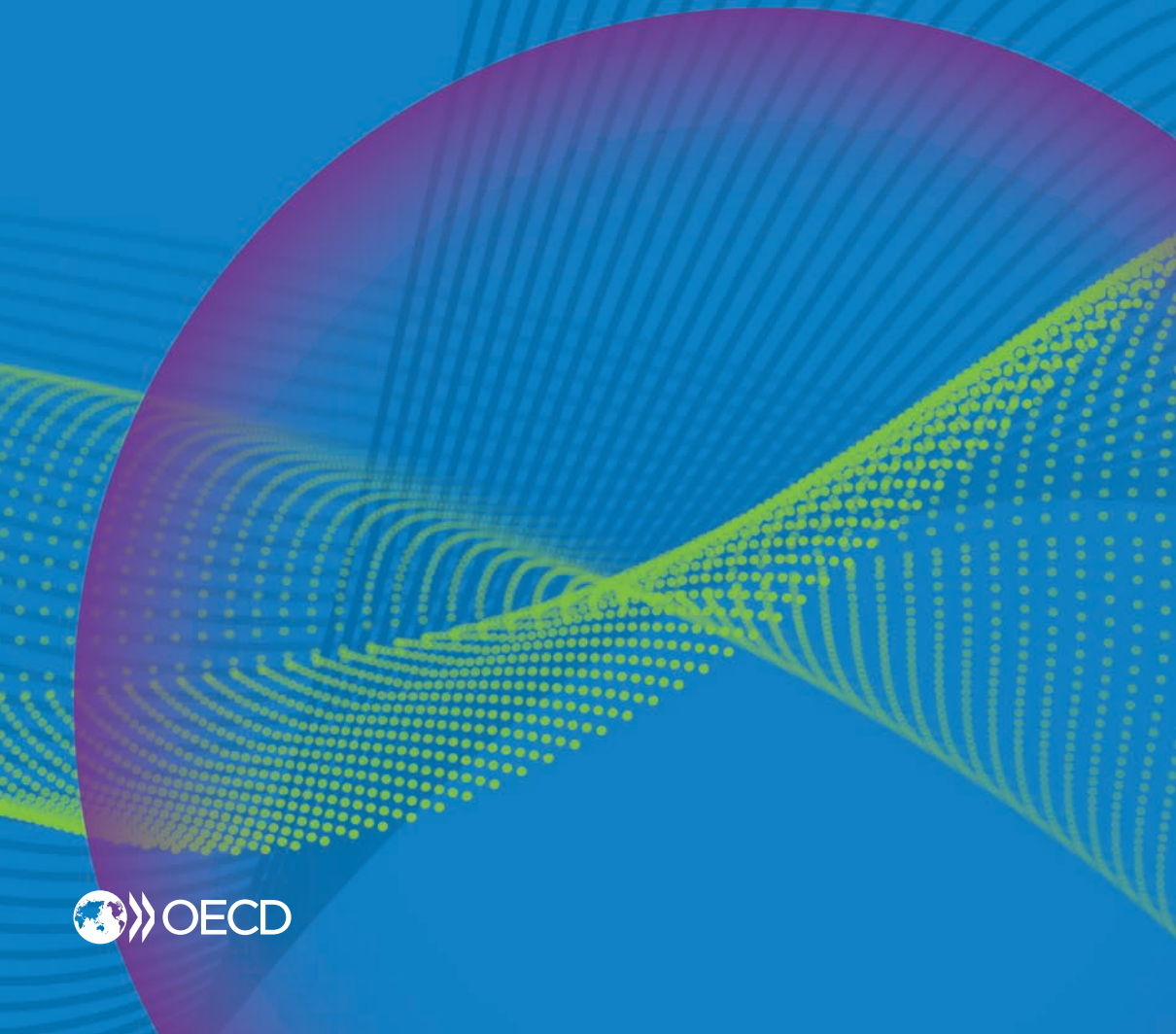
GLOBAL FORUM ON

TRANSPARENCY AND EXCHANGE OF INFORMATION FOR TAX PURPOSES

Peer Review Report on the Exchange of Information on Request

TANZANIA

2021 (Second Round, Phase 1)



OECD

Global Forum on Transparency and Exchange of Information for Tax Purposes: Tanzania 2021 (Second Round, Phase 1)

PEER REVIEW REPORT ON THE EXCHANGE OF INFORMATION ON REQUEST



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Table of contents

Reader's guide 5

Abbreviations and acronyms 9

Executive summary 11

Summary of determinations, ratings and recommendations 17

Overview of Tanzania 25

Part A: Availability of information 33

A.1. Legal and beneficial ownership and identity information 33
A.2. Accounting records 76
A.3. Banking information 89

Part B: Access to information 99

B.1. Competent authority's ability to obtain and provide information 99
B.2. Notification requirements, rights and safeguards 105

Part C: Exchanging information 107

C.1. Exchange of information mechanisms 107
C.2. Exchange of information mechanisms with all relevant partners 117
C.3. Confidentiality 119
C.4. Rights and safeguards of taxpayers and third parties. 123
C.5. Requesting and providing information in an effective manner 124

Annex 1: List of in-text recommendations 129

Annex 2: List of Tanzania's EOI mechanisms 132

Annex 3: Methodology for the review 134

Annex 4: Tanzania's response to the review report 136

Reader's guide

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

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

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

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

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

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

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

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

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

Consideration of the Financial Action Task Force Evaluations and Ratings

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

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

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

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

More information

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

Abbreviations and acronyms

2016 TOR	Terms of Reference related to EOIR, as approved by the Global Forum on 29-30 October 2015
AML	Anti-Money Laundering
AML/CFT	Anti-Money Laundering/Countering the Financing of Terrorism
AMLA	Anti-Money Laundering Act, 2006 applicable in Tanzania Mainland
AMLPOCA	Anti-Money Laundering and Proceeds of Crime Act, 2009 applicable in Zanzibar
AMLPOCR	Anti-Money Laundering and Proceeds of Crime Regulations applicable in Zanzibar
AMLR	Anti-Money Laundering Regulations
BPRA	Zanzibar Business and Property Registration Agency
BRELA	Tanzania Mainland's Business Registration and Licensing Authority
CDD	Customer Due Diligence
CIN	Company Identification Number
CMSA	Capital Market and Securities Authority
DTC	Double Taxation Convention
EAC	East African Community
EOI	Exchange of Information
EOIR	Exchange of Information on Request
ESAAMLG	Eastern and Southern Africa Anti-Money Laundering Group

FATF	Financial Action Task Force
FIU	Financial Intelligence Unit
Global Forum	Global Forum on Transparency and Exchange of Information for Tax Purposes
ITA	Income Tax Act
Multilateral Convention	Convention on Mutual Administrative Assistance in Tax Matters, as amended in 2010
NGO	Non-Government Organisation
NIDA	National Identification Authority
NIN	National Identification Number
ORS	Online Registration System
RITA	Registrations, Insolvency and Trusteeship Agency
SADC	South African Development Community
SSRA	Social Security Regulatory Authority
TAA	Tax Administration Act
TRA	Tanzania Revenue Authority
TIEA	Tax Information Exchange Agreement
TIN	Taxpayer Identification Number
TIRA	Tanzania Insurance Regulatory Authority
TZS	Tanzanian Shilling
ZanID	Zanzibar Identification Number
ZRB	Zanzibar Revenue Board

Executive summary

1. This report analyses the implementation of the international standard of transparency and exchange of information on request (the standard) in the United Republic of Tanzania (Tanzania) under the second round of reviews conducted by the Global Forum. As Tanzania joined the Global Forum as a member in February 2015, no assessment of Tanzania was conducted under the first round of reviews. Therefore, this report is the first assessment of Tanzania (see Annex 3 for details).

2. Due to the COVID-19 pandemic, no on-site visit could be organised in the months following the launch of the review. This report therefore assesses only the legal and regulatory framework in force in Tanzania as of August 2021 (Phase 1) against the 2016 Terms of Reference (TOR). This report concludes that Tanzania has a legal and regulatory framework that broadly ensures the availability of, access to, and exchange of relevant information for tax purposes, but that this framework requires improvement in several areas. Notably, Tanzania should take steps to have an adequate network of international agreements allowing for exchange of information with all relevant partners.

3. The assessment of the practical implementation of this framework will be organised at a later date (Phase 2 review).

Summary table of determinations on the legal and regulatory framework of Tanzania

Element		Determination
A.1	Availability of ownership and identity information	Needs improvement
A.2	Availability of accounting information	Needs improvement
A.3	Availability of banking information	Needs improvement
B.1	Access to information	In place
B.2	Rights and Safeguards	In place
C.1	EOIR Mechanisms	Needs improvement
C.2	Network of EOIR Mechanisms	Not in place

Element		Determination
C.3	Confidentiality	In place
C.4	Rights and safeguards	In place
C.5	Quality and timeliness of responses	Not applicable

Note: The three-scale determinations for the legal and regulatory framework are In place, In place but certain aspects of the legal implementation of the element need improvement (needs improvement), and Not in place.

Transparency framework

4. The United Republic of Tanzania comprises Tanzania Mainland and Zanzibar. While the two parts of Tanzania have separate legal frameworks governing the incorporation and regulation of companies and other relevant entities and arrangements as well as Anti-Money Laundering (AML) aspects, there is a uniform set of governing laws covering direct taxes and their administration. Tanzania Mainland's and Zanzibar's Companies Acts provide for legal requirements to ensure the availability of legal ownership information. Further, the Income Tax Act, together with the Tax Administration Act, requires provision of legal ownership information by all types of entities and arrangements to the tax authorities in Tanzania.

5. Since joining the Global Forum in 2015, Tanzania has made efforts to put in place the necessary legal and regulatory framework to comply with the EOIR and Transparency standard. In order to provide for the availability of beneficial ownership information by relevant entities and arrangements, in 2020, Tanzania has amended its Companies Act and AML Law as applicable to Tanzania Mainland to introduce the concept and definition of beneficial owner. In respect of companies, submission of beneficial ownership information has been made a requirement at the time of incorporation and registration of companies. In addition, the Registrar of Companies has been made responsible for maintaining beneficial ownership information on all companies. Further, through Companies (Beneficial Ownership) Regulations 2021, all companies are required to submit beneficial ownership information to the Registrar for the maintenance of the beneficial ownership register. In respect of other relevant entities and arrangements, where they engage with an AML-obliged person on an on-going basis, the requirements of the AML law would provide for the availability of beneficial ownership information.

6. Further, through amendments introduced in 2021 to the Companies Act applicable to Tanzania Mainland, bearer share warrants have been prohibited from being issued by all companies in Tanzania Mainland. Any bearer share warrants issued in the past are required to be surrendered by

July 2022 and their owners' names have to be entered into the register of shareholders, failing which such warrants are required to be cancelled.

7. Changes introduced in Tanzania Mainland in respect of beneficial ownership and bearer share warrants have not yet been introduced in respect of Zanzibar and recommendations have been made in this regard.

8. Tanzania Mainland's as well as Zanzibar's Companies Acts provide for maintenance of accounting records by all companies in line with the standard and most of them are required to get the accounts audited and file their financial statements with the respective Registrars on an annual basis. Tax law obligations also require maintenance of accounting records by all legal entities and arrangements carrying on business or holding investments in Tanzania.

9. Banking information would generally be available in Tanzania in line with the standard. While the definition of beneficial ownership needs to be improved and clarified, the AML obligations require banks to carry out customer due diligence on all account holders. Although Zanzibar's AML law does not provide for a suitable definition for beneficial ownership in the context of banks, the common supervisory framework under Bank of Tanzania ensures the application of common AML requirements (which derive from the AML law of Tanzania Mainland) for all banks, including those in Zanzibar. Retention requirements for banking information meet the standard.

Key recommendations

10. Company laws of Tanzania Mainland and Zanzibar contain important provisions that require companies to maintain at their end and to regularly submit updated legal ownership information to the Registrar. However, the quantum of monetary sanctions provided for in the Companies laws applicable in Tanzania Mainland and Zanzibar may not be adequately dissuasive for ensuring compliance. A similar situation is noted in respect of the relevant law governing trusts in Tanzania Mainland. Tanzania has been recommended to provide for adequate dissuasive sanctions for non-compliance in respect of its Company laws and the relevant trust law.

11. While Tanzania has introduced the definition of beneficial ownership in the AML law and Companies law as applicable to Tanzania Mainland, Tanzania must ensure that adequate clarity is provided to companies and AML-obliged persons to identify beneficial owners of all legal entities and arrangements in line with the standard. This would require clarifying certain terms in the definition of beneficial ownership as well as providing clear steps for identifying all beneficial owners correctly and consistently in respect of companies and for other relevant entities and arrangements. This

definitional deficiency has implications for elements A.1 and A.3 and similar recommendations have been made under both elements.

12. In Zanzibar, neither the AML law, nor the Companies Act has been amended to include the definition of beneficial owner and such information would be available only where entities and arrangements have an active banking relationship as banks are, in practice, obliged to comply with the AML law of Tanzania Mainland. Hence, Tanzania would need to make suitable changes in its legal and regulatory framework to ensure that beneficial ownership information in respect of all relevant entities and arrangements in Zanzibar is available in line with the standard.

13. Tanzanian company laws allow the Registrars in Tanzania Mainland and Zanzibar to strike-off companies under certain situations and such companies cease to exist upon strike-off. There is lack of clarity in respect of availability of accounting records for five years for companies that cease to exist and who would be responsible for maintaining accounting records. Accordingly, recommendation has been made to ensure such availability of information under element A.2.

14. In respect of banking information, there is no specified frequency on which banks should update customer due diligence on their customers. This could lead to situations where up-to-date beneficial ownership information on bank account holders may not be available at all times.

Exchange of information

15. Tanzania has in force nine double taxation conventions (DTCs). Tanzania counts the number of EOIR requests based on persons covered by the requests. Each person covered in a request is counted separately. Over the last three years, Tanzania received 22 requests for information and sought information in 4 cases. Norway, Sweden, Canada and India were Tanzania's main EOI partners.

16. Most of the information sought from Tanzania in the EOIR requests during the review period pertained to information other than ownership, accounting or banking information. Typically, address of certain taxpayers were requested. Ownership, accounting and banking information were requested in respect of a couple of individuals and companies. In respect of one request to Tanzania seeking accounting information on a company, Tanzania was unable to provide the same as the company was found to be inactive and the directors were not traceable.

17. The competent authority has appropriate powers to obtain and provide information that is the subject of a request under a DTC from any person within its territorial jurisdiction who is in possession or control of such

information. Tanzania has the necessary confidentiality provisions in its tax laws to ensure that tax information exchanged with treaty partners can only be used for purposes specified under the relevant international agreements.

18. Tanzania's tax law ensures that Tanzania's international agreements for assistance in tax matters have the force of law and where there is any inconsistency with domestic law, the international agreement has primacy. However, four of Tanzania's DTCs permit exchange of information only in respect of residents of the Contracting States. This position is expressed in Tanzania's EOI manual as well. This could affect the exchange of information in certain circumstances.

19. Tanzania is not a signatory of the Convention on Mutual Administrative Assistance in Tax Matters (the Multilateral Convention) and has not made significant progress in its efforts to accede to the same. In addition, Tanzania has signed two multilateral regional tax agreements that provide for mutual administrative assistance in tax matters. However, despite signing these agreements in 2010 and 2012, neither of these agreements have been ratified by Tanzania and are hence, not in force.

20. During the review period, one Global Forum member had approached Tanzania with a request to enter a Tax Information Exchange Agreement (TIEA). However, Tanzania declined the request on the grounds that Tanzania has not entered into such an agreement in the past, and suggested exploring other areas of mutual co-operation. Further, Tanzania anticipated that when the Multilateral Convention is signed, an EOI relationship with the interested Global Forum member would be established. However, no significant progress in this regard has been made.

Key recommendations

21. Any deficiencies in the existing DTCs or in the interpretation of the relevant articles in Tanzania should be brought in line with the standard. Tanzania should ensure that where foreseeably relevant information has been requested, information in respect of all persons is exchanged. Further, Tanzania must ensure that its signed exchange of information instruments are brought into force so that EOI relationships agreed to can become effective.

22. Considering that Tanzania declined to enter into an EOI agreement with an interested Global Forum member during the review period and is also neither a signatory of the Multilateral Convention, nor has made progress in acceding to it, Tanzania is recommended to ensure that its network of information exchange mechanisms cover all relevant partners.

Next steps

23. This report assesses only the legal and regulatory framework for transparency and exchange of information for tax purposes in Tanzania. Tanzania receives an "in place" determination for elements B.1, B.2, C.3 and C.4, an "in place but needs improvement" determination for elements A.1, A.2, A.3 and C.1, and a "not in place" determination for element C.2. Each element will be rated and the overall rating given at the conclusion of the Phase 2 review.

24. This report was approved at the Peer Review Group of the Global Forum on 3 November 2021 and was adopted by the Global Forum on 18 November 2021. A follow-up report on the measures taken by Tanzania to implement the recommendations made in this report should be provided to the Peer Review Group by 30 June 2022, and thereafter annually in accordance with the procedure set out in the 2016 methodology for peer reviews and non-member reviews, as amended in December 2020.

Summary of determinations, ratings and recommendations

Determinations	Factors underlying recommendations	Recommendations
Jurisdictions should ensure that ownership and identity information, including information on legal and beneficial owners, for all relevant entities and arrangements is available to their competent authorities *(ToR A.1)*		
The legal and regulatory framework is in place but needs improvement	The Companies Acts of Tanzania Mainland and Zanzibar require the maintenance of legal ownership information on all companies, and to submit such information to the Registrars on a specified timeline basis. Similarly, in respect of the trusts, the Trustees Incorporation Act requires the availability of information on the settlors, trustees and beneficiaries of trusts in Tanzania Mainland. However, the associated quantum of monetary sanctions for violation or non-compliance with the legal requirements as provided for under the respective laws may not be dissuasive.	Tanzania is recommended to ensure that the compliance provisions for companies under the Companies Acts of Tanzania Mainland and Zanzibar, and for trusts under the Trustees Incorporation Act in Tanzania Mainland are adequate for maintaining and submitting all legal ownership information on companies and identity information related to trusts to the respective Registrars.

Determinations	Factors underlying recommendations	Recommendations
The legal and regulatory framework is in place but needs improvement *(continued)*	In respect of Tanzania Mainland, the definition of beneficial owner as included in the anti-money laundering law and the Companies Act does not define certain terms like "substantial control", "substantial economic interest" and "substantial economic benefit" and does not provide for control through means other than ownership. Further, there is no guidance on how the definition needs to be applied in practice for identifying all beneficial owners of legal entities like companies and where no natural person can be identified on the basis of ownership and control, a natural person who is a senior managerial person. Similarly, there is lack of guidance on identifying beneficial owners of legal arrangements like partnerships and trusts. For trusts, the definitions in the AML law and Trustees Incorporation Act do not explicitly require the identification of the settlor, trustee(s), protector, all of the beneficiaries or class of beneficiaries and any other natural person exercising ultimate effective control over the trust. This lack of adequate clarity in the definition of beneficial ownership and lack of guidance may lead to situations where beneficial owners are inconsistently identified.	Tanzania is recommended to ensure that suitable changes are made in the legal framework of Tanzania Mainland to ensure the availability of beneficial ownership information on all relevant legal entities and arrangements in line with the standard.

Determinations	Factors underlying recommendations	Recommendations
The legal and regulatory framework is in place but needs improvement *(continued)*	The scope of entities and arrangements for which beneficial ownership information is available is incomplete in Zanzibar. In Zanzibar, neither the Zanzibar AML law nor the Zanzibar Companies Act nor the respective governing laws for other entities and arrangements provides for the requirement to maintain beneficial ownership information. Only the Zanzibar AML regulation provides for definition of beneficial owner in respect of certain service providers. However, this definition is not fully in line with the standard and its implementation is not supported by sufficient guidance. Problems include the implementation of the notion of control by other means, the identification of the senior management position, and the uncertainty of identifying a natural person in all cases. There is no legal requirement that entities and arrangements in Zanzibar always engage with an AML-obliged person on an on-going basis, although in practice, most would have a bank account. Although bank account details are sought for registration with tax authorities, in respect of Zanzibar, it is unclear if the scope and coverage would be adequate. In the absence of a legal requirement on all relevant entities and arrangements in Zanzibar to always have a bank account, there could be situations where beneficial ownership information on these entities and arrangements is not available in line with the standard.	Tanzania is recommended that in respect of Zanzibar beneficial ownership information is always available in respect of all legal entities and arrangements in Zanzibar in line with the standard.

Determinations	Factors underlying recommendations	Recommendations
The legal and regulatory framework is in place but needs improvement *(continued)*	Zanzibar's Companies Act permits the issuance of bearer share warrants by public companies limited by shares and does not provide for any requirements to identify the owners of such bearer share warrants.	Tanzania is recommended to ensure that in respect of Zanzibar the owners of bearer share warrants issued by public companies limited by shares can always be identified in line with the standard.
Jurisdictions should ensure that reliable accounting records are kept for all relevant entities and arrangements *(ToR A.2)*		
The legal and regulatory framework is in place but needs improvement	In respect of companies that cease to exist, the legal provisions in the Companies Law in Tanzania Mainland and Zanzibar lack clarity in respect of the availability of accounting records for five years after dissolution. It is unclear who will be responsible for maintaining these accounting records and whether such records will be available for five years after dissolution.	Tanzania is recommended to ensure that in respect of companies that cease to exist, all accounting records are maintained in line with the standard for a period of five years from the date when the company ceases to exist and the responsibility for holding such records is clearly established.

Determinations	Factors underlying recommendations	Recommendations
Banking information and beneficial ownership information should be available for all account-holders *(ToR A.3)*		
The legal and regulatory framework is in place but needs improvement	The definition of beneficial owner as included in the anti-money laundering law does not define certain terms like "substantial control", "substantial economic interest" and "substantial economic benefit" and does not capture control through means other than ownership. Further, there is no guidance on how the definition needs to be applied in practice for identifying all beneficial owners of legal entities like companies and where no natural person can be identified on the basis of ownership and control, a natural person who is a senior managerial person. Similarly, there is lack of guidance on identifying beneficial owners of legal arrangements like partnerships and trusts. For trusts, the definition in the AML law does not explicitly require the identification of the settlor, trustee(s), protector, all of the beneficiaries or class of beneficiaries and any other natural person exercising ultimate effective control over the trust. This lack of adequate clarity in the definition of beneficial ownership and lack of guidance may lead to situations where beneficial owners are inconsistently identified.	Tanzania is recommended to enhance the definition of beneficial owners to cover natural persons who may exercise control through means other than ownership and to adequately clarify the relevant guidance for identifying beneficial owners of all relevant entities and arrangements in line with the standard.
	There is no specified frequency for updating beneficial ownership information in respect of customer due diligence measures. This could lead to situations where beneficial ownership information on all customers is not up to date.	Tanzania is recommended to ensure that beneficial ownership information on all account holders is updated regularly.

Determinations	Factors underlying recommendations	Recommendations
Competent authorities should have the power to obtain and provide information that is the subject of a request under an exchange of information arrangement from any person within their territorial jurisdiction who is in possession or control of such information (irrespective of any legal obligation on such person to maintain the secrecy of the information) *(ToR B.1)*		
The legal and regulatory framework is in place		
The rights and safeguards (e.g. notification, appeal rights) that apply to persons in the requested jurisdiction should be compatible with effective exchange of information *(ToR B.2)*		
The legal and regulatory framework is in place		
Exchange of information mechanisms should provide for effective exchange of information *(ToR C.1)*		
The legal and regulatory framework is in place but needs improvement	Tanzania's DTCs with Sweden, Finland, Italy, Norway and Zambia restrict exchange of information to persons covered by the relevant conventions, i.e. Article 1 of all these treaties makes their provisions only applicable to the residents of the respective states. In addition, Tanzania's EOI manual states that if the incoming request does not pertain to residents of either Contracting States then such requests may be rejected or partially rejected, and no differentiation is made as to whether or not the underlying EOI instrument provides for this restriction.	Tanzania is recommended to ensure that incoming requests in respect of all persons are responded to if they are foreseeably relevant to the requesting jurisdiction.
	Tanzania has not ratified the Southern African Development Community's Agreement on Assistance in Tax Matters and the East African Community Multilateral DTC yet. These agreements, signed on 18 August 2012, and 30 November 2010 respectively provide for exchange of information with 19 jurisdictions, 17 of which are not covered by other EOI instruments signed and ratified by Tanzania.	Tanzania should ensure that its signed exchange of information instruments are brought into force so that EOI relationships agreed to can become effective.

