand, suspension of his/her licence for a period not exceeding six months, revocation of the licence or a fine not exceeding USD 5 000. These sanctions are without prejudice to any other penalty that may be imposed by any other court where the conduct involved is also a criminal offence.

149. The IFSPCCR lays down a series of steps stipulating the manner in which the registered agent will hold identity information in respect of bearer shares. First, where the registered agent deals directly with the holder of the bearer share (called "end user customer"), he/she must at all times retain the bearer share certificate and implement know-your-customer due diligence measures at each transfer of beneficial interest in the bearer share (IFSPCCR regulations 5, 6 and 7).

150. As at December 2013, about 2 600 out of 74 000 active IBCs have issued bearer shares. Belize claims that the reason for this rather small number is that some of the large service providers do not allow any of their companies to issue bearer shares. It is also understood that the banks and financial institutions are reluctant to open bank accounts for companies whose articles contain provisions for issuing bearer shares, even though they may not have actually issued any bearer shares. Moreover, since the bearer share certificates are immobilised, bearer shares have lost much of their usefulness.

151. In practice, on-site audits would be the best way to test the practical implementation of these legal provisions. As mentioned earlier, the IFSC has only recently commenced on-site inspections (in late 2013). Belize has 101 registered agents for IBCs. Only three of them have been inspected so far. Although the IFSC noticed some gaps in the document retention by one of the inspected registered agents, no sanctions were applied. It is recommended that Belize ensures that monitoring and enforcement powers are systematically exercised in practice on the registered agents to support the legal requirements concerning the availability of all ownership information, including that related to bearer shares.

152. Registered agents may also deal with professional intermediary customers such as an overseas law firm, an accounting firm or company formation agent who requests IBCs to be incorporated in Belize on behalf of its customer. Registered agents in Belize are not allowed to deal with professional intermediary customers in jurisdictions that are declared by the IFSC as falling below acceptable international standards (reg. 9), i.e. qualified as non-co-operative jurisdictions by the Financial Action Tax Force.

153. The rules were changed in January 2013. The registered agent previously had to enter into a contractual relationship with the intermediary, requiring the intermediary to perform the "know your customer" due diligence, and provide "know your customer" information on the customer to the Belizean registered agent upon request. The intermediary retained physical custody of the bearer share certificate (IFSPCCR, reg. 8). Although the intermediary was bound by contract, it was debatable whether the system for the immobilisation of bearer shares was reliable and enforceable given that the authorities in Belize had no compulsory powers over the foreign intermediary.

154. On 1 January 2013 Belize amended the IFSPCCR, to provide that where a registered agent deals with a professional intermediary customer, the bearer shares must now be retained by the agent in Belize rather than by the intermediary, and the registered agent must ensure that the intermediary carries out its CDD obligations. The amendment also provides that where the professional intermediary customer fails to comply with the prescribed regulations, the registered agent shall immediately resign as the registered agent of such company and the company itself shall be struck off the register of IBCs. However, the new regulations did not make it clear that the registered agent in Belize must hold information on the customer about whom "know your customer" (KYC) details are collected by the foreign intermediary, or that the foreign intermediary must provide information to the registered agents or to the authorities in Belize. Belize was of the view that it is implicit in the regulations that the intermediary must send the KYC information along with the share certificate to the registered agent. Belize holds the view that without this information, the bearer share certificate would be "useless". To clarify the situation, Belize issued a Clarification on 18 February 2013, that makes it clear that the foreign intermediary is required to hand over the CDD information to the registered agent, along with the bearer shares. This Clarification, issued by the International Financial Services Commission, is deemed to be part of the IFSPCCR that came into force on 1 January 2013. The clarification specifies that failure on the part of the foreign intermediary to pass on the CDD information to the registered agent will attract the same penalties as would a failure to comply with the prescribed regulations.

155. According to Belize, around 90% of the customers of resident registered agents are provided by the foreign professional intermediaries. It is therefore essential to know whether CDD is properly carried out and ownership information on bearer shares is effectively transferred by the intermediaries to the registered agents. A sample copy of an Agreement being used by the registered agents in Belize (referred to as the Service Provider) and the intermediary (referred to as the Professional Client) provides that "Without prejudice to the generality of the foregoing, the Professional Client covenants and undertakes that, in accordance with the amendment to the Code of Conduct Regulations (S.I. 108 of 2012), the Professional Client shall perform "KYC" due diligence on the end user client in accordance with accepted International Standards and forward the bearer share certificates to the Service Provider forthwith along with the "KYC" information on the end user client."

156. However, as mentioned above, about 20 out of 101 registered agents for IBCs do not have a registered office in Belize. They merely use the office of other registered agents who serve as back-offices to them. In the event a registered agent using a back-office in Belize deals with a foreign professional client, it is unclear how the obligations of such an "absentee" registered

agent would be enforced by Belizean supervisory authority. Moreover, although Belize is on the view that the back-office service provider is responsible for keeping the client identification records of the "absentee" in Belize pursuant to the "Corporate Administration Agreement", it appears that there is no legal requirement that the bearer shares certificatemust be transfered by the foreign intermediary to the absentee's back office registered agent in Belize, although in practice this appears to be the case. In fact, neither the "Corporate Administration Agreement" nor its provisions are mandatory (there is no law obliging registered agents to sign and comply with it). Finally, it appears that the back office registered agent itself does not have a KYC obligation with respect to the IBC, since its client is the "absentee" registered agent.

157. The number of registered agents inspected during the review period (only three service providers have been inspected out of a total of 146 Services Providers registered in Belize) was not enough to verify the compliance of the intermediaries with the obligation to send the KYC information along with the share certificate to the registered agent and the obligation for registered agents, including those using back-office services, to keep the bearer shares in Belize. Belize states that the amendments to the IFSPCCR are very recent and the service providers need some time to comply with its provisions, including the retaining of the identity information on the owners of bearer shares. However, that does not prevent the regulatory body (IFSC) of service providers from monitoring their compliance with the new law. Belize is recommended to put in place an oversight programm to ensure that the ownership information is available in Belize for all IBCs, in particular when the IBC has issued bearers and also where IBCs have registered agents using a back office services in Belize.

Partnerships *(ToR A.1.3)*

158. Ownership information related to general and limited partnerships in Belize is held by the tax authorities. The Registrar of domestic companies (who is also the Registrar of Limited Liability Partnerships), also maintains ownership information on limited liability partnerships.

Types of partnerships

159. Partnerships in Belize can be either general partnerships or limited liability partnerships (there are no limited partnerships in Belize). There are two pieces of legislation governing partnerships in Belize: the Partnership Act and the Limited Liability Partnership Act. General and limited partnerships are limited to twenty partners, and cannot engage in the business of banking (Companies Act, s. 3).

160. A general partnership is defined in the Partnership Act as the relation that subsists between persons carrying on a business in common with a view to a profit. Such entities are governed by the Partnerships Act unless the entity is registered, formed or incorporated under another act, such as the Companies Act (Partnership Act, s. 3). All partners are jointly liable for all debts and obligations of the general partnership, and are jointly and severally liable for any wrongdoing (Partnership Act, ss. 11 to 14).

161. A limited liability partnership (LLP) is defined as an entity where the liability of the partners is limited, i.e. that a limited partner in an LLP is not liable for any debt or loss. One or more "designated partner" is nonetheless responsible for the legal obligations of the LLP.[9]

162. Partnerships are registered under the Business Names Act, Chapter 247 where a partnership carries on business in Belize under a business name which does not consist of the true surnames of all partners. Partnerships are also registered under the Limited Liability Partnership Act, Chapter 258 of the Laws of Belize. A firm or an individual, who carries on business in Belize under a name which consists of the true surnames of all partners or his true surname is not required to register under the Business Names Act. Such a firm or individual is not prevented from doing business in Belize. However, every firm or individual carrying on business in Belize must register with the Commissioner of Income Tax (for tax purposes). In addition, where the business to be conducted is a regulated business (e.g. lawyers, accountants, banking, insurance or international financial services), a licence must be obtained from the appropriate regulatory body.

163. To register a partnership under the Business Names Act, the applicants complete an application (Form 2), submit copies of their identification cards, and pay a fee of BZD 2 500 (USD 1 250). When an application is submitted, a name search is carried out to ensure that the name is available. After it is found that the name is available, payment is made and the application is submitted to the registry clerk, who then prepares the Certificate of Registration. The Certificate is usually prepared within 2 to 3 hours after the application is submitted. The original application with copies of IDs is attached, and a copy of the Certificate given to the person(s) is kept at the registry. On the application and Certificate are the person's names and particular addresses.

164. To register a partnership under the Limited Liability Partnership Act, an application is made in the form of a declaration, signed by the designated

9. A designated partner is any partner identified as such in the declaration or, if none, the partner whose name first appears in the statement of partners in the declaration (LLP Act, s. 2).

partner and is submitted in duplicate. The declaration must contain the following:

- A statement that the person making the application wishes to carry on business for profit. (Those persons will agree to contribute effort and skill; that the profit should be divided between them; and that each will have an interest in the partnership property.)
- The proposed name of the limited liability partnership.
- The intended address of the registered office in Belize.
- The names, occupation, and home and business addresses of each person who is to be a partner.
- The address of service of each person who is to be a partner.
- The name of the designated partner.
- The date on which it is proposed that the partnership should take effect.

165. The following documents are submitted along with the Declaration:

- A declaration on oath by each person who is to be a partner, who has not, for the previous 3 years preceding the application, convicted of any offences involving dishonesty, dealing in illegal drugs or money laundering;
- A declaration on oath by a Director, Manager or other similar official stating that the actual partners have not been convicted of any offences mentioned above;
- The Partnership Agreement, or Articles and Memorandum of Association if the person submitting the declaration above is doing so on behalf of a company;
- Particulars of each person not referred to above who has financial interest in the application;
- Particulars of the person who will be in charge of the registered office in Belize;
- A declaration by the person who is to be designated partner of the partnership stating his compliance with specific provisions under the Act;
- A financial provision of BZD 25 000 (USD 12 500) from a Bank or Insurance company.

This registration process of a LLP usually takes about two days.

Ownership information held by government authorities

166. Ownership information on general partnerships is held by the tax authorities. Information on LLPs is held by the tax authorities and the Registrar of Companies.

167. There is no special Registrar for general partnerships. On the other hand, every LLP must be registered with the Registrar of LLPs who is the Solicitor General. In practice, the LLPs are registered in the local Companies Registry – the same Registry which registers companies established under the Companies Act. An LLP must maintain an office in Belize, the official address of which must be provided to the Registrar (Limited Liability Partnership Act, s. 9(1)). The Registrar records in the register of LLPs any information delivered to him/her and the issuance of any certificate. As of December 2013, there were 13 LLPs registered in Belize.

168. A notice must be provided to the Registrar every February providing, in respect of LLPs, in writing a list of all partners and their residence at that time (LLP Act, s. 19). Any changes to the terms of the partnership, its partners, or place of business must be notified to the Registrar within 28 days of the change (LLP Act, s. 18(1)). The information held by the Registry contains full ownership information about the partnership. Information on LLPs is therefore publicly available.

169. The Registrar must keep the records and documents related to an LLP in its possession or control for at least 5 years (LLP Act, s. 39(1)).

170. Partnerships are dealt with under the Income and Business Tax Act (s. 35) as single entities and are assessed and taxed on the income of the entire business. In the case of general partnerships, the name and address of the partners are requirements for registration and administration of the IBTA. The partners of an LLP are also required to be recorded for registration purposes. Returns filed must list the partners and identify each partner's percentage of share held in the firm, but tax should be paid on the total partnership income in the tax computation. This would include foreign partnerships that carry on a business in Belize. Where no partner is resident in Belize, the return must be made and delivered by the attorney, agent, manager or factor (i.e. agent who discounts merchandise for a profit) of the firm resident in Belize (Income and Business Tax Act, s. 35(1c)).

171. In practice, partnerships provide identity information on their partners to the Income Tax Department for registration purposes. The tax authorities need to know the names of the partners in order to settle their tax obligations. But further changes are not required to be provided to the tax authorities. There is no obligation to file the names of the partners in a partnership's tax return. Such information will be made available on request of the Commissioner of Income tax. Section 35 (1)(b) of the Income and

Business tax Act states that where a trade, business, profession or vocation is carried on by two or more persons jointly "the precedent partner shall, when required by the Commissioner, make and deliver a return of the income of the partnership for any year, such income being ascertained in accordance with the provisions of this Act, and declare therein the names and addresses of the other partners in the firm together with the amount of the share of the said income to which each partner was entitled for that year". The precedent is the partner who of the partners resident in Belize is first named in the agreement of partnership. In the case of partnerships which fall within the purview of the Business Names Act (Chapter 247) or the Limited Liability Partnerships Act (Chapter 258), the ownership information is kept by the Registrar of companies under the provision of the Business Names Act. Section 5(1)(d) and section 8of the Business Names Act obliges partnerships carrying on business in Belize under a business name which does not consist of the true surnames of all partners to provide the registrar with the details of each of the individuals who are partners. Whenever a change is made or occurs in any of the particulars registered of any firm or person, such change are furnished within fourteen days to the Registrar through a statement in writing in the prescribed form specifying the nature and date of the change. If a partnership fails to comply with this provision, it will be noticed by the Registrar when the annual declaration is made by the partnership in February of the following year. Penalty will then be imposed for failure to notify the change.

Information held by the partnership or partners

172. The Partnership Act does not specify whether or to what extent any ownership and identity information must be available on general partnerships. However, given the tax returns filed by the partners in a general partnership, identity information will be available. On the contrary, an LLP must keep at its registered office in Belize a list with names and addresses of each partner, indicating the "designated partner" (responsible for the obligations of the LLP), copies of the most recent annual declaration, statements delivered to the Registrar, certificates issued by the Registrar as well as of the partnership agreement with amendments (s. 9(4)).

173. The anti-money laundering laws and regulations on the identification of customers of service providers apply when the customer of an obliged entity is a partnership (see section A.1.1 above).

174. Belize did not receive an EOI request related to a limited or a general partnership during the review period.

Trusts *(ToR A.1.4)*

175. There are two kinds of trusts in Belize – domestic trusts and international (offshore) trusts. The Trust Act (TA) as amended by the Trust (Amendment) Act 2007 which was specifically passed for the registration of international trusts (previously called "exempt trusts") governs the creation and administration of domestic and international trusts. The Act is based on the principles of English trust law. Section 63 of the TA was repealed in October 2013 to now provide for mandatory registration of all domestic trusts. The Belizean authorities indicate that there is no possibility for the creation of a common law trust in Belize and only statutory trusts can be created in Belize.

176. The Trust Act defines a trust as a legal relationship created where property has been placed under the control of a trustee for the benefit of a beneficiary or for a specified charitable or non-charitable purpose (TA, s. 2). International trusts are trusts with non-resident settlors and beneficiaries, with purposes and objects pursued or performed outside of Belize, and whose property does not include land in Belize (s. 64(1)).

177. Any person having capacity under the laws of Belize to own and transfer property may be a trustee (TA, s. 17(1)).The trustee may also be a settlor, a beneficiary or a protector of the trust (TA, s. 17(2)). The protector of the trust may also be the settlor, a trustee or a beneficiary (TA, s. 16(3)). There is no requirement under the Trusts Act that a domestic trust must have at least one resident trustee. There is also no provision on the licensing of foreign trustees of a domestic trust. However, all professional trustees are subject to the Trust and Company Service Providers Act (s. 2) and the Trust and Corporation Service Providers (Best Practices) Regulations, 2007.

Registration and information maintained by the authorities

Domestic Trusts

178. Domestic trusts can be established generally either by oral declaration or by written instrument (including a will or codicil), by conduct, operation of law or in any other manner once the intention of the settlor to do so is clearly manifested (TA, s. 5(1)). There are no formalities required to create a trust, except for a unit trust, which can only be created by an instrument in writing (TA, s. 5(2)). Prior to 2013, the registration of domestic trusts was voluntary (TA, s. 63(2)) with the Registrar of the Supreme Court.