Determinations	Factors underlying recommendations	Recommendations
The jurisdictions' network of information exchange mechanisms should cover all relevant partners *(ToR C.2)*		
The legal and regulatory framework is not in place	An interested partner had approached Tanzania with a request to enter a Tax Information Exchange Agreement. Tanzania declined the request indicating that it had never entered a TIEA with any jurisdiction. Moreover, Tanzania indicated that the request for TIEA was put on hold to avoid duplication of efforts given that Tanzania was considering signing the Multilateral Convention which would lead to establishing an EOI relationship with the peer. However, no significant progress has been made in the process for joining the Multilateral Convention.	Tanzania should ensure that its EOI treaty network covers all relevant partners, meaning those jurisdictions who are interested in entering into an information exchange arrangement.
The jurisdictions' mechanisms for exchange of information should have adequate provisions to ensure the confidentiality of information received *(ToR C.3)*		
The legal and regulatory framework is in place		
The exchange of information mechanisms should respect the rights and safeguards of taxpayers and third parties *(ToR C.4)*		
The legal and regulatory framework is in place		
The jurisdiction should request and provide information under its network of agreements in an effective manner *(ToR C.5)*		
Legal and regulatory framework	This element involves issues of practice. Accordingly, no determination on the legal and regulatory framework has been made.	

Overview of Tanzania

25. This overview provides some basic information about Tanzania that serves as context for understanding the analysis in the main body of the report.

26. The United Republic of Tanzania (Tanzania) consists of Tanzania Mainland and Tanzania Zanzibar. All state authority is exercised and controlled by two organs vested with executive powers, two organs vested with judicial powers and two organs vested with legislative and supervisory powers over the conduct of public affairs in respect of the two – Tanzania Mainland and Zanzibar.

27. In 2020, Tanzania's population was around 57.64 million with the majority of about 55.96 million (97.2%) residing in Tanzania Mainland and just about 1.67 million (2.8%) in Zanzibar. The official languages used for communication are Swahili and English. The currency used in Tanzania is Tanzanian Shillings (TZS).[1] Dodoma is the capital city whereas Dar es Salaam is the commercial hub. In 2019, the estimated income per capita stood at USD 1 126.5. Tanzania is a lower middle income developing country.[2]

28. Tanzania's economy is dominated by agriculture, which contributes to more than a quarter of Tanzania's GDP. Other important sectors of the economy include construction, trade, manufacturing, transport and mining, each of which contribute between 6-15% of the GDP.

Legal system

29. There are two parallel legal systems governing Tanzania Mainland and Zanzibar. In respect of the international standard, although the two legal and regulatory frameworks are fairly similar, there are some differences that affect the assessment of the availability of ownership and accounting

1. Exchange rate – approx. EUR 1 = TZS 2 800.
2. Sources: Tanzania Bureau of Statistics; Bank of Tanzania (BoT) Economic Bulletin September 2020 issue; World Bank Overview of Tanzania https://www.worldbank.org/en/country/tanzania/overview accessed on 31 May 2021.

information (elements A.1 and A.2). As for the availability of banking information (element A.3) and for access to and exchange of information (elements B and C), the legal and regulatory framework applicable to Tanzania Mainland and Zanzibar is the same.

30. The President of the United Republic of Tanzania is the Head of State and the Head of Union Government. In addition, for Zanzibar there is a President who is the Head of Revolutionary Government of Zanzibar and Chairman of the Revolutionary Council. All state authority in the United Republic is exercised and controlled by the following organs: the executive, the legislature and the judiciary for both the United Republic and the Revolutionary Government of Zanzibar; as provided for under Article 4 of the Constitution of the United Republic of Tanzania, 1977. The Revolutionary Government of Zanzibar is autonomous in specific areas of governance as provided for under Article 5A(1) of the Constitution of Zanzibar, 1984.[3]

31. Tanzania was formerly a British protectorate and inherited the common law system, which became applicable in the country.[4] This means that all common law doctrines of equity and statutes of general application operating in England as of 1922 and that were applicable in Tanganyika by then, are now applicable to Tanzania Mainland. In addition, Tanzania Zanzibar operates two systems; the first under British legal system (which arose from a contract between the United Kingdom and the Sultanate of Oman) and the second system which emerged from Islamic jurisprudence.

32. The laws of Tanzania may, in general, be grouped into three categories. Those applicable to: (1) both Tanzania Mainland and Zanzibar, (2) only Tanzania Mainland and (3) only Zanzibar. Under the Constitution, there are

3. The list of union matters as provided by the Constitution comprises 22 identified areas which *inter alia* include foreign affairs, defence and security, police, citizenship, immigration, income tax payable by individuals and by corporations, customs duty and excise duty on goods manufactured in Tanzania collected by the Customs Department, harbours, matters relating to air transport, posts and telecommunications, all matters concerning coinage and currency for the purposes of legal tender (including notes), banks (including savings banks) and all banking business, foreign exchange and exchange control. The Revolutionary Government of Zanzibar is autonomous to legislate independently on all non-union matters, which are all matters other than those specified as union matters. For example, the non-union matters include local government matters; road maintenance and travel; agriculture, livestock, fisheries and other means of livelihood; trade and small scale industries; and prison services.
4. Section 2 of the Judicature and Application of Laws Act, Cap 358 [R.E. 2002] (JALA).

Union matters and Non-Union matters.[5] For "Union" matters, the Parliament of the United Republic of Tanzania has the authority to pass laws applicable to both Tanzania Mainland and Zanzibar. For "non-Union" matters, the Parliament has the authority to pass laws that are applicable only to Tanzania Mainland and the House of Representatives of Zanzibar has the authority to pass laws that are applicable only to Zanzibar. The supreme law of the country is the Constitution of the United Republic of Tanzania. Tanzania's EOI instruments are part of the international agreements recognised under section 7 of the Tax Administration Act, 2015. Section 7(1) provides that "the provisions of an international agreement which the United Republic is a party shall, to the extent that the provisions of the agreement are inconsistent with the provisions of any tax law, prevail over the provisions of the tax laws." Tanzanian authorities have informed that legally and practically, these agreements take precedence over domestic laws.

33. The Judiciary in Tanzania has a five-tier system: i) The Court of Appeal of the United Republic of Tanzania, which is the highest court of appeal in Tanzania (for both – Tanzania Mainland and Zanzibar), ii) the High Courts for Tanzania Mainland and Zanzibar, iii) the Magistrates' Courts[6] (for both – Tanzania Mainland and Zanzibar), iv) the District Courts and Kadhis' Courts of Appeal (Zanzibar) that have concurrent jurisdiction, as well as v) the Primary Courts (Tanzania Mainland) and Kadhis' Courts (Zanzibar).

34. In addition, there are specialised tribunals, which form part of the administration of justice in the country. These include the District Land and Housing Tribunals, Tax Revenues Appeals Board and the Tax Revenue Appeals Tribunal. Appeal against the decisions of the Tax Revenue Appeals Tribunal lies to the Court of Appeal of Tanzania.

Tax system

35. There are two categories of taxes in Tanzania: Union taxes and Non-Union taxes. The Union taxes are applicable to both Tanzania Mainland and Zanzibar whereas the Non-Union taxes are separately applicable to either party of the Union. The Union taxes include taxes on income, customs duty, and excise duty on locally manufactured goods. The Non-Union taxes include value added tax (VAT), property taxes and hotel levy. The Union Taxes and the Non-Union taxes applicable to Tanzania Mainland are assessed, collected and accounted for by the Tanzania Revenue Authority (TRA) while

5. see the list as stipulated in the First Schedule to the Constitution of the United Republic of Tanzania.
6. In Zanzibar, matters pertaining to Islamic law are handled by Kadhis' Appeal court only.

Non-Union taxes in respect of Zanzibar are assessed, collected and accounted for by the Zanzibar Revenue Board (ZRB).

36. Tax on income is based on both residence and source rules where residents are taxed on their worldwide income. Non-residents are taxed on their income sourced in Tanzania (territorial basis). The term residence is defined under section 66 of the Income Tax Act, Cap. 332. This section stipulates different criteria for determination of residence for individuals, partnerships, trusts and corporations. An individual is a resident for a year of income if the individual has a permanent home in Tanzania and has been present in Tanzania at any time during the year, or if an individual stays in Tanzania for a period exceeding 183 days, or if the individual has stayed on average for more than 120 days in each of the preceding two years, or if the individual is an employee or official of the Government of Tanzania who is posted overseas.

37. A partnership is considered resident in Tanzania if any partner of the partnership is resident in Tanzania. A trust is resident in Tanzania if it is established in the United Republic, or at any time during the year, a trustee of the trust is resident in Tanzania, or at any time during the year a resident person directs or may direct senior managerial decisions of the trust, whether the direction is or may be made alone or jointly with other persons or directly or through one or more interposed entities.

38. A corporation is resident in Tanzania for a year of income if it is incorporated or formed under the laws of Tanzania, or at any time during the year of income the management and control of the affairs of the corporation are exercised in Tanzania.

39. Tanzania has reported that as per the income tax database, in Tanzania Mainland the number of corporate taxpayers is approximately 106 000 and individual taxpayers are more than 3.5 million (about 6% of the population of Tanzania Mainland). In Zanzibar the number for corporate taxpayers is close to 5 000 while there are about 20 000 individual taxpayers (about 1% of Zanzibar population) registered in the tax database.

40. With regard to the tax rates, the same are provided for under the first schedule of the Income Tax Act. Generally, the rate is 30% for both individuals and corporations irrespective of residence except for companies registered in Dar es Salaam Stock Market which are taxed at 25%.

41. Entities in Tanzania are subject to direct taxes such as corporate income tax, withholding tax, employment taxes, as well as indirect taxes such as VAT, excise duty and stamp duty. Individuals are subject to presumptive income tax (taxed based on their annual income threshold), stamp duty, employment taxes (imposed on individual salaries) as well as VAT depending on the threshold for registration purposes.

42. The Minister of Finance for Tanzania is the Competent Authority for all exchange of information. However, the powers have been delegated to the Commissioner General of the Tanzanian Revenue Authority (TRA) who is the Competent Authority for all EOI matters. There is a common Competent Authority for both Tanzania Mainland and Zanzibar. TRA and ZRB have a common EOI unit housed in TRA which serves both – the TRA as well as ZRB on all EOI matters. Tanzania engages in exchange of information on request based on nine double taxation conventions (DTCs). Tanzania counts the number of requests based on the number of persons covered by the request. Since 2016, Tanzania has been receiving on average about five or six requests per year although in 2019, 12 requests were received. However, Tanzania has sent only five requests over the same period of which four requests were made in 2019.

Financial services sector

43. The financial sector in Tanzania comprises the Banking Sector, Social Security Sector, Insurance Sector and Capital Markets. As at December 2020, the total assets of the Financial Sector stood at TZS 49 473 billion (EUR 17.5 billion) with the Banking Sector contributing about 70.5% (i.e. TZS 34 888 billion (EUR 12.4 billion)), Social Security Sector 26.1%, Collective Investment Scheme 0.96% and insurance 2.4%. Financial sector assets to GDP ratio is about 33%. Tanzania is neither an international financial centre nor a regional financial centre.

44. The banking sector is made of 46 licensed banking institutions and 13 non-deposit taking institutions. Total number of bank branches stood at 984. Bank branches are concentrated in major cities and towns namely Dar es Salaam (29%), Arusha (7%), Mwanza (7%), Mbeya (5%), Kilimanjaro (5%).[7] All these cities are in Tanzania Mainland. Two largest banks in the sector contribute about 40% of the total banking sector assets, while five largest banks account for about 57% of the banking sector assets. Thus, although there are certain dominant banks, a number of smaller banks have a substantial share in the sector.

45. There are four regulatory authorities supervising the Financial Sector in Tanzania: Bank of Tanzania (BOT), Social Security Regulatory Authority (SSRA), Capital Market and Securities Authority (CMSA) and Tanzania Insurance Regulatory Authority (TIRA). Each of these regulatory authorities has its own mandate, which has been established under its own law to license and supervise each sub-sector of the financial sector.

7. Source: Banking Sector Report, September 2019.

Anti-Money Laundering (AML) framework

46. Tanzania Mainland and Zanzibar have two separate AML laws. In respect of Tanzania Mainland, the applicable law is the Anti-Money Laundering Act, 2006 (AMLA) as amended by AML Amendment Act 2012 and then by the Finance Act, 2020. The Act is supported by AML Regulations 2012. In respect of Zanzibar, the governing AML Act is Anti-Money Laundering and Proceeds of Crime Act (AMLPOCA) complemented by the Anti-Money Laundering and Proceeds of Crime Regulations (AMLPOCR). Besides these, the Prevention of Terrorism Act, 2002 is applicable to the United Republic of Tanzania (i.e. both – Tanzania Mainland and Zanzibar). The AML/CFT laws impose measures which require effective implementation by reporting persons, regulators, Financial Intelligence Unit (FIU), and law enforcement agencies. The measures include criminalisation of money laundering; preventive regulatory requirements on a number of businesses and professions, establishing institutional framework such as the FIU and National Committee on AML/CFT; creating an effective supervisory framework; and setting up channels for domestic and international co-operation. The Financial Intelligence Unit (FIU) was established under section 4 of the AMLA. It is an extra-ministerial department under the Ministry of Finance. The head of the FIU is a Commissioner who is appointed by the President of the United Republic of Tanzania. AMLA also established the National Multi-Disciplinary Committee on AML comprising members from both, Tanzania Mainland and Zanzibar. The Committee plays an advisory role on AML/CFT issues in the country.

47. Section 3 of AMLA and section 2 of AMLPOCA identify the reporting persons who are covered by the AML-obligations while dealing with their customers. These include banks and financial institutions; cash dealers; accountants; real estate agents; dealers in precious stones, work of art or metals; auctioneers; pension fund managers; securities market intermediaries; financial leasing entities; micro-financing institutions and companies; and housing financing companies. Furthermore, attorneys, notaries and other independent legal professionals are also covered by AML obligations under specific situations – when they are assisting clients in preparing or executing transactions involving the purchase or sale of real property or commercial enterprises; managing the funds, securities or other assets belonging to a customer; opening or managing bank accounts, saving accounts or portfolios; organising contributions required to create, manage or direct corporations or legal entities; creating, managing or directing corporations or legal entities; and while buying or selling of business entities. These professionals are also AML-obliged when they act on behalf of a client in any financial or real estate transaction.

48. The AML laws provide for sector-specific regulatory authorities to undertake registration of the AML-obliged reporting persons and oversee

their conduct to ensure they operate in accordance with the laid down standards and procedures. Bank of Tanzania supervises banks and financial institutions, financial leasing entities, micro-finance institutions and companies, and housing finance companies. CMSA regulates securities market intermediaries; SSRA is in-charge of pension fund managers; Cash dealers are supervised by TIRA, Gaming Board; dealers in precious stones are regulated by the FIU and the Mineral Commission. Attorneys, notaries and other professionals are supervised by Zanzibar Law Societies and Tanganyika Law Societies. Accountants and Auditors are registered under the Accountants and Auditors (Registration) Act. This Act mandates the National Board of Accountants and Auditors to oversee the activities of Accountants and Auditors. Further, according to section 19A of AMLA and section 14A of AMLPOCA, FIU has supervisory powers to impose administrative sanctions on any reporting person for non-compliance with AML legislation. Thus, where no separate identified regulator exists, FIU has the residuary jurisdiction over such AML-obliged person.

49. The evaluation of the anti-money laundering (AML) and combating the financing of terrorism (CFT) regime of the United Republic of Tanzania was conducted in February 2009. The Mutual Evaluation Report identified deficiencies relating to the legal framework, preventive measures, regulation and supervision, FIU, and international co-operation. Overall, Tanzania received 12 Non-Compliant and 4 Partially Compliant ratings on the Core and Key Financial Action Task Force (FATF) Recommendations. Thus, Tanzania underwent a targeted review and was placed under FATF International Cooperation Review Group (ICRG) monitoring programme. Tanzania worked with the FATF and Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG) in addressing its AML/CFT deficiencies and completed all action items by addressing all strategic deficiencies observed in the Mutual Evaluation Report and was removed from ICRG monitoring process in 2014. Tanzania has undergone a more recent Mutual Evaluation in 2019 and the final report was published in June 2021 reflecting the situation in Tanzania as of July 2019.[8] Tanzania has been rated Partially Compliant on Recommendations 10 (customer due diligence) and 24 (transparency and beneficial ownership of legal entities) and Non-compliant on Recommendation 25 (transparency and beneficial ownership of legal arrangements). The effectiveness of Immediate Outcomes 3 (Supervision) and 5 (Legal persons and arrangements) was rated "low". Post FATF on-site in 2019, Tanzania has taken steps to address some of the deficiencies identified in the MER.

8. Tanzania's 2021 MER is available at https://www.fatf-gafi.org/publications/mutualevaluations/documents/mer-tanzania-2021.html.

Recent developments

50. Since 2019, Tanzania has implemented several significant reforms to comply with the standard and to ensure, in particular, the availability of information on the ownership of legal entities and arrangements. These new legal provisions are described in this report.

Part A: Availability of information

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

A.1. Legal and beneficial ownership and identity information

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

52. The legal and beneficial ownership information in Tanzania is generally available through a combination of laws. In respect of companies, Tanzania Mainland and Zanzibar have separate Companies Acts that provide for the incorporation of companies. Both Acts provide for the availability of legal ownership information on companies, and in general these provisions are exhaustive and satisfactory. However, the low quantum of monetary sanctions provided for under the relevant laws poses some concerns about their efficacy and dissuasiveness. Similar concern is notable in respect of the applicable law governing formation of trusts in Tanzania Mainland.

53. In respect of partnerships, registration requirements with the respective business registration authorities of Tanzania Mainland and Zanzibar, coupled with the tax law obligations, are the source of identity information. The provisions of the tax laws apply uniformly across the United Republic of Tanzania in respect of Union taxes, which include direct taxes. The requirements for registering and obtaining Tax Identification Number and annual filing of tax returns provide for important sources of legal ownership information. The requirements of VAT Acts applicable to Tanzania Mainland and Zanzibar also require provision of identity information in respect of partnerships where they have VAT obligations.

54. In respect of trusts in Tanzania Mainland and Wakfs (or Waqfs) in Zanzibar, the respective governing Acts are the primary sources of identity information although tax law obligations act as a supplementary source.

Similarly, the governing laws in respect of non-government organisations and societies provide for maintenance of legal ownership information.

55. In respect of availability of beneficial ownership information, Tanzania Mainland has amended the applicable Companies Act, the AML Act, the Income Tax Act and the Trustees Incorporation Act to introduce the definition and the requirements for maintaining beneficial ownership information. Zanzibar has not done the same, but some of the above changes apply to Zanzibar in situations where relevant entities and arrangements have bank accounts, which is not sufficient to meet the standard. Further, there are some deficiencies in the definition of beneficial owner and in the absence of adequate guidance, it could lead to incorrect or inconsistent identification of beneficial owners.

56. Tanzania has amended the Companies Act applicable to Tanzania Mainland through Finance Act 2021 to prohibit the issuance of bearer share warrants by public companies and ensure the surrender and cancellation of such shares, where issued, within one year from July 2021. Similar changes have not been introduced in respect of Zanzibar where public companies can still issue bearer share warrants.

57. The conclusions are as follows:

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

Deficiencies identified/ Underlying factor	Recommendations
The Companies Acts of Tanzania Mainland and Zanzibar require the maintenance of legal ownership information on all companies, and to submit such information to the Registrars on a specified timeline basis. Similarly, in respect of the trusts, the Trustees Incorporation Act requires the availability of information on the settlors, trustees and beneficiaries of trusts in Tanzania Mainland. However, the associated quantum of monetary sanctions for violation or non-compliance with the legal requirements as provided for under the respective laws may not be dissuasive.	Tanzania is recommended to ensure that the compliance provisions for companies under the Companies Acts of Tanzania Mainland and Zanzibar, and for trusts under the Trustees Incorporation Act in Tanzania Mainland are adequate for maintaining and submitting all legal ownership information on companies and identity information related to trusts to the respective Registrars.

Deficiencies identified/ Underlying factor	Recommendations
In respect of Tanzania Mainland, the definition of beneficial owner as included in the anti-money laundering law and the Companies Act does not define certain terms like "substantial control", "substantial economic interest" and "substantial economic benefit" and does not provide for control through means other than ownership. Further, there is no guidance on how the definition needs to be applied in practice for identifying all beneficial owners of legal entities like companies and where no natural person can be identified on the basis of ownership and control, a natural person who is a senior managerial person. Similarly, there is lack of guidance on identifying beneficial owners of legal arrangements like partnerships and trusts. For trusts, the definitions in the AML law and Trustees Incorporation Act do not explicitly require the identification of the settlor, trustee(s), protector, all of the beneficiaries or class of beneficiaries and any other natural person exercising ultimate effective control over the trust. This lack of adequate clarity in the definition of beneficial ownership and lack of guidance may lead to situations where beneficial owners are inconsistently identified.	Tanzania is recommended to ensure that suitable changes are made in the legal framework of Tanzania Mainland to ensure the availability of beneficial ownership information on all relevant legal entities and arrangements in line with the standard.

Deficiencies identified/ Underlying factor	Recommendations
The scope of entities and arrangements for which beneficial ownership information is available is incomplete in Zanzibar. In Zanzibar, neither the Zanzibar AML law nor the Zanzibar Companies Act nor the respective governing laws for other entities and arrangements provides for the requirement to maintain beneficial ownership information. Only the Zanzibar AML regulation provides for definition of beneficial owner in respect of certain service providers. However, this definition is not fully in line with the standard and its implementation is not supported by sufficient guidance. Problems include the implementation of the notion of control by other means, the identification of the senior management position, and the uncertainty of identifying a natural person in all cases. There is no legal requirement that entities and arrangements in Zanzibar always engage with an AML-obliged person on an on-going basis, although in practice, most would have a bank account. Although bank account details are sought for registration with tax authorities, in respect of Zanzibar, it is unclear if the scope and coverage would be adequate. In the absence of a legal requirement on all relevant entities and arrangements in Zanzibar to always have a bank account, there could be situations where beneficial ownership information on these entities and arrangements is not available in line with the standard.	Tanzania is recommended that in respect of Zanzibar beneficial ownership information is always available in respect of all legal entities and arrangements in Zanzibar in line with the standard.

Deficiencies identified/ Underlying factor	Recommendations
Zanzibar's Companies Act permits the issuance of bearer share warrants by public companies limited by shares and does not provide for any requirements to identify the owners of such bearer share warrants.	Tanzania is recommended to ensure that in respect of Zanzibar the owners of bearer share warrants issued by public companies limited by shares can always be identified in line with the standard.

Practical Implementation of the Standard: The assessment team is not in a position to issue a rating on this element, as it involves issues of practice that are dealt with in the Phase 2 review.

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

Legal ownership and identity information

58. The legal ownership and identity requirements for companies are mainly found under the requirements of the Companies Laws of Tanzania Mainland and Zanzibar. They are supplemented by the requirements under the Tax Law. The AML-law also requires the availability of such information[9] to the extent that the company is engaged with an AML-obliged person, which is not mandatory. The following table shows a summary of the legal requirements to maintain legal ownership information in respect of companies.

Companies covered by legislation regulating legal ownership information[10]

Type	Company Law	Tax Law	AML Law
Tanzania Mainland			
Private company limited by shares	All	All	Some
Private companies limited by guarantee	All	All	Some
Private unlimited company	All	All	Some
Public company	All	All	Some
Foreign companies (tax resident)	All	All	Some

9. AML law provisions require knowledge of ownership structure of an entity or arrangement, which is not always equivalent to complete ownership information.

10. The table shows each type of entity and whether the various rules applicable require availability of information for "all" such entities, "some" or "none". "All" means that the legislation, whether or not it meets the standard, contains requirements on the availability of ownership information for every entity of this type. "Some" means that an entity will be covered by these requirements if certain conditions are met.

Type	Company Law	Tax Law	AML Law
Zanzibar			
Private company limited by shares	All	All	Some
Private companies limited by guarantee	All	All	Some
Private unlimited company	All	All	Some
Public company	All	All	Some
Foreign companies (tax resident)	Some	All	Some

Companies Law requirements in Tanzania Mainland

59. The Companies Act, No. 12 of 2002, is the principal legislation governing the establishment and regulatory arrangements with respect to companies in Tanzania Mainland. Section 3 of the Act provides for the formation of companies limited by shares, companies limited by guarantee and unlimited companies.

- **Companies limited by shares** are those where the memorandum of association limits the liability of the members to the amount, if any, unpaid on the shares held by them.
- **Companies limited by guarantee** are those where the memorandum of association limits the liability of members to such amount as the members may respectively thereby undertake to contribute to the assets of the company in the event of it being wound up.
- **Unlimited companies** are those where there is no limit on the liability of the members.

60. Besides this general distinction between limited liability companies and unlimited liability companies, section 3 of the Companies Act provides for the establishment of public companies and private companies. Public companies must always have share capital and must be limited by shares. Hence, unlimited companies cannot be public companies. Private companies are defined under section 27 of the Companies Act. Private companies can be limited companies or unlimited liability companies. Under their articles of association, they must restrict the right to transfer shares, must not have more than 50 members, and prohibit any invitation to the public to subscribe for any shares or debentures of the company.

61. In addition to the public and private companies, foreign companies incorporated outside of Tanzania are permitted to carry on business in Tanzania through a place of business like a branch office.

62. Tanzanian authorities have indicated that as of 31 March 2020 there are 329 public companies (of which 28 are listed on the Dar es Salaam Stock Exchange) and 155 606 private companies registered in Tanzania Mainland. Further, 723 foreign companies have branch offices in Tanzania Mainland.

Tanzanian authorities have further informed that since 2018, based on the data available from the online registration system (refer paragraph 70 below), 14 108 private companies limited by shares, 9 public companies limited by shares and 211 companies limited by guarantee have been registered with the Registrar.

63. All companies incorporated in Tanzania Mainland are required to register with the Business Registration and Licensing Authority (BRELA). BRELA is headed by a Chief Executive Officer who is also the Registrar of Companies. The Registrar is required to maintain a Register of Companies to enter all matters pertaining to companies as prescribed under the Companies Act (s. 451). All companies registered under the Companies Act are allocated a unique Company Identification Number (CIN) by the Registrar.

64. At the time of registration, all companies are required to file Form 14a specifying the intended address of the company's registered office, and the particulars of the company secretary and directors. The said form also requires the submission of the name, address and contact details of shareholders of the company.

65. All companies incorporated under the Companies Act of Tanzania Mainland are required to have a registered office in Tanzania Mainland. Although not a legal requirement, Tanzanian authorities have informed that in practice, application for registration and incorporation is not accepted unless the proposed registered office of the company is in Tanzania.

66. All incorporated companies are required to keep a register of their members as provided for under section 115 of the Companies Act. The members' register must contain the names and addresses of all members. In the case of a company having share capital, a statement of the shares held by each member, and the amount paid or agreed to be considered as paid on the shares of each member must be maintained by the company. The register must also contain the date on which each member was entered into the register as well when the member ceased to be a member. All changes to the shareholding need to be duly recorded and updated in the share register. Section 116 of the Companies Act further stipulates that in the case of companies having more than 50 members (public companies), the register of members should be supplemented with an index of names of members with sufficient details to enable ready identification of the member's account in the register.

67. Further, any changes to the directors and secretaries of the company must be indicated to the Registrar (s. 210(4) and (5)). Similarly, the Registrar must be notified about the allotment of shares under section 55(1),[11] transfer

11. Whenever a company limited by shares or a company limited by guarantee and having a share capital makes any allotment of its shares, such company is required to submit a return of the allotments to the Registrar clearly indicating the names and addresses of the allottees (s. 55).

of shares, increase in members of company limited by guarantee as provided under section 10(3), or ceasing to be a private company under section 29 of the Act. Tanzanian authorities have informed that legal rights accrue to the new shareholder upon transfer of shares only when the Registrar has been duly notified about the transfer. Transfer of shares should be registered with the Registrar through notification to the Registrar for update of records under the requirement imposed by section 130(5) of the Companies Act (annual return). Any capital gains tax and stamp duty arising in respect of the share transfer must be paid to the TRA which issues a tax clearance certificate. Private companies are required to submit the share transfer forms, a company resolution and the tax clearance certificate to the Registrar for completing the transfer of shares. Registrar is required to be notified about the share transfer within three days of the transaction.

68. Until very recently, section 117 of the Companies Act 2002 permitted the issuance of bearer share warrants by public companies. Where a share warrant was issued to a member, the name of the member was to be removed from the share register as if such member had ceased to exist as a member. The fact of issuance of the share warrant was required to be recorded together with the date of issue of such warrant and the shares associated with the warrant were identified by number and name of the owner.[12] However, Tanzania has amended the Companies Act through Finance Act 2021 and section 117 has been repealed. The discussion under A.1.2 further examines the situation in respect of identification of holders of bearer share warrants in Tanzania Mainland and Zanzibar.

69. The register of members must ordinarily be kept at the registered office of the company except where it is prepared at another office or through a third party (like a lawyer or an accountant). If the register is not kept at the registered office, the Registrar must be informed about the office where the register is maintained. In case of change of place of maintaining the register, the Registrar must be informed within 14 days of such change. In all cases, the register must be kept in Tanzania Mainland (s. 115(2) of the Companies Act 2002).

70. Since February 2018, the procedure for registration of and compliance by companies has migrated from manual to electronic mode. A user is required to register and open an account on the Online Registration System (ORS) maintained by BRELA. For registration for an account on ORS, a Tanzanian individual subscriber is required to submit the National Identification Number (NIN) and Tax Identification Number (TIN), a foreigner is required to submit passport details, while a legal entity like a company is required to submit its CIN and certificate of incorporation. Once registered, a user can use the system

12. The requirement for "name of the owner" has been introduced recently through the amendment of Companies Act 2002 by the Finance Act 2020.

to provide all information about the company such as the registered office address, names of directors, company secretary and shareholders, share capital, number of shares and value of each share. These details are provided through filling an online consolidated form. The personal information of shareholders such as names, date of birth, nationality, residential address, mobile number and email address must be disclosed in the form. The consolidated form is required to be downloaded and signed by all directors and a company secretary. For companies that may not issue shares or have shareholders (like companies limited by guarantee), details of all members are similarly provided.

71. Documents to ensure identification of members must be attached. These include the consolidated form uploaded with attachments such as memorandum and articles of association, a declaration form and an integrity pledge form. The system also permits uploading other attachments such as copy of passport of members who are foreigners, certificate of incorporation of a registered entity being one of the subscribers to the memorandum, permits from any other institution, such as permit required for security activities, or any other documents the applicant would think necessary to accompany the application form.

72. Prior to the adoption of the ORS, the entire process of registration was manual and all documents that are now required to be submitted electronically, were submitted to and maintained manually by the Registrar. Tanzanian authorities have informed that these documents have been scanned and uploaded on ORS making it easy to retrieve the information that was submitted prior to the introduction of the ORS.

73. Section 128 of the Companies Act 2002 requires every company incorporated in Tanzania Mainland to file an annual return with the Registrar. Since the introduction of the ORS, annual returns are submitted electronically through it. Section 129 indicates the information required to be provided in the annual return by all companies: the address of the registered office of the company, the type of company and its business activity, name and address of the company secretary, name and address of each of the directors (where such director is an individual, date of birth, nationality, business occupation and other particulars[13] maintained in the register of directors of the company, and where such director is a corporation, such particulars maintained in the register of directors as for an individual), address where the register of members of the company is maintained if it is not at the registered office, and address of the place where the register of debenture holders, if any, is maintained if not kept at the registered office. Where a company has one or more corporate directors, information to be maintained on such

13. Other particulars would be information like directorship details in any other company.

corporate directors includes company name, company incorporation number, date of incorporation, place of origin, phone number, postal address, email address, city name and postal code.

74. In addition to the above, companies having share capital must also disclose ownership information in their annual tax return in application of section 130. In their annual return, such companies are required to state the total number of issued shares of the company at the date to which the return is prepared and the aggregate nominal value of those shares. The annual return must indicate the different classes of shares and the associated nominal value with each class of shares. Further, the annual return must indicate the name and address of each person who is a member (shareholder) of the company at the date of preparing the annual return, as well as every member who has ceased to be a member since the last return. The annual return must also indicate the number of shares of each class held by each member at the date of preparing the annual return, as well as the number of shares of each class transferred since the date to which the last return was made up (or, in the case of the first return, since the incorporation of the company) by each member or person who has ceased to be a member, and the dates of registration of the transfers. In cases where the preceding two annual returns have provided full details of all members, the subsequent annual return may indicate only the changes in respect of members who have ceased to be members or who have become new members and the details of shares transferred since the previous return.

Company Law enforcement and oversight provisions

75. The Companies Act 2002 contains several penal provisions for non-compliance by companies incorporated under the Act. Such sanctions can be imposed by the Registrar. Failure to file annual return under section 128 within 28 days of the return date, every officer of the company is liable to a default fine of TZS 22 000 (EUR 8) and the Registrar may strike defunct company off the register as per section 400 of the Act. For failure to keep the members register by the company, every officer of that company who is in default is liable to a default fine the amount of which is as decided by the court as per section 115 of the Act. In case of failure to submit return of allotment of shares within the stipulated time, an officer of such a company is liable to a default fine of TZS 22 000. In addition, for failure to notify the Registrar on change of registered office of the company or company name as required under section 111 of the Act, the company is liable to the same default fine. The quantum of default fines for non-compliance with the requirements of the Companies Act in respect of statutory filings with the Registrar is low. It is unclear how effective these levels of sanctions are in being dissuasive and in ensuring compliance with the provisions of the Companies Act. Similar observation is made in respect of applicable

monetary sanctions in respect of Zanzibar (see paragraphs 85-86). **Tanzania is recommended to ensure that the compliance provisions for companies under the Companies Act are adequate for maintaining and submitting all legal ownership information on companies**.

76. Besides these, section 472 of the Companies Act provides for imprisonment upon conviction and also for a fine for defaults such as wilful provision of false statement in any return, report, accounts, certificate or any other document required to be delivered to the Registrar.

Zanzibar

77. In Zanzibar, a separate Companies Act applies in respect of companies. Companies are formed under the Companies Act No. 15 of 2013 which governs registration and administration of the companies operating in Zanzibar. Similar to the situation in Tanzania Mainland, section 3(2) of the Act provides for three types of companies – companies limited by shares (under this type of companies, the liability of the members is limited by the memorandum to the amount if any, unpaid on the shares held by them); companies limited by guarantee (where the liability of the members is limited by the memorandum to such amount as the members may respectively undertake to contribute to the assets of the company in case of it being wound up); and unlimited companies (where there is no limit on the liability of members).

78. In addition, under section 3(2), the Act also provides for a single member private company where the sole member may form a company and he/she may be personally liable under section 33(2) where he/she contravenes the Act. Joint shareholding for such a single member company is not allowed as per section 30(3) of the Act. Further, a single member must always be a director of the company, and may appoint additional directors as stipulated under section 189(2) of the Act. In addition, a single member must appoint nominee director and alternate nominee director in a form no. 8.[14] Zanzibar Companies Act does not permit corporate directors and hence, only natural persons can be directors of companies incorporated in Zanzibar.

79. Tanzanian authorities have indicated that as of 31 March 2020 there are 2 public companies and 10 118 private companies registered in Zanzibar. Further, since the introduction of the ORS (refer paragraphs 70 and 82) in 2018, 1 144 companies limited by shares and 18 companies limited by guarantee have been incorporated in Zanzibar.

14. Nominee director is appointed by a single member/sole director for the purpose of administering shares of single shareholder for welfare of his/her heirs in case of death. The alternative nominee director performs the same functions as a further back-up in case of death.

80. All companies incorporated in Zanzibar are required to register with the Business and Property Registration Agency (BPRA). The BPRA is headed by the Executive Director. The Executive Director of the BPRA is the Registrar of Companies for the purposes of the Companies Act No. 15 of 2013 in respect of Zanzibar.

81. The requirements to maintain legal ownership and identity information are applicable to companies themselves as per section 116 of the Companies Act No. 15 of 2013. Identical provisions as applicable in section 115 of Tanzania Mainland's Companies Act, apply under section 116 of the Companies Act No. 15 of 2013 in the case of Zanzibar. The information to be maintained in the register of members under section 116 includes: the names and addresses of the members, and in the case of a company having a share capital a statement of the shares held by each member, distinguishing each share by its number (so long as the share has a number), and where appropriate by its class, and the amount paid or agreed to be considered as paid on the shares of each member; the date at which each person was entered in the register as a member; the date at which any person ceased to be a member. The register of members must ordinarily be maintained at the registered office of the company and in all cases must be kept in Zanzibar[15] (s. 116(2)(b) of Companies Act No. 15 of 2013). The register may be kept at another place in Zanzibar instead of the registered office, if it is prepared at another office, or if some other person is engaged for maintaining such register. The Registrar must be informed about such change in place of maintenance of the register. Further, in the event of any changes in particulars, section 117 of the Act requires companies to update their records. Moreover, companies are required to file annual returns every year with the Registrar. These annual returns are required to provide up-to-date information and hence, companies are expected to update legal ownership information with the Registrar while filing annual returns. The requirement is stipulated under sections 129, 130 and 131 of the Companies Act No. 15 of 2013.

82. Since July 2018, similar to the ORS in Tanzania Mainland, an ORS system has been implemented in Zanzibar for the purposes of registration and compliance in respect of companies in Zanzibar. This system is maintained by the BPRA. Users are required to register on the ORS. Tanzania individuals must submit their Zanzibar Identification Number (ZanID) or the NIN, while non-Tanzanians are required to submit their passport details. An email address is also required. The ORS is integrated with the National Identification Authority (NIDA) and ZanID systems for cross-verification of submitted information. However, the ORS systems of Zanzibar and Tanzania Mainland are not inter-linked and operate on a standalone basis from each other.

15. For companies incorporated in Zanzibar, the register of members must be in Zanzibar and cannot be located in Tanzania Mainland.

83. The Zanzibar Companies Act provides for sanctions for various infringements. Section 130 provides that in respect of failure to file annual return as required under the Act, the company and every officer of the company are liable to a default fine of TZS 3 000 (EUR 1.10) per month. Similar quantum of fine applies where there is a delay in filing the annual return (s. 131(2)), failure to file director's report with annual return (s. 132(3)), or where a company defaults in keeping all required records or defaults for fourteen days in complying with informing the Registrar of the place where its register of members is kept and of any change in that place (s. 116(4)) as well as for failure to comply with the requirements to update company records (s. 117(4)).

84. Making a wilful false statement in any return, report, certificate, balance sheet, or other document, required by or for the purposes of any of the provisions of the Companies Act is an offence, and such a person is liable on conviction to imprisonment for a term not exceeding two years, or to such a fine not exceeding TZS 2 million (EUR 730), or both (s. 267).

85. In addition to these sanctions under the Companies Act, Regulation 55(1) of the Companies Regulation 2017 provides for general penalty of a fine of TZS 25 000 (EUR 9) on a person who contravenes any provision of the Act or the Regulations especially where there is no punishment prescribed under the Act or the Regulations in relation to such provision.

86. Besides these sanctions stipulated under the Companies Act for Zanzibar, every company carrying out any business in Zanzibar is required to register under the Business Entities Registration Act (BERA) No. 12 of 2012 and must comply with all the registration provisions. Sanctions apply for non-compliance. Section 7(2) of BERA provides that any business entity which contravenes the provisions to provide correct and complete information in the registration form and attachments submitted to the Registrar within the prescribed time commits an offence and is liable to a default fine of TZS 3 000 (EUR 1.10) per month. Further, section 21 provides the general penalty of a fine of not less than TZS 50 000 (EUR 18) and not exceeding TZS 1 million (EUR 370) or imprisonment for a period of not less than one month and not exceeding three months or both (such fine and imprisonment) where there is no specific penalty prescribed under this Act or its regulations

87. As noted in respect of Tanzania Mainland in paragraph 75 above, given the relatively low monetary value of some of the sanctions provided in law, it is unclear if such monetary sanctions are adequate for ensuring compliance with the requirements stipulated in the Companies Act applicable to Zanzibar. **Tanzania is recommended to ensure that the compliance provision for companies under the Companies Act of Zanzibar are adequate for maintaining and submitting all legal ownership information on companies**.

Record retention

88. The laws governing the establishment of companies require the keeping of records for certain periods of time. Section 455(2) of the Companies Act Cap. 212 which is applicable in Tanzania Mainland requires the original documents delivered to the Registrar in a paper form to be kept for 10 years by the Registrar. Tanzanian authorities have indicated that since the law is silent on when to start counting the ten year period, in practice, company formation documents are kept all through the life of a company. In addition, Tanzanian authorities have informed that since the introduction of the ORS, in practice, all electronically filed information is intended to be kept perpetually and will not be destroyed or deleted. Past manually submitted documents have been digitised and should be available perpetually.

89. All government authorities in Tanzania Mainland and Zanzibar are required to maintain and preserve all public records for a period of 30 years.[16] In the event of liquidation, the Registrar may, after two years of such dissolution, order any document under its custody to be archived. Hence, in the case of companies that are liquidated, all legal ownership information would be archived for a period of at least 30 years as per the archiving policy for public institutions in Tanzania.

Foreign companies

90. Foreign companies incorporated outside Tanzania can carry on business operations in Tanzania after registering with the Registrar of Companies. In respect of Tanzania Mainland, section 434 of the Companies Act 2002 details the registration procedure. Documents that must be submitted are relevant Form 434 for registration of the foreign company; a certified copy of original certificate of incorporation of the foreign company issued by the relevant authority in the country of incorporation; certified copies of the Memorandum and Articles of Association, statute or charter, or the relevant document that is used in the country of origin as the constitution of the incorporated company; a copy of the most recent accounts and related reports of the company, and if the documents are not in English, a certified translation thereof should be provided in conformity with the Companies Regulations. Tanzanian authorities inform that generally the company's shareholders and directors' names are stipulated in the certified Memorandum and attested application Form 434 respectively that are submitted at the time of registration. The names and addresses of one or more persons resident in Tanzania authorised to accept on behalf of the company service of process and any

16. section 16(1) of the Records and Archives Management Act, 2002 for Tanzania Mainland and section 20(1) of the Zanzibar Institute of Archives and Records Act No. 3 of 2008.

notice required to be served on the company is also required to be submitted by the foreign company at the time of registration. Such authorised Tanzanian resident(s) may be anyone that the company may choose. Further, through Finance Act 2020, the Companies Act 2002 has been amended by the insertion of section 451A which provides for setting up of a beneficial owners register for all companies registered with the Registrar. Besides requiring submission of all information as required under section 115(2) of the Act (maintenance of register of shareholders/members), it requires the submission of the name of the body corporate; head office address; identity of directors, shareholders and beneficial owners; proof of incorporation or evidence of legal status and legal form; and such other information that is necessary to determine the ownership and control of the legal person. Tanzanian authorities have informed that these requirements would apply to foreign companies that are registered under section 434 of the Act as well.

91. The procedure for registration of foreign companies is also automated and is done online through the ORS. Any changes to the particulars of directors or company secretary, or other documents submitted at the time of registration are required to be updated by filing such changes with the Registrar within 60 days of the change. Further, foreign companies registered in Tanzania Mainland are obliged to file their annual returns like domestic companies. Tanzanian authorities have informed that since foreign companies are required to submit the same forms while filing their annual returns, same information is required to be submitted by them (see paragraph 74).

92. In respect of Zanzibar, for foreign companies, registration requirements and procedures are stipulated under section 239 of the Companies Act No. 15 of 2013. Every foreign company which establishes a place of business in Zanzibar or which has a place of business in Zanzibar must within one month of the establishment of the place of business or within six months from the appointed day (that is the day from which it seeks to commence business in Zanzibar), deliver to the Registrar for registration – (a) a certified copy of the charter, statutes or memorandum and articles of the company or other instrument constituting or defining the constitution of the company, and, if the instrument is not written in the English or Swahili language, a certified translation thereof; (b) a list of the directors and secretary of the company; (c) the names and addresses of one or more persons resident in Zanzibar authorised to accept on behalf of the company service of process and any notice required to be served on the company.

93. Under the provisions of the Companies Act of Tanzania Mainland, due to the recent amendments introduced through the Finance Act 2020, legal ownership information would be available. This would be supplemented by the requirements under the direct tax laws for foreign companies doing business in Tanzania Mainland. However, under the Companies Act

for Zanzibar, legal ownership information on foreign companies registered in Zanzibar is available only to the extent up-to-date membership is part of the Memorandum of the company in application of the foreign law. Foreign companies are not subject to the requirement to keep a register of shareholders in Zanzibar. Foreign companies are, however, required to comply with the relevant provisions of the Income Tax Act and the Tax Administration Act, which do require submission of legal ownership information at the time of registration with the TRA and to keep it updated (see paragraphs 99 to 102).

Inactive companies and companies that cease to exist

94. In Tanzania Mainland, companies can cease to exist by being wound up and dissolved either through a court monitored liquidation process or through a voluntary winding up procedure as provided for under Part VIII of the Companies Act. Once dissolved after being wound up, the company ceases to exist and loses its legal personality. The High Court of Tanzania is the designated court to oversee the court procedure for winding up, but can delegate the process to any Resident Magistrate's Court through an order.[17] A company may be wound by the court if the company itself seeks such process, does not commence business within a year from its incorporation or suspends business for a year; or the number of its members fall below two; or it is unable to pay its debts; or the court itself is of the view that it is just and equitable to wind up the company. In the case of voluntary winding up, a company may pass a special resolution to the effect of voluntary winding up to commence the procedure. Companies that are wound up are also struck-off from the register. Tanzania has reported that 355 companies in Tanzania Mainland have been wound up of which 300 have been struck-off the register during the review period.

95. Companies cease to exist in Tanzania Mainland upon being wound up through liquidation. Records of the companies which are liquidated will still be available with the office of the Registrar of companies (BRELA) since the general retention time is ten years as per section 455(2) of the Companies Act for all documents filed with the Registrar of Companies. These documents include legal ownership information and accounting records filed with the Registrar prior to liquidation. Thus, legal ownership information on companies that cease to exist, to the extent submitted to the Registrar, should be available. The availability in practice, in this regard will be examined further during the Phase 2 review (see Annex 1).

17. Tanzanian authorities have indicated that in practice, such delegation of the winding up process by the High Court to the Resident Magistrate's Court has not happened in the past. If it were to happen, it is expected that such delegation would be on a case-by-case basis and not a general delegation of the High Court's function.