179. Following the amendment of the TA in October 2013 (No. 16 of 2013), the registration of domestic trusts is now mandatory. The Registrar of the Supreme court is required to maintain a Domestic trust register which contains the name of the trust, the name of the settlor or trustee, the date of

settlement of the trust, the date of registration of the trust and "any other information as may from time to time be specified by the regulations". The amended TA does not require the settlor or the trustee to provide the name of the beneficiaries of a domestic trust. The Registrar will not know who the beneficiaries of a registered domestic trust are.

180. The trust shall be registered by either the settlor or trustee who shall apply within 14 days of the creation of the trust, and this involves the submission of a copy of the trust instrument along with the registration fees (TA, s. 63A (2)). The application must contain the information required to be kept on the register, including the names of the settlor and the trustee. The register is not open for public inspection, except when a trustee authorises in writing a person to inspect the entry of a specified trust (TA, s. 63B (1)). Domestic trusts that had been created but had not been registered so far were given six months from the commencement of the amended Act (October 2013) to apply for registration. Any domestic trust not registered after this transition period shall cease to be a valid and enforceable domestic trust under the laws of Belize (s. 63 B (5)).

181. As at April 2014, there were 18 domestic trusts registered in Belize. According to the Belizean authorities, the Registrar General will shortly issue regulations for on-site inspections to be conducted in order to ensure that all the existing trusts have been registered as required by the new law.

182. The Belizean authorities indicate that domestic trusts, as every person chargeable to tax, are required to be registered with the tax authorities. Income Tax Department uses registration forms that are kept on the taxpayers' files. Trusts are not separately dealt with in the IBTA (except trustees of incapacitated persons in section 24). Trusts must in practice fill in the same form as corporate entities (Form TR121), which would capture the appropriate information that would then be kept on the file for reference, including the name of the trustee and the settlor (the name of beneficiary is provided in case the tax authorities seek it).This does not apply to "exempt trusts", i.e. when the settlor and all of the beneficiaries are not resident in Belize in that year, and the trust property does not include land in Belize.

183. Turning to the tax obligations of domestic trusts, all those having income chargeable to tax, must file a tax return every year unless it is an "exempt trust". Section 105(1) of the IBTA defines receipts that are taxable under Business Tax as "all revenues, whether in cash or in kind, or whether received or accrued, of a person or entity carrying on trade or business in Belize or practising his or its profession or vocation in Belize without any deduction…". This definition also includes under the term, "receipts", rents, royalties, any other revenue receipts arising of, from property, commissions, discounts, dividends, interest including interest from investments, debentures, bills, bonds and notes. The Belizean authorities interpret these

provisions as meaning that a trustee will have to file a return showing the receipts of the trust, which will be taxable as the revenue of the trustee. Under section 27 of the IBTA, the Commissioner of Income Tax may ask the trustee to prepare a statement reflecting the true statement of the income of the trust and the details of each and every person to whom that income belongs along with any other details that the Commissioner requires. The taxability of the passive investment holdings, held by trusts, not being trade or business, is unclear.

184. The income of domestic trusts is assessable in the hands of the trustees, if the trust has taxable income. As provided by section 27 of the Income and Business Tax Act, the Commissioner of Income Tax has the power to define the extent of information that is to be provided by the trustee, on request. In practice, the trustee would be required to provide all relevant information in relation to the trust (particular arrangements, settlor, beneficiary, etc.).

International Trusts

185. International trusts must be established in writing, registered with the Registrar of International Trusts in Belize (s. 65(1)), and have a trustee licensed by the IFSC. The registration of international trusts falls within the remit of the Director General of the International Financial Services Commission (IFSC) (s. 65A (2)). The Trust Act requires the settlor, the trustee or the trust agent to apply for registration within 90 days of the date of creation of the trust (s. 65B (1)). Failure to register renders the international trust invalid and unenforceable (s. 65B).

186. An international trust is registered by means of the trust agent filing a specific application form and affidavit, which includes the following information (s. 65A (4)):

- Name of the trust; date of settlement and date of registration;
- Name of the trustee and name of the protector (if any);
- Name and address of the trust agent;
- Any other information, as may from time to time be specified by Regulations. Presently these are governed by the International Trusts Regulations, 2007.

187. The Registry itself does not require the trust deed or any details about the settlors and beneficiaries of the trust, nor any information about the trust assets. The register is not open for public inspection, except if the trustee or the trust agent authorises in writing a person to inspect the entry of the specific trust (s. 65C (1)).

188. All trusts which were previously "exempt trusts" and were not registered in absence of legal obligation had to be registered within one year of the commencement date of the Trusts (Amendment) Act, 2007 (s. 65J). As of December 2013, there were 1 829 international trusts registered in Belize. Exempt trusts that were not registered with the International Trust Registry by 2008 ceased to be valid trusts under Belize law, i.e. they are no longer recognised as a trust and no action can be taken by the trustee, beneficiary or any other person to enforce the trust.

189. An international trust along with its trust property is exempt from business tax, estate, inheritance, succession or gift tax. In addition, international trusts are not required to register with the tax administration and file a tax return since their assets ought not to originate in Belize and ought not to be generating income in Belize. The tax administration therefore has no information on international trusts.

Identity information maintained by service providers

Trustees

190. Although the Trust Act is silent in keeping identity information on domestic or international trusts, the Trust and Company Service Providers (Best Practices) Regulations, 2007 (reg. 11) provides that all service providers, including trustees acting by way of business, are required to ensure that the trustees, settlor, protector and beneficiaries are known and recorded. This would not cover non-professional trustees (but the tax obligations would apply).

191. In addition, the banking law governs the business of trust corporations. A trust corporation is a company which offers services to the public as a professional trustee engaged in the management or administration of financial or other trust assets (s. 2). This business is explicitly subsumed under the term "financial business" which is conducted in and from Belize by financial institutions (s. 2), and financial business must be carried on only by a duly licensed institution (s. 3). The Central Bank of Belize is responsible for the issuance of the licences and all further supervision. Trust corporations by virtue of their activities are reporting entities as defined in the First schedule of the Money Laundering and Terrorism (Prevention) Act (MLTPA) and are therefore subject to AML/CFT requirements. It may thus be concluded that ownership information in respect of these trusts managed by these corporations will be available in Belize.

192. Finally, the International Financial Services Practitioners (Code of Conduct) Regulations (IFSPCCR) require trustees to verify the identity of a settlor or any person adding assets to a trust (reg. 16).

193. Belize is of a view that all service providers ensure that they comply with the requirements contained therein, as breach of the Code of Conduct Regulations and the Trust and Company Service Providers (Best Practices) Regulations 2007 is a disciplinary offence. However, the IFSC has not conducted sufficient audits to verify the compliance level of service providers registered as trustees. The planned on-site inspections are geared to ensure, among other things, that all Service Providers have in place the necessary mechanism as required by the rules and regulations. The schedule of the on-site visits for 2014 was made available to the assessment team. The inspection team intends to complete about 12 inspections a month until all service providers are covered.

Trust agents

194. Trustees of international trusts in Belize are not required to have a place of residence in Belize but international trusts are required to have at all times a trust agent in Belize (s. 65E(1)). Only trust agents licensed by the IFSC can carry on trust business (s. 65E(3)). In order to satisfy the requirements of the law, every trust agent in Belize must maintain on his/her file the following information (s. 65A (5)):

- Name of the trust; and dates of settlement and registration;
- Name(s) of the trustee(s), settlor and protector (if any) as well as changes of protector;
- Names and addresses of all the beneficiaries as well as changes in beneficiaries;
- Initial and additional funds settled;
- Original trust instrument and any amendments thereto.

195. Trust agents are subject to the supervision of the IFSC. The Registrar or appointed inspectors may inspect and audit the record of trust agents to ensure compliance with the law of Belize (TA, s. 65A(6)). A list of current authorised trust agents is published in the Gazette every January (TA, s. 65F(2)) and is also available on IFSC website (List B). There were 55 trust agents as at April 2013.

196. During the review period, the supervisory authority (the IFSC) has not carried out sufficient inspections to ensure that CDD is properly conducted by trust agents. Thus, the compliance of these trust agents with their legal obligations has not been tested in practice. Belize is recommended to effectively carry out the inspections as planned to ensure that the trust agents effectively maintain identity information.

Foreign law trusts

197. There are no prohibitions on a Belizean resident acting as a trustee and protector or to administer a trust governed under foreign law. However, professional trustees in Belize must obtain a trustee licence from the IFSC. According to the Trust and Company Service Providers (Best Practices) Regulations, 2007, all service providers including trustees are required to ensure that the settlor, protector/beneficiaries of trusts are known and properly recorded (reg. 11(i)). Following this analysis, the result is that these regulations do not apply to non-professional trustees. Belize takes the view that the provision of trustee services for a foreign trust falls under the definition of "International Financial Services" in the International Financial Services Commission (Amendment) Act, 2007. Thus, any person who is engaged in the business of providing trustee services must obtain a licence from the IFSC. Hence, "non-professional" trustees are not allow to carry out the business of trustee.

198. In practice, the interpretation of section 105(1) of the IBTA which defines receipts that are taxable under Business Tax covers the receipts of a trustee of foreign trusts. Every trustee (including the trustee of a foreign trust) will have to file a return showing the receipts of the trust, which will be taxable as the income of the trustee. Under section 27 of the IBTA, the Commissioner of Income Tax may ask the trustee to prepare a statement reflecting the true statement of the income of the trust and the details of each and every person to whom that income belongs along with any other details that the Commissioner requires.

199. The level of compliance of registered agents providing trustee services in Belize with the ownership information keeping requirement is unknown. As mentioned above, the IFSC did not carry out sufficient inspections of service providers including those covered by the Trust and Company Service Providers (Best Practices) Regulations, 2007.

Foundations *(ToR A.1.5)*

200. Belize law provides for the establishment of international foundations (not domestic foundations). International foundations may be established under the International Foundations Act 2010 (IFA) for purposes which are capable of fulfilment and are not unlawful, immoral or contrary to public policy (IFA, ss. 3, 11). A foundation may provide international financial services if the IFSC has granted the appropriate licence, in which case the international foundation is subject to the supervision of the IFSC. An international foundation must be registered with the Director General of the IFSC as the Registrar of International Foundations (IFA, ss. 108 and 17(2)). A foundation which is not registered is invalid. The register of international foundations must contain the name of the foundation, the name and address of its registered agent and the date of registration of the foundation (IFA,

s. 17(1)). The application form (Schedule 1) also requires names and address of all Belizean and non-resident members. All changes to the particulars of the foundation must be notified to the Registrar (IFA, s. 17(2)).

201. The foundation must keep an internal register of the foundation council, its members and protector at its registered office, which is usually the office of the registered agent (IFA, s. 59). Each foundation must keep a register with the identification particulars of its members and of its Secretary, if any (IFA, s. 74). The foundation must have a charter which contains amongst other the name and address of the founder(s), the name of the registered agent, the beneficiary or class of beneficiaries, names and addresses of the members of the foundation council (IFA, s. 21).

202. Every international foundation is required to have a registered agent in Belize at all times (IFA, s. 33). The registered agent must be a regulated person who is subject to the MLTPA and must also abide by Part III of the IFSPCCR for client verification in the matter of Know Your Customer principles and identity information. As of December 2013, there were 121 international foundations registered in Belize.

203. International foundations are exempt from taxes and duties and therefore do not have to file tax returns.

204. Identity information related to international foundations is therefore available with the IFSC, the foundation itself and the resident agent.

205. In practice, Belize did not receive any EOI request relating to foundations during the review period. But the Registrar of International Foundations (Director General of the IFSC) maintains the names and address of all Belizean resident and non-resident members of licensed foundations.

Other entities and arrangements

Non-profit organisations

206. Non-governmental organisations (NGOs) as defined in the Non-Governmental Organisations Act (ss. 3, 7) are companies limited by guarantees under the CoA whose aims, objects and purposes are to achieve sustainable human development on a voluntary-non-profit basis. As NGOs are companies limited by guarantee and incorporated under the Companies Act, the provisions of that Act apply in the event the NGOs close down: the assets would be distributed among the members. All obligations of document retention that are applicable to companies shall apply to NGOs too.

207. The NGOA provides that the Minister appoints from time to time a qualified proper person to be Registrar of NGOs, who is presently based in the Ministry of Human Development. The NGOA (s. 6) provides that an NGO

desiring to operate in Belize must prior to registration present the Registrar with the Memorandum and articles of incorporation, the name and address of the NGO, brief details of the NGOs aims and objectives, the organisational structure, the management and accounting procedures, the names, addresses and occupations of each member of the board of Directors, the estimated revenues and grants to the NGO and the bye-laws. In 2013, a new section (s. 10A) was added to the NGOA providing that any document submitted to the Registrar in relation to a registered NGO shall be open to inspection by any person upon payment of the prescribed fee.

208. The Registrar must gazette the names of all registered NGOs in June of each year as well as of all NGOs no longer registered, and of all organisations whose applications for registration were denied (s. 10). Only registered NGOs enjoy tax benefits (NGOA, s. 4).

209. Associations not for profit established as companies limited by guarantee are also registered with the Registrar of Companies. These organisations must provide the Memorandum & Articles of Association to the Registrar. If the organisation intends to dispense with the word "Limited" in its name, it must apply to the Attorney General for permission to do so, and the permission will be granted if the conditions specified in section 20(1) of the Companies Act are satisfied. Moreover, if the subscribers are not resident in Belize, the permission of the Central Bank will also be required.

210. Associations can be registered under the Business Names Act, Chapter 247 and Companies Act, Chapter 250 of the Laws of Belize. Under the Business Names Act, the procedure is the same as that mentioned above for partnerships.

211. To register an association under the Companies Act, it must submit the Memorandum of Association, articles of association and a letter addressed to the Attorney General asking permission to dispense with the word "Limited". Once the application is found to be in order the certificate of registration is usually prepared within three hours after the application is submitted. The original Memorandum and Articles of Association and a copy of the Certificate given to the person(s) are kept at the Registry. These documents contain the full names, occupations and addresses of the subscribers.

212. Belize did not receive any EOI request related to an NGO during the review period. However, an updated list of NGOs operating in Belize is kept at the Ministry of Human Development with the names of their members. The Ministry of Human Development audits once a year every NGO and ensures that their activities are in compliance with the Memorandum of Association and that the identity information of their members is properly updated. In addition, The FIU is starting on-site visits in the second semester of 2014 to monitor the compliance with the AML-CFT obligations by NGOs.

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

213. The existence of appropriate penalties for non-compliance with key obligations is an important tool for jurisdictions to effectively enforce the obligations to retain identity and ownership information.

214. The Companies Act (s. 27(1)) requires domestic companies with share capital, to annually submit their shareholder and director lists to the Registrar. A domestic company that fails to comply with the requirements of this section is liable to a fine not exceeding BZD 25 (USD 12.5) for every day during which the default continues, and every director and manager of the company who knowingly and wilfully authorises or permits the default is liable to a similar penalty(s. 27(5)).

215. An overseas company or every officer of the company who fails to notify the Registrar within 21 days of any change in ownership information or fails to file annual statements is similarly punishable by a fine up to BZD 250 (USD 125) (s. 63(1)), or in the case of a continuing offence, BZD 25 per day for every day the default continues (CoA, s. 251(9)).

216. The Companies Act does not provide the Registrar with the power to do any on-site visit to ascertain the accuracy of the information provided by the persons who apply for registration,, notably with regard to ownership information (when it is required to be disclosed). However, if any person wilfully makes a statement false in any material particular, knowing it to be false, he shall be guilty of a misdemeanour, and shall be liable on conviction on indictment to imprisonment for a term not exceeding two years, and on summary conviction to imprisonment for a term not exceeding four months, and in either case to a fine not exceeding five hundred dollars in lieu of or in addition to such imprisonment (Companies Act, s. 256). In practice, the Registrar carries out verifications at the time of the filing of the annual updates by companies. This does not include the production of copies of the underlying documentation supporting the declarations made or by cross-checking with other institutions.