96. Further, besides the winding up procedures, a company may also be struck-off by the Registrar from the corporate register in accordance with the provisions of section 400 of the Companies Act where the Registrar has reasonable cause be believe that the company is not carrying out any business or is in operation. Such a struck-off company also ceases to exist and loses its legal personality, unless within a ten year period from being struck-off, the company is restored through a court order (arising from an appeal in this regard by the company, its members or creditors) (s. 400(6) of the Companies Act 2002). The court can order the restoration of a struck-off company upon being satisfied that at the time of strike-off, the company was in operation, or it is just to restore the company to the register. Once a certified copy of such a court order is delivered to the Registrar, the company is restored to the register and is deemed to have continued to be in existence as if it had never been struck off. It is unclear whether for such restoration, the court would necessarily require the correction of all defaults in respect of compliance due to which the company was struck off or for the intervening period between strike-off and restoration. Further, it is unclear whether for the intervening period between strike-off and restoration, all legal ownership information would be available. Tanzanian authorities have informed that restoration of such companies would require correcting the non-compliance and non-submission of all outstanding periods during which they have remained struck-off. Further, since transfer of ownership can only be effective once registered with the Registrar, any intervening ownership changes would not be recognised. The availability of up-to-date and accurate legal ownership information in respect of struck-off companies that are subsequently restored, will be examined further during the Phase 2 review. (see Annex 1)

97. In Zanzibar, the provisions of sections 224-237 of Part VII of Companies Act 15 of 2013 govern the liquidation of companies. As in Tanzania Mainland, a company may cease to exist through voluntary winding up process handled by a liquidator or being struck-off by the Registrar where the Registrar has reasonable cause to believe that the company is not carrying out any commercial business. Similar to the situation in Tanzania Mainland, a company struck-off by the Registrar can be restored through a court order (issued in response to an application by the company, or its members or its creditors) within a period of ten years from being struck off. Similar observation on the need to examine this issue further during Phase 2 review as made in paragraph 96 above applies in respect of Zanzibar companies as well. (see Annex 1) Tanzanian authorities have indicated that liquidation of companies in Zanzibar is not common. From July 2018 to December 2020 only four companies have been liquidated. No company during this period was struck-off by the Registrar.

98. Tanzanian authorities have informed that there is no specific legal definition of inactive companies. However, the Registrar may identify

companies that have not filed their annual returns for the last 15 years as being inactive and eligible for striking-off.[18] As noted above in paragraph 96, the Registrar can strike-off companies which are not carrying out any business or operations. Upon strike-off, such companies would lose their legal personality unless restored by the Court under section 400(6) of the Companies Act. It is not clear how many such companies exist in the corporate registers in Tanzania Mainland and Zanzibar and how many have undergone the strike-off procedure in the past. Tanzanian authorities have confirmed that at least since 2018, there have been no companies that have been struck-off. In respect of such inactive companies, the information submitted at the time of registration and any subsequent annual reports filed by companies limited by shares would be available with BRELA in Tanzania Mainland and with BPRA in Zanzibar. However, it is unclear if such information would be up-to-date and accurate. The availability of accurate and up-to-date legal ownership information on inactive companies will be examined during the Phase 2 review (see Annex 1).

Tax law requirements and enforcement

99. All companies are required by the Tax Administration Act to be registered with the Tanzanian Revenue Authority (TRA) and to provide legal ownership information upon registration (s. 22 of TAA), update records upon changes (s. 25 of TAA) and provide legal ownership information as part of the annual tax returns. Every person who becomes potentially liable to tax by reason of carrying on a business or investment must apply for a Taxpayer Identification Number (TIN) within 15 days from the date of commencing business. Furthermore, the Commissioner General of TRA is authorised to require any person to register with the TRA and obtain a TIN. Before registration with the Tax Administration, all entities are first required to be registered in their respective Government Agencies such as BRELA for Companies. It is only after fulfilling registration requirements with respective Registrar that the entities can be registered with the Tax Administration. Tanzanian authorities have informed that in practice, registrations for both the TIN as well as the BRELA take place simultaneously under a single-window setup.

100. The requirement to register with the Tax Administration is governed by section 22 of the Tax Administration Act, 2015. This section requires a person (individual, legal entity or legal arrangements) who becomes

18. In respect of such inactive companies, the Registrar is empowered under section 400(1) of the Companies Act 2002 in respect of Tanzania Mainland and under section 227 of the Companies Act No. 15 of 2013 in respect of Zanzibar, to strike-off such companies from the register.

potentially liable to tax to register with the Tax Administration by applying for Taxpayer Identification Number (TIN). In so doing, a company is required to fill in a prescribed form (Form ITX100.01.B) in which all relevant details about the company such as the name of the company, name of the shareholders, principal activities, business premises and physical address are filled. Upon satisfactory submission of all details, the representative of the entity or director of the company is issued a TIN certificate in respect of the company. Section 25 of the TAA requires taxpayers to notify the Commissioner General of any changes in respect of the information provided at the time of registration within 30 days of the change.

101. In Zanzibar, the registration procedure is similar to that of Tanzania Mainland in that companies and partnerships are required first to register with Zanzibar Business and Property Registration Agency (BPRA). After obtaining a certificate of registration with BPRA, they are then required to register for tax purposes by filling in a prescribed form TRF101 (ZRB) and form ITX100.01.B (TRA – Zanzibar). All relevant details such as the name of the entity, name of the shareholders, name of the directors, principal activities, business premises and physical address are provided. ZRB number/ TIN certificate is issued to the entity upon satisfactory filing of all required details.

102. The above provisions of the tax laws apply equally to foreign companies seeking to do business in Tanzania or invest in Tanzania. Since they would be potentially liable to tax in Tanzania in respect of their activities there, they are required to register with the TRA and obtain a TIN. As noted earlier, the registration process requires the submission of legal ownership information and to keep it updated. Furthermore, where a foreign company's management and control is exercised in Tanzania in any year (which means that the place of effective management is Tanzania), it is considered as tax resident (see paragraph 38) and is required to comply with all tax law obligations as applicable to domestic resident companies.

103. In respect of enforcement provisions provided for under the tax laws, sections 77-80 of the TAA deal with penalties. There are penalties in place for failure to maintain documents (s. 77), failure to file tax returns (s. 78), making false or misleading statements (s. 79) and abetting tax evasion. Tanzania has a currency point[19] system in place for imposition of penalties. Penalties are expressed in terms of currency points, which are correlated with the actual amounts in TZS through executive regulations which are

19. A currency point is a unit translated into Tanzanian Shillings with regard to fines or penalties to be imposed against a default person who has failed to honour an obligation imposed under the Tax Administration Act, 2015. Currently, one currency point represents or is equivalent to TZS 15 000 (or approximately EUR 5.5).

periodically updated to account for inflation. Failure to maintain documents or to file a tax return lead to imposition of penalty of 15 currency points on a body corporate (TZS 225 000 or EUR 82). These penalties can be supplemented by way of percentage of tax evaded or sought to be evaded. Similarly, the VAT law provides for imposition of penalty of 10 currency points (TZS 150 000 (EUR 55)) to 20 currency points (TZS 300 000 (EUR 110)) on failure on the part of any liable person to register with the tax authority.

Availability of legal ownership information in EOIR practice

104. The implementation of the legal framework and the availability of legal ownership information on companies in practice will be examined during the Phase 2 review.

Availability of beneficial ownership information

105. The standard requires that beneficial ownership information be available on companies. In Tanzania, in respect of companies, this aspect of the standard is met through the requirements of the Anti-Money Laundering Law as amended by the Finance Act 2020 in Tanzania Mainland as well as the Companies Act 2002 as amended by the Finance Act 2020. The Companies Act 2002, as amended in 2020, provides for the establishment of a central beneficial ownership register at the Registrar of Companies for Tanzania Mainland. The Companies (Beneficial Ownership) Regulations 2021 further elaborate the requirements of submitting beneficial ownership for the central beneficial ownership register of companies.

106. In respect of Zanzibar, the Companies Act No. 15 of 2013 does not provide for requirements to maintain beneficial ownership information. Furthermore, the Zanzibar AML law also does not have the relevant provisions for ensuring the availability of beneficial ownership information by all AML-obliged persons. Thus, in respect of Zanzibar the availability of beneficial ownership information on companies is contingent on such companies engaging with certain AML-obliged persons in Zanzibar who are required to possess such information on their customers, or having bank accounts with Tanzanian banks[20] under the common supervision of Bank of Tanzania. Each of these legal regimes is analysed below.

20. In Zanzibar, almost all banks are branches of banks incorporated in Tanzania Mainland. There is only one Zanzibar bank. However, since it has branches in Tanzania Mainland, it is required to comply with the AML law of Tanzania Mainland and is under the common supervision of the Bank of Tanzania.

Companies covered by legislation on beneficial ownership information

Type	Company Law	Tax Law[21]	AML Law
Tanzania Mainland			
Private company limited by shares	All	None	Some
Private companies limited by guarantee	All	None	Some
Private unlimited Company	All	None	Some
Public company	All	None	Some
Foreign companies (tax resident)	All	None	Some
Zanzibar			
Private company limited by shares	None	None	Some
Private companies limited by guarantee	None	None	Some
Private unlimited company	None	None	Some
Public company	None	None	Some
Foreign companies (tax resident)	None	None	Some

Anti-Money Laundering Law requirements in Tanzania Mainland

107. The AML Act 2006 applicable to Tanzania Mainland requires that the reporting persons carry out the requisite Customer Due Diligence (CDD) on their customers and among other things duly acquire and maintain beneficial ownership information on their customers. Finance Act 2020 has introduced the following definition of beneficial owner into the AML Act 2006 which applies to customers of all reporting persons in Tanzania Mainland:

> Beneficial owner means a natural person:
>
> who directly or indirectly ultimately owns or exercises substantial control over an entity or arrangement;
>
> who has a substantial economic interest in or receives substantial economic benefit from an entity or an arrangement directly or indirectly whether acting alone or together with other persons;
>
> on whose behalf an arrangement is conducted; or
>
> who exercises significant control or influence over a person or arrangement through a formal or informal agreement.

21. The Finance Act 2020 has introduced the same definition of beneficial owner as in the Companies Act 2002 and AML Act 2006 into the Income Tax Act 2004. However, the latter does not require the maintenance of beneficial ownership information – the concept was introduced for purpose of identifying liability.

108. This definition is broadly in line with the standard as it emphasises the need to identify a natural person directly or indirectly owning an entity or an arrangement or exercising ultimate effective control over such entity or arrangement. However, the element of control over the entity or arrangement through "other means besides ownership" is not adequately and explicitly captured by the definition. While the definition alludes to control over the entity through formal or informal agreement, this is only one of the ways of exercising "control through other means" such as through personal connections with persons possessing ownership or exercising control without ownership like through participation in finances or family relationships. Further, the terms "substantial control", "substantial economic interest" and "substantial economic benefit" are not defined or explained in the AML law.

109. In addition, it is not clarified in the Act or the Rules or the Guidance issued for reference of the AML-obliged persons, that for identifying the beneficial owners of a legal entity like a company, every natural person with a controlling ownership interest in the company (through direct or indirect ownership) be identified as a beneficial owner. If in doubt whether such a natural person can be identified, or no natural person exerts control through ownership interests, the identity of the natural person(s) (if any) exercising control over the company through other means should be identified. Further, where no natural person can be identified under the first two steps, AML-obliged persons should be required to identify the natural person who holds the position of senior managing person, in line with the standard.

110. Thus, **Tanzania is recommended to ensure that suitable changes are made in the legal framework of Tanzania Mainland to ensure the availability of beneficial ownership information on companies in line with the standard**.

111. In Tanzania Mainland, regulation 28 of the AMLR, 2012 requires all reporting persons to verify the identity and information of the beneficial owner. Regulation 17(g) of the AMLR, 2012 requires reporting persons to apply CDD measures and ensure that information collected under the CDD process is updated. The CDD process is described in details under A.3 in paragraphs 256 to 265. All information must be retained for a period of ten years after a) all activities relating to a transaction or a series of linked transactions were completed; or b) when the business relationship has formally ended; or c) when the business relationship has not formally ended, but when the last transaction was carried out.

112. Tanzanian authorities have informed that although there is no legal requirement on companies to continuously engage with an AML-obliged person, in practice, companies do engage on an on-going basis with AML-obliged persons like lawyers, accountants and banks. Companies are required to have a bank account for registration with the tax authorities and obtaining

a TIN (through Form ITX100.01.B). Tanzanian authorities indicate that due to this, all companies having a TIN would have a bank account. The requirement to submit bank details as part of TIN registration was introduced in 2016. There is no requirement that the bank details submitted are those of a Tanzanian bank. However, Tanzanian authorities have indicated that, in practice, companies almost always provide information on their Tanzanian bank accounts.

113. Besides this, there is also a notary intervention in registration of all types of companies in conformity with section 16(2) of the Companies Act, Cap. 212, which ensures compliance with all requirements submitted to the Registrar. According to section 3 of AML Act 2006, notaries (as well as attorneys and other independent legal professionals) are included in the category of reporting persons who are required under Regulation 28 of AMLR, 2012 to undertake reasonable measures to identify and verify the beneficial owners during the course of establishing a business relationship or when conducting transactions with their customers. The regulations require the reporting persons (in this context notaries) to verify and update more regularly the identification data of customer and beneficial owner of the companies such that the reporting person is satisfied that it knows the beneficial owner of the company being registered. These measures would ensure that beneficial ownership information is available at the time of registration of a new company, but not necessarily updated throughout the life of the entity.

114. In summary, while the AML law would ensure that beneficial ownership information on companies is available where the company engages with an AML-obliged person, there may be some gaps in certain situations where such engagement is either not there or has not been there on an on-going basis. For instance, this could be a concern in respect of inactive companies that have not been liquidated or struck-off by the Registrar. Nevertheless, as discussed in paragraphs 119 to 127, the recent requirements that have been introduced in respect of establishing a central beneficial ownership register by the Registrar of Companies are expected to address such concerns in the legal framework. The actual availability of beneficial ownership information on companies would nevertheless depend on the implementation of the legal provisions and this will be assessed further during the Phase 2 review.

Anti-Money Laundering Law requirements in Zanzibar

115. In Zanzibar, under the AMLPOCA, there is no specific definition of beneficial owner. However, Schedule B of the Anti-Money Laundering and Proceeds of Crime Regulations (AMLPOCR), which deals with guidance on customer identification for Insurers or those engaged in insurance business, does contain the definition of the term "Beneficial Owner". Beneficial owner is defined as "the natural person who ultimately owns or controls a customer

or the person on whose behalf a transaction is being conducted and includes the person who exercises ultimate effective control over a body corporate or unincorporated".

116. While the definition is broadly in line with the FATF definition, the definition does not provide clear guidance on what "ultimate effective control including through means other than ownership" would entail. For legal entities, the three-step cascade approach is not prescribed. There is no obligation of identifying the senior managerial natural person if no beneficial owners can be identified. There is some uncertainty especially in the second part of the definition that the beneficial owner must always be a natural person. Furthermore, it is unclear if the definition of beneficial owners is applicable to all AML-obliged persons as it is part of Schedule B of the AMLPOCR, which deals with CDD guidance for insurers alone. This creates uncertainty if all other AML-obliged persons will refer to the definition in Schedule B of the Regulations.

117. Due to the issues with the definition of beneficial ownership as provided for under the legal framework for Zanzibar, coupled with the absence of a definition of beneficial owner for all reporting persons under the relevant AML law in Zanzibar and no other law containing any requirement that all companies must have beneficial ownership information on companies, the availability of beneficial ownership on all companies incorporated in Zanzibar is not ensured. Thus, **Tanzania is recommended to ensure that beneficial ownership information in line with the standard is always available in respect of companies incorporated in Zanzibar**.

118. In respect of performing CDD and retaining records, the requirements under Zanzibar's AMLPOCA and Regulations mirror the provisions under the AML legal framework in Tanzania Mainland.

Companies Law requirements in Tanzania Mainland

119. The Finance Act 2020 has amended the Companies Act 2002 applicable to Tanzania Mainland by inserting the definition of beneficial owner under section 2. The definition is identical to the definition of beneficial owner as inserted under the AML Act and hence, the issues on the definition and guidance as identified in paragraphs 108 and 109 exist in respect of the definition under the Companies Act as well.

120. Nevertheless, important requirements have been introduced in the Companies Act in respect of ensuring the availability of beneficial ownership information in Tanzania Mainland.

121. Section 14 of the Companies Act, which deals with registration of memorandum of association of a newly incorporated company, now requires

the submission of accurate and up-to-date records of beneficial owners of a company under amended subsection 14(2). Section 14(2)(b) states that "with the memorandum, there shall be delivered a statement in the prescribed form containing accurate and up to date records of beneficial owners of such company which shall include the full name of the beneficial owner, date and place of birth, telephone number, nationality and national identity number, passport number or other appropriate identification, residential, postal and email address; place of work and position held; nature of interest including the details of the legal, financial, security, debenture or informal arrangement giving rise the beneficial ownership; and oath or affirmation as to whether the beneficial owner is a politically exposed person or not".

122. Further, for companies that already existed at the time of entry into force of this amendment in addition to newly created ones, the Finance Act 2020 has amended section 115 (which deals with the register of members of a company) to include sub-section 2 which reads "a company having a beneficial owner shall, in the register referred under subsection (1), make entries of information as provided under section 14(2)(b)". Further, section 129 that deals with the submission of annual returns by all companies and the information that needs to be submitted in such returns, has been amended to include subsection 129(f) which states "if the company has a beneficial owner, records of its beneficial owner as specified under section 14(2)(b)".

123. Further, through the Finance Act 2020, sections 451A and 451B have been added to the Companies Act. Section 451A provides for setting up a beneficial ownership register by the Registrar which would contain all the information required under section 115(2). For every legal person, it must contain the identity of directors, shareholders and beneficial owners. Section 451B provides for permitting access to this beneficial ownership information to the Competent Authority and certain other law enforcement agencies.

124. Tanzania has supplemented these provisions in the Companies Act by introducing Companies (Beneficial Ownership) Regulations 2021. The Regulations explicitly mandate that every company incorporated or registered under the Companies Act must provide details of its beneficial owners to the Registrar in the specified Form 14b. Thus, the requirement of filing beneficial ownership information extends to existing companies as well. Tanzanian authorities have informed that this would also include foreign companies registered under section 434 of the Companies Act 2002. Existing companies are required to update the information submitted at the time of their registration and provide information on their beneficial owners. Form 14(b) requires companies to declare their beneficial owners including the nature of the beneficial ownership by indicating their shareholding or nature of control over the company. The Regulations further require all companies to notify the

Registrar of any changes to the information on beneficial ownership within 30 days of the change, although it is not clear which means companies have to compel this information.

125. The Regulations further provide details on the establishment of the central beneficial ownership register by the Registrar (Part III of the Regulations – Register of Beneficial Owners). It is stipulated that if the information on beneficial ownership is not provided by a company or if the Registrar is not satisfied that the information provided is accurate and up to date, the Registrar may refuse to register any other documents filed by the company.

126. The Finance Act 2020 has very recently introduced the obligation for companies to keep and report their beneficial ownership information. The practical implementation of these requirements will be reviewed in Phase 2 (see Annex 1).

Companies Law requirements in Zanzibar

127. The situation on the relevant legal framework governing companies incorporated in Zanzibar is however, different from that in Tanzania Mainland. The Companies Act No. 15 of 2013 applicable to companies incorporated in Zanzibar has not been similarly amended. Thus, under the Companies Act applicable to Zanzibar, there is no requirement to maintain accurate and up-to-date beneficial ownership information by the companies or to submit them to the Registrar. Hence, the recommendation made in respect of Zanzibar in paragraph 117 is applicable.

Beneficial ownership information – Enforcement measures and oversight

128. The Financial Intelligence Unit (FIU) and other regulators are responsible for the monitoring of compliance with the AML obligations by the AML-obliged persons (or reporting persons). The responsible regulators include the Bank of Tanzania; Capital Markets and Securities Authority; Tanzania Insurance Regulatory Authority; Gaming Board of Tanzania; Social Security Regulatory Authority; Registrar of Titles; Registrar of Non-Government Organisations; Registrar of Societies; Business Registration and Licensing Agency; Registration, Insolvency and Trusteeship Agency; Zanzibar Law Society; and Zanzibar Business and Property Registration Agency. The FIU and Bank of Tanzania are responsible for ensuring the enforcement of AML/CFT requirements in both Tanzania Mainland and Zanzibar.

129. The FIU and regulators have put in place measures and efforts to ensure AML/CFT requirements including record keeping by reporting persons are fully complied with. Such measures include conducting off-site

surveillance and on-site inspection, conducting seminars and workshops and providing guidelines. Further, after every onsite examination, FIU and regulators require institutions to prepare action plans and submit implementation status in respect of the findings identified in the report. Follow up meetings and further examinations are done afterwards.

130. The FIU or Regulator may impose administrative sanctions for non-compliance with preventive measures including failure to observe CDD requirements.[22] The available sanctions are: warning or caution not to repeat the conduct which led to non-compliance; a reprimand; directive to take remedial action or to make specific arrangement to remedy the default; restriction or suspension of certain business activities; suspending a business licence; or suspension or removal from office any member of staff who caused or failed to comply. Where the reporting person fails to comply with the imposed sanctions, the FIU or regulator can impose a fine not exceeding TZS 5 000 000 (EUR 1 823) and not less than TZS 1 000 000 (EUR 365) per day for which a default is committed in case of Tanzania Mainland and in Zanzibar the sanction is fine of not less than five million shillings per day.

131. Under the Companies (Beneficial Ownership) Regulations 2021, penal consequences for non-compliance with the requirements of providing beneficial ownership information to the Registrar have been provided for under Part IV (Miscellaneous Provisions). In particular, failure to keep record of beneficial owners, failure to provide information to the Registrar about a change in beneficial ownership of a company, failure to provide the Registrar with a declaration containing information on beneficial owners of the company, or for contravening any provision of the Regulations, a fine of not less than TZS 5 million (EUR 1 823) but not exceeding TZS 10 million (EUR 3 645) is applicable.

Availability of beneficial ownership information in EOIR practice

132. The implementation of the legal framework and the availability of beneficial ownership information on companies in practice will be examined during the Phase 2 review.

Nominees

133. Tanzanian authorities have informed that nominee shareholding is not permitted under the Companies Act 2002 applicable to Tanzania Mainland or under the Companies Act No. 15 of 2013 applicable to Zanzibar. Section 122

22. Sections 19A of the AMLA and 14A of AMLPOCA read together with regulation 37 of the AML Regulations, 2012 and regulation 46 of AMLPOC Regulations, 2015.

of Companies Act 2002 and section 123 of the Companies Act No. 15 of 2013 explicitly prohibit any notice of trust, expressed, implied or constructive, to be entered into the register of members or shareholders or to be accepted by the Registrar. Tanzanian authorities have informed that this implies that shareholding in a company is not permissible on behalf of another person. The shareholder entered into the register of members or shareholders of a company would be considered the legal owner to the extent of shareholding or membership. Thus, it is not possible for a shareholder to declare itself to be acting or owning shares on behalf of another person. All shareholder rights and duties apply in respect of the person recorded as shareholder.

A.1.2. Bearer shares

134. While bearer shares are not permitted to be issued by any type of company, Tanzania has had provisions permitting issuance of bearer share warrants by public companies in Tanzania Mainland and Zanzibar. While in Zanzibar bearer share warrants can still be issued by public companies, the legal framework has been amended in this regard in Tanzania Mainland.

135. In Tanzania Mainland, until very recently bearer share warrants could be issued by public companies limited by shares (i.e. to the exclusion of private companies).[23] A public company limited by shares if authorised by its articles, with respect to any fully paid-up shares, was permitted to issue under its common seal a warrant setting out that the bearer was entitled to shares specified therein, and could provide for payments by coupons or otherwise, for future dividends on the shares included in the warrant. The share warrant entitled the bearer thereof to the shares specified therein. The shares could be transferred by delivery of the warrant. Through Finance Act 2021, Tanzania has amended the Companies Act 2002 applicable to Tanzania Mainland. The existing section 85 (which had been previously amended by Finance Act 2020) has been repealed and has been replaced by a new section 85. Under the new provisions, regardless of the provisions of the memorandum and articles of association of a company, no company is permitted to issue bearer share warrants in respect of any of its shares from the effective date (i.e. 21 July 2021). Further, a bearer of a share warrant must have, within 12 months of the effective date, surrendered to the company the issued share warrant for cancellation. Upon surrendering the share warrant, the company is required to cancel the share warrant, and enter into its register

23. Section 85 of the Companies Act together with section 85, Part II of the Companies Regulations 2(d) (which are part of the Companies Act 2002 and are not secondary legislation) in Tanzania Mainland, and section 90 of the Companies Act, No. 15 of 2013, together with regulation 2(d) Part II of the Regulation for management of private companies limited by shares in Zanzibar.

of members and beneficial owners, the names of the persons whose share warrants have been cancelled. Further, the company is required to notify to the Registrar any changes in the register of members and beneficial owners effected pursuant to such cancellation. The amended law provides that any bearer share warrants that have not been surrendered by their holders after the expiry of 12 months from the effective date will be deemed to have been cancelled, unless reasonable grounds for delay are explained in this regard.