217. From 1 July 2010 to 30 October 2013, the Registrar of companies has levied penalties amounting to BZD 2 165 553 (USD 1 082 776) for the late filing of transfer of shares instruments and late filing of a company's annual returns.

218. An IBC that does not meet the requirements on the availability of ownership information is liable to a penalty of USD 25 for each day or part thereof during which the contravention continues, and a director who knowingly permits the contravention is liable to the same penalty (IBCA, s. 31(5)).

219. Every person (including the registered agent), who for the purpose of procuring registration, continuation or discontinuation of an ILLC gives false or misleading information or fails to disclose material facts or circumstances is deemed to have committed an offence and is liable on summary conviction to a fine not exceeding USD 5 000, or to imprisonment for a term not exceeding one year, or to both (ILLC (Registration) Regulations, s. 13).

220. A PCC that contravenes or fails to comply with any term or condition of consent granted by the Minister (including the submission of ownership information and updates) commits an offence and is liable on summary conviction to a fine not exceeding USD 25 000 and/or to imprisonment for a term not exceeding six months (s. 27(2)).

221. The LLP Act provides for various offences with regard to not notifying authorities and penalties in the amount of USD 50 for each day during which the contravention continues (LLP Act, s. 43).

222. The only sanctions against NGOs are cancellation and loss of tax exemption status. The Registrar is authorised to cancel the registration of any NGO that fails to submit its audited accounts, financial statements or a report setting out its programme of activities and policies for a financial year. In addition, a NGO loses its tax exemption privileges for the same breaches (NGOA, s. 18(1)(a,b)).

223. A service provider that breaches customer identification requirements (among others) is subject to sanctions including an administrative fine from BZD 5 000 to BZD 20 000 (USD 2 500 to USD 10 000) according to the Money Laundering (Prevention) Act, 2008.

224. The IFSPCCR stipulate that a breach of any of the provisions of the Regulations constitutes professional misconduct liable to any of the penalties or disciplinary action set out in the Third schedule of the IFSPCCR (reg. 33(1)). This includes the revoking of licence or a fine not exceeding BZD 5 000. The Trust and Service Providers (Best Practices) Regulations, 2007, refer to the same Regulation (reg. 13).

225. The registered agent of an IBC that issued bearer shares which breach the IFSPCCR regulations on the maintenance of the certificates and identification of beneficial owners may be punished with a severe reprimand, a suspension or revocation of its licence, or a fine up to USD 5 000 (IFSPCCR regulation 13).

226. During the period under review, five licences were revoked or not renewed as a form of penalty, for the following reasons:

- "cold calling" by the company and making suspicious investment offers to the residents of a foreign country without a licence from

the Financial Services Authority of that country. Also complaints of fraud by the company's clients;

- accepting funds from clients;
- failure to disclose all relevant facts in the application for the licence. It later transpired that the company was linked to another company which had previously been sanctioned by a foreign country;
- failure to address serious complaints from customers;
- conducting banking business.

The decision of non-renewal is taken after investigations following a complaint made by any interested person who can be a client.

227. No sanction was levied within the review period for failing to keep ownership and identity information either by the company (IBC and LLC) or by the registered agent. This seems to be due to the absence of on-site inspection of the service providers by the IFSC. As mentioned earlier, the IFSC explained that during the three on-site visits conducted in late 2013, it was noticed that the one registered agents did not always keep the required records regarding IBCs but no sanction was subsequently applied, apart from reprimands.

228. Reporting entities which breach the AML/CFT obligations are subject to a range of penalties. The MLTPA (s. 22(1)) enables the supervisory authority, any regulatory authority or competent disciplinary authority that discovers a breach of the obligations to impose any one of the following sanctions:

- written warnings;
- order to comply with specific instructions;
- ordering regular reports from the reporting entity on the measures it is taking;
- fine in an amount from BZD 5 000 to BZD 20 000 (USD 2 500 to USD 10 000);
- replacing or restricting the powers of managers, directors or controlling owners, including at the appointment of ad hoc administration; or
- recommending to the appropriate licensing authority of the reporting entity that the reporting entity's license be suspended, restricted or withdrawn.

229. As at December 2013, the Financial Intelligence Unit (FIU) which is the main AML authority in Belize has 116 reporting entities. From 2011 to 2013, eleven reporting entities were convicted for failure to declare or report currency when leaving or entering Belize. No conviction was directly concerned with the non-keeping or failure to update the ownership information about an entity.

230. In the case of business tax, if the relevant person conducts a taxable activity or business and is liable to be taxed but not registered and fails to file a return, he/she commits an offence and is liable on summary conviction to a fine not exceeding BZD 10 000 (IBTA, s. 109(2)) and in default of payment of fine, to imprisonment for a term not exceeding two years. Furthermore, additional penalties calculated on a percentage basis of the assessed amount will be charged.

231. In the year 2013, the Income Tax Department levied penalties amounting to USD 428 575. It is not clear whether any of those penalties were related to the non-registration or the non-filing of tax returns.

232. As of December 2013 there were approximately 70 614 IBCs and 101 registered agents for IBCs in Belize, that means that each registered agent is responsible for 707 IBCs on average.

Determination and factors underlying recommendations

Phase 1 determination
The element is in place.

Phase 2 Rating	
Partially compliant	
Factors underlying recommendations	**Recommendations**
During the review period, the IFSC did not have a regular oversight programme in place to monitor compliance of the obligations placed on registered agents of IBCs or other licensed entities, including those using registered office services in Belize. In addition, the IFSC has not levied penalties when non-compliance is detected.	Belize should put in place an oversight programme to ensure compliance with the obligations to maintain ownership information and exercise its enforcement powers as appropriate to ensure that such information is available in practice.
In practice, bearer shares of IBCs may be held by registered agents that are not physically established in Belize, but merely use the back-office of another registered agent in Belize. In such cases, it is unclear whether ownership information in respect of such shares will always be available in Belize. Furthermore, enforcement of any obligations to have such information available in Belize may not be effective.	Belize is recommended to ensure that the ownership information maintained by registered agents, in particularly information on the beneficial owners of bearer shares issued by IBCs, is available in practice in Belize in all circumstances.

A.2. Accounting records

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

233. The Terms of Reference set out the standards for the maintenance of reliable accounting records and the necessary accounting record retention period. They provide that reliable accounting records should be kept for all relevant entities and arrangements. To be reliable, accounting records should: *(i)* correctly explain all transactions; *(ii)* enable the financial position of the entity or arrangement to be determined with reasonable accuracy at any time; and *(iii)* allow financial statements to be prepared. Accounting records should further include underlying documentation, such as invoices, contracts, etc. Accounting records need to be kept for a minimum of five years.

General requirements (ToR A.2.1)

234. Prior to 2013 the requirements to maintain accounting records were not in line with the standard, as there were no obligation upon non-taxable entities to maintain reliable accounting records like books of accounts and underlying documentation.

235. The Accounting Records (Maintenance) Act, 2013 (ARMA) was enacted to ensure maintenance and retention of accounting and financial records by companies and other entities. The Act came into force on 9 October 2013 and applies to all entities incorporated or registered under Belizean laws (the Companies Act, the International Business Companies Act, the Protected Cell Companies Act, the International Limited Liability Companies Act, the International Foundations Act, the Mutual Funds Act, the International Insurance Act, the Trusts Act, the Partnerships Act, the Limited Liability Partnerships Act, the Non-Governmental Organisations Act). All types of entities registered under Belize's laws, taxable or not, domestic or international must now keep accounting records.

236. Section 3 (1) of the Accounting Records (Maintenance) Act, 2013 states, "Notwithstanding anything to the contrary contained in any other enactment, every entity shall, in addition to any records required to be kept or maintained under any other enactment, keep its accounting records within Belize at its registered office or, as the case may be, at the office of its registered agent in Belize, or at such other place within or outside Belize as may be determined by its directors or other competent persons: Provided that where the accounting records of an entity are kept outside Belize, such entity shall provide its registered agent in Belize, with a written record of the physical address of the place(s) where the accounting records are kept and notify the registered agent of any change thereto within 14 days".

237. The "accounting records" include financial statements; general and subsidiary ledgers; sales slips; contracts and invoices; and records and documentation relating to:

- an entity's assets and liabilities,
- all sums of money received and expended and the matters in respect of which the receipt and expenditure take place,
- all sales and purchases, and
- all financial transactions.

238. Under the ARMA, the accounting records required to be kept by all relevant entities that carry on a business in Belize shall be accurate and reliable and shall correctly explain and document all financial transactions so as to enable each financial transaction of the entity to be properly constructed and understood, to enable the financial position of the entity to be determined with reasonable accuracy at any time and also to enable the preparation of financial statements for such entity.

239. Each entity has the obligation to keep accounting records within Belize at its registered office or at the office of its registered agent in Belize, or at such other place within or outside Belize as may be determined by its directors or other competent persons. Where the accounting records of an entity are kept outside Belize, such entity shall provide its registered agent in Belize, with a written record of the physical address of the place(s) where the accounting records are kept and notify the registered agent of any change thereto within fourteen (14) days or 28 days. It is the duty of the registered agent to obtain accounting records from wherever they are kept and provide the same to the competent authority in Belize upon request within the time specified in such request.

240. Failure to comply with the provisions of the Accounting Records (Maintenance) Act, 2013 is an offence leading to a fine not exceeding USD 10 000. In addition, the certificate of registration or incorporation or the licence of the entity may be revoked. Where the failure to comply is committed by an "IFS Practitioner" as defined in the International Financial Services Commission Act, or a "service provider" as defined in Regulation 2 of the Trust and Company Service Providers (Best Practices) Regulations, such failure constitutes professional misconduct and may be dealt with under Regulation 33 of the IFS Practitioners (Code of Conduct). Where an entity fails to comply with the provisions of the Accounting Records (Maintenance) Act, 2013, the entity concerned can be struck off the relevant Register (s. 3(5) ARMA, 2013).

241. The Income and Business Tax Act sets the accounting obligations of taxpayers including companies and partnerships: "Every employer or other

person who is or may be required by this Act or rules made hereunder to collect or pay any tax or other amount shall keep in the country records and books of account including an annual inventory in such form and containing such information as will enable the amounts of the taxes payable under this Act or the taxes or other amounts that should have been deducted, withheld or collected to be determined" (s. 32(1) and The Business Tax Guide, no 12). Depending on the business activity and size of the enterprise, the records might be limited to primary books of records including sales invoices, expenses receipts, and bank deposit statements. The Act does not identify the specifics of the books and records to be kept but the adequacy is determined by the Commissioner at his discretion. Finally, the persons carrying on a profession or engaged in business are specifically required to ensure that a record of every transaction in the profession or business is retained (Income and Business Tax Act, s. 32(2)).

242. The books and records are reviewed by the Commissioner and if found to be inadequate, the taxpayer is advised as to the extent of record keeping that is to be kept. Belize has advised that "inadequacy" would be the absence of any accounting for transactions on a cash basis. The Act requires the maintenance of books and the filing of returns on an accrual basis (s. 105(1)) of the Act). The requirements do not expressly address the questions of explaining the entity's transactions, enabling the financial position to be determined with reasonable accuracy at any time and allowing financial statements to be prepared. Finally, section 32 sets an obligation to record the transactions that have a taxable consequence, which might not cover all the transactions of entities, for instance expenses not claimed for deductions. Sub-sections (2) and (3) of Section 32 provide the Commissioner the means to examine all books and records and to identify instances where "a person has failed to keep records and books of account adequate for the purposes of this Act". In any event, these obligations do not apply to entities not subject to taxation, such as companies in Export Processing Zones (EPZ) and Commercial Free Zones (CFZ), IBCs and ILLCs.

243. Section 27(7) of the Trust Act states that the trustee shall "keep accurate accounts and records of his trusteeship". The obligation does not specify the specifics of the books and records that need to be maintained. According to the Belizean authorities, because section 32 of the IBTA does not make a distinction between the types of taxpaying entities, these accounting record keeping obligations also apply to domestic trusts. However, section 32 applies to "persons" which are defined as "a natural person or a legal person and includes a firm, a branch and anybody of persons, whether corporate or unincorporated". Belize has advised that trusts other than international trusts and exempt trusts are considered as covered by this definition. The only provisions of the IBTA that relate to trustees are restricted to trustees of

incapacitated persons (s. 24). It is therefore unclear how the IBTA applies to all domestic trusts. However, domestic trusts are now covered by the ARMA.

244. During the review period, persons found by the Income Tax Department not to be in possession of adequate books of records were assessed on the basis of best judgment and various penalties and fines were applied. The assessments were of two types:

- Best judgment assessment in the ordinary course. In such cases these were persons doing overt business but not in possession of records sufficient enough to identify the gross receipts or the amounts paid to third parties for a particular period. The resulting assessments of such persons included a best judgment assessment of the receipts for the period, with a late filing penalty of 10% per month and late payment interest of 1.5% per month.
- Best judgment fines in instances where the receipts were the result of illegal business or deliberate attempts were made to under-report the revenue. In such instances, the rate of tax was 50% of the estimated or known amounts not reported, with the same late filing penalty of 10% per month.

245. The following table shows the amounts assessed for the years 2011-13 which relate solely to inability to produce sufficient records.

Assessments carried out by the Income Tax Department

Year	No. of persons assessed in ordinary course	Value of assessments including surcharges in ordinary course	No. of persons assessed for "Fines"	Value of assessments under "Fines"
2011	23	183 578	9	68 900
2012	14	493 774	11	152 227
2013	17	633 550	7	128 220

246. In 2013, the Commissioner of Income Tax made a request of 250 randomly selected taxpayers to supply the Income Tax Department with audited financial statements or, in the absence of such statements, internally generated financial records which included at minimum two fundamental statements (statement of operations and balance sheet). The 250 persons (all registered taxpayers) included the top 100 largest taxpayers and another randomly selected 150 taxpayers. The compliance rate was 96% as 238 submissions were made.

247. The Commissioner has been sending out similar requests for documentation and the compliance rate (last monitored at the end of April 2014)

indicated almost full co-operation, with only two persons questioning the obligation to actually supply the records as opposed to having them available for verification. A second wave of requests is being prepared for NGO's and persons otherwise exempted from tax due to Export Processing Zone or Commercial Free Zone provisions. This should begin July 2014

248. PCCs may only be incorporated as a mutual fund authorised under the Mutual Funds Act (MFA) or be registered to conduct international insurance business under the International Insurance Act (IIA). Hence, the record keeping obligations of PCCs shall be regulated by the MFA and the IIA. In the case of mutual funds, every registered public fund must maintain adequate accounting records and financial statements available for examination by the Registrar at its principal place of business or registered office in Belize or such other place if copies are kept at the registered office in Belize (MFA, s. 13). As for the understanding of the term "adequate accounting records", section 13 of the MFA states that the financial statements should be maintained as per generally accepted accounting principles. Section 13(2) of the MFA also provides that the financial statements must be audited by an auditor acceptable to the Registrar in accordance with generally accepted accounting standards.

249. In the case of PCCs that are incorporated to carry out insurance business under the IIA, the Act specifies in section 14 that every registered insurer shall keep and maintain business records in its registered office in such a manner that its transactions and financial position is correctly recorded and also in such a manner that true and fair accounts can be prepared from time to time. Section 13 of the IIA specifies that "business records" include accounting, policy and claims records of the registered insurer and such working papers and other documents as are necessary to explain the methods and calculations by which its accounts are made up. Section 13 further states that "accounts" means profit and loss accounts and balance sheets, and include notes (other than directors' reports) attached to, or intended to be read with, any of those profit and loss accounts or balance sheets. Accordingly, the record keeping obligations on a PCC are specific and to the standard.

250. NGOs are required to keep accounts and other records in relation to their business and must prepare audit statements for submission to the Registrar, annually (NGOA, s. 15), prepared along a form that conforms to the best commercial and accounting standards. The Registrar for NGOs is based in the Ministry of Human Development. However, the supervisory authority for NGOs is the FIU. The FIU is planning to start soon on-site visits to monitor the keeping of accounting records and other AML-CFT obligations by NGOs and other entities falling under the jurisdiction of the FIU.