136. Tanzanian authorities have informed that no public company is known to have issued bearer shares. They have formed this view based on the information available with the Registrar. If share warrants were to be issued, the Registrar would know all the details concerning such warrants through the approval mechanisms required by the law under the pre-amendment section 85(4) of the Companies Act 2002. Public companies listed on the stock exchange and regulated by the CMSA are not permitted to issue bearer share warrants.

137. Thus, in Tanzania Mainland, through the amendments to the Companies Act 2002 introduced recently through Finance Act 2021, bearer share warrants have been prohibited and a mechanism for identifying the holders of issued bearer share warrants, if any, has been put in place. Since these changes to the legal framework have been introduced very recently, the implementation of these will be examined at the time of the Phase 2 review (see Annex 1).

138. In Zanzibar, section 90 of the Companies Act provides for the issuance of bearer share warrants by companies limited by shares. However, Part II of the Act that contains "Regulations for Management of a Private Company Limited by Shares" explicitly prohibits private companies from issuance of bearer share warrants. Where a Zanzibar public company limited by shares has articles of association that authorise the issuance of bearer share warrants against fully paid up capital, bearer share warrants can be issued. Tanzanian authorities have informed that as per BPRA's records no Zanzibar company has issued bearer share warrants. Nevertheless, no mechanism is in place to identify the owners or bearers of such share warrants or to be able to trace the transfers of such warrants if such bearer share warrants are issued. Unlike for Tanzania Mainland, no amendments have been introduced to either prohibit such issuance or identify the holders of such bearer share warrants. Thus, **Tanzania is recommended to ensure that in respect of Zanzibar the owners of bearer share warrants issued by public companies limited by shares can always be identified in line with the standard.** Tanzanian authorities have reported that there are only two public companies in Zanzibar. Thus, in practice, the materiality of this legal gap is likely to be low.

A.1.3. Partnerships

Types of partnerships

139. In Tanzania, partnerships are legal arrangements and do not have a legal personality either in Tanzania Mainland or in Zanzibar. Partnerships are formed based on the Law of Contract Act Cap 345 R.E. 2002 in both Tanzania Mainland and Zanzibar. Only general partnerships can exist in Tanzania and other forms of partnerships like limited liability partnerships or limited partnerships do not exist. This means that all partners are jointly and severally liable for any debts or other liabilities of the partnership. Partnerships can be formed with or without a written contract. Partners of a partnership can be individuals or other legal entities or arrangements. A partnership set up for the purposes of business is not permitted to have more than 20 partners due to the provisions of section 463 of the Companies Act.[24]

140. Partnerships are required to be registered with BRELA in Tanzania Mainland under the Business Names (Registrations) Act Cap 213 for the purposes of obtaining a unique business name. In Zanzibar, they are similarly required to register with the BPRA under the Registration of Business Entity Act No. 12 of 2012. The identity information on the partners is available in Tanzania through the requirements of these Business Names Acts under which all partnerships carrying on business in Tanzania are required to be registered. Tanzanian authorities have indicated that the BRELA database contains 20 511 registered partnerships for Tanzania Mainland. In respect of Zanzibar, the BPRA database contained 3 558 partnerships as of March 2020.

141. The Income Tax Act 2004 as amended in 2019 defines partnerships under section 3 as "any association of individuals or bodies corporate carrying on business jointly, irrespective of whether the association is recorded in writing". For the purposes of the ITA, partnerships are covered by the definition of "entity"[25] and are hence required to be registered with the TRA and obtain a TIN. All entities that are potentially liable to tax in Tanzania by virtue of carrying on a business or investment are required to apply for and obtain a TIN within 15 days of commencing business (s. 22 of the TAA). Nevertheless, partnerships are fiscally transparent for income tax purposes in Tanzania and partners are required to have their separate TINs as well and file income

24. Section 463 of the Companies Act mandates that where a partnership seeks to have more than 20 partners, it must register as a company. The only exceptions to this rule are where a partnership is among solicitors or accountants, or for carrying on business of a recognised stock exchange. The Minister of Trade may notify other purposes as exceptions to this rule.

25. "entity" is defined under section 3 of the Income Tax Act 2004 (as amended in 2019) to mean a partnership, trust or corporation.

tax returns reflecting their share of profits from partnerships. Thus, while partnerships have their TINs and are required to file tax returns, income is taxed in the hands of the partners. For VAT purposes, partnerships are further required to register separately and obtain a separate registration number. VAT laws apply separately for Tanzania Mainland and Zanzibar and hence, the registration depends upon the place of business of the partnership. Further, partnerships have obligations to withhold tax while making certain payments, including while paying salaries to employees and hence, would need to be registered with the TRA.

142. Foreign partnerships are not expressly permitted or prohibited from operating or carrying on business in Tanzania. Tanzanian authorities have informed that where one of the partners of a partnership is resident in Tanzania, such a partnership is considered tax resident in Tanzania and would be subjected to all the requirements under the tax laws as applicable to other general partnerships. Where both or all partners are non-resident and the partnership is a foreign partnership, to carry on business in Tanzania, it would ordinarily require some physical presence in Tanzania and would need to register with the tax authorities for either VAT purposes or direct tax purposes. Such partnerships would be taxed on their income sourced from Tanzania or on a withholding tax basis. Tanzania has indicated that it is difficult and rare in practice for a foreign partnership to operate in Tanzania without any physical presence. Where they carry on substantial business in Tanzania or hold investments, they would become "potentially liable to tax" and under the requirements of section 22 of the TAA, they would be required to register and obtain TIN and pay taxes on their business income in Tanzania and to comply with VAT requirements and withholding tax requirements as applicable. Generally, in respect of non-resident partnerships that have no significant physical presence in Tanzania, their income sourced from Tanzania is taxed on withholding basis.

Identity information

Tanzania Mainland

143. The availability of identity information on partners of a partnership is ensured through the Business Names (Registration) Act in Tanzania Mainland and the requirement to register with the tax authorities and obtain TIN (for tax law requirements refer below to paragraph 150). The Business Names (Registration) Act provides for requirement to register a business name of any firm, individual or corporation having a place of business in Tanzania and carrying on business. A Business name is the name and style under which any business is carried on. Firm is defined in the Act to mean "an unincorporated body of two or more individuals, or one or more individuals and one or more corporations, or two or more corporations, who have

entered into partnership with one another with a view to carry on business for profit". Thus, the term "firm" in the Business Names (Registration) Act primarily refers to partnerships. All partnerships are required to register with the Registrar at BRELA where such partnership "having a place of business in Tanzania and carrying on business under a business name which does not consist of the true surnames of all partners who are individuals and the corporate names of all partners who are corporations without any addition other than the true names of individual partners or initials of such names" (s. 4(a)).

144. Section 6 of the Act provides that every firm (partnership) or person that is required to be registered under the Act must submit a statement to the Registrar in the prescribed form providing among other things the business name; the general nature of the business; the principal place of the business; the present name and surname, any former name or surname, the nationality, and if that nationality is not the nationality of origin, the nationality of origin, the age, the sex, the usual residence, and the other business occupation (if any). Where partners are individuals, all of the partners must sign the statement. Where a partner is a corporation, the corporate name and registered or principal office of every corporation which is a partner must be provided and an individual who may be a director of such a corporation or the company secretary may sign the statement. Section 11 of the Business Names (Registration) Act requires that any changes to the particulars submitted at the time of initial registration must be communicated to the Registrar within 28 days of such changes. This would include any change in the identity of partners of a partnership.

145. A partnership must be registered with BRELA under the Business Names (Registrations) Act within 28 days of commencing business.

146. Tanzania has informed that from 1 February 2017 the Business Names Registration procedure has been automated and is online. To be able to access the Online Registration System the user has to open an account in which the online registration form requires a Tanzanian individual to have both National Identification number (NIN) and Taxpayer Identification Number (TIN). Upon registration, the registered user can log in and select a type of Business Name Service needed. For registering a partnership for business name, all the identity information of all partners to the firm and information of the persons who will operate the business bank account must be provided. The bank account is required to be in the name of the partnership and it must be with a Tanzanian bank. After filling the required details, the applicant is required to download the consolidated form generated online for signature and then upload it in the online system together with payment of fees. The application is processed and a Certificate of Registration together with an extract from Registrar are issued.

147. Thus, identity information on general partnerships should be available considering that a general partnership's name would contain the names of partners or where this is not the case, the partnership is required to be registered with BRELA and provide the identity details during registration. All the information submitted to the BRELA while registering a partnership continues to be available even after the partnership ceases to exist. The Registrar consistent with the recording keeping standards of government agencies would keep partnership information submitted to BRELA. The information submitted prior to commencement of online registration would be kept for up to 30 years, consistent with the requirements of the provisions of the Records and Archives Management Act, 2002. Tanzanian authorities have informed that information submitted after commencement of online registration would be kept perpetually.

Zanzibar

148. In Zanzibar, the registration of partnerships is made under the Registration of Business Entity Act No. 12 of 2012, the Law of Contract Act Cap 149 and the Business Names Registration Decree Cap. 168. Section 2(1)(a) of the Registration of Business Entity Act read together with section 4 of Business Names Registrations Decree provide for the formation of partnerships. Section 6 of the Decree provides for the manner and particulars of registration. In Zanzibar, a written partnership deed among the partners is always required for registering the partnership.

149. Partnerships are registered online by using ORS Account or by visiting the BPRA website. In order to access the registration system, the applicant must open an account in ORS and have the Zanzibar Identification Number (ZanID) or National Identification Number from NIDA and email address. For the registration of a new firm (partnership) all the information of all partners to the firm, and information of the persons who will operate the business bank account must be stated. The documents required to be attached are: Form No. 1 (Consolidated Form generated by ORS) which sets out the details of the partnership and signed by each partner and Partnership Deed which sets out the rules and regulations of the partners signed by all partners and witness. For registration, a fee is applicable which is paid online. Once the payment is effected, the application is automatically submitted for processing, after which the certificate of registration is issued.

Tax Law requirements

150. As noted in paragraphs 141-142 above, partnerships are entities under the Income Tax Act and since they are "potentially liable to tax" due to engagement in business or holding investments, they are required to obtain a TIN. For the purposes of income tax, although partnerships are fiscally

transparent and the tax liability applies to each of the partners of the partnership who are required to have TINs and declare their income from the partnership in their tax returns, resident partnerships are required to register with the TRA and obtain TIN. Partnerships are also required to register with the TRA and with the ZRB in Zanzibar for VAT, as well as in respect of withholding tax obligations. At the point of registration for obtaining a TIN, the relevant Form ITX100.01.B is required to be filed which contains the name of the partnership and identity details of all the partners of the partnership. Where natural persons are partners, all such individuals are required to sign the said form. Where other legal entities or arrangements are partners, details of such legal persons are required (identification number, date of incorporation) and a designated natural person is required to sign the form on behalf of such legal person. All information submitted to the TRA for registration for TIN purposes is required to be kept up-to-date and any changes are required to be submitted to the Commissioner-General of the TRA of changes to the particulars, including changes to the details of the partners (s. 25 of the TAA).

Beneficial ownership

151. In respect of partnerships, the AML law obligations are the main source of ensuring the availability of beneficial ownership information. As noted earlier in paragraph 107, in Tanzania Mainland, the AML Act 2006 has been amended and the definition of beneficial owners is provided for. The definition of beneficial owner in respect of partnerships is broadly in line with the standard except that terms like "substantial control", "substantial economic interest" and "substantial economic benefit" need to be clarified. Hence, where a partnership is engaged with an AML-obliged person as a customer in Tanzania Mainland, beneficial ownership information would be required to be obtained as part of the CDD process.

152. There is no obligation in law that requires all partnerships to engage an AML-obliged person on an ongoing basis. However, while registering with the TRA or ZRB for obtaining a TIN for fulfilling tax obligations, partnerships, like all applicants, have to submit details of a Tanzanian bank with which the partnership has a bank account. The new TIN registration forms have been introduced since 2016. Further, bank account details are required in the annual tax return form that partnerships are required to file. Tanzanian authorities have indicated that partnerships in Tanzania Mainland would always have a bank account and hence, beneficial ownership information would be available. Since AML law is the only source of beneficial ownership information on partnerships in Tanzania, the extent to which beneficial ownership information on partnerships is available in Tanzania Mainland will be examined during the Phase 2 review. (see Annex 1)

153. In respect of Zanzibar, the applicable AML law does not contain the definition of beneficial owner. Only the AMLPOC Regulations provide for the definition of beneficial owner with specific reference to insurers, CMSA licensees and collective investment schemes (CIS) managers. Nevertheless, where partnerships in Zanzibar have bank accounts, beneficial ownership information is required to be maintained due to the common supervisory framework over banks adopted by the Bank of Tanzania. Thus, in Zanzibar, beneficial ownership information on partnerships would be available where they have bank accounts or are engaged with insurers, CMSA licensees or CIS managers on an on-going basis.

154. As noted earlier in paragraph 105, the Income Tax Act has been amended to include the definition of beneficial owner. However, the tax law does not provide for the requirement to maintain beneficial ownership information by legal entities and arrangements or to submit it to the tax authorities. Thus, under the existing provisions, tax law, despite having a definition of beneficial owner, is not a source for the availability of beneficial ownership information on partnerships.

155. **Tanzania is recommended to ensure that in respect of the AML law applicable to Tanzania Mainland, there is adequate clarity and guidance to ensure that beneficial owners of partnerships are consistently and correctly identified. Further, in respect of Zanzibar, Tanzania is recommended to ensure the availability of accurate and up-to-date beneficial ownership information on all partnerships in line with the standard**.

Oversight and enforcement

156. Penal provisions exist for providing any false information. If any statement required to be furnished under the Business Names (Registration) Act contains any matter which is false in any material particular to the knowledge of any person signing it, that person, upon conviction, is liable to imprisonment of a term not exceeding 12 months, or to a fine not exceeding TZS 50 000 (EUR 18), or to both. Besides these, the penal provisions provided under the AML Acts apply in respect of beneficial ownership information.

Availability of partnership information in EOI practice

157. The availability of beneficial ownership information on all partnerships in practice will be examined during the Phase 2 review.

A.1.4. Trusts

158. Trusts are legal arrangements in Tanzania and can be established under the law in Tanzania Mainland. Tanzanian authorities have informed that Zanzibar law does not recognise the existence of trusts as there is no governing law for trusts in Zanzibar and hence, trusts can exist only in Tanzania Mainland. Although Tanzania is a common law country and common law principles apply, in the absence of a specific governing law in respect of trusts in Zanzibar, Tanzania has explained that trusts are not recognised in Zanzibar and exist only in Tanzania Mainland. Zanzibar does have the concept of Wakf (a form of Islamic arrangement that has some similar features with trusts). Tanzanian authorities have informed that wakfs in Zanzibar can only be set up for Islamic religious purposes.

159. It is possible for a Tanzanian resident (in either Tanzania Mainland or Zanzibar) to be a trustee of a foreign trust established under the trust laws of another country although the governing law in Tanzania Mainland is silent on such situations. Under such situations, it is not compulsory for the trustee to be incorporated or registered with the Administrator-General of Registrations, Insolvency and Trusteeship Agency (RITA). However, any trust for which at any time during a year, any trustee is a resident of Tanzania, or where any resident person of Tanzania directs or may direct its senior managerial decisions (whether the direction is or may be made alone or jointly with other persons or through one or more interposed entities) is considered resident for tax purposes and is covered by the obligations of the tax law. This would cover the situations where a Tanzanian resident is a trustee of a foreign trust.

Requirements to maintain identity and beneficial ownership information in relation to trusts and implementation in practice

160. The primary law in Tanzania Mainland governing trusts is the Trustees' Incorporation Act, Cap. 318 R.E 2002 as amended by the Written Laws (Miscellaneous Amendments) Act No 3 of 2019 and the Written Laws (Miscellaneous Amendments) Act No 1 of 2020 and the Rules made thereunder.

161. Trust is defined under section 1A of the Trustees Incorporation Act to mean "a legal relationship created by personal acts, by an order of the court or operation of law, when specified property or interests are placed under control and management of a trustee or trustees for the benefit of another party or parties, called a beneficiary or beneficiaries, or for purposes specified under section 2(1)[26]". A "trustee" means "a person who holds, controls

26. Section 2(1) of the Trustees Incorporation Act provides that a trustee or trustees appointed by a body or association of persons bound together by custom, religion, kinship or nationality, or established for any religious, educational, literary,

and manages property or any other interests for the benefit of a beneficiary or beneficiaries or for the purposes specified in section 2(1)".

162. This law allows for incorporation of the trustee or trustees of a trust established in Tanzania Mainland (compulsorily in some cases and optionally otherwise) and provides for registration of such a trust and trustee(s) with the Administrator General of Trustees (who is the Administrator General of RITA). Once registered, the trustee or the board of trustees acquires a legal personality enabling it to own land, acquire shares, moneys, securities or any other properties, enter into contracts, sue or be sued in the name of that body corporate. Thus, trusts are legal arrangements in Tanzania, but trustees of a trust, by virtue of their registration with RITA and incorporation, can acquire a separate legal personality. Most trusts in Tanzania have their trustees incorporated and registered with RITA.

163. Incorporation of trustee(s) is compulsory where a trustee or trustees holding property in trust for any religious, educational, literary, scientific, social or charitable purposes who are not incorporated under any law or whose incorporation is not provided for by any law. In respect of other trustees, incorporation is not compulsory. Thus, in the case of private trusts holding trust property for any other purpose besides those mentioned above, trustee(s) may choose not to incorporate under the Trustees Incorporation Act. However, as discussed in paragraph 173, the tax law obligations would, in practice, require trustees to be incorporated under the Trustees Incorporation Act in most cases.

164. Section 2(2) of the Trustees' Incorporation Act requires that for registration, an application has to be filed with the Administrator General of RITA in the prescribed form together with the constitution and rules (if any) of the body or association of persons that has appointed the trustee(s), the trust instrument or declaration of trust defining the trusts on which the trust property is to be held. Further, the Administrator-General may require any further documentation or evidence that he/she may consider necessary or proper. Tanzanian authorities have informed that the trust instrument and the declaration of the trust would contain details of identity of the settlor, the trustees and the beneficiaries. Further, the Written Laws (Amendment) Act No 1 of 2020 has introduced a new sub-section 2(4) to the Trustees' Incorporation Act, which states that "the Administrator-General may, before a trust is incorporated or at any later stage after incorporation, require disclosure of the names of settlors and beneficiaries of the trust".

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scientific, social or charitable purpose, and any person or persons holding any property on trust for any religious, educational, literary, scientific, social or charitable purpose, may apply to the Administrator-General for incorporation as a body corporate.

165. After incorporation, the Trustees are bound to file annual returns and to update RITA on any subsequent changes, including changes of name of the trust, address, constitution, and/or changes to the trustee or the board of trustees. These requirements are provided for under sections 16, 17, 18 and 19 of the Trustees' Incorporation Act. Tanzanian authorities have informed that changes to beneficiaries are also expected to be updated although the same is not mentioned in the law. Furthermore, notwithstanding incorporation under RITA, the trustees are answerable and accountable for their own acts, receipts, neglects and defaults in the same manner and to the same extent as if no incorporation had been affected (s. 13 of the TIA). This means that incorporation and acquiring a legal personality does not limit the absolute liability of the trustees to their acts of omission or commission.

166. For any trustee or trustees incorporated under the Trustees' Incorporation Act, section 15 requires that where there is a sole trustee, such trustee must be ordinarily resident in Tanzania. Where there are two or more trustees, at least two trustees must be ordinarily resident in Tanzania. Tanzania has clarified that where a Zanzibar resident is trustee of a trust established in Tanzania Mainland, the same legal obligations apply to such a trustee and all identity information, as required to be maintained by a Tanzania Mainland trustee, would be required to be maintained by such Zanzibar resident trustee.

167. The Administrator-General is required to retain and hold all applications and records submitted to him/her for the purposes of incorporation of trustees. There is no specified time limit in respect of holding such documents submitted to the Administrator-General. However, section 16 of the Records and Archives Management Act, requires the Administrator-General, being a public authority, to retain the records for a period of up to 30 years.

168. The Trustees' Incorporation Act has been amended by the Finance Act 2020 to introduce the definition of "beneficial owner" as applicable under the Act and to make it mandatory that beneficial ownership information is filed with the Administrator-General of RITA at the time of making the application for incorporation of trustees of a trust. This requirement applies in respect of trustees incorporated under the Trustees' Incorporation Act and trusts registered with the Administrator-General. The term "beneficial owner" is defined as it is under the AML Act and the Companies Act 2002. Thus, the definition of beneficial owner reads as:

> "beneficial owner" means a natural person –
>
> (a) who directly or indirectly ultimately owns or exercises substantial control over an entity or an arrangement;
>
> (b) who has a substantial economic interest in or receives substantial economic benefit from an entity or an arrangement directly or indirectly whether acting alone or together with other persons;

(c) on whose behalf an arrangement is conducted; or

(d) who exercises significant control or influence over a person or arrangement through a formal or informal agreement;"

169. This definition does emphasise the need to identify natural persons as beneficial owner at all times in the context of trusts. Further, such information is required to be filed with the Administrator-General of RITA at the point of application for incorporation of trustees. The new sub-section 2(4) grants the Administrator-General the powers to specifically ask for the names of the settlors and beneficiaries of a trust at the time of incorporation or at any later stage. However, this definition does not clearly state that in the context of trusts, beneficial ownership information includes information on the identity of the settlor, trustee(s), protector (if any), all of the beneficiaries or class of beneficiaries, and any other natural person exercising ultimate effective control over the trust. The definition does not clarify the meanings of significant economic interest, or significant control in the context of trusts. It is also not clear whether, in case beneficiaries are not individuals, the individuals behind them should also be identified as beneficial owners. Hence, there could be situations where the definition is unevenly and inconsistently applied. Furthermore, while the beneficial ownership information is required to be filed at the time of application for incorporation of trustees, it is not clear if the amendment to the Trustees Incorporation Act extends to ensuring that such submitted information must be updated in respect of any changes.

170. The AML law would require the identification of beneficial owners whenever a trust were to engage with an AML-obliged person. The definition in respect of beneficial owners as applicable to trusts under the AML law is the same as that in the Trustees' Incorporation Act. Hence, the issues in respect of the definition of beneficial ownership would persist in respect of the AML law.

171. Thus, while information in respect of beneficial ownership should be available under the provisions of the Trustees' Incorporation Act as well as the AML law, there is a need to adequately guide and clarify the meaning of beneficial ownership information in the context of trusts so that all such information is systematically and consistently available. Hence, **Tanzania is recommended to take suitable steps to ensure adequate clarity on the meaning of beneficial ownership information in the context of trusts**. Considering the recent amendments introduced to the relevant laws in this regard, the practical implementation and the availability of beneficial ownership on existing and new trusts will be examined further during the Phase 2 review (see Annex 1).

172. As noted in paragraph 163, it is not compulsory for the trustees of private express trusts to register with the RITA. Further, where a Tanzanian resident is a trustee of a foreign trust, such trustee may not need to be

incorporated under the provisions of Trustees' Incorporation Act. However, the provisions of the tax laws would, in practice, require incorporation of the trustees and engaging with an AML-obliged person to have a bank account. This would ensure that beneficial ownership information on trusts would be available.