251. Pursuant to the International Foundations Act (Part IX, s. 84), a foundation must keep such accounts and records as its foundation council considers necessary or desirable in order to reflect the financial position of the foundation. This requirement is unclear, as it is unclear what records this would require. However, foundations are now covered by the ARMA.

252. According to the Belizean authorities, the on-site visits carried out towards the end of 2013 also focused on the keeping of accounting records by various entities falling under the jurisdiction of the IFSC. However, only three service providers were inspected. These visits did not cover the international foundations and PCCs.

253. All banks, financial institutions and credit unions licensed and registered by the Central Bank are required to keep accounting records in accordance with international standards, in addition to the requirements related to their legal form (company, etc.). These institutions are also audited by an external auditor on an annual basis. In the case of banks, the audited statements are published in a newspaper in Belize (s. 31 IBA, Part VII of Credit Union Act; see further below Section A.3 on banking information). There is no clear explanation available as to what is meant by "international standard" in this context except that the revised Credit Union Act requires that all credit unions comply with the IFRS standards.

254. During the review period, one peer sent a request for accounting information in respect of an IBC to Belize on 26 March 2012. Belize received the request on 10 April. On 16 April part of the information was supplied and the remaining information was sent to the partner on the 3 May 2012. The information was thus provided within 90 days. This request was made before the enactment of the Accounting Records (Maintenance) Act, 2013.

255. Belize's ability to effectively exchange accounting information in all circumstances under the new legislation has not been significantly tested. This has to be seen in the context of the gaps that existed in the legal framework of Belize during the review period.

256. After the entering into force of the Accounting Records (Maintenance) Act, 2013 a very few number of entities were inspected with regard to the accounting keeping requirements. The Director General of IFSC who is the Registrar of various entities (IBCs, ILLCs, PPCs, international trusts and international foundations) started inspections of the service providers in late 2013 and found that one of the three visited failed to keep the records of its clients. The service providers explained that since the law (the Accounting Records (Maintenance) Act, 2013) doesn't require the records to be necessarily kept in Belize, the entity is only obliged to tell the service provider where the records are kept and ensure that it provides them to the service provider upon request.

Underlying documentation (ToR A.2.2)

257. Taxpayers are required to keep proper books and records of accounts along with supporting documents for inspection by officers of the Income Tax Department as and when requested (Income and Business Tax Act, s. 32 and The Business Tax Guide, no 12). The IBCA further provides that every person carrying on a profession or business in which charges are made to members of the public must have separate records of every service transaction made in the course of that profession or business except where otherwise authorised in writing by the Commissioner (s. 32(2)).

258. The Accounting Records (Maintenance) Act, 2013 provides that accounting records must be accurate and reliable and correctly explain and document all financial transactions so as to *(i)* enable each financial transaction of the entity to be properly constructed and understood, *(ii)* enable the financial position of the entity to be determined with reasonable accuracy at any time and *(iii)* enable the preparation of financial statements for such entity. According to the Act, the "accounting records" include financial statements; general and subsidiary ledgers; sales slips; contracts and invoices; and records and documentation relating to:

- an entity's assets and liabilities,
- all sums of money received and expended and the matters in respect of which the receipt and expenditure take place,
- all sales and purchases, and
- all financial transactions.

259. As has been mentioned earlier, this new law has not been tested in practice.

Document retention (ToR A.2.3)

260. The Income and Business Tax Act (s. 32(4)) requires that records and books of account be kept for a period of six years. The Commissioner may authorise the discard of those records within the six years limit, in limited instances (IBCA, s. 63(1)). His/her discretion might be exercised under circumstances including a total destruction of business operations or in cases where a business has closed or the taxpayer is deceased. Section 32(5) of the IBTA states that the contravention of the provisions related to the duty of retention of books and documents is an offence. Section 86 of the IBTA states that any person who is guilty of an offence against the Act for which no punishment is otherwise specified, is liable on summary conviction to a fine not exceeding USD 500, and in default of payment to imprisonment for a term not exceeding six months.

261. Reporting entities as listed in the First Schedule of the MLTPA must keep transaction records of special transaction for a period of five years.

262. The Accounting Records (Maintenance) Act, 2013 now provides that all accounting records shall be retained for a period of not less than five years following the closure of an account, or the end of a transaction, or the termination of a business relationship, whether such relationship is a one-off, regular, or habitual relationship.

Determination and factors underlying recommendations

Phase 1 determination
The element is in place.

Phase 2 Rating	
Largely compliant	
Factors underlying recommendations	**Recommendations**
The new legislation which obliges all relevant entities to maintain accounting records and underlying documentation for at least 5 years is very recent and has not been tested in practice.	Belize should monitor the enforcement of the new law to ensure that accounting records and underlying documentation are available in respect of all entities. Belize should also put in place an oversight system of all entities with regard to the accounting keeping requirements

A.3. Banking information

Banking information should be available for all account-holders.

263. Access to banking information is of interest to the tax administration when the bank has useful and reliable information about its customers' identity and the nature and amount of their financial transactions. Belize's legal framework regarding the banking sector derives from three laws: the Central Bank of Belize Act, Domestic Banks and Financial Institutions Act and the International Banking Act. The Belize has very recently amended this framework. A new Domestic Banks and Financial Institutions Act, 2012 (No. 11 of 2012) came into force on 1 January 2013, repealing the Banks and Financial Institutions Act.

Record-keeping requirements (ToR A.3.1)

264. Domestic banks are licensed and operate under the Domestic Banks and Financial Institutions Act (DBFIA), and international banks are licensed and operate under the International Banking Act. The Central Bank has been designated under the MLTPA as the supervisory authority responsible for ensuring compliance of all banks with the obligations of the MLTPA. The Central Bank published in June 2010 AML/CFT Guidelines which outline amongst other requirements, account opening requirements and general customer identification requirements. The Guidelines are published on the website of the Central Bank (www.centralbank.org.bz).

265. The MLTPA requires reporting entities to establish and verify the identity of any customer by requiring the customer to produce an identification record (MLTPA, s. 15(1)). When conducting transactions with a legal entity, information is required in respect of its directors, "ultimate beneficial owners" and authorised signatories. The type of supporting information required of owners including beneficial owners include photo identification (copy of passport), banker's reference, attorneys or accountant's reference, and a copy of a utility bill showing the place of residence (MLTPA, s. 15(3)). The AML/CFT Guidelines issued by the Central Bank further describe explicitly know your customer due diligence procedures and provide forms for customer verification of identity and reports to the Financial Intelligence Unit. The Guidelines apply to all entities in Belize that are licensed under the BFIA and IBA. In the case of a corporate customer, the Guidelines define "ultimate beneficial owners" as the natural persons with a minimum 10% controlling interest (reg. 88).

266. A financial institution acting as a trustee or providing services to a trust should obtain the name of the trust, nature and type of trust, country of establishment and the identity of the ultimate natural persons providing the funds, if different from the settlor. In addition, identification evidence for the settlor, protector, controller or other persons exercising effective control must be available (reg. 103, 104). For foundations, a financial institution must obtain identification evidence for the founder(s) and officer and council members who may be signatories for the accounts of the foundation (reg. 117). The Guidelines include no rules for penalties where these obligations are breached. It is unclear how the Central Bank can enforce the compliance of financial institutions without any legal provisions. The new Domestic Banks and Financial Institutions Act makes non-compliance with Guidelines an offence and punishable as such. This Act prescribes a fine of USD 10 000 for every contravention and a fine of USD 5 000 for every day that the contravention continues.

267. The MLTPA (s. 16(1)(a)) requires reporting entities – including banks – to establish and maintain records of all transactions. Within the meaning of the law, a transaction includes:

- opening of an account;
- any deposit, withdrawal, exchange or transfer in any currency whether in cash or by cheque, payment order or other instrument or by electronic or other non-physical means;
- the use of a safety box or any other form of safe deposit;
- entering into any fiduciary relationship;
- any payment made or received in satisfaction of any contractual or other legal obligation;
- any payment made in respect of lotteries;
- an act or combination of acts performed for or on behalf of a client in connection with purchasing, using or performing one or more services;
- such other actions, as may be prescribed by the Minister by Order published in the Gazette. Belize indicates that no such order has been made so far as the definition of "transaction" was wide enough.

268. These records must be kept for a period of at least five years from the date the relevant business or transaction was completed or termination of the business relationship, whichever is the later. The records must contain particulars sufficient to identify the name, address and occupation or, where appropriate, business or principal activity of each person conducting the transaction or if known, on whose behalf the transaction is being conducted, as well as the method used by the reporting entity to verify the identity of each person (MLTPA, s. 16(3)).

269. Every reporting entity that fails to comply with the above requirements is liable to a fine of up to USD 5 000 by the FIU.

270. There are sufficient legal obligations in place for banks and other financial institutions to maintain all records pertaining to accounts as well as to related financial and transactional information in Belize.

271. As at December 2013, there were 32 regulated financial institutions in Belize. They include six Domestic Banks, six International Banks, two Financial Institutions, 12 Credit Unions and five Money Transfer Services Providers.

272. The CBB requires institutions to submit multiple returns. These are filed weekly, monthly, quarterly, bi-annually and annually. These returns

contain information regarding the components of an institution's balance sheet statements, income statements, anti-money laundering risk assessment, capital adequacy and liquidity. Four months after the end of the financial year, financial institutions should furnish to the CBB, a list of all shareholders, the number of shares held and the percentage of the class represented.

273. To address shortcomings revealed in the Caribbean Financial Action Task Force (CFATF) Mutual Evaluation Report, the Central Bank of Belize established an anti-money laundering (AML) unit that is staffed by three bank examiners, two of whom are Certified AML Specialists. These staffs carry out off-site and on-site AML compliance examinations. The objective of such examinations is to ensure that the reporting entities (banks and financial institutions) comply with the AML obligations, including the obligation to conduct the required CDD and the obligation to have an AML policy and an AML compliance officer. The AML unit checks the accuracy of the prudential returns filed electronically by the banks. The documents related to identification of clients and the retention of documents are also checked. Prior to the on-site visit, a questionnaire is sent to the banks, financial institutions and credit unions. The questionnaire contains 44 questions divided into six categories:

- General AML/CFT Policies, Practices and Procedures:
- Risk Assessment
- Know Your Customer, Due Diligence and Enhanced Due Diligence
- Reportable Transactions and Prevention and Detection of Transactions with Illegally Obtained Funds
- Transaction Monitoring
- AML/CFT Training.

274. The CBB uses the questionnaire to better understand the level of compliance the institution has with the laws and guidelines. It also helps to identify potential weaknesses in the compliance function which would require scrutiny during the examination. To verify whether CDD obligations are met, examiners test the account opening processes and monitoring of business relationships including verification of the source of funds.

275. The inspection covers the licensee's records, documents, business premises and assets wherever they may be kept. The CBB carried out five on-site visits in 2011, seven in 2012 and four in 2013. No major issue were detected and no sanctions needed to be levied.

276. From 2011 to 2013, the number of Regulated Financial Institutions under the regulation of the Central Bank of Belize was almost the same (from

33 to 32). In 2013, there were 15 banks and financial institutions, 12 credit unions and five money transfer Services Providers. Among those registered financial institutions, 13 were audited in 2011, 18 in 2012 and 10 in 2013. In 2011, 30 sanctions were levied which amounted to USD 23 400. For 2012, 16 sanctions were levied amounting to USD 956 000. In 2013, there were 15 sanctions levied amounting to USD 20 200. As a result, the effectiveness of the enforcement provisions as regard the AML obligation of the financial institutions is ensured by the Central Bank. The Central Bank also organises training sessions for the financial institutions on their AML obligations.

277. Belize exchanged banking information once during the three years under review. The requested information was provided in a timely manner. No deficiency has been noticed in the availability of banking information.

Determination and factors underlying recommendations

Phase 1 determination
The element is in place.

Phase 2 Rating
Compliant

B. Access to Information

Overview

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

279. The Income and Business Tax Act gives the power to the Minister of Finance to enter into TIEAs and DTCs, which must be incorporated into orders to get the force of law. TIEA Orders give the competent authority broad access powers to any information held by any person in Belize and these information gathering powers are not subject to Belize requiring such information for its own tax purposes. Belize's TIEA Orders stipulate penalties in cases of non-compliance.

280. Corresponding rules and regulations with regard to the CARICOM Agreement and the DTC with Austria are now expressly available. Belize has amended the Income Tax (Avoidance of Double Taxation) (Caricom) Act, to ensure that the competent authority under the CARICOM Agreement may exercise all the powers available to the Commissioner of Income Tax under the IBTA to obtain information, and no restrictions on the disclosure of information shall apply to any such request for information notwithstanding any provision in any other law to the contrary. Prior to this amendment, there were no express legal provisions by which the competent authority could exercise the information gathering powers available to the Commissioner of Income Tax. The same concern applied to the DTC with Austria, but on 8 December 2012, by Statutory Instrument No. 106, Belize has extended the powers available to the Commissioner to the competent authority for the DTC with Austria.

281. Since 1 January 2013, the relationship between the secrecy and disclosure provisions in Belize's bank law and the TIEA Orders is clear. With the enactment of the new banking law, the Domestic Banks and Financial Institutions Act, 2012 (DBFIA), all restrictions on the disclosure of banking information when sought pursuant to a DTC or TIEA have been lifted.

282. There are no special notification rights under Belizean law.

283. Belize has signed and ratified the Multilateral Convention on May 2013. The Convention came into force in respect of Belize on 1 September 2013. On 27 June 2014, Belize has enacted a new law, the Mutual Administrative Assistance in Tax Matters Act, 2014 (No. 15 of 2014), to give effect to the Convention.

284. In practice, the Belizean competent authority has exercised its powers to gather ownership, accounting and banking information to answer EOI requests under the TIEAs and DTCs.

285. Elements B.1 and B.2 are rated "compliant".

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).

286. The competent authority to gather and exchange information in Belize is the Minister of Finance or his/her authorised representative with regard to all Tax Information Exchange Agreements (TIEAs), the Double Tax Convention (DTC) with Austria, and the CARICOM Agreement.

287. The DTCs from 1947 with the United Kingdom and 1961 with Switzerland provide that the competent authority for Belize is the Commissioner of Income Tax. These instruments do not meet the standard (see Part C below) but a much more recent TIEA entered into force with the United Kingdom. In addition, the Belizean authorities hold that the DTC between the UK and Switzerland of 1954, the scope of which extended to the former British Honduras, no longer applies to Belize because of the independence of Belize in 1981. However, the Belizean authorities made a declaration to the Secretary General of the United Nations at the time of their independence, according to which Belize had decided to continue to apply provisionally and on the basis of reciprocity all treaties to which the UK was a party, the application of which was extended to Belize, until Belize otherwise notifies the state party. Switzerland did not receive notification of termination of the treaty. These DTCs are not further referred to in this section.

288. The type of EOI instrument (TIEA or DTC) determines the type of access powers the competent authority may have or not.

289. First, the Income and Business Tax Act (IBTA, s. 95A) gives the Minister of Finance the power to enter into TIEAs which must be incorporated in an Order published in the Official Gazette. Section 95A also provides that "An Order made under this section may contain such ancillary or consequential provisions for obtaining information or otherwise as may be necessary to give full effect to the tax information exchange agreement concerned". The powers to access information for the purposes of EOI are found in these TIEA Orders which have the force of law (IBTA, s. 95A). In practice, all orders taken to date have the same wording and the competent authority is delegated to the Financial Secretary. The Financial Secretary is supported in this task by the Director General of the International Financial Service Commission (IFSC). There is no EOI Unit in Belize under any of the competent authorities. The Director General of IFSC personally handles the gathering of information for EOI purposes with the assistance of a monitoring officer.

290. Second, the IBTA (s. 50) similarly gives the Minister of Finance the power to enter into DTCs which must be incorporated in an Order published in the Official Gazette. Section 50(6) further indicates that "the Minister may make rules for carrying out the provisions of any arrangements having effect under this section", and rules on the DTC with Austria have been instituted and the Act on the CARICOM Agreement has been amended: the competent authority for the DTC with Austria and the CARICOM Agreement have been given the new access powers as are enjoyed by the Commissioner of Income Tax under section 33 of the IBTA: "For the purpose of complying with a request for information pursuant to the Agreement, the Competent Authority may exercise all the powers available to the Commissioner of Income Tax under section 33 or any other provision of the Income and Business Tax Act to obtain information, and no restrictions on the disclosure of information shall apply to any such request for information notwithstanding any provision in any other law to the contrary" (Income Tax (Avoidance of Double Taxation) (Caricom) Act, new section 5A).

291. As mentioned above, each TIEA signed by Belize needs an Order which, upon publication in the Official Gazette has the force of law in Belize. The Order provides the competent authority with the powers to gather information for the purposes of EOI. Belize signed the Multilateral Convention on the 29 May 2013 and it came into force on the 1 September 2013.

292. Until June 2014, there was no provision in Belize's domestic law to provide the competent authority with powers to obtain information under the Multilateral Convention. Section 95A of the Income and Business Tax Amendment Act No. 6 of 2009 was specifically enacted to enable and

provide a framework for the establishment of bilateral TIEAs, with a view to applying international standards on transparency and effective exchange of information relating to tax matters. This Act does not cover multilateral agreements. Opinion was divided in Belize as to whether section 95A of the IBTA Amendment Act, 2009 is applicable to a Multilateral Convention.

293. On 27 June 2014, Belize enacted a special law – the Mutual Administrative Assistance in Tax Matters Act, 2014 (No. 15 of 2014) – to give legal effect to the Multilateral Convention. Under this law, the competent authority for the application of the Multilateral Convention is the Financial Secretary. Where the competent authority is satisfied that a request for information from a Member State falls within the terms of the Convention, the competent authority may in writing require any bank, financial institution, reporting entity, supervisory authority, IFS Practitioner, Trust Agent, Registered Agent of International Business Companies, Foundations or International Limited Liability Companies, Service Providers, Registrar of (local) Companies, Registrar of International Business Companies, Registrars of domestic and International Trusts, Registrar of Foundations, Registrar of Limited Liability Partnerships, Registrar of International Limited Liability Companies, Supervisor of (domestic) Insurance, Supervisor of International Insurance, taxing authority, public statutory corporations, public officers, or any other person, who the competent authority believes may have relevant information, to furnish such information or produce such documents as may be required to comply with the request for information.

294. Section 7 of the mutual administrative assistance in tax matters Act, 2014 provides that every person who is required by the competent authority to provide information or produce documents pursuant to this Convention shall provide the requisite information or documents as soon as possible but no later than 30 days from the date of the request for information. Every person who refuses or fails to supply such information or documents to the competent authority, or wilfully supplies false or misleading information, shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding two years, or to both such fine and term of imprisonment.

295. Belize has not yet received any EOI request under the Multilateral Convention. However, its domestic legal framework sufficiently allows the exchange of information based on this instrument. The gathering powers given to the competent authority under this convention is same as for other information exchange instruments signed by Belize (TIEAs and DTCs).

296. The access powers for replying to a request are further analysed below.

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

297. Under all TIEAs and the associated TIEA Orders, the competent authority has the power to obtain any relevant information from a taxpayer or a third party without limitation pursuant to section 4(1) of each TIEA order, including ownership and accounting information:

> Where the Financial Secretary is satisfied that a request for information from the competent authority of the [requesting Party] falls within the terms of the Agreement, he may under his hand require any bank, financial institution, reporting entity, supervisory authority, IFS Practitioner, Trust Agent, Registered Agent of foundations, Registrar of (local) Companies, Registrar of International Business Companies, Registrars of domestic and International Trusts, Registrar of Foundations, Registrar of Limited Liability Partnerships, Supervisor of (domestic) Insurance, Supervisor of International Insurance, taxing authority, public statutory corporation, public officer, or any other person, who the Financial Secretary believes may have relevant information, to furnish such information or produce such document as may be required to comply with the request for information.

298. Section 4(2) further provides that every person so required to provide information or produce documentation must provide it within 30 days (TIEA Orders, s. 4(2)).

299. The Minister of Finance, the competent authority for the purposes of the DTC with Austria and the CARICOM Agreement, now may exercise all the powers available to the Commissioner of Income Tax under section 33 or any other provision of the Income and Business Tax Act to obtain information. Section 33 of the IBTA gives the Commissioner of Income Tax the power to enter any premises and audit or examine books and records, examine property described in an inventory and seize or retain such books, records, accounts and other documents that seem relevant to the proceedings. However, the authority is not delegated to any person; it is therefore expected that the Minister himself would make use of the gathering powers of the Commissioner. This seems rather improbable. The application of this provision is unclear as it seems impracticable in many respects. The Belizean authorities however indicate that there is little trade or travel between Austria and Belize and that the EOI provisions in the treaty are unlikely to be used intensively. The Belizean authorities similarly note that the CARICOM Agreement has not been used for EOI in practice.

300. In practice, six EOI requests related to ownership and identity information and accounting records were received by Belize during the review period. Belize could provide the requested information. Once a request is received by the Financial Secretary, it is forwarded to the Director General of the IFSC for processing. The IFSC has so far been the only agency involved in collecting and supplying information in response to EOI requests.

301. When the required information is in the possession of the Income Tax Department (which is under the administrative control of the Financial Secretary), it is supplied immediately. When the information is in the hands of another government authority, it is obtained from such department because the competent authority who is the Financial Secretary has a broad power to gather information for exchange purposes. In all TIEA Orders, including the Mutual Administrative Assistance in Tax Matters Act, 2014, it is said that "where the Financial Secretary is satisfied that a request for information from the competent authority of [state] falls within the terms of the Agreement, he may under his hand require any […], taxing authority, public statutory corporations, public officers, or any other person, who the Financial Secretary believes may have relevant information, to furnish such information or produce such document as may be required to comply with the request for information. Every person who is required by the Financial Secretary to provide information or produce documents […] shall provide the requisite information or documents as soon as possible but no later than thirty (30) days from the date of the request for information"

302. In case the information is in the possession or control of a third party such as a service provider, a formal request is made under para 4 of the applicable TIEA Order. The Director General of the IFSC sends a written notice to the information holder, which specifies the information requested and the Order under which the information is requested. The information holder has 30 days to supply the information. During the review period, the competent authority had to go to service providers to answer all requests.

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

303. The concept of "domestic tax interest" describes a situation where a contracting party can only provide information to another contracting party if it has an interest in the requested information for its own tax purposes.

304. The information gathering powers of the Financial Secretary under the TIEA orders are specific to EOI and not related to any domestic tax interest. He/she may exercise these information gathering powers upon the receipt of "a valid request pursuant to" an EOI agreement. Similarly, the Minister of Finance can use the information gathering powers of the Commissioner of

Income Tax in the absence of any domestic tax interest. There has been no issue with the information gathering powers as regards domestic tax interest during the three years review period. None of the peers have reported anything adverse in this regard.

305. Belize is in a position to exchange all types of information absent a domestic tax interest in the information being exchanged. This is evident from the fact that Belize has been able to exchange information about IBCs despite the fact that they are not subject to tax in Belize.

Compulsory powers *(ToR B.1.4)*

306. Each TIEA Order stipulates penalties – fines and/or imprisonment – if a person who is required to provide information does not comply with a notice of the competent authority within the specified time, or otherwise wilfully supplies false or misleading information. The offender is liable on summary conviction to a fine not exceeding BZD 5 000 (USD 2 500) (and/or imprisonment for a term not exceeding two years. Para 4 of the Double Taxation Relief (Taxes on Income and Capital (Austria) Order, 2012 and the CARICOM Act provide that not only section 33 on gathering powers, but also "any other provision of the Income and Business Tax Act to obtain information" apply. The penalties that may be levied by the tax authorities shall apply for obtaining information for EOI purposes under the DTC with Austria and CARICOM Agreement also. This penalty is a fine of at least USD 500 and non-payment could lead to imprisonment of up to six months.

307. During the review period, the Director General of the IFSC required five registered agents to provide ownership and accounting information on entities incorporated in Belize. None refused to supply the requested information. According to Belize, in one case the service provider pointed out that the retention period of five years had expired and that the records had been consigned to the Company's archives at a different location. The service provider was asked to retrieve the records from the archives and supply whatever information was available. The service provider complied with the request and supplied the information that could be retrieved. The requesting jurisdiction was satisfied with the response. Therefore, it was not necessary to levy any penalty for failure to provide information to the competent authority.

308. As regard accounting records, each entity is obliged to keep the records at its registered office in Belize, at its service provider's office in Belize or at some other place within or outside Belize and inform the registered agent in Belize, of the place where they are kept. However, it is the responsibility of the service provider to obtain accounting records (wherever they may be kept) and provides the same to the Belizean competent authority within the time specified by the competent authority. Such an occasion arose

once during the review period and the registered agent provided the requested accounting information within the stipulated time.

309. Banking information was sought in one request. The bank provided it to the competent authority in a timely manner.

310. The Orders that give effect to the TIEAs do not contain a provision authorising the competent authority to enter premises or execute searches or seizures. According to the Belizean authorities, there was no need to give the competent authority the power of search and seizure as that would have been excessive and unnecessary bearing in mind that the non-supply of information under the TIEAs is a criminal offence.

311. The Minister of Finance, as competent authority for the implementation of the DTC with Austria and the CARICOM Agreement, can use the power of search and seizure given to the Commissioner of Income Tax under section 33(5) of IBTA: "The Commissioner may, for any purpose related to the administration or enforcement of this Act, authorise in writing any senior officer of his department when accompanied by a Police Officer to enter and search, by force, if necessary, any building, receptacle or place for documents, books, records or other things which may afford evidence of a violation of this Act or of a rule made thereunder and to seize, take away and retain any such documents, books, records or other things". The Belizean authorities however indicate that it has seldom been used in practice as it is not considered necessary.

312. During the review period, the competent authority of Belize effectively used its compulsory powers to answer the requests. The absence of search and seizure powers for EOI did not in any way hinder effective EOI.

Secrecy provisions *(ToR B.1.5)*

313. Jurisdictions should not decline on the basis of secrecy provisions (e.g. bank secrecy, corporate secrecy) to respond to a request for information made pursuant to an exchange of information mechanism. Belize has a number of secrecy and confidentiality provisions in various pieces of legislation.

Bank secrecy

314. The confidentiality provisions applicable to information held by banks and insurers is found in the relevant governing Acts. Belize has just enacted a new Domestic Banks and Financial Institutions Act, 2012 (DBFIA), which came into force on 1 January 2013 (and repealed the BFIA). A confidentiality duty is found in section 84 of this Act. Pursuant to this section, all information held by the Central Bank regarding banks and financial entities

is confidential. There is no other provision on the confidentiality duty of the banks themselves on the affairs of their customers. However, section 84(7) reads, "The restrictions contained in this section or any other provisions of this Act on the disclosure of information shall not apply to a request for information pursuant to Tax Information Exchange Agreement or a Double Taxation Agreement entered into by Belize". This provision was added because the previous banking law did not have any exceptions to the secrecy obligations that were placed upon banks besides to designated officers of the Central Bank and foreign supervisory or regulatory authorities for their lawful supervisory or regulatory purposes; to the licensee's external auditors; or by court order. Belize has confirmed that the new DBFIA which came into force on 1 January 2013 will cover all information held by banks whether kept before or after the said date. A similar provision has also been provided in the Section 6 of the Mutual Administrative Assistance in Tax Matters Act, 2014 (s. 7(1)) as follow: "No restrictions on the disclosure of information contained in any other law shall apply to a request for information pursuant to the Convention and no suit for breach of confidentiality or other such action shall lie against any person who discloses information, produces documents or renders other assistance in compliance with a request for information under this Act". In respect of the secrecy provisions contained in the International Banking Act, an exception is created that allows for disclosure of information that is lawfully required or permitted by any law of Belize. In any case, the DBFIA covers international banks also.

315. The TIEA Orders and the Mutual Administrative Assistance in Tax Matters Act, 2014 provide that no restriction on the disclosure of information contained in other laws shall apply for EOI purposes, and that no suit for breach of confidentiality or other such action shall lie against any person who discloses information, produces documents or renders other assistance in compliance with a request for information under this Order (section 4(4)). The CARICOM Act and the Austria Order that integrate the treaties into domestic law contain similar provisions.

316. Belize received one request for banking information during the review period. The bank which held the information was asked to provide it within 30 days. The information was supplied within three weeks to the competent authority. There was no practical impediment concerning banking secrecy or any other matter in answering this request.

Professional secrecy

317. Pursuant to section 62(6) of the International Limited Liability Companies Act, ILLCs confidential information includes any information or communication concerning the membership or beneficial ownership of any interest in an ILLC, the identity of any member or the management, business

or financial affairs and transactions, assets, liabilities and the existence of or the contents of any documentation. The IBCA does not contain any confidentiality provision.

318. The Trusts Register of international trusts is confidential. The Registrar is not allowed to disclose any information contained in the Register to any person without the trustee's or trust agent's written authorisation. Disclosure is permitted only in criminal cases upon the request of the prosecuting law enforcement authorities (Trust (Amendment) Act, s. 65C(2)).

319. Concerning foundations, information regarding the identity of founders, beneficiaries etc. is available and must be disclosed upon a court order or written request of the Finance Intelligence Unit or other competent authority, pertaining to the exchange of information for purposes of determining, assessing or collecting tax, the recovery and enforcement of tax claims or the investigation or prosecution of criminal tax matters (s. 104 c).

320. The TIEA Orders (para 4) and the Mutual Administrative Assistance in Tax Matters Act, 2014 provide that for EOI purposes no restriction on the disclosure of information contained in other laws shall apply, and that no person who discloses information breaches the confidentiality rules. The relationship is unclear between the TIEA orders and the Mutual Administrative Assistance in Tax Matters Act, 2014 and the laws governing the confidentiality of some information related to ILLCs and international trusts, as the relevant laws do not contain an explicit exception to the confidentiality obligation in favour of the competent authority, similar to what is done in some other laws such as the one on foundation. The Belizean authorities are of the view that para 4 of the TIEA orders and section 7 of the Mutual Administrative Assistance in Tax Matters Act, 2014 unequivocally allows exchange of all information, notwithstanding what may be contained in any other law, as they follow the twin principles that a special law will prevail over general law and a law that is later in date will trump an older law.

321. According to peers, six requests for EOI were sent to Belize within the period under review. The Belizean authorities have effectively provided information for all of them (see section C.5 below). The six EOI requests involved IBCs and ILLCs. The service providers were required to provide the information, except the one request where banking information was sought (the banking information was obtained from the bank institution in a timely manner). No issue concerning professional secrecy has arisen in accessing any of the requested information.

Attorney-Client Privilege

322. Pursuant to the Evidence Act, 2000 a legal adviser or his/her client is not compelled to disclose any confidential communication, oral or written, which passed between them, directly or indirectly through an agent, if such communication was made for the purpose of obtaining or giving legal advice. The communication must have been made to or by the legal adviser in his/her professional capacity or by the client while the relationship of client and legal adviser subsisted, whether or not litigation was pending or contemplated to entitle the client to claim privilege from disclosure. No claim of privilege from disclosure is allowed if the communication between a client and his/her legal adviser was made for the purpose of committing a fraud, crime or other wrongful act.

323. The TIEA Orders and the Mutual Administrative Assistance in Tax Matters Act, 2014 explicitly provide that no restriction on the disclosure of information contained in any other law shall apply to a request for information pursuant to a TIEA and the Mutual Administrative Assistance in Tax Matters Act, 2014 and no suit for the breach of confidentiality or other such action shall lie against any person who discloses information, produces documents or renders other assistance in compliance with a request under the specific TIEA or under the Convention on Mutual Administrative Assistance in Tax Matters. Under the TIEA Orders and the Mutual Administrative Assistance in Tax Matters Act, 2014, all professionals acting as nominees or in an agency or fiduciary capacity must provide information as requested by the Financial Secretary. This would apply even to lawyers when they act as nominees, agents or in any other fiduciary capacity (TIEA Orders, s. 4(1)). There was no default in providing information to the competent authority during the review period as regards Attorney-client privilege.