173. Trust, like partnership, is considered an "entity" under the provisions of the Income Tax Act. Under the provisions of the Tax Administration Act, where a trust is potentially liable to tax by virtue of carrying on business or holding investments in Tanzania, it is required to register with the tax authorities and obtaining a TIN. Further, as mentioned in paragraphs 37 and 158 above, any trust with a Tanzanian resident as a trustee would be considered tax resident in Tanzania and covered by tax law obligations. Tanzanian authorities have informed that registration with the tax authorities requires the trustees to be incorporated and registered with RITA. After registering with RITA, trustees are required to apply for a TIN. If they already have a TIN, the same may be used. Trust income is to be declared with the tax return of the trustee and is taxed at special rate of 30% as provided under first schedule of the Income Tax Act. Thus, although trustees of private express trusts are not always required to be incorporated and registered with RITA under the Trustees Incorporation Act, due to the registration requirements under the tax law, in practice, trustees would be incorporated and registered with RITA and would be covered by the obligations of the Trustees Incorporation Act.

174. Tanzanian authorities have informed that all information submitted to RITA and TRA would continue to be available with these authorities even where a trust is dissolved or ceases to exist as these authorities' record retention obligations are governed by the Records and Archives Management Act which provides for a statutory 30 year retention period.

Requirements to maintain identity information in relation to Zanzibar wakfs

175. In respect of Zanzibar, there is no law governing trusts similar to the ones in Tanzania Mainland and hence, trusts are not similarly recognised in Zanzibar as in Tanzania Mainland. However, Zanzibar law does provide for the existence of Islamic trusts – Wakfs. The concept of Wakf is defined by the Wakf and Trust Commission Act No 2 of 2007. Wakf is defined to mean "a transfer of origin of a property in order that the benefits from that property can be used for the purposes of the Islamic religion". The original owner of property based on Islamic religion transfers the property to the Wakf so that the proceeds from the property or the property itself could be devoted to help Islamic religion to cater for matters such as Madrassa (Islamic college), Islamic marriages, etc. Therefore, once transferred by the original owners the

properties become a Wakf property which need to be used for purposes of Islamic religion with the transferor or any other person having no claims of any kind on the property. Two types of wakfs exist: those administered by a public institution and private wakfs.

176. In Zanzibar, generally, all the properties under Wakf are administered, managed or controlled by the Wakf and Trust Commission. The Commission is governed by a board comprising a Chairman, an Executive Secretary and three to five other members. The Chairman of the Commission is appointed by the Zanzibar President from amongst persons of sound integrity and adequate Islamic religious knowledge. Therefore, the overall overseer of the Wakf and Wakf properties is the Wakf Commission.

177. Besides the Wakf administered by the Commission, private wakfs can be set up under the law, but are required to be registered with the Wakf Commission and are required to submit complete details of the property treated as wakf. All persons holding wakf property are required to provide their details to the Wakf Commission and the Commission has the authority to ask for any other details it may require. Any private wakf not registered with the Commission is considered invalid.

178. Private wakfs holding properties typically have bank accounts and the bank should perform CDD and identify their beneficial owners. However, there is no clarity on who should be identified as beneficial owners of private wakfs. As noted earlier, Zanzibar law does not adequately provide for identification of beneficial owners of any relevant legal entities and arrangements except where such information is available due to their having a bank account. Thus, **the recommendation in respect of ensuring the availability of beneficial ownership information on all legal entities and arrangements in Zanzibar applies to private wakfs as well**.

Oversight and enforcement

179. The Administrator-General of RITA is the authority responsible for the monitoring and supervision of trustees incorporated under the Trustees' Incorporation Act. Section 14 empowers to the Administrator-General to investigate any incorporated trustee if he/she is of the opinion that a trustee has misused any property vested in the trustee. The Registrar-General may suspend or remove the trustee and any person found in use or misuse of trust property, freeze bank account, stop trustee(s) from further action, or appoint a receiver or manager or Public trustee to take over the operations of the trust. The Registrar-General is also authorised to revoke or suspend the incorporation of trustees for various defaults specified under sections 23 and 24. Further, section 28 provides for various offences that are punishable. For non-filing of any return or responding to any notice from the Registrar-General, the trustee(s) are liable to a fine of TZS 1 000 (EUR 0.40) for every

month for which the default continues. For furnishing any false information in respect of any return or response to a notice, the defaulter is liable to a fine of TZS 200 000 (EUR 73) or imprisonment for two years or to both. Further, for late filing of any of the required returns in respect of changes of address of the trustee(s), change in particulars of the trustee(s), or in the name of trustee(s), a fine of TZS 1 000 (EUR 0.40) applies for every month of delay. As in the case of companies, these monetary sanctions may not be adequately dissuasive. **Tanzania is recommended to ensure that, in respect of the identification information on trusts, the compliance provisions are adequate for maintaining and submitting such information**.

Availability of trust information in EOIR practice

180. The availability of beneficial ownership information on trusts in practice will be examined during the Phase 2 review.

A.1.5. Foundations

181. In Tanzania Mainland, foundations are non-profit organisations (the two terms are used inter-changeably) that must be engaged in activities of general public interest. They are established and governed by the provisions of the Non-Governmental Organisations (NGOs) Act (as amended 2019). The term NGO is defined under section 2 of the NGO Act as a voluntary grouping of individuals or organisations which is non-partisan, non-profit making and which is established and operates for the benefit or welfare of the community. The NGO Act provides for the appointment of a Director for Non-Governmental Organisations Co-ordination who is the Registrar of Non-Governmental Organisations and acts as a link between NGOs and the Government of Tanzania. Every NGO is required to register with the Registrar and be issued a certificate of registration. For this, the NGO is required to make an application in the prescribed form and provide the constitution of the NGO, minutes containing full names and signature of founder members, personal particulars of office bearers of the NGO, details of physical address of the NGO, an application fee and any other documents as may be required by the Registrar.

182. In Zanzibar, foundations/NGOs are treated and registered as Societies and therefore the law governing their registration is the Societies Act No. 6 of 1995. Such societies are required to be non-profit entities set up for the purposes of public interest.

183. Considering that foundations in Tanzania are always non-profit NGOs that are set up subject to specific approval of the Government on a case-by-case basis for the purposes of serving public interest, they would not be relevant entities in respect of the work for the Global Forum. Nevertheless,

the legal framework provides for the availability of identity information on the founders and office bearers of such foundations.

Other relevant entities and arrangements

184. In addition to the above entities and arrangements in Tanzania, the law provides for the formation of societies in Tanzania. Tanzanian authorities have informed that societies in Tanzania Mainland as well as in Zanzibar are always non-profit. The relevant governing Act is the Societies Act Cap 337 of 1954 as amended by the Written Acts (Amendment) Act 2019 in respect of Tanzania Mainland and the Societies Act No 6 of 1995 in respect of Zanzibar. Societies are defined to mean a non-partisan and non-political association of ten or more persons established for professional, social, cultural, religious or economic benefits or welfare of its members, formed and registered under the relevant Acts. Every society is required to be registered with the Registrar of Societies. While registering, the application requires details of identity of members. Identity details that are expected to be submitted include National ID, ZanID, passports for non-residents and permanent contacts, postal address, physical address, e-mails and phone number. Legal persons can be members of a society in Tanzania Mainland.

185. Foreign societies intending to operate in Tanzania are also registered according to section 7(1) of the Societies Act as amended by Act No 3 of 2019 where requirements for registration are similar to that of domestic societies.

186. In respect of Zanzibar, societies are set up under the Societies Act No 6 of 1995. Section 4(1) of the Act provides that a Society is deemed to be established in Zanzibar, although it may be organised and have its headquarters or chief place of business outside Zanzibar under the following circumstances: (a) if any of its officers or members resides in Zanzibar or is present therein, or (b) if any person in Zanzibar manages or assists in the management of the society or collects money or subscriptions on its behalf. The identity information required to be submitted to the Registrar for registration of societies are provided in sections 10 and 11 of the Act. Every application for registration under this Act has to be in writing and should be accompanied with the constitution of the Society. Any other relevant particulars as the Registrar may direct to be furnished (National ID, Zan ID or passport date of birth) must be provided. Besides individuals, legal entities and arrangements can also be members of a society. Section 4(2) of the Act provides that no society registered, organised or established outside Zanzibar can operate or undertake its activities in Zanzibar unless such a society obtains a certificate of operation. Further, if a society intends to undertake any temporary activities under its direct and physical supervision, a permit may be issued allowing such a society to operate in accordance with the conditions prescribed by the Registrar.

187. For registering a society in Zanzibar, an application to the Registrar has to be made. Under section 11 of the Act it is stipulated that the constitution of the society, the rules of the society made and a statement signed by the members of the society must be submitted. The Registrar may require additional documents to be submitted.

188. Tanzanian authorities have informed that societies do register with the TRA and obtain TIN and where this is done, the details of the members are available with the TRA. However, they are not always liable to tax, being for non-profit purposes. Societies in Tanzania Mainland as well as in Zanzibar are always for non-profit and public interest purposes. They do not have specific identifiable beneficiaries. They must always submit their constitution to the Registrar for approval and must be registered. Thus, societies in Tanzania, like NGOs would not be relevant entities for the work of the Global Forum. Nevertheless, the legal framework does provide for identity details on members of societies.

A.2. Accounting records

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

189. The obligations to maintain accounting records by all relevant entities and arrangements are met through a combination of legal provisions in Tanzania.

190. Tanzania Mainland and Zanzibar have two separate Company laws which have specific provisions for maintaining accounting records for all types of companies. Further, entity-specific laws like the NGOs Act, the Societies Act and Rules and the Trustees Incorporation Act also provide for requirements in respect of accounting records.

191. In addition, tax law obligations provide for ensuring the availability of accounting records by all relevant entities and arrangements when liable to tax. The obligations pertaining to the Union taxes (which include direct taxes) are similarly applicable to Tanzania Mainland and Zanzibar and are provided for under the Tax Administration Act. In addition, Zanzibar Revenue Board administers certain other non-union taxes and the obligations of Tax Administration and Procedure Act No. 7 of 2009 apply to Zanzibar taxpayers in respect of such non-union taxes.

192. Despite the extensive coverage for ensuring availability of accounting records, there are concerns when entities cease to exist, whether accounting records will remain available for five years in line with the standard. On a related note, while a company may have ceased commercial operations, it can continue to retain its legal personality and may be an inactive company. In

respect of one such company, there was a failure to provide accounting information requested by an EOIR partner. This issue raises potential concerns in respect of Phase 2 aspects.

193. The conclusions are as follows:

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

Deficiencies identified/ Underlying factor	Recommendations
In respect of companies that cease to exist, the legal provisions in the Companies Law in Tanzania Mainland and Zanzibar lack clarity in respect of the availability of accounting records for five years after dissolution. It is unclear who will be responsible for maintaining these accounting records and whether such records will be available for five years after dissolution.	Tanzania is recommended to ensure that in respect of companies that cease to exist, all accounting records are maintained in line with the standard for a period of five years from the date when the company ceases to exist and the responsibility for holding such records is clearly established.

Practical Implementation of the Standard: The assessment team is not in a position to issue a rating on this element, as it involves issues of practice that are dealt with in the Phase 2 review.

A.2.1. General requirements

194. The standard is met by a combination of Company law, Tax law and entity-specific law requirements. The various legal regimes and their implementation in practice are analysed below.

Company Law

195. Company laws in both Tanzania Mainland and Zanzibar require that accounting records be available in conformity with the standard. While the Companies Act of Tanzania Mainland provides for a retention period of six years for all accounting records, the applicable Companies Act in Zanzibar does not specify a retention period but the direct tax law obligation of maintaining accounts for five years after the year to which the accounts pertain to, would continue to apply.

Tanzania Mainland

196. The Companies Act Cap 212 requires companies incorporated in Tanzania Mainland to maintain accounting records. Section 151(1) provides for a mandatory requirement for every company to keep in English or Swahili proper books of account which are sufficient to show and explain the company's transactions. Such accounts should (a) disclose the financial position of the company with reasonable accuracy at any time; and (b) enable the directors to ensure that any balance sheet, profit and loss account and cash flow statement prepared complies with the requirements of the Act.

197. The books of account must be kept at the registered office of the company or at such other place in Tanzania as the directors think fit. Such records should be open to inspection by the directors at all times (s. 151(3)). Further, the books of account must be maintained for a period of six years from the date on which they are first prepared (s. 151(4)).

198. Directors are obliged to prepare accounts for each accounting period (12 months). Such financial accounts must comprise a profit and loss account (and for a not-for-profit company, an income and expenditure account), a balance sheet and a cashflow statement. Section 154(2) requires a company's balance sheet, profit and loss account and cash flow statement to comply with the requirements specified in regulations prescribed by the Minister, or the National Board of Accountants and Auditors (NBAA) or such other body as the Minister may decide, having regard in either case to generally accepted Principles of Accounting, and their Regulations. The Minister has not issued any regulations in this regard. Instead, companies are required to prepare their financial reports consistent with the requirements/standards specified by the NBAA. Since 2004 NBAA has required companies to follow International Financial Reporting Standards issued by the International Accounting Standards Board. Prior to this, Tanzania Financial Accounting Standards (TFAS) were in place. Of these TFAS, only a few reflecting specific Tanzanian context in accounting standards, are in force.

199. Further, all public companies are obliged to get their accounts audited and submit such accounts to the Registrar as part of the annual returns filed under sections 130 to 132 of the Companies Act. Unlimited companies and private companies having turnover and assets below certain prescribed thresholds are exempted[27] from getting their accounts audited and filing them with their annual returns with the Registrar.

27. As per section 171 of the Companies' Act exemptions from having audited accounts for a particular financial year applies to private companies with Gross Assets threshold of TZS 750 000 and Annual Turnover of TZS 1.5 million.

200. In respect of foreign companies registered with the Registrar, section 438(1) of the Companies Act requires them to prepare such accounts in every calendar year as is required of every other company registered under the Act. Such accounts should be accompanied by documents such as profit and loss accounts, cash flow statement and balance sheet and must be submitted to the Registrar within three months of being prepared. Such documents should be in English and if not, they should be translated into English.

Zanzibar

201. In Zanzibar, section 153(1) of the Companies Act No 15 of 2013 requires that every company keep or cause to be kept in English or Swahili proper books of account with respect to all sums of money received and expended by the company and the matters in respect of which the receipt and expenditure takes place; all sales and purchases of goods and services by the company and the assets and liabilities of the company. Section 153(2) provides that books should give a true and fair view of the state of the company's affairs and to explain its transactions are kept.

202. Furthermore, section 153(3) provides that the books of account must be kept at the registered office of the company or at such other place as the directors think fit, and must at all times be open for inspection by the directors. Books of account may be kept out of Zanzibar. However, if books of account are kept at a place outside Zanzibar, it is required that adequate accounting information is available also in Zanzibar to be able to disclose the financial position of that business with reasonable accuracy with intervals not exceeding six months. Further, such available accounting information must also be enough for preparing the company's balance sheet, its profit and loss account or income and expenditure account, and any document annexed to any of those documents giving information which is required by the Act. Furthermore, in such cases, upon request, all accounting information should be accessible from a place in Zanzibar.

203. Section 154(2) requires the directors of every company to prepare individual accounts in each accounting period and in every calendar year present a profit and loss account of the company in general meeting.

204. In addition, section 242(1) requires foreign companies to prepare a balance sheet and profit and loss account in every calendar year, and if the company is a holding company, group accounts are required to be prepared and laid before the company in general meeting, and copies of those documents are required to be delivered to the Registrar. Further, section 242(2) provides that if any document as is mentioned in section 242(1) is not written in the English or Swahili language, there must be annexed to it a certified English translation thereof.

Tax Law

205. Tax law provides for some accounting obligations in addition to the ones in company law. Section 35(1) of the Tax Administration Act 2015 (applicable to both Tanzania Mainland and Zanzibar in respect of direct taxes) imposes a mandatory requirement for every taxable or liable person within the United Republic of Tanzania, to maintain documents in paper or electronic form which contain information to be provided or filed with the Commissioner General under any tax law; enable an accurate determination of tax payable under any tax law; as well as any document that can be prescribed by the Commissioner General or by regulations. Further, section 35(2) requires every taxable person or a person liable to tax to keep records and accounts in accordance with generally accepted accounting principles and the requirements of a respective tax law.

206. The accounting records maintained under sections 35(1) and 35(2) must be kept for a period of at least five years from the end of the year to which the income pertains or for such further period as may be prescribed. Where the accounting records are needed for appellate processes or are a subject of investigation, such accounting records must be maintained till finality on the matter is reached. The Commissioner General has the powers to relieve a person from the obligation to maintain records or the time for which the documents are to be retained. However, Tanzanian authorities confirm that such a waiver has never been granted. Only specific individual taxpayers doing business in Tanzania can opt out of the obligations of maintaining accounting records. Under the First Schedule of the ITA 2004 (paragraph 2(3)), resident individual taxpayers having business income arising exclusively from Tanzania and having an annual turnover not exceeding TZS 14 million (about EUR 5 200), can opt to not maintain accounts under section 35. Such individual taxpayers are then subjected to tax on a percentage of their turnover. Where such individuals opt to maintain accounts they are covered by the retention requirements. Further, individuals relying on presumptive tax without maintaining accounting records must have their turnover information available for five years. The threshold and the scope of application limited to individual entrepreneur make this exemption not material for this review.

207. In respect of Zanzibar, the Tax Administration and Procedures Act 2009 (as revised in 2019) (TAP Act) applicable in respect of the non-Union taxes[28] administered by the Zanzibar Revenue Board, requires that all accounting records be maintained for a period of seven years or for such

28. The Value Added Tax Act No. 4 of 1998, the Stamp Duty Act No. 7 of 2017, the Hotel Levy Act No. 1 of 1995, the Port Service Charge Act No. 2 of 1999, the Petroleum Levy Act No. 7 of 2001 and the Excise Duty Act No. 8 of 2017.

longer period as the Commissioner may specify. All accounting records of taxable person are required to be maintained at the principal place of business and must not be moved out of Zanzibar.

Companies that ceased to exist and retention period

208. In Tanzania (both – Tanzania Mainland and Zanzibar), companies can cease to exist by being wound up and dissolved either through a court monitored liquidation process or through a voluntary winding up procedure as provided for under Part VIII of the Companies Act. Once dissolved after being wound up, the company ceases to exist and loses its legal personality. The High Court of Tanzania is the designated court to oversee the court procedure for winding up, but can delegate the process to any Resident Magistrate's Court through an order. A company may be wound up by the court if the company itself seeks such process, does not commence business within a year from its incorporation or suspends business for a year; or the number of its members fall below two; or it is unable to pay its debts; or the court itself is of the view that it is just and equitable to wind up the company. In the case of voluntary winding up, a company may pass a special resolution to the effect of voluntary winding up to commence the procedure. During the pendency of the winding up procedures once the court has ordered so, the official liquidator takes charge of accounts of the company under liquidation and must maintain all accounting records (s. 303 of the Companies Act).

209. Section 393 of the Companies Act 2002 (Tanzania Mainland) provides that upon winding up of a company, all the books and records of the company may be disposed of as per the directions of the court. Where a company has been voluntarily wound up, such disposal may be as per the special resolution of the company's board. Where such winding up is at the instance of creditors, a committee of inspection may decide the procedure for disposal of all records. Section 393(2) stipulates that beyond five years from the dissolution of a company, no responsibility for availability of accounting records lies with the company, the liquidator or any other person to whom the custody of books and paper was committed. Section 393(3), however, permits the Minister to prescribe rules to prevent the disposal of all accounting records of a company that has been dissolved for a maximum of five years from the date of dissolution. No such rules have been prescribed.

210. Further, section 400 of the Companies Act provides for the procedure to be followed where the Registrar may strike-off a company from the Companies Register. Where the Registrar has a reasonable cause to believe that a company is not carrying on any business or operation, the Registrar is empowered to initiate the process of de-registering such a company. After giving time and opportunity to such a company to establish that it is in business, the Registrar can proceed to strike-off the company if no indication of

its operation or business surfaces. Where a company is so de-registered, it loses its legal personality. However, as per the provisions of section 400(5), the liability, if any, of the directors, officers and members of the company are to continue and may be enforced as if the company had not been dissolved. It is unclear if for companies that cease to exist, the obligation to maintain all accounting records for a period of five years would continue to apply in respect of the obligations imposed by the Act on the directors of the company.

211. A combined reading of the provisions suggests lack of clarity in respect of both – the person responsible for holding the records of a company that has ceased to exist, as well as the minimum prescribed retention period of five years from the date such a company has ceased to exist. It is unclear if the liquidator or the directors of the dissolved company would be explicitly required to ensure the availability of accounting records for a company after dissolution. It appears that this responsibility would depend on the mode of dissolution (by court order or voluntary). While the liquidator is responsible for holding the accounting records during the winding up process, its role is unclear upon dissolution. Further, the provision of retention for at least five years after a company ceases to exist is also not clear as section 393 does not clearly indicate the same and no rules have been formulated in this regard. While it takes away the responsibility of maintenance of records after a period of five years, it does not mandate that such records must be maintained for five years. Thus, **Tanzania is recommended to ensure that in respect of companies that cease to exist, all accounting records are maintained in line with the standard for a period of five years from the date when the company ceases to exist and the responsibility for holding such records is clearly established**.

212. Section 400(6) of the Companies Act provides that where a company or any member or creditor is aggrieved by the strike-off of a company, it can seek re-registration of such a company by approaching the court for such re-registration. This request for re-registration has to be made before the court within a period of 10 years from the date when the company was de-registered or struck-off by the Registrar. Beyond this period, it is not possible to re-register a struck-off company. The court, while permitting the re-registration, can impose the necessary conditions that such a company must fulfil before it is re-registered. As discussed earlier in paragraph 94, there are no legal provisions that require a struck-off company seeking restoration to the register to ensure the availability of all accounting records for any past years of non-availability or for the intervening period from it being struck-off to being restored. Tanzanian authorities have informed that so far they have not had any experience where a struck-off company has been restored by court order. While a struck-off company loses its legal personality and should not be able to carry out any transactions after being struck-off, similar to the situation noted in paragraph 96 under element A.1, it is unclear, if in practice

accounting records for such companies that are struck-off and restored would be available in line with the standard in the absence of any specific legal provisions for ensuring any past defaults or missing information in respect of accounting records be made good prior to restoration. The availability of accounting records in line with the standard in respect of companies that are struck-off and subsequently restored will be examined during the Phase 2 review.

213. One of the peer inputs received suggested that Tanzania was unable to provide the accounting information for a company. The company had ceased commercial operations more than 20 years ago but had remained in the Registrar's database. It was not reflected in the Tax database. The accounting information for the requested period could not be provided. Tanzanian authorities were of the view that the company had ceased to exist and the requested information pertained to beyond the five years retention period. However, the company had not been struck-off from the Register and was likely to qualify as not carrying on any business or operation. For an inactive company, accounting records should be available as long as it retains its legal personality or the Registrar should have initiated the process of de-registering the company. This issue of availability of accounting records in respect of inactive companies will be further examined during the Phase 2 review (see Annex 1).