Determination and factors underlying recommendations

Phase 1 determination
The element is in place.

Phase 2 Rating
Compliant

B.2. Notification requirements and rights and safeguards

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

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

324. Rights and safeguards should not unduly prevent or delay effective exchange of information. For instance, notification rules should permit exceptions from prior notification (e.g. in cases in which the information request is of very urgent nature or the notification is likely to undermine the chance of success of an investigation conducted by the requesting jurisdiction).

325. There are no special notification rights under Belizean laws. The TIEA Orders and the Mutual Administrative Assistance in Tax Matters Act, 2014 govern that every person who is required by the Financial Secretary to provide information must do so as soon as possible but not later than 30 days from the request for information (s. 4(3)).

326. In the period following 1 January 2013, the competent authority under the DTC with Austria and the CARICOM Agreement have been given the same access powers as the Commissioner of Income Tax, under section 33 of the IBTA. No appeal right is provided under the domestic instruments incorporating the Austria DTC and the CARICOM Agreement into Belizean law. Belize allows a general right of appeal to its citizens under its Constitution. Further, the Belizean authorities hold that since there is no notification procedure in the EOI procedures of Belize, the possibility of the taxpayer making an appeal and obtaining an injunction against the competent authority is remote.

327. No person has so far appealed against the Belizean competent authority, in any matter related to exchange of information for tax purposes.

Determination and factors underlying recommendations

Phase 1 determination
The element is in place.

Phase 2 Rating
Compliant

C. Exchanging Information

Overview

328. Jurisdictions generally cannot exchange information for tax purposes unless they have a legal basis or mechanism for doing so. In Belize, the legal authority to exchange information is primarily derived from Tax Information Exchange Agreements (TIEAs) as well as from domestic law. A few double taxation conventions (DTCs) exist. Belize has also signed and ratified the Multilateral Convention which has been in force in respect of Belize since 1 September 2013. This section of the report examines Belize's network of information exchange arrangements against the standards and the adequacy of its institutional framework for effective exchange of information in practice.

329. Belize's network for exchange of information is made up of 108 agreements which cover 89 jurisdictions. Agreements with 77 jurisdictions are in force and consist of TIEAs, a multilateral double tax convention between members of the Caribbean Community, the DTCs with Austria, Switzerland and the United Kingdom and the Multilateral Convention. The DTCs with Switzerland and the United Kingdom, which are old, do not meet the standard (although there is now also a TIEA in place with the United Kingdom), and the DTC with Austria does not meet the standard since it does not permit the exchange of bank information. As aforementioned, Belize is now party to the Multilateral Convention on Mutual Administrative Assistance. Belize signed two new TIEAs in 2013.

330. Belize's EOI arrangements all contain confidentiality provisions which meet the international standard, and Belize's domestic legislation also contains relevant confidentiality provisions. In addition, Belize's EOI arrangements ensure that the parties are not obliged to provide information that would disclose any trade, business, industrial, commercial or professional secret or information the disclosure of which would be contrary to public policy. The Belizean competent authority has taken concrete measures to prevent any breach of confidentiality and no issue was raised by any EOI partners for the period under review.

331. There are no legal restrictions on the ability of Belize's competent authority to respond to requests within 90 days of receipt by providing the information requested or by providing an update on the status of the request. But in practice, some delays has been noticed.

332. Belize has an EOI database. But there is neither a dedicated EOI unit nor an EOI manual. The Director General of the IFSC (who is also the supervisor of the service providers and the registrar of a number of types of entities) handles all EOI request with one assistant. Belize is of the view that the existing staff are sufficient to handle the EOI requests. However, bearing in mind that Belize now has EOI relationship with 89 jurisdictions, the current organisation of the competent authority is not suitable, in term of level of staffing or system, especially in view of possible increase in the volume of requests.

333. Moreover, there are three different competent authorities in Belize (the Minister of Finance, the Financial Secretary and the Commissioner of the Income Tax Department) for different EOI agreements and some communication difficulties were encountered with EOI partners which may be attributed to the lack of clarity about the correct competent authority.

C.1. Exchange of information mechanisms

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

334. The Income and Business Tax Amendment Act No. 6 of 2009 was specifically enacted to enable and provide a framework for the establishment of bilateral TIEAs which have the force of law in Belize, with a view to applying international standards on transparency and effective exchange of information relating to tax matters. This Act allows the issuance of Orders with force of law in respect of each TIEA signed by Belize. The Orders give wide authority to the Financial Secretary as the delegated competent authority to obtain and supply the information requested in pursuance of a TIEA.

335. To date, Belize has signed 18 TIEAs with Australia, Belgium, Denmark, Faroe Islands, Finland, France, Greenland, Iceland, Ireland, India, Mexico, the Netherlands, Norway, Poland, Portugal, Sweden, South Africa and the United Kingdom. 13 of these are in force as of December 2013. Belize has ratified the other TIEAs (with Belgium, India, Poland, Portugal and Sweden), and is waiting for its treaty partners to complete their internal procedures. The text of four TIEAs has been agreed upon and Belize is waiting for the confirmation of the others parties to sign. These are Canada, the Czech Republic, Korea and Ukraine. Drafts have also been exchanged with some other jurisdictions with a view to signing TIEAs.

336. In addition, Belize has signed a DTC with Austria (2002), the United Kingdom (1947) and benefits from an extension of the United Kingdom's DTC with Switzerland (1961). The DTCs with the United Kingdom and Switzerland do not meet the standards. However, with the conclusion of the TIEA with the United Kingdom, Belize is able to exchange information with this jurisdiction according to the standards.[10] The DTC with Switzerland contains a number of restrictions, of which the most important are that the exchange of information is limited to "information as is necessary for carrying out the provisions of the Convention" and the absence of a provision corresponding with Article 26(5) of the OECD Model Tax Convention regarding bank information. Although many jurisdictions can exchange bank information on a reciprocal basis in the absence of this provision, Switzerland cannot. Belize holds the view that the treaty with Switzerland is not operative as it was entered into (by British Honduras) before independence in 1981. The DTCs with Switzerland and the United Kingdom are not further considered in this section. However, Switzerland and Belize are currently in discussions in order to negotiate a TIEA and Switzerland is also a signatory to the Multilateral Convention.

337. Belize is also a party to the CARICOM agreement (1994), the other 10 parties to which are Antigua and Barbuda, Barbados, Dominica, Grenada, Guyana, Jamaica, St. Kitts and Nevis, Saint Lucia, St. Vincent and the Grenadines, and Trinidad and Tobago.[11] (see Annex 2).

338. The Belizean authorities indicated that they have never refused to enter into TIEA negotiations with any jurisdiction. There are no TIEA requests pending with Belize.

339. Finally, Belize signed the Multilateral Convention on the 29 May 2013. The instrument of ratification was deposited the same day. The Convention thus came into force for Belize on the 1 September 2013. Most of Belize's prominent EOI partners are also parties to the Convention, including the United Kingdom and Switzerland. However, Switzerland and Austria have not yet ratified the Convention and cannot therefore currently exchange information under this instrument.

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10. The DTC with the United Kingdom contains a restrictive EOI provision, since it covers only the information already at the disposal of the tax authorities.
11. This agreement is a double tax convention between member states of the Caribbean Community (CARICOM); its full title is: Agreement among the Governments of the member states of the Caribbean Community for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, Profits or Gains and Capital Gains and for the Encouragement of Regional Trade and Investment. Only the Bahamas, Haiti, Montserrat and Surinam, within the CARICOM, have not signed the CARICOM agreement.

Foreseeably relevant standard (ToR C.1.1)

340. The international standard for exchange of information envisages information exchange upon request to the widest possible extent, but does not allow requests for information that have no apparent nexus to an open inquiry or investigation. It does not allow "fishing expeditions". The balance between these two competing considerations is captured in the standard of "foreseeable relevance" which is included in Article 26(1) of the OECD Model Tax Convention and Article 1 of the OECD Model TIEA.

341. All of Belize's TIEAs provide for the exchange of information that is foreseeably relevant to the administration and enforcement of the domestic laws of the Contracting Parties concerning taxes covered in the TIEAs. The wording of the TIEAs corresponds overall to the OECD Model TIEA.

342. The CARICOM agreement (Art. 24(1)) and the DTC with Austria provide for the exchange for information that is "necessary" for carrying out the provisions of the Agreement or of the domestic laws of the Contracting Parties. The commentary of Article 26(1) of the OECD Model Tax Convention refers to the standard of "foreseeable relevance" and states that the Contracting states may agree to an alternative formulation of this standard that is consistent with the scope of the Article, for instance by replacing "foreseeably relevant" with "necessary" or "relevant". Belize has confirmed adhering to this interpretation. In view of this recognition, these instruments meet the "foreseeably relevant "standard. In practice, Belize has not received any EOI request under the CARICOM agreement or the DTC with Austria.

343. Under Article 2 of the TIEAs concluded with Belgium and Portugal the requested party is under no obligation "to provide information which is neither held by the authorities nor in the possession of nor obtainable by persons who are within its territorial jurisdiction". These provisions use the word "obtainable by" instead of the expression "in the control of" used in Article 2 of the OECD Model TIEA. However, the Belizean authorities consider that there is no material difference between the two terms "obtainable by" and "in the control of". The TIEA with Belgium came into force on March 4, 2013 but so far, Belize did not receive any EOI request from Belgium. The TIEA with Portugal has not yet been ratified by Portugal.

344. During the three-year review period, Belize has not declined any request on the basis that it was not foreseeably relevant. Belize's interpretation of a request being foreseeably relevant is in line with the international standard.

In respect of all persons (ToR C.1.2)

345. For exchange of information to be effective it is necessary that a jurisdiction's obligation to provide information is not restricted by the

residence or nationality of the person to whom the information relates or by the residence or nationality of the person in possession or control of the information requested. For this reason, the international standard envisages that exchange of information mechanisms will provide for exchange of information in respect of all persons.

346. All TIEAs of Belize, the DTC with Austria and the Multilateral Convention provide for exchange of information with respect to all persons. The CARICOM agreement does not specify that EOI is not restricted by Article 1; however its EOI provision applies to "carrying out the provisions of the Convention or the domestic laws of the Contracting States concerning taxes covered by the Convention insofar as the taxation hereunder is not contrary to the Convention". Exchange of information in respect of all persons is thus possible under the terms of this agreement.

347. Belize is in a position to provide information in respect of all persons. No peer has reported any problem in this regard.

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

348. Jurisdictions cannot engage in effective exchange of information if they cannot exchange information held by financial institutions, nominees or persons acting in an agency or a fiduciary capacity. The OECD Model Tax Convention and the Model TIEA, which are authoritative sources of the standards, stipulate that bank secrecy cannot form the basis for declining a request to provide information and that a request for information cannot be declined solely because the information is held by nominees or persons acting in an agency or fiduciary capacity or because the information relates to an ownership interest.

349. Consistently with Article 5(4) of the OECD Model TIEA, all of Belize's TIEAs specifically provide that a contracting state may not decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person.

350. The CARICOM Agreement does not contain provisions similar to Article 26(5) of OECD Model Tax Convention. However, the absence of this paragraph does not automatically create restrictions on the exchange of bank information and the capability of the Parties to exchange bank information depends on their domestic legislation. As stated earlier, Belize has repealed its existing banking law (BFIA) and replaced it with the DBFIA. Under the new law there is no restriction on the access to and exchange of banking information when it is sought under a DTC or a TIEA. Belize effectively exchanged banking information during the review period with one EOI partner.

351. In respect of Belize and the CARICOM Agreement, the obligation to exchange all types of information is only clearly available with respect to Saint Kitts and Nevis, Saint Vincent, Barbados, Grenada, Antigua and Barbuda and the Grenadines, and Saint Lucia for the following reasons:

- Dominica's competent authority cannot access bank information due to secrecy provisions in that jurisdiction;
- For Guyana, there is no information available about the competent authority's power to access bank information or to access ownership, identity and accounting information for the purpose of exchange of information;
- Trinidad and Tobago are only able to access information for the purposes of their TIEA with the United States; therefore, they will not be able to exchange all information under the CARICOM Agreement.

352. The CARICOM Double Taxation Agreement is currently being amended so as to comply with the standards. It is recommended that Belize work with the parties to this Agreement to ensure that exchange of information based on this instrument complies with the required standard.

353. The treaty between Austria and Belize was signed on 8 May 2002 and came into force on 1 December 2003. This treaty is among those under which Austria cannot exchange bank information. Some of the Austrian treaties have been updated since 2009, but the treaty with Belize is not among those. Therefore, this treaty is not up to the international standard as it does not enable the exchange of banking information. In practice, Belize did not receive any EOI request from Austria during the review period.

Absence of domestic tax interest (ToR C.1.4)

354. The concept of "domestic tax interest" describes a situation where a contracting party can only provide information to another contracting party if it has an interest in the requested information for its own tax purposes. An inability to provide information based on a domestic tax interest requirement is not consistent with the international standard. Contracting parties must use their information gathering measures even though invoked solely to obtain and provide information to the other contracting party.

355. All of the TIEAs and the DTC with Austria concluded by Belize explicitly permit the information to be exchanged, notwithstanding that it may not be required for a domestic tax purpose. In addition, Belize's TIEA Orders do not constrain the competent authority's access powers by a requirement that the information must be required for a domestic tax purpose. Of the parties of the CARICOM Agreement, both Jamaica and Trinidad and Tobago can obtain information only from the taxpayers who are under examination

or in the course of their assessment. These domestic tax interests could be an obstacle to the effective exchange of information as reciprocity would not apply.

356. In practice, no concerns in relation to domestic tax interest were raised by Belize's EOI partners.

Absence of dual criminality principles (ToR C.1.5)

357. The principle of dual criminality provides that assistance can only be provided if the conduct being investigated (and giving rise to an information request) would constitute a crime under the laws of the requested jurisdiction if it had occurred in the requested jurisdiction. In order to be effective, exchange of information should not be constrained by the application of the dual criminality principle.

358. None of the DTCs and TIEAs concluded by Belize, nor the CARICOM Agreement or the Multilateral Convention, apply the dual criminality principle to restrict the exchange of information.

359. In practice, no issue linked to dual criminality has arisen.

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

360. Information exchange may be requested both for tax administration purposes and for tax prosecution purposes. The international standard is not limited to information exchange in criminal tax matters but extends to information requested for tax administration purposes (also referred to as "civil tax matters").

361. All of the TIEAs and the DTC with Austria and the CARICOM agreement concluded by Belize as well as the Multilateral Convention explicitly or implicitly provide for the exchange of information in both civil and criminal matters.

362. All the EOI requests received by Belize during the review period related to civil tax matters. Belize has not yet received a request related to criminal tax matters. But there is no practical impediment in Belize exchanging information related to criminal tax matters.

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

363. In some cases, a contracting party may need to receive information in a particular form to satisfy its evidentiary or other legal requirements. Such formats may include depositions of witnesses and authenticated copies of

original records. Contracting parties should endeavour as far as possible to accommodate such requests. The requested party may decline to provide the information in the specific form requested if, for instance, the requested form is not known or permitted under its law administrative practice. A refusal to provide the information in the form requested does not affect the obligation to provide the information.

364. All of the Belize's TIEAs and DTCs as well as the CARICOM Agreement and the Multilateral Convention allow for information to be provided in the specific form requested, to the extent allowable under the requested jurisdiction's domestic laws.

365. In practice, no problems were raised by peers regarding the form in which the information was exchanged.

In force *(ToR C.1.8)*

366. Exchange of information cannot take place unless a jurisdiction has exchange of information arrangements in force. The international standard requires that jurisdictions must take all steps necessary to bring agreements that have been signed into force expeditiously.

367. Belize has concluded EOI agreements with 29 jurisdictions, of which 12 TIEAs, 3 DTCs and the CARICOM Agreement have been brought into force as of December 2013.[12] Belize has ratified other TIEAs that are awaiting ratification or notification by the partner jurisdiction, namely, India, Poland, Portugal, and Sweden. The mentioned jurisdictions have not yet notified Belize that their internal procedures for bringing the TIEAs in force have been completed.

368. Belize signed the Multilateral Convention on 29 May 2013 and deposited its instrument of ratification the same day. The Convention provides that it enters into force for the State concerned on the first day of the month following the expiration of a period of three months after the deposit of the instrument of ratification (Article 28 of the Convention). The Convention therefore entered into force with respect to Belize on 1 September 2013.

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

369. For exchange of information to be effective, the contracting parties must enact any legislation necessary to comply with the terms of the agreement.

12. The DTCs with Austria, Switzerland and United Kingdom; and the TIEAs with Australia, Belgium, Denmark, Finland, France, Greenland, Iceland, Ireland, Mexico, the Netherlands, Norway, and the United Kingdom are in force.

370. The Income and Business Tax Act provides for the establishment of DTC's and the enactment of Act No.6 of 2009 enables and provides a framework for the establishment of TIEAS (s. 95A(1)). The Income and Business Act (s. 95A(2)) indicates that a TIEA shall be incorporated in an Order which must be published in the official Gazette. Upon such publication the Order has the force of law in Belize. All TIEAs signed by Belize have been published in Orders.

371. Section 50(6) of the IBTA states that the Minister shall make regulations for carrying out the provisions of any arrangement made by Belize with any other jurisdiction. As has been discussed earlier in this report, such regulations have been made in respect of the DTC with Austria and the CARICOM Agreement to give them effect through domestic law.

372. In order to give legal effect to the Multilateral Convention which entered into force with respect to Belize on 1 September 2013, the Mutual Administrative Assistance in Tax Matters Act was enacted on 27 June 2014. The competent authority was given sufficient powers to gather and exchange information under the Multilateral Convention. Belize did not receive any request during the period between September 2013 and June 2014.

Determination and factors underlying recommendations

Phase 1 determination
The element is in place.

Phase 2 Rating
Compliant.

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

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

373. Ultimately, the international standard requires that jurisdictions exchange information with all relevant partners, meaning those partners who are interested in entering into an information exchange arrangement. Agreements cannot be concluded only with counterparties without economic significance. If it appears that a jurisdiction is refusing to enter into agreements or negotiations with partners, in particular ones that have a reasonable expectation of requiring information from that jurisdiction in order to properly administer and enforce its tax laws it may indicate a lack of commitment to implement the standards.

374. Since 2009, Belize has rapidly expanded its EOI network and has signed solely TIEAs. Belize continues to work on expanding its network, with negotiations ongoing. Belize has also initialled a number of TIEAS and is waiting for its partners to be available to sign the agreements or be available to negotiate at all.

375. Ultimately, the international standard requires jurisdictions to exchange information with their relevant partners, meaning those partners who are interested in entering into an exchange of information agreement.

376. Following the signature and the entry into force of the Multilateral Convention, Belize's network of EOI agreements covers all of its key trading partners. Belize has recently ratified four new TIEAs and is awaiting notification from the partners that they have completed their internal procedures. Belize has advised that the text of TIEAs with four significant trade partners has been agreed upon and Belize is awaiting confirmation of the partners to sign. Belize has also indicated that it has sent a draft to two jurisdictions which showed interest in signing a TIEA.

377. During the course of the assessment, no jurisdiction has advised that Belize had refused to enter into negotiations or conclude an EOI agreement.

Determination and factors underlying recommendations

Phase 1 determination	
The element is in place	
Factors underlying recommendations	**Recommendations**
	Belize should continue to develop its network of EOI mechanisms to the standard with all relevant partners by.

Phase 2 rating
Compliant

C.3. Confidentiality

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

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

378. Governments would not engage in information exchange without the assurance that the information provided would only be used for the purposes permitted under the exchange mechanism and that its confidentiality would

be preserved. Information exchange instruments must therefore contain confidentiality provisions that spell out specifically to whom the information can be disclosed and the purposes for which the information can be used. In addition to the protections afforded by the confidentiality provisions of information exchange instruments, jurisdictions with tax systems generally impose strict confidentiality requirements on information collected for tax purposes.

Exchange of information mechanisms

379. All of Belize's TIEAs are based on the OECD Model TIEA and therefore have all confidentiality provisions to ensure that the information exchanged will be disclosed only to persons authorised by the TIEAs. Confidentiality rules are also included in the existing DTCs.

> Any information received by a Contracting Party under this Agreement shall be treated as confidential and may be disclosed only to persons or authorities (including courts and administrative bodies) in the jurisdiction of the Contracting Party concerned with the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes covered by this agreement. Such persons or authorities shall use such information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

380. EOI partners may wish to allow the sharing of tax information by tax authorities with other law enforcement agencies and judicial authorities on certain high priority matters (e.g. to combat money laundering, corruption, terrorism financing). They may do so by adding a specific provision to this effect, in accordance with Article 8 of the Model TIEA and Commentary 12.3 to the Model Tax Convention. The TIEAs of Belize allow the disclosure of information exchanged for other purposes with the consent of the requested party. Most provide that "information may not be disclosed to any other person or entity or authority or any other jurisdiction without the express written consent of the competent authority of the requested party". The TIEAs with France and Portugal nonetheless specifically exclude that information be disclosed to a third jurisdiction. The DTCs and the CARICOM Agreement do not contain similar provisions.

381. The DTC with Austria requires the information exchanged to be treated as secret "in the same manner as information obtained under the domestic law". Even though not expressly mentioned in the other EOI instruments, the obligation of confidentiality is applied in conformity with Belize's domestic law, which contains relevant confidentiality provisions under section 4 of the Income and Business Tax Act (see below).

Belize legislation

382. The maintenance of secrecy in the jurisdictions receiving information is a matter of domestic laws (whether it is the requested or the requesting jurisdiction). Sanctions for the violation of such secrecy in that jurisdiction are governed by the domestic administrative and penal laws.

383. The confidentiality requirements in the EOI instruments of Belize are reinforced in domestic law, which obliges tax officials to maintain the confidentiality of "all documents, information, returns, assessment lists and copies of such lists relating to the income or items of the income of any person" that they obtain in the course of their duties (IBTA, s. 4). Breach of confidentiality is an offence. The duty to keep information confidential under s. 4 of the IBTA will apply to the Financial Secretary save the exclusion that is provided in s. 95A(2), since he is employed in the tax administration. However, in the respect of the DTC with Austria and the CARICOM Agreement, the competent authority is the Minister of Finance. The Minister of Finance is not an official of the tax administration. However, he is bound by an oath that is referred to in Schedule 3 of the Belizean Constitution. Apart from this the code of conduct referred to article 121 of the Belizean Constitution shall also apply to him.

384. The IBTA nonetheless governs that restrictions on the disclosure of information shall not apply with respect to a request for information pursuant to a TIEA (s. 95A) or a DTC (s. 50).

385. The TIEA Orders (s. 4) also suspends explicitly those restrictions as follows:

> No restrictions on the disclosure of information contained in any other law shall apply to a request for information pursuant to the Agreement and no suit for breach of confidentiality or other such action shall lie against any person who discloses information, produces documents or renders other assistance in compliance with a request for information under this Order.

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

386. Confidentiality rules should apply to all types of information exchanged, including information provided in a request, information transmitted in response to a request and any background documents to such requests.

387. The confidentiality provisions in Belize's EOI agreements and 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.

388. As mentioned earlier in this report, the Financial Secretary is the competent authority in Belize except for the DTC with Austria and the CARICOM Agreement where the competent authority is the Minister of Finance and the DTC with the United Kingdom where the Commissioner of Income Tax is the competent authority. In practice, EOI requests are handled by the Director General of IFSC who uses the information gathering powers under each TIEA Order and responds to the requesting jurisdiction. There is no dedicated EOI unit within the IFSC (or under any other competent authority). The Director General of the IFSC deals with all EOI requests personally and is assisted by an EOI Monitoring Officer. But these persons have other responsibilities within the IFSC too. There is a computer monitoring system which serves to record and monitor all EOI requests. The database is secured with a password and only the DG IFSC and the monitoring officer have access to the system. The physical EOI files are kept in the office of the DG IFSC in a designated cupboard which is always locked. The other staff of the IFSC do not have access to these records.

389. When an EOI request is sent to the Commissioner of Income Tax under agreements where he is the competent authority, it is maintained in a "Confidential" file. This means that only the Commissioner, and in rare cases the Assistant Commissioners, have access to the request and any related documents. In the event a request is sent to the Minister of Finance as competent authority, the request will be forwarded to the Director General of the IFSC and will follow the same procedure as requests sent under TIEAs.

390. In order to gather information from a government authority, a bank, a service provider, a tax payer or other person that is the subject of the enquiry or not, the competent authority does not normally inform the person that the information is being gathered for EOI purposes. The information holder may be aware that the request is related to EOI because the request always contains reference to the TIEA Order which empowers the DG IFSC to obtain the information. However, the actual request is never provided to the information holder.

391. In communicating with competent authorities of other jurisdictions, Belize sends information through courier and also electronically. However, one treaty partner advised Belize that the email was not secured and preferred the information to be sent by regular mail. Apart from this, no other issue regarding the confidentiality of information has been raised by Belize's exchange of information partners.

Determination and factors underlying recommendations

Phase 1 determination
The element is in place.

Phase 2 Rating
Compliant

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

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

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

392. The international standard allows requested parties not to supply information in response to a request in certain identified situations where an issue of trade, business or other secret may arise. Among other reasons, an information request can be declined where the requested information would disclose confidential communications protected by the attorney-client privilege. Attorney-client privilege is a feature of the legal systems of many jurisdictions.

393. All of Belize's TIEAs and DTCs ensure that the Contracting Parties are not obliged to provide information which would disclose any trade, business, industrial, commercial or professional secret, information which is subject to attorney-client privilege, or information the disclosure of which would be contrary to public policy. These provisions conform to Article 26(3) of the OECD Model Tax Convention or Article 8 of the OECD Model TIEA.

394. No issue in relation to the rights and safeguards of taxpayers and third parties has been encountered in practice, nor raised by any of Belize's EOI partners.

Determination and factors underlying recommendations

Phase 1 determination
The element is in place.

Phase 2 Rating
Compliant

C.5. Timeliness of responses to requests for information

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

Responses within 90 days (ToR C.5.1)

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

396. All of Belize's TIEAs contain provisions similar to Article 5(6) of the 2002 Model TIEA, which obliges Contracting Parties to send the requested information as promptly as possible to the applicant party. The TIEAs with Belgium and Portugal do not have a specific 60 and 90 days deadline. The wording is more abstract: the requested competent authority is obliged to use its best endeavours to forward the requested information "with the least reasonable delay".

397. During the three years under review (1 July 2010 to 30 June 2013), six requests were sent to Belize by five EOI partners. Belize has provided information for the six requests but some delays were experienced. One peer reported that they sent a request dated 30 August 2011 to Belize but received no reply. The request was initially untraceable in Belize but after some efforts, a reminder letter from the requesting jurisdiction (dated 30 April 2013) addressed (under the Double Taxation Agreement) by name to the former Commissioner of Income Tax (who had retired in January 2009) was found. The former commissioner did not open the mail but only gave it to his successor on the 5 December 2013. Belize stated that as the request was incomplete, its competent authority wrote to the Partner on 27 December 2013 requesting a copy of the letter of 16 October 2012. Finally, a duplicate copy of the request was received from the Partner's Competent Authority on 16 May 2014 and full information was supplied to the Partner on 22 May, 2014. The Partner acknowledged receipt and confirmed that the matter is closed.

398. Except for the requests from one peer (which were under a DTC), all other requests were under TIEAs. The timelines of the responses made by Belize are reflected in the table below. One peer had indicated that one request had not been entirely answered. Belize explained that the entire information was sent and that the peer had acknowledged receipt. A copy of the acknowledgement letter was shown to the assessment team.

Number of requests received by Belize during the review period

	2010 (from 01/07)		2011		2012		2013 (till 30/06)		total	Average
	Number	%	Number	%	Number	%	Number	%	Number	%
Total number of requests received* (a+b+c+d+e)	0	100%	1	100%	4	100%	1	100%	6	100%
Full response**: ≤90 days	0	0%	1	100%	1	25%	1	100%	3	50%
≤180 days (cumulative)	0	0%	1	100%	3	75%	1	100%	5	83%
≤1 year (cumulative) (a)	0	0%	1	100%	3	75%	1	100%	5	83%
1 year+ (b)	0	0%	0	0%	1	25%	0	0%	1	17%
Declined for valid reasons (c)	0	0%	0	0%	0	0%	0	0%	0	0%
Failure to obtain and provide information requested (d)	0	0%	0	0%	0	0%	0	0%	0	0%
Requests still pending at date of review (e)	0	0%	0	0%	0	0%	0	0%	0	0%

* Belize counts each written request from an EOI partner as one EOI request even where more than one person is the subject of an inquiry and/or more than one piece of information is requested. When there is a further request for information on the same matter, it is still considered the same request and not a new request.

** 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.

399. During the review period, Belize provided information for six EOI requests. Three requests were answered within 90 days. The response with respect to two other requests was delayed beyond 90 days and the replies were provided within 180 days. One request was answered after more than two years and after the point was raised by the assessment team in the course of the on-site visit in Belize and no status update was provided to the partner by Belize.

400. For the two requests answered within 180 days, Belize states that the delays where due to the fact that the information requested was kept by a professional intermediary outside Belize and the local registered agent took some time to obtain the information from the professional intermediary. Status updates were provided in the two cases.

Organisational process and resources *(ToR C.5.2)*

401. It has already been stated that Belize has three different competent authorities for different EOI instruments. The EOI powers of the Financial Secretary are in practice exercised by the Director General of the

International Financial Service Commission (who is also the supervisor of the service providers and the registrar of a number of different types of entities), but there is no formal delegation in this regard. In addition to that, the information on the competent authority is not easily accessible. Belize publishes all its TIEAs and its DTC on the IFSC's website but there is no indication as to who the competent authority is and how he can be reached. This will be known only by reading the EOI agreement where the address of the competent authority cannot be found. This situation is likely to cause some confusion to the treaty partners of Belize and might explain some delay encountered by Belize in responding to some requests during the review period.

402. There is no EOI Unit in Belize. The requests are handled personally by the Director General of IFSC with the assistance of a monitoring officer. The EOI monitoring officer has been trained to deal with EOI requests, especially with respect to the confidentiality obligations. According to Belize, because of the extremely limited number of the EOI requests received from treaty partners, the existing staff is sufficient to handle all such requests and the entire staff of the Director General of IFSC (eight persons) is also available, if necessary. However, bearing in mind the entry into force of two additional TIEAs and the Multilateral Convention, the probability of an increase in the number of EOI requests to Belize is high. Therefore, there may be a need for dedicated and trained staff attached to the competent authority for EOI purposes.

403. Belize has developed an EOI database to record and monitor incoming EOI requests. The system has an automatic reminder which gives reminders every 15 days. All EOI requests are recorded country-wise showing the following:

- Name of the country requesting information.
- Date E.O.I. request received by the Competent Authority.
- Action taken by the Competent Authority:
  - Date on which part of the information supplied.
  - Date on which the remaining information supplied.
- Whether the information was supplied within the 90 day period and, if not, the reasons for delay.
- Remarks (to note any points of importance relevant to the case).

404. The Belizean competent authority does not have any EOI tools (manual or guidelines on the handling of requests, check list etc.) and there are no specific procedures for the verification of the validity of the requests.

As of now, the EOI staff operates only under the instructions of the Director General of the IFSC. Belize is of the view that the extremely limited number of EOI requests received so far does not justify devising instruction manuals for staff. Should the number of EOI requests significantly increase necessitating the involvement of more persons, it is recommended that attention be paid to preparing instruction manuals and other guidelines to train EOI Staff.

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

405. There are no other laws or regulatory practices in Belize that impose restrictive conditions on exchange of information and there are no further conditions that appear to restrict effective exchange of information in practice in Belize.