Partnerships, trusts and other relevant entities

214. Partnerships are fiscally transparent entities in Tanzania Mainland and Zanzibar for the purposes of the imposition of income tax. However, partnerships are considered to be "entities" within the meaning of section 3 of the Income Tax Act 2004. Accordingly, they are registered as such with the TRA and are issued with TIN and have to file various tax returns including the annual return of income although the obligation to pay the tax on the income generated by the partnership remains with the partners. Tanzania has informed that in respect of partnerships, the primary laws for ensuring the availability of accounting records are the tax laws as applicable in Tanzania Mainland and Zanzibar. By virtue of being an entity, a partnership has to comply with the provisions of the Tax Administration Act, 2015 including compliance with the requirements to maintain records and accounts consistent with the provisions of section 35(2) of the Tax Administration Act read together with section 21 of the Income Tax Act, 2004 (keeping accounts according to the accounting standards). Further, the provisions of Tax Administration Act 2015 in respect of income taxes apply for all partners of partnerships in Tanzania Mainland and Zanzibar. In addition, partners of partnerships in Zanzibar are also obliged to maintain accounting records as required by the Tax Administration and Procedures Act 2009 of Zanzibar in

respect of VAT. Thus, in practice, partners of a partnership are also required to have TINs, file tax returns and maintain the accounting records as required under the tax laws. Hence, the requirement of maintaining accounting records applies jointly on the partnership as well as its partners. The record retention requirements as provided for under the respective laws apply on the partners in respect of the partnership's accounting records. The liability of partners of a partnership continues even if a partnership ceases to exist. Tanzanian authorities have confirmed that even though the partnership is not making profits or making losses the obligations to maintain accounting records would still be applicable to it as the obligations apply to all partnerships regardless of their commercial status.

215. In respect of trusts, the availability of accounting records is provided for through the provisions of the Trustees' Incorporation Act as well as the tax law obligations. Section 20 of the Trustees' Incorporation Act in Tanzania Mainland provides that the Registrar-General may require any trustee(s) incorporated under the Act to submit duly audited accounts. The Registrar-General is also empowered to call for the books of accounts and inspect them or get them inspected. As noted under A.1, incorporation of trustees is optional under the Trustees Incorporation Act. Only a trustee or trustees holding property in trust for any religious, educational, literary, scientific, social or charitable purposes are compulsorily required to incorporate under the Trustees Incorporation Act if not incorporated under any other law. Further, a trust that has taxable income and needs to register with the TRA, would require to register with the RITA as well.

216. In respect of trustees of private trusts engaged in the management of private property for profit purposes or otherwise, the obligations of the Trustees' Incorporation Act do not apply if they have chosen not to incorporate under the Trustees' Incorporation Act. In respect of such trustees, the availability of accounting records would only be ensured through the operation of the requirements of the tax laws. Tanzanian authorities have informed that trusts, being an entity under the Income Tax Act, are required to register with the tax authorities and comply with the requirements to maintain all accounting records under section 35 of the TAA read with section 21 of the IT Act for compliance with the tax obligations. Thus, like partnerships, the obligations of the tax law require the maintenance of accounting records for trusts for a period of five years, including after a trust ceases to exist.

217. In respect of private wakfs in Zanzibar, the Wakf Commission has powers to examine all documents and accounts of a private wakf under section 20 of the Wakf and Trust Commission Act 2007. Tanzanian authorities have explained that while most Wakf property in Zanzibar is under the direct control of the Wakf Commission, private wakfs that manage their own wakf property are under direct supervision of the Wakf Commission as well.

Private wakfs are always meant for the advancement of Islamic religious purposes, not for profit and are not considered relevant for tax purposes and hence, not required to be registered with the tax authorities.

218. As noted in A.1, foundations in Tanzania are non-profit organisations and are incorporated under the NGO Act 2002 in Tanzania Mainland and under the Societies Act No. 6 in Zanzibar. In Tanzania Mainland, section 29 of NGOs Act, 2002 requires all NGOs to prepare an annual report consisting of their activities and an audited financial report annually. According to Regulation 14(f) of the NGO (Amendments) Regulations of 2018, NGOs are obliged to ensure all financial transactions are transparently and fully documented, and that these documents are preserved for five years as required under the tax law obligations (s. 35(3) of TAA). Where NGOs are subject to tax filing requirements in respect of their activities, the tax law obligations in respect of accounting records apply similarly as for other taxable persons. Tanzanian authorities have informed that, as a matter of practice, under Income Tax Act, NGOs are required to file tax returns even if they have no taxable income. NGOs are required to declare their income, which is almost always filed as "NIL" by the NGOs and hence, they are not required to pay taxes.

219. In respect of societies, in Tanzania Mainland, Rule 3(1) of the Societies Rules, 2001, provides that every registered society which receives money from any source, whether by way of subscription, donation or otherwise, must keep one or more books of accounts recording details of all moneys received and payments made by the society. Under Rule 6(1)(a), the Registrar may require any registered society to produce within a time to be specified by the Registrar for his/her inspection all or any of the books of accounts of the society. Sections 21 and 22 of the Societies Act, Cap. 337 provides that the Registrar of Societies may order the registered society to submit audited accounts. Further, section 21(1)(a) and (d) of the Societies Act provides that the Registrar may at any time, by notice, order any registered society to furnish him/her in writing with such accounts, returns and other information as may be prescribed. The Registrar may also, after granting reasonable time, require the submission of audited accounts by all registered societies.

220. In Zanzibar, the requirements for Societies are the same as those stipulated for foundations or NGOs as per Societies Act No 6 of 1995.

A.2.2. Underlying documentation

221. Section 151(2) of the Companies Act 2002 provides that the books of account must in particular contain entries from day to day of all sums of money received and expended by the company and the matters in respect of which the receipt and expenditure takes place; all sales and purchases of

goods by the Company; as well as the assets and liabilities of the Company. The Companies Acts in Tanzania and Zanzibar do not explicitly mention guidance on what specific underlying documentation needs to be maintained, e.g. contracts and invoices. Tanzanian authorities have informed that it is presumed that in order to maintain the accounts in accordance with the requirements of the Companies Act and to get the books audited (especially for companies obliged to have their financial accounts audited), such underlying documentation would be available.

222. The tax law obligations, however, clarify the type of underlying documentation that must be maintained by all taxpayers. Section 36 of the Tax Administration Act specifies the kind of documents that a person who supplies goods, renders services or receives payments in respect of goods supplied or services rendered must maintain, including the information that must be captured in such documents. Such a person is required to ordinarily issue a fiscal receipt or fiscal invoice by using electronic fiscal device[29]. Where a person issues such receipt or invoice manually, such person must record the date on which the payment was made, the full name and address of the person who sold the goods or rendered the service, full description of the goods or services sold and a statement of the quality and value of the goods or services sold, full name and address of the person to whom such goods and services were sold or rendered and Taxpayer Identification Number of the issuer of invoice or receipt.

223. In respect of Zanzibar, the Tax Administration and Procedures Act applicable in respect of the non-Union taxes administered by the Zanzibar Revenue Board, provides for the availability of underlying documents for the preparation of accounting records for all businesses that are operating in Zanzibar and are liable to such taxes. Section 22 requires that every taxable person maintain accounting records at its principal place of business in Zanzibar. The section specifies that the records to be maintained include: all original cash sale tax invoices and receipts received or certified copies thereof; all copies of tax invoices and receipts issued; all customs documentation relating to imports and exports, if any; any other records as may be prescribed in the regulation or by the Commissioner[30]. All such records must be kept either in English or in Swahili.

29. An electronic fiscal device means a machine designed for use in business for efficient management controls in areas of sales analysis and stock control system, which is duly registered under Regulation 5 of the Income Tax (Electronic Fiscal Device) Regulations, 2012 including Electronic Tax Register, Electronic Fiscal Printer and Electronic Signature Device.

30. Tanzanian authorities have informed that ZRB has no separate regulations at the moment and it applies only the provisions under the cited law.

224. Tanzanian authorities inform that since the obligations of tax law require every taxable person to maintain accounting records and the tax authorities can require every person to substantiate these records, underlying documentation like invoices, contracts etc., and reflecting details of all sums of money received and expended and the matters in respect of which the receipt and expenditure take place, all sales and purchase and other transactions, and the assets and liabilities would have to be maintained by all relevant entities and arrangement.

Oversight and enforcement of requirements to maintain accounting records

225. The requirements under various laws for maintaining accounting records are enforceable through the penal provisions provided in this respect.

226. Regardless of the type of company, the Companies Act, Cap. 212 under section 151(5) and section 154(4) imposes liability of a fine or imprisonment (as the court may determine) upon conviction on any person, being a Director of a company, who fails to take all reasonable steps to secure compliance in respect of any accounts laid before the company in general meeting with the provisions of the section and with the other requirements of the Act.

227. In Zanzibar, provisions of sections 153(4), 154(4) and 155(4) of the Companies Act No 15 of 2013 provide for imprisonment of not exceeding six months or to a fine of a maximum of TZS 300 000 (EUR 110) on the director of a company found liable for any non-compliance with respect of the maintenance of accurate books of accounts and other related provisions. Thus, directors of a company can be held liable and can be punished with imprisonment besides monetary sanctions for not maintaining the required books of accounts as required in English or Swahili, not preparing the accounts in accordance with the law, or failing to ensure that accounts reflect all matters that they are expected to reflect in respect of a company.

228. For foreign companies, section 246 provides that, if any foreign company fails to comply, the company, and every officer or agent of the company who knowingly and wilfully authorises or permits the default, shall be liable to a fine of TZS 15 000 (EUR 5.50). In the case of a continuing offence, a default fine of TZS 3 000 (EUR 1) for every month of continuing default applies.

229. In Tanzania Mainland, section 24 of the NGOs Act, 2002 empowers the Board to cancel certificate of registration if an NGO failed to prepare and submit annual financial audited reports for two consecutive years without any reasonable cause.

230. In Zanzibar, section 25(2) of the Societies Act provides that a Foundation or NGO which fails to comply with the requirement to keep books of accounts shall be guilty of an offence and section 29(2) of the Act imposes an offence for failure to annually furnish returns, accounts and other documents to the Registrar. For both offences the Foundation or NGO shall be liable under section 45 to a fine not exceeding TZS 50 000 (EUR 18), or to imprisonment for a term not exceeding six months, or to both such fine and imprisonment.

231. In Tanzania Mainland, Rule 3(2) of the Societies Rules, of 2001 provides that, every office-bearer and every person managing or assisting in the management in Tanzania of a registered society which do not comply with the requirements to keep records and books of accounts shall be guilty of an offence and shall be liable on conviction to a fine not exceeding TZS 4000 (EUR 1.50) or imprisonment not exceeding six months or both such fine and imprisonment unless he establishes to the satisfaction of the court that he exercised due diligence and that the failure by the society to comply with this rule was due to reasons beyond his control.

232. In Zanzibar, the same sanctions for Foundations or NGOs as stipulated above are applicable.

233. For purposes of tax laws, the provisions of section 77 of the Tax Administration Act imposes a penalty for failure to maintain accounting records. The penalty for an individual is one currency point[31] and for a body corporate is ten currency points. Further, under section 82(b) the fine is of not less than 10 currency points (TZS 150 000 (EUR 55)) and not more than 20 currency points (TZS 300 000 (EUR 110)). For partnership, the individual partners are liable as stipulated under the section to the fines applicable to the individuals.

234. In Zanzibar, for purpose of taxes administered by ZRB, section 22(8) of the Tax Administration and Procedure Act creates an offence for taxable person who fails to keep proper accounting records, or to keep the records at the principal place of business, or to retain them for the required time, which upon conviction is liable to a fine of not less than TZS 100 000 (EUR 37) and not more than TZS 10 million (EUR 3655) or to imprisonment for a term not less than six months but not exceeding two years or both fine and imprisonment.

31. A currency point is a unit translated into Tanzanian Shillings with regard to fines or penalties to be imposed against a default person who has failed to honour an obligation imposed under the Tax Administration Act, 2015. Currently, one currency point represents or is equivalent to TZS 15 000 or approximately USD 6.5 based on exchange rate on 15 March 2021.

235. The penalties for non-compliance with the requirements for maintaining accounts vary across different laws. In general, they appear somewhat low in most cases. The effectiveness of monetary sanctions for non-compliance with the requirements to maintain accounting records with underlying documentation will be examined during the Phase 2 review (see Annex 1).

Availability of accounting information in EOIR practice

236. Tanzania was requested accounting information by EOIR partners and was able to send it in some but not all cases. The availability of accounting information in practice will be examined further in the Phase 2 review.

A.3. Banking information

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

237. The Banking and Financial Institutions Act 2006 (BFI Act) is the overarching governing Act for all banks and financial institutions in Tanzania Mainland as well as Zanzibar. The Bank of Tanzania is in charge of licensing and regulation of all banks in Tanzania (Tanzania Mainland as well as Zanzibar). Further, the Bank of Tanzania is in charge of the AML-related supervision of all banks and financial institutions as it is specifically defined as "regulator" for the purposes of the AML Acts in Tanzania Mainland and Zanzibar. Banking information, as required under the standard, is maintained through the provisions of the AML Acts applicable separately to Tanzania Mainland and to Zanzibar. Tanzanian authorities have informed that in practice, due to the common supervisory regime, the Bank of Tanzania adopts a common supervisory approach in respect of AML and the AML law and regulations of Tanzania Mainland are relied upon in case of any differences in the two AML regimes. Furthermore, all banks (except one) that operate in Zanzibar are branches of banks incorporated in Tanzania Mainland. The one Zanzibar incorporated bank has multiple branches in Tanzania Mainland and is in any case, obliged to abide by the AML law of Tanzania Mainland. Hence, although there are two separate AML Acts and Regulations governing banks in Tanzania – one for Tanzania Mainland and the other for Zanzibar – Bank of Tanzania is the common supervisory, licensing and regulatory authority and the AML law of Tanzania Mainland applies to all banks.

238. The legal and regulatory framework in respect of banking information is in place but needs some improvement for ensuring the availability of accurate and up-to-date banking information in line with the standard. The Customer Due Diligence (CDD) and record keeping requirements on all accounts provide for the availability of banking information in general.

However, the deficiencies in respect of the definition of beneficial ownership and guidance on beneficial ownership as discussed under A.1 apply in respect of the availability of beneficial ownership information on bank accounts. Tanzania is recommended to ensure that beneficial ownership information on all bank accounts is available in line with the standard. Further, there is no specified frequency for updating beneficial ownership information. This could lead to situations where available beneficial ownership information is out of date and hence, Tanzania is recommended to ensure that beneficial ownership information on all account holders is updated regularly.

239. The conclusions are as follows:

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

Deficiencies identified/ Underlying factor	Recommendations
The definition of beneficial owner as included in the anti-money laundering law does not define certain terms like "substantial control", "substantial economic interest" and "substantial economic benefit" and does not capture control through means other than ownership. Further, there is no guidance on how the definition needs to be applied in practice for identifying all beneficial owners of legal entities like companies and where no natural person can be identified on the basis of ownership and control, a natural person who is a senior managerial person. Similarly, there is lack of guidance on identifying beneficial owners of legal arrangements like partnerships and trusts. For trusts, the definition in the AML law does not explicitly require the identification of the settlor, trustee(s), protector, all of the beneficiaries or class of beneficiaries and any other natural person exercising ultimate effective control over the trust. This lack of adequate clarity in the definition of beneficial ownership and lack of guidance may lead to situations where beneficial owners are inconsistently identified.	Tanzania is recommended to enhance the definition of beneficial owners to cover natural persons who may exercise control through means other than ownership and to adequately clarify the relevant guidance for identifying beneficial owners of all relevant entities and arrangements in line with the standard.

Deficiencies identified/ Underlying factor	Recommendations
There is no specified frequency for updating beneficial ownership information in respect of customer due diligence measures. This could lead to situations where beneficial ownership information on all customers is not up to date.	Tanzania is recommended to ensure that beneficial ownership information on all account holders is updated regularly.

Practical Implementation of the Standard: The assessment team is not in a position to issue a rating on this element, as it involves issues of practice that are dealt with in the Phase 2 review.

A.3.1. Record-keeping requirements

240. Banking information, as required under the standard, is maintained through the provisions of the AML Acts applicable separately to Tanzania Mainland and to Zanzibar. The Act applicable to Tanzania Mainland is the Anti-Money Laundering Act 2006 (AML Act 2006) which is further supported by the Anti-Money Laundering Regulations 2012 (AML Regulations 2012) (as amended in 2019) and Guidelines for Verification of Customer Identities (Guidelines No. 1) and Anti-Money Laundering Guidelines for Banking Institutions (Guidelines No. 2) issued by the Financial Intelligence Unit, which apply to both – Tanzania Mainland and Zanzibar. The Act applicable to Zanzibar is the Anti-Money Laundering and Proceeds of Crime Act 2009 (AMLPOCA) as amended in 2012 and supported by the AMLPOC Regulations 2015.

241. Bank of Tanzania is the common supervisory, licensing and regulatory authority for the two AML regimes. It adopts a common supervisory approach in Tanzania Mainland and Zanzibar, and relies on the AML regime of Tanzania Mainland in case of any differences in the two AML regimes.

Availability of banking information

242. In Tanzania, the provisions of the AML Act 2006 (as well as Zanzibar's AMLPOCA) require the availability of banking information on accounts. Section 16 of the AML Act 2006 (and s. 11 of AMLPOCA) requires all banks (being reporting persons) to maintain records of all transactions of such amount of currency or its equivalent foreign currency as decided by the Minister of Finance. Tanzanian authorities have informed that, in practice, banks are required to maintain all records and there is no minimum specified

amount in place beyond which the requirements apply. The information required to be maintained includes:

- identity information of the person conducting the transaction (name, address and occupation or business or principal activity of the person), and where the transaction is conducted on behalf of another person, the identity of such other person, including the method used for identifying such other person
- the nature and date of transaction
- the type and amount of currency involved
- the type and identifying number of any account with the bank involved in the transaction
- if the transaction involves a negotiable instrument other than currency, the name of the drawer of the instrument, the name of the institution on which it was drawn, the name of the payee, amount and date of the instrument, the number, and details of any endorsements appearing on the instrument
- the name and address of the bank, and of the officer, employee or agent of the bank who prepared the records.

243. Further, points 14 and 15 of Schedule C of the AML Regulations 2012 mandate that banks retain records concerning customer identification and transactions. The records prepared and maintained by any bank on its customer relationships and transactions should ensure that requirements of AML Act 2006 are fully met; any transactions effected via the bank can be reconstructed; and the bank can satisfy enquiries from the appropriate authorities. The records must be sufficient to permit reconstruction of individual transactions including the date, amounts and types of currency involved so as to provide, if necessary, evidence for prosecution of criminal activity.

244. Section 19 of the AML Act 2006 prohibits opening or operating of a bank account under a false, disguised or anonymous name. This is further reiterated by Part C of the Schedule to the AML Regulations 2012.

245. Regulation 30 of the AML Regulations 2012 specifies that all records under section 16 of the AML Act 2006 must be maintained for a minimum of ten years from the date when all activities linked to a transaction or a series of linked transactions are completed; or when the business relationship was formally ended; or where the business relationship was not formally ended but when the last transaction was carried out. The bank or financial institution must keep records on the identification data obtained through the customer due diligence process such as copies or records of official

identification documents like passports, identity cards, driving licences or similar documents, account files and business correspondence for at least ten years after the business relationship has ended.

246. In respect of Zanzibar, the AMLPOCA provides for similar banking information to be maintained. Section 11 of AMLPOCA require banks and financial institutions as reporting persons to establish and maintain customers' records. The requirements are the same as in Tanzania Mainland under the AML Act 2006 (refer paragraph 242 above). Such records are required to be maintained for a period of ten years from the date the relevant business or transaction was completed (s. 11(3) of the AMLPOCA).

Beneficial ownership information on account holders

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

Definition of beneficial owner

248. As discussed under element A.1, the definition of beneficial owner under the AML Act 2006 has been introduced recently through the Finance Act 2020 by amending section 4 of the AML Act. Prior to this amendment, the definition of beneficial owner existed in the AML Regulations 2012 but it was unclear if the definition as provided for insurers (Part D), CMSA licensees (Part E) and collective investment schemes (CIS) managers would apply equally for customers of banks. The definition in the AML Regulations as applicable to insurers states that "beneficial owner in relation to a customer of an insurer means the natural person who ultimately owns or controls a customer or the person on whose behalf a transaction is being conducted and includes the person who exercises ultimate effective control over a body corporate or unincorporated". This definition is in line with the standard and with minor differences applies to customers of CMSA Licensees and CIS managers. In order to remove any ambiguity about the applicability of the definition to all AML-obliged persons including banks, section 3 of the AML Act 2006 has been amended in 2020 to provide for the following definition of beneficial owner:

> Beneficial owner means a natural person:
>
> who directly or indirectly ultimately owns or exercises substantial control over an entity or arrangement;
>
> who has a substantial economic interest in or receives substantial economic benefit from an entity or an arrangement directly or indirectly whether acting alone or together with other persons;

on whose behalf an arrangement is conducted; or

who exercises significant control or influence over a person or arrangement through a formal or informal agreement.

249. This definition is broadly in line with the standard as it emphasises the need to identify a natural person directly or indirectly owning an entity or an arrangement or exercising ultimate effective control over such entity or arrangement. However, the element of control over the entity or arrangement through "other means besides ownership" is not adequately and explicitly captured by the definition. While the definition alludes to control over the entity through formal or informal agreement, this is only one of the ways of exercising "control through other means". Further, the terms "substantial control", "substantial economic interest" and "substantial economic benefit" are not defined or explained in the AML law.

250. Section 6(f) of the AML Act 2006 (read with Regulations 19 and 34 of AML Regulations of Tanzania Mainland as well as Regulation 29 of AMLPOC Regulations in respect of Zanzibar) provides that the Financial Intelligence Unit, in consultation with the relevant regulatory authorities (in the case of banks, the Bank of Tanzania), can issue guidelines for banks in respect of suspicious transactions, record-keeping and reporting obligations. Relying on this provision, the FIU has issued binding Guidelines for the verification of Customers' Identities (Guidelines No. 1) in 2009. Part 3 of these Guidelines deals with verification of information concerning entities identities (corporations, partnerships, associations, sole proprietorships and trusts). In respect of such customers, Point 3.12 of the Guidelines requires that banks obtain the residential addresses and contact particulars of the directors of the entity; each individual or entity holding 5% or more of the voting rights; and each individual who purports to be authorised to establish a business relationship or to enter into a transaction with the bank on behalf of the entity. Specifically, in respect of corporations, the Guidelines require that particular attention be paid to shareholders, signatories or others who inject significant capital or financial support or otherwise exercise control over the corporation. Further, where the owner of a corporation is another corporate entity or a trust, reasonable measures[32] should be taken to look behind that company or entity to verify the principals in line with the guidelines.

251. In respect of partnerships, the identity of each partner should be verified. The guidance notes that "it is important to verify identity of immediate family members that have ownership control" and prescribes such verification as done for natural persons. However, this does not consider situations

32. Section 15(5) of AMLA and section 10(5) of AMLPOCA explain reasonable measures as all measures that should be taken to ensure that the financial system is prevented from money laundering or terrorist financing.

where partners of a partnership may not be natural persons or family members and are instead, other legal entities or arrangements. It is unclear how banks may identify beneficial owners in such situations.

252. In respect of charities and societies, the Guidelines do require identifying at least two natural persons who are signatories for such entities and exercise control or significant influence over the organisation's assets. Similarly, natural persons need to be identified mutual/friendly societies, NGOs, co-operatives and societies who exercise control or significant influence over the assets of such entities.

253. For trusts, each trustee and beneficiary named in the trust deed, the founder and the person(s) authorised to act are required to be identified.

254. Although these Guidelines are helpful, there are certain deficiencies. In respect of legal entities like corporations, the three-step cascade approach to identify beneficial owners is not provided for. In respect of partnerships and trusts, it is not clear if natural persons would always be identified as beneficial owners in situations where such arrangements exist among other legal persons and arrangements. The guidance for banks can benefit by addressing these deficiencies.

255. In view of the discussion in paragraphs 249 and 254, **Tanzania is recommended to enhance the definition of beneficial owners to cover natural persons who may exercise control through means other than ownership and to adequately clarify the relevant guidance for identifying beneficial owners of all relevant entities and arrangements in line with the standard**.