Determination and factors underlying recommendations

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

Phase 2 rating	
Largely compliant.	
Factors underlying recommendation	**Recommendation**
Belize has three different competent authorities under its EOI arrangements. However, details of these competent authorities are not easily accessible and the necessary delegations have not been issued.	Belize should ensure that contact details of its competent authorities are easily accessible to all its EOI partners and provide for the necessary delegations as required.
Belize has broadened its EOI network during and since the review period, but the competent authority is not adequately resourced and working procedures are not in place.	Belize should establish an EOI unit with a dedicated staff and equipped with appropriate resources, including procedure manual or guidelines.
During the review period, Belize received six requests but was not able to answer all of them in a timely manner. Belize's experience in effectively handling EOI requests remains limited.	Belize should monitor the incoming requests more vigorously to ensure that comprehensive replies are provided in a timely manner to its partners.

Summary of Determinations and Factors Underlying Recommendations

Overall Rating
LARGELY COMPLIANT

Determination	Factors underlying recommendations	Recommendations
Jurisdictions should ensure that ownership and identity information for all relevant entities and arrangements is available to their competent authorities *(ToR A.1)*		
Phase 1 determination: The element is in place.		
Phase 2 rating: Partially compliant	During the review period, the IFSC did not have a regular oversight programme in place to monitor compliance of the obligations placed on registered agents of IBCs or other licensed entities, including those using registered office services in Belize. In addition, the IFSC has not levied penalties when non-compliance is detected.	Belize should put in place an oversight programme to ensure compliance with the obligations to maintain ownership information and exercise its enforcement powers as appropriate to ensure that such information is available in practice.

Determination	Factors underlying recommendations	Recommendations
	In practice, bearer shares of IBCs may be held by registered agents that are not physically established in Belize, but merely use the back-office of another registered agent in Belize. In such cases, it is unclear whether ownership information in respect of such shares will always be available in Belize. Furthermore, enforcement of any obligations to have such information available in Belize may not be effective.	Belize is recommended to ensure that the ownership information maintained by registered agents, in particularly information on the beneficial owners of bearer shares issued by IBCs, is available in practice in Belize in all circumstances.
Jurisdictions should ensure that reliable accounting records are kept for all relevant entities and arrangements *(ToR A.2)*		
Phase 1 determination: The element is in place.		
Phase 2 rating: Largely compliant	The new legislation which obliges all relevant entities to maintain accounting records and the underlying documentation for at least 5 years is very recent and has not been tested in practice.	Belize should monitor the enforcement of the new law to ensure that accounting records and underlying documentation are available in respect of all entities. Belize should also put in place an oversight system of all entities with regard to the accounting keeping requirements
Banking information should be available for all account-holders *(ToR A.3)*		
Phase 1 determination: The element is in place.		
Phase 2 Rating: Compliant		
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)*		
Phase 1 determination: The element is in place.		

Determination	Factors underlying recommendations	Recommendations
Phase 2 Rating: Compliant		
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)*		
Phase 1 determination: The element is in place.		
Phase 2 Rating Compliant.		
Exchange of information mechanisms should allow for effective exchange of information *(ToR C.1)*		
Phase 1 determination: The element is in place.		
Phase 2 rating: Compliant		
The jurisdictions' network of information exchange mechanisms should cover all relevant partners *(ToR C.2)*		
Phase 1 determination: The element is in place.		Belize should continue to develop its network of EOI mechanisms with all relevant partners.
Phase 2 rating: Compliant		
The jurisdictions' mechanisms for exchange of information should have adequate provisions to ensure the confidentiality of information received*(ToR C.3)*		
Phase 1 determination: The element is in place.		
Phase 2 Rating Compliant		
The exchange of information mechanisms should respect the rights and safeguards of taxpayers and third parties *(ToR C.4)*		
Phase 1 determination: The element is in place.		
Phase 2 Rating: Compliant		

Determination	Factors underlying recommendations	Recommendations
The jurisdiction should provide information under its network of agreements in a timely manner *(ToR C.5)*		
This element involves issues of practice that are assessed in the Phase 2 review. Accordingly no Phase 1 determination has been made.		
Phase 2 rating: Largely compliant.	Belize has three different competent authorities under its EOI arrangements. However, details of these competent authorities are not easily accessible and the necessary delegations have not been issued.	Belize should ensure that contact details of its competent authorities are easily accessible to all its EOI partners and provide for the necessary delegations as required.
	Belize has broadened its EOI network during and since the review period, but the competent authority is not adequately resourced and working procedures are not in place.	Belize should establish an EOI unit with a dedicated staff and equipped with appropriate resources, including procedure manual or guidelines.
	During the review period, Belize received six requests but was not able to answer all of them in a timely manner. Belize's experience in effectively handling EOI requests remains limited.	Belize should monitor the incoming requests more vigorously to ensure that comprehensive replies are provided in a timely manner to its partners.

Annex 1: Jurisdiction's response to the review report[13]

Belize is generally satisfied with the findings, determinations and recommendations contained in this Report and gratefully acknowledges the assistance given by the assessment team in the review process. We are fully committed to transparency and effective exchange of information for tax purposes and will endeavour to rectify any deficiencies in our E.O.I. framework and practice in a timely fashion.

On the matter of E.O.I. arrangements, Belize pursues an "Open door policy" and stands ready to enter into a bilateral TIEA with any other country willing to do so.

We will, therefore, continue to expand our network of EOI arrangements and faithfully implement other recommendations contained in the Report in order to enhance Belize's legal framework and practice of exchange of information for tax purposes.

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

Annex 2: List of exchange of information mechanisms

No.	Jurisdiction	Type of EOI arrangement	Date signed	Date entered into force
1	Albania	Multilateral Convention	signed	01-Dec-2013
2	Andorra	Multilateral Convention	signed	Not in force
3	Anguilla*	Multilateral Convention	extended	01-Mar-2014
4	Antigua and Barbuda	DTC	6 Jul 1994	30 Nov 1994
5	Argentina	Multilateral Convention	signed	01-Jan-2013
6	Aruba**	Multilateral Convention	extended	01-Sep-2013
7	Australia	Multilateral Convention	signed	01-Dec-2012
		TIEA	31 Mar 2010	11-Jan-2011
8	Austria	Multilateral Convention	signed	Not in force
		DTC	8 May 2002	1 Dec 2003
9	Azerbaijan	Multilateral Convention (Original)	signed	01-Oct-2004
10	Barbados	DTC	6 Jul 1994	30 Nov 1994
11	Belgium	Multilateral Convention	signed	Not in force
		TIEA	29 Dec 2009	30 March 2014
12	Bermuda*	Multilateral Convention	extended	01-Mar-2014
13	Brazil	Multilateral Convention	signed	Not in force
14	Canada	Multilateral Convention	signed	01-Mar-2014
15	Cayman Islands*	Multilateral Convention	extended	01-Jan-2014
16	Chile	Multilateral Convention	signed	Not in force
17	China	Multilateral Convention	signed	Not in force
18	Colombia	Multilateral Convention	signed	01-Jul-2014
19	Costa Rica	Multilateral Convention	signed	01-Aug-2013
20	Croatia	Multilateral Convention	signed	01-Jun-2014

No.	Jurisdiction	Type of EOI arrangement	Date signed	Date entered into force
21	Curaçao**	Multilateral Convention	extended	01-Sep-2013
22	Czech Republic	Multilateral Convention	signed	01-Feb-2014
23	Denmark	Multilateral Convention	signed	01-Jun-2011
		TIEA	15 Sep 2010	9 Mar 2011
24	Dominica	DTC	6 Jul 1994	30 Nov 1994
25	Estonia	Multilateral Convention	signed	Not in force
26	Faroe Islands***	TIEA	15 Sep 2010	26 Dec 2012
		Multilateral Convention	extended	01-Jun-2011
27	Finland	Multilateral Convention	signed	01-Jun-2011
		TIEA	15 Sep 2010	13 Sep 2013
28	France	Multilateral Convention	signed	01-Apr-2012
		TIEA	22 Nov 2010	19 Dec 2011
29	Georgia	Multilateral Convention	signed	01-Jun-2011
30	Germany	Multilateral Convention	signed	Not in force
31	Ghana	Multilateral Convention	signed	01-Sep-2013
32	Gibraltar*	Multilateral Convention	extended	01-Mar-2014
33	Greece	Multilateral Convention	signed	01-Sep-2013
34	Greenland***	TIEA	15 Sep 2010	24 Mar 2012
		Multilateral Convention	extended	01-Jun-2011
35	Grenada	DTC	6 Jul 1994	30 Nov 1994
36	Guatemala	Multilateral Convention	signed	Not in force
37	Guernsey*	Multilateral Convention	signed	01-Sep-2014
38	Guyana	DTC	6 Jul 1994	30 Nov 1994
39	Hungary	Multilateral Convention	signed	Not in force
40	Iceland	Multilateral Convention	signed	01-Feb-2012
41	Iceland	TIEA	15 Sep 2010	3 Nov 2012
42	India	Multilateral Convention	signed	01-Jun-2012
		TIEA	18 Sep 2013	25 Nov 2013
43	Indonesia	Multilateral Convention	signed	Not in force
44	Ireland	Multilateral Convention	signed	01-Sep-2013
		TIEA	18 Nov 2010	11 Apr 2011
45	Isle of Man*	Multilateral Convention	extended	01-Mar-2014

No.	Jurisdiction	Type of EOI arrangement	Date signed	Date entered into force
46	Italy	Multilateral Convention	signed	01-May-2012
47	Jamaica	DTC	6 Jul 1994	30 Nov 1994
48	Japan	Multilateral Convention	signed	01-Oct-2013
49	Jersey*	Multilateral Convention	extended	01-Jun-2014
50	Kazakhstan	Multilateral Convention	signed	Not in force
51	Korea, Republic of	Multilateral Convention	signed	01-Jul-2012
52	Latvia	Multilateral Convention	signed	Not in force
53	Liechtenstein	Multilateral Convention	signed	Not in force
54	Lithuania	Multilateral Convention	signed	Not in force
55	Luxembourg	Multilateral Convention	signed	Not in force
56	Malta	Multilateral Convention	signed	01-Sep-2013
57	Mexico	Multilateral Convention	signed	01-Sep-2012
		TIEA	17 Nov 2011	9 Aug 2012
58	Moldova	Multilateral Convention	signed	01-Mar-2012
59	Montserrat*	Multilateral Convention	extended	01-Oct-2013
60	Morocco	Multilateral Convention	signed	Not in force
61	Netherlands	Multilateral Convention	signed	01-Sep-2013
		TIEA	4 Feb 2010	1 Jan 2011
62	New Zealand	Multilateral Convention	signed	01-Mar-2014
63	Nigeria	Multilateral Convention	signed	Not in force
64	Norway	Multilateral Convention	signed	01-Jun-2011
		TIEA	15 Sep 2010	26 Feb 2011
65	Poland	Multilateral Convention	signed	01-Oct-2011
		TIEA	16 May 2013	Not in force
66	Portugal	Multilateral Convention	signed	Not in force
		TIEA	15 Sep 2010	Not in force
67	Romania	Multilateral Convention	signed	Not in force
68	Russian Federation	Multilateral Convention	signed	Not in force
69	Saint Kitts and Nevis	DTC	6 Jul 1994	30 Nov 1994
70	Saint Lucia	DTC	6 Jul 1994	30 Nov 1994
71	Saint Vincent and the Grenadines	DTC	6 Jul 1994	30 Nov 1994
72	San Marino	Multilateral Convention	21 Sep 2013	Not in force

No.	Jurisdiction	Type of EOI arrangement	Date signed	Date entered into force
73	Saudi Arabia	Multilateral Convention	signed	Not in force
74	Singapore	Multilateral Convention	signed	Not in force
75	Sint Maarten**	Multilateral Convention	extended	01-Sep-2013
76	Slovak Republic	Multilateral Convention	signed	01-Mar-2014
77	Slovenia	Multilateral Convention	signed	01-Jun-2011
78	South Africa	Multilateral Convention	signed	01-Mar-2014
		TIEA	6 May 2014	Not in force
79	Spain	Multilateral Convention	signed	01-Jan-2013
80	Sweden	Multilateral Convention	signed	01-Sep-2011
		TIEA	15 Sep 2010	Not in force
81	Switzerland	Multilateral Convention	signed	Not in force
82	Trinidad and Tobago	DTC	6 Jul 1994	30 Nov 1994
83	Tunisia	Multilateral Convention	signed	01-Feb-2014
84	Turkey	Multilateral Convention	signed	Not in force
85	Turks and Caicos Islands*	Multilateral Convention	extended	01-Dec-2013
86	Ukraine	Multilateral Convention	signed	01-Sep-2013
87	United Kingdom	Multilateral Convention	signed	01-Oct-2011
		DTC	1 Jan 1947	1 Jan 1947
		TIEA	25 Mar 2010	1 Aug 2011
88	United States	Multilateral Convention	signed	Not in force
89	Virgin Islands, British*	Multilateral Convention	extended	01-Mar-2014

* Extension by the United Kingdom.

** Extension by the Netherlands.

*** Extension by Denmark.

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

Commercial Laws

Companies Act Chapter 250 Revised Edition 2000

International Business Companies Act Chapter 270 Revised Edition 2000

International Foundations Act, 2010

International Limited Liability Companies Act, 2011

Limited Liability Partnership Act Chapter 258 Revised Edition 2000

Mutual Funds Act Chapter 268 Revised Edition 2000

Mutual Funds Regulations Statutory Instrument No. 113 of 2000

Partnership Act Chapter 259 Revised Edition 2000

Protected Cell Companies Act Chapter 271 Revised Edition 2000

Public Trustee Act Chapter 199

Trusts Act Chapter 202 Revised Edition 2000

Trusts (Amendment) Act, 2007

Trust Corporations Act Chapter 200 Revised Edition 2000

Taxation Laws

Income and Business Tax Act Chapter 55 Revised Edition 2000 including TIEA Orders

General Sales Tax Act, 2005 (No. 49 of 2005)

Banking Laws

Banks and Financial Institutions Act Chapter 263 Revised Editions 2000

International Banking Act Chapter 267 Revised Edition 2000

Belize Offshore Practitioners Act Chapter 273 Revised Edition 2000

Domestic Banks & Financial Institutions Act, 2012 (No. 11 of 2012)

Anti-Money Laundering Laws

Money Laundering & Terrorism (Prevention) act, 2008 (No. 18 of 2010)

Other Laws

Business Names Act 247 Revised Edition 2000

Interpretation Act Chapter 1 Revised Edition 2000

International Financial Services Commission Act Chapter 2000 Revised Edition 2000

International Financial Services Commission (Amendment) Act, 2007

International Financial Services Commission (Licensing) Regulations, 2007

Financial Intelligence Act, 2002 (No. 35 of 2002)

Trade Licensing Act Chapter 66 Revised Edition 2000

Mutual Administrative Assistance in Tax Matters Act, 2014 (No. 15 of 2014)

Belize's laws can be found online at www.ifsc.gov.bz and www.belizelaw.org

Annex 4: People interviewed during the on-site visit

Income Tax Department

Registrar of companies and Registrar of the Supreme Court

Central Bank of Belize

Financial Sector Supervision Department

Ministry of Finance

Financial Secretary

International Financial Services Commission

- Director General
- Supervisor of service providers
- Registrar of IBCs
- Registrar of ILLCs
- Registrar of PCCs
- Registrar of international trusts
- Registrar of international foundations

Financial Intelligence Unit

Association of registered agents of Belize

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Global Forum on Transparency and Exchange of Information for Tax Purposes

PEER REVIEWS, PHASE 2: BELIZE

This report contains a "Phase 2: Implementation of the Standards in Practice" review, as well as revised version of the "Phase 1: Legal and Regulatory Framework review" already released for this country.

The Global Forum on Transparency and Exchange of Information for Tax Purposes is the multilateral framework within which work in the area of tax transparency and exchange of information is carried out by over 120 jurisdictions which participate in the work of the Global Forum on an equal footing.

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

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

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