Customer Due Diligence requirements

256. In Tanzania Mainland, the CDD requirements are stipulated in the AML Act 2006 and are then detailed further in the AML Regulations 2012 (as amended in 2019). Section 15 of the AML Act 2006 requires banks as reporting persons to verify customers' identity. In this, they are required to take reasonable measures to satisfy themselves as to the true identity of any applicant seeking to enter into a business relationship with them or to carry out a transaction or series of transactions with them, by requiring the applicant to produce an official record reasonably capable of establishing the true identity of the applicant. The official records for identity have been listed in section 15(2) of the same Act. In respect of individuals, birth certificate or an affidavit to that effect, passport or any official ID card are considered acceptable. In respect of legal entities like body corporate, a copy of the Memorandum and Articles of Association, certificate of incorporation together with copies of the latest annual returns as certified by BRELA are required to be submitted. Section 15(2)(d) of AMLA as amended in 2020,

in relation to a beneficial owner, requires that the full name and any former or other name; date and place of birth; telephone number; and nationality, national identity number, passport number or other appropriate identification and proof of identity of the beneficial owner be obtained and maintained.

257. Section 15(3) and (4) further stipulates that where it appears to the bank that the applicant seeking to continue a business relationship or enter into a transaction with the bank may be acting on behalf of another person, the bank must take reasonable measures to establish the true identity of any person on whose behalf or for whose ultimate benefit the applicant may be acting in the proposed transaction, whether as trustee, nominee, agent or otherwise.

258. AML Regulations 2012 (as amended in 2019) provide for more detailed CDD guidance that banks are required to follow while dealing with their customers. Regulation 28 provides for application of CDD while establishing a business relationship, or carrying on an occasional transaction, or where money laundering is suspected, or in situations where the veracity or adequacy of the documents, data or information previously obtained for the purposes of identification or verification is doubted.

259. The Schedule to the AML Regulations 2012 (which draws on Anti-Money Laundering Guidelines No. 2 issued by the FIU) provides for more specific CDD guidelines to be followed in respect of customers that are not individuals. CDD measures to be taken include the following:

- identifying the customer and verifying customer's identity using reliable, independent source documents, data or information
- identifying the beneficial owner, and taking reasonable measures to verify the identity of the beneficial owner such that the banking institution is satisfied that it knows who the beneficial owner is
- obtaining information on the purpose and intended nature of the business relationship
- conducting ongoing due diligence on the business relationship and scrutiny of transactions undertaken throughout the course of that relationship to ensure that the transactions being conducted are consistent with the institution's knowledge of the customer, their business and risk profile, including the source of funds.

260. AML Regulations provide for enhanced CDD measures in respect of high-risk customers where banks are expected to carry out more detailed CDD and update the obtained information on a more frequent basis. Entities with complex structures or customers engaging in complex transactions are always expected to be treated as high-risk and subject to enhanced CDD measures.

261. Through amendments in the AML Regulations in 2019, provisions for Simplified CDD have been introduced which may be applied in cases where the banks are satisfied that a customer presents low-risks.[33] Nevertheless, simplified CDD procedures continue to require due identification of the customer and its beneficial owner(s) albeit the verification of the information obtained may be performed after the establishment of the business relationship.

262. Where a bank is unable to satisfactorily complete CDD on a customer, AML Regulations 2012 in Part C of the Schedule to the Regulations stipulate that the bank must not establish a business relationship with the customer or conclude the transaction, or terminate the business relationship (if it is on-going CDD where KYC cannot be updated satisfactorily) and must file a suspicious activity report.

263. Regulation 17(g) of the AML Regulations requires banks to ensure that information collected under the customer due diligence process is updated. While the requirement to update CDD information is provided, banks are expected to update CDD on a risk-assessment basis. For higher-risk customers, such updating is to be carried out more frequently. No specific frequency of updating CDD is specified either in the AML Act or in the Regulations or in binding guidance and banks are expected to update CDD on their own risk-assessment of a customer. This could lead to situations where available beneficial ownership information on a customer is not up-to-date in the absence of a requirement to update such information at least once at a reasonable specified interval. Hence, **Tanzania is recommended to ensure that up-to-date beneficial ownership information on all bank account holders is always available**.

264. Reliance on third-parties for CDD who have already carried out CDD on a customer is permitted, but this does not absolve the bank from the ultimate responsibility of CDD. Regulation 31 of the AML Regulations 2012 provides that banks may rely on the records of a third party in respect of the details of payments and transactions by customers, provided that it is satisfied that the third party is willing and able to retain and, if asked to produce in legible form, copies of the records required. When relying on third parties, banks are required to ensure that they have measures in place to obtain immediately the necessary information as required under section 15 of AMLA and section 10 of AMLPOCA; take steps to satisfy themselves

33. Low risk is identified when a reporting person conducts risk assessment as required under section 17A. When assessing whether there is a low degree of risk of money laundering and terrorist financing in a particular situation, the reporting person is expected to take account of the risk factors as stipulated under regulation 28B(4) of AMLR.

that copies of identification data and other relevant documentation relating to CDD requirements will be made available from the third party upon request without delay as required under regulation 31 of AMLR and regulation 40 of AMLPOCR; and they have to satisfy themselves that the third party has measures in place for compliance with CDD and record-keeping requirements as required by AML law.

265. Regulation 30 of the Anti-Money Laundering Regulations, 2012 and regulation 39(1) of AMLPOC Regulations 2015 require banks to retain records stipulated, under section 16 of the AMLA 2012 (accounts and transactional information), and section 11 of AMLPOCA 2009, for a minimum period of 10 years from the date: (a) when all activities relating to a transaction or a series of linked transactions were completed; (b) when the business relationship was formally ended; or (c) where the business relationship was not formally ended but when the last transaction was carried out.

Oversight and enforcement

266. Regulation 37 of the Anti-Money Laundering Regulations, 2012 and Regulation 46 of AMLPOCA Regulations, 2015 empowers both the FIU and the Bank of Tanzania to impose administrative sanctions for non-compliance with obligations to keep banking information (s. 19A and s. 23A of AMLA; s. 14A and s. 18A of AMLPOCA). The sanctions listed are: warning or caution not to repeat the conduct, which led to non-compliance; a reprimand; directive to take remedial action or to make specific arrangement to remedy the default; restriction or suspension of certain business activities; suspending a business licence; or suspension or removal from office any member of staff who caused or failed to comply. Regulation 37(6) of the AML Regulations 2012 stipulates that if there is continued non-compliance on the part of the bank and no remedial action is taken by the bank despite the imposition of the administrative sanction, FIU or Bank of Tanzania can impose a fine of a maximum of TZS 5 million (EUR 1 827) per day for which the default is committed.

Availability of banking information in EOIR practice

267. Implementation in practice will be examined in detail in the Phase 2 review.

Part B: Access to information

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

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

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

269. The Competent Authority has broad powers to obtain and provide information that is in possession or control of any person within Tanzania. The competent authority for exchange of information purposes in Tanzania is the Minister of Finance of Tanzania, who has delegated this role to the Commissioner General of the Tanzanian Revenue Authority. The primary source of the powers is the Tax Administration Act of 2015.

270. In the current review period, Tanzania received 22 requests[34] from its treaty partners. Tanzania was able to access and provide information when it was available. Information requested pertained to ownership (two cases), accounting (four cases), banking (three cases) and other types of information. Some of the information requested (like tax registration number and income details) were already available with the TRA, while for other documents, the TRA used its access powers to obtain information from different information holders.

34. Tanzania counts requests based on the number of persons covered by the requests.

271. The conclusions are as follows:

Legal and Regulatory Framework: in place

No material deficiencies have been identified in the legislation of Tanzania in relation to access powers of the competent authority.

Practical Implementation of the Standard: The assessment team is not in a position to issue a rating on this element, as it involves issues of practice that are dealt with in the Phase 2 review.

B.1.1. and B.1.2. Ownership, identity, banking and accounting information

Accessing information generally

272. The Minister of Finance of Tanzania is the Competent Authority for all exchange of information matters. The Competent Authority powers have been delegated to the Commissioner General of the TRA, whether the request relates to Tanzania Mainland or Zanzibar.[35] The provisions of the Tax Administration Act provide wide-ranging access powers to the delegated Competent Authority to access all types of information. Section 42(1) of the Tax Administration Act, 2015 empowers the Commissioner General of TRA or its authorised tax officers to access and obtain any documents in possession of any person. The tax authorities can make an extract or copy of any document to which access is obtained; seize any document; seize an asset to which access is obtained that contains or stores the document in any form; where a document is not available or a copy is not provided on request by a person having access to the document, seize an asset to which access is obtained the tax officer reasonably suspects contains or stores the document in any form.

35. The Minister Responsible for Finance of the United Republic of Tanzania is the designated Competent Authority. Although there is a separate Minister responsible for Finance in Zanzibar, the Competent Authority powers have been delegated to the Commissioner General of the TRA who can use powers conferred under sections 42 and 44 of the Tax Administration Act 2015 to access any information in Zanzibar required to answer EOI requests. The Act applies to both Tanzania Mainland and Zanzibar in respect of tax laws which apply to both parts of the United Republic of Tanzania (s. 2 and overview above). In respect of Zanzibar, where information may need to be obtained to respond to an EOI request and the requested information may be available in respect of non-union taxes administered by the Zanzibar Revenue Board, the Commissioner of ZRB has power to access all information as per section 28 of TAPA, 2009. Such information can be exchanged under section 48A of the TAPA.

273. The Competent Authority has the powers to obtain all information from third party information holders as well. Section 44(1) of the Tax Administration Act empowers the Commissioner General to require a person who is not liable for tax among other things to produce any information prescribed in the notice or to produce any document in his/her control or possession that would be relevant in the determination of tax liability. This power can be exercised in circumstances where such information is held by any person acting in an agency or fiduciary capacity, including nominees and trustees.

274. The Tanzanian authorities inform that to obtain information for exchange purposes, powers granted under section 42 are most commonly used. Where information is required from a third party information holder, section 44 is also frequently invoked. The powers conferred by these sections are used for obtaining all types of information including accounting information in respect of all relevant entities and arrangements in Tanzania regardless of whether they are taxable and registered with the TRA. Further, information held by any other public authorities is obtained using the very same powers conferred by these sections. In addition, and in order to improve co-operation and ensure smooth flow of relevant information for tax purposes the TRA has signed MOUs with some of the government agencies.

275. Tanzanian authorities have informed that the access powers of the tax authorities are not impaired in respect of situations where the retention period for the information has expired. The access powers can still be applied and information, if available, can be obtained. Non-compliance to notice seeking information can be sanctioned. However, in such cases, if the information holder is no longer in possession of such information due to the expiration of the record retention period, such information holder cannot be sanctioned for non-availability of such information.

Accessing beneficial ownership information

276. As discussed under A.1 and A.3, beneficial ownership on companies is available through the amended provisions of the Companies Act, 2002 in the case of Tanzania Mainland as well as through the provisions of the AML law. For all other entities and arrangements, the AML law is the primary source of beneficial ownership information (and in respect of Zanzibar entities and arrangements, where they have a bank account). Tanzanian authorities have informed that if the information is available with an AML obliged person, powers under sections 42 and 44 of the Tax Administration Act can be employed to access such beneficial ownership information. Further, beneficial ownership information available with the Registrar of Companies of Tanzania Mainland would also be accessible as under the provisions of the newly inserted section 451B of the Companies Act 2002, the Competent Authority is explicitly provided access to the central beneficial ownership register held by the Registrar of Companies.

Accessing banking information

277. In both Tanzania Mainland and Zanzibar, banking information are accessed like any other types of information that could be accessed by the Competent Authority. In other words, there are no special procedures required to access banking information as in practice such information is obtained through the tax administration's routine administrative powers conferred under the Tax Administration Act. Accordingly, for requests involving Union taxes the powers of the TRA found under section 42 of the Tax Administration Act, 2015 would be invoked to obtain banking information. For taxes administered by ZRB, the Commissioner of ZRB's powers under section 28 of the TAPA, 2009 could also be invoked although, in practice, Tanzanian authorities have never had to rely on ZRB's access powers due to the sufficiency of access powers of the Commissioner General as provided for under the TAA. Tanzanian authorities inform that, if needed, TRA is in a position to directly seek ZRB's assistance in obtaining any information that require use of ZRB's access powers. Generally, requests for banking information are dealt within 30 days by exercising the normal tax administration access powers.

278. The Tanzanian authorities have informed that in respect of EOI requests for banking information, the requesting jurisdiction would ordinarily need to specify the name of the bank or the SWIFT code of the bank and either the name of the account holder or the relevant account number. While there is nothing under Tanzanian law that prevents the TRA from seeking information based solely on an available account number, from a practical perspective, it would be difficult. Where only the bank account number is available (and the name or SWIFT code of the bank is not available), while the TRA authorities would make all necessary efforts to identify the relevant bank to which the account may pertain, there could be potential delays in obtaining such information. Hence, Tanzanian authorities would ideally need adequate information to correctly identify the bank and the account for obtaining such information.

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

279. All access powers available to the Commissioner General of TRA can be used for gathering information regardless of domestic tax interest. Section 3 of the Tax Administration Act defines "tax laws" and inter alia, includes all international agreements concluded by Tanzania under section 7 of the Act. Section 7 of the Tax Administration Act defines international agreements to mean any treaty or agreement that the United Republic of Tanzania has signed with a foreign government for the purpose of providing reciprocal assistance for the administration or enforcement of tax laws.

Section 7 also provides that such international agreements are to take precedence over the tax law in respect of any conflicting provisions. Section 5 of the Act provides that all the powers of the Commissioner General as provided by the Tax Administration Act can be exercised in respect of any tax laws. This means that all the access powers of the Commissioner General can be applied for implementing Tanzania's international tax agreements.

280. Sections 42 and 44 of the Tax Administration Act allow the Commissioner General to use all powers available under these sections to obtain and exchange information to meet Tanzania's obligations under its tax treaties. Thus, the information gathering powers of the Competent Authority for exchange of information are not restricted even if there is no domestic tax interest.

281. In practice, Tanzanian authorities have indicated that in respect of the 22 EOI requests that they received over the period from April 2017 to March 2020, information obtained and exchanged with treaty partners was not required for domestic tax purposes.

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

282. For compelling the production of information, the TRA has sufficient enforcement provisions. The powers include the powers to search and seize all types of information in the possession of an information holder. Where a document is not available or a copy is not provided on request by a person having access to the document, section 42(1) of the Tax Administration Act allows the tax authorities to seize an asset to which access is obtained that the tax officer reasonably suspects contains or stores the document in any form.

283. Further, the Tanzanian Tax Administration Act provides for sanctions in case of non-compliance or non-co-operation. If a person does not co-operate with the Competent Authority by not responding to a notice calling for information or not providing the information sought under sections 42 or 44, the Competent Authority (Commissioner General) may invoke sanctions provided for under section 85 of the Act. Section 85 provides that the offence of non-compliance with the notice under section 42 or 44 is to be viewed as "offence for impeding tax administration". Such an offender may be subjected to a penalty of an amount between TZS 150 000 and TZS 3 000 000 (EUR 55 to EUR 1 100).[36] Further, criminal proceedings may be instituted against the defaulting person and besides the fine, an imprisonment of up to two years may also be imposed.

36. 10 currency points and 200 currency points. One currency point is equivalent to TZS 15 000 as provided for under the 2nd schedule to the Tax Administration Act, 2015.

284. The same penalty applies to a bank or financial institution that refuses to comply with the request to provide information to the Competent Authority.

285. In Zanzibar, under section 28(2) of TAPA of 2009, if a person is required to appear before the Commissioner and fails to do so, such person commits an offence and is liable to a fine of not less than TZS 100 000 (EUR 37) but not more than TZS 5 million (EUR 1 860) or to imprisonment for term not exceeding 12 months or both. Further, under section 55 of the TAPA, a general penalty is also provided for in case any person contravenes the provisions of the Act and its Regulations or fails or omits to take an action required under the Act or its Regulations. Such a person is also liable to a fine of not less than TZS 100 000 (EUR 37) but not more than TZS 1 million (EUR 365).

B.1.5. Secrecy provisions

Bank secrecy

286. Tanzania's Banking and Financial Institutions Act (BAFIA) 2006 provides for bank secrecy. Section 48 of the Banking and Financial Institutions Act, 2006 covers "Fidelity and Secrecy". It stipulates that every bank or financial institution must observe the practices and usages customary among bankers, and in particular, cannot divulge any information relating to its customers or their affairs. However, the bank secrecy does not impede the ability of the Competent Authority to obtain and exchange banking information. Where divulging banking information is required for the administration of other laws like the Tax Law or AML law, banks are required to share such information with the enforcement authorities (s. 48(1) of BAFIA).

Professional secrecy

287. Tanzania authorities have indicated that although the relevant professional codes provide for professional secrecy, there are either suitable exceptions or such codes are subordinate to the tax legislation. Regulation 30 of the Advocate (Professional Conduct and Etiquette) Regulations, 2018 provides that advocates are required to strictly keep the clients' information. The exceptions to the rule are in two circumstances – disclosure as allowed by the law or as expressly allowed by client. The powers conferred under sections 42 and 44 of the TAA are sufficient to override these professional secrecy requirements.

288. As to professional accountants, Code of Ethics which governs professional secrecy as provided for under section 24 of the Accountants and Auditors (Registration) Act, (Cap. 286) require professional accountants to comply with requirements enshrined in the International Federation of

Accountants (IFAC) Code of Ethics. However, professional confidentiality code is subordinate to tax legislation such that where the requirement to provide information for tax purposes comes into play, professionals are obliged to comply and provide any information required for tax purposes regardless of any applicable professional confidentiality or secrecy code.

289. Thus, Tanzanian authorities have confirmed that the access powers of the Competent Authority are not impeded in accessing information held by professionals on account of secrecy.

B.2. Notification requirements, rights and safeguards

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

290. Tanzanian law does not require notifying the person who is the subject of a request for information (i.e. person whom the investigation or inquiry concerns in the requesting jurisdiction), neither before the information is exchanged (prior notification) nor after the information is exchanged (time-specific post-exchange notification). This is true for both Tanzania Mainland and Zanzibar. The request notice specifies the information being requested and the legal reference on powers of the Competent Authority to access the requested information. The notice is sent without any disclosure that the information is requested for tax purposes of a foreign jurisdiction. Where information is to be collected from a third party information holder, there is no legal requirement to notify the taxpayer to whom such information might pertain. Although judicial review of any action of the tax authorities (including the issuance of notice) is available to all persons, Tanzanian authorities have informed that this has never happened in the context of exchange of information. Judicial authorities, if convinced on merits, can potentially suspend exchange of information pending a decision on the review. While a court has the power to stay the processing of an EOI request, Tanzanian authorities are of the view that the appellant would be required to satisfy the court that the TRA had exceeded the powers provided under tax law.

291. There is no other right such as right to inspect files, appeal against an EOI notice in relation to EOI requests or the processing of such requests. In both Tanzania Mainland and Zanzibar, the law does not provide rights, to either the person who is the object of a request or the person who holds the information, to appeal against the decision of the competent authority to exchange information. The Tanzanian authorities confirmed that while seeking and obtaining information from any person in Tanzania, they do not disclose the purpose of seeking the information.

292. The conclusions are as follows:

Legal and Regulatory Framework: in place

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

Practical Implementation of the Standard: The assessment team is not in a position to issue a rating on this element, as it involves issues of practice that are dealt with in the Phase 2 review.

Part C: Exchanging information

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

C.1. Exchange of information mechanisms

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

294. Tanzania has signed DTCs with Canada, Denmark, Finland, India, Italy, Norway, South Africa, Sweden and Zambia. All of these 9 DTCs are in force.

295. Most of Tanzania's treaties were negotiated in the 1970s and do not contain the latest EOI provision as stated in the 2012 OECD Model DTC. Tanzania's DTCs with Finland, Italy, Norway, Sweden and Zambia do not explicitly state that "the exchange of information is not restricted by Article 1". This means that information only in respect of residents of either of the Contracting States would be exchanged. Tanzania's EOI manual provides that information only in respect of residents may be exchanged. Hence, at least in respect of these five DTCs, information in respect of all persons will not be exchanged.

296. In addition to the bilateral DTCs, Tanzania is party to the South African Development Community (SADC) Agreement on Assistance in Tax Matters[37] as well as to the East African Community (EAC) Multilateral

37. The SADC Agreement covers member states including Angola, Botswana, Comoros, Democratic Republic of the Congo, Eswatini, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Tanzania,

DTC[38] (see Annex 2). The SADC Agreement is in line with the standard. The EAC Multilateral DTC does not contain the wording of articles 26(4) and 26(5) of the Model DTC and is applicable only in respect of Tanzania's income tax. In any case, neither of the agreements has been ratified by Tanzania and hence, neither is in force. Tanzania has neither signed the Multilateral Convention on Mutual Administrative Assistance in Tax Matters nor has expressed a formal interest in signing it yet although Tanzania has indicated that signing the Multilateral Convention is under consideration by the government. Hence, the issues identified in respect of the existing DTCs are not rectified by the Multilateral Convention.

297. The conclusions are as follows:

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

Deficiencies identified/ Underlying factor	Recommendations
Tanzania's DTCs with Sweden, Finland, Italy, Norway and Zambia restrict exchange of information to persons covered by the relevant conventions, i.e. Article 1 of all these treaties makes their provisions only applicable to the residents of the respective states. In addition, Tanzania's EOI manual states that if the incoming request does not pertain to residents of either Contracting States then such requests may be rejected or partially rejected, and no differentiation is made as to whether or not the underlying EOI instrument provides for this restriction.	Tanzania is recommended to ensure that incoming requests in respect of all persons are responded to if they are foreseeably relevant to the requesting jurisdiction.

Zambia and Zimbabwe. The agreement shall enter into force thirty calendar days after two thirds of the Member States have submitted their instrument of ratification to the Executive Secretary of SADC. Member states that have submitted their instrument of ratification are Botswana, Eswatini, Lesotho, Mauritius and South Africa.

38. The EAC Multilateral DTC covers member states Kenya, Uganda, Tanzania, Rwanda and Burundi.

Deficiencies identified/ Underlying factor	Recommendations
Tanzania has not ratified the Southern African Development Community's Agreement on Assistance in Tax Matters and the East African Community Multilateral DTC yet. These agreements, signed on 18 August 2012 and 30 November 2010 respectively, provide for exchange of information with 19 jurisdictions, 17 of which are not covered by other EOI instruments signed and ratified by Tanzania.	Tanzania should ensure that its signed exchange of information instruments are brought into force so that EOI relationships agreed to can become effective.

Practical Implementation of the Standard: The assessment team is not in a position to issue a rating on this element, as it involves issues of practice that are dealt with in the Phase 2 review.

Other forms of exchange of information

298. Tanzania has stated that besides EOIR, it has engaged in other forms of exchange of information including spontaneous exchange of information as well as industry-wide exchanges. Tanzania has received information spontaneously from some of its EOI partners. Further, Tanzania has requested and received industry-wide information from one treaty partner. Tanzania has not commenced the Automatic Exchange of Financial Account Information.

C.1.1. Standard of foreseeable relevance

299. The standard for exchange of information envisages information exchange to the widest possible extent, but does not allow speculative requests for information that have no apparent nexus to an open inquiry or investigation (i.e. "fishing expeditions"). Exchange of information mechanisms should allow for exchange of information on request where it is "foreseeably relevant" to the administration and enforcement of the domestic tax laws of the requesting jurisdiction.

300. All of the bilateral agreements entered into by Tanzania permit the exchange of information not only for carrying out the provisions of the Convention but also for the administration and enforcement of the domestic tax laws of the contracting states. An old DTC with India (dating back to 1979) used to restrict the exchange of information only to the provisions of the Convention. However, the same has since been replaced with a new

DTC, which since 2011, permits the exchange of information for administration of domestic tax laws of the contracting jurisdictions. The DTC with Zambia is worded slightly differently and reads "the taxation authorities of the Contracting States shall exchange such information, being information which is available under their respective taxation laws, as is necessary for the carrying out of the provisions of the present Convention or for the prevention of fraud or the administration of statutory provisions against legal avoidance in relation to the taxes which are the subject of this Convention." The reference to the statutory provisions in this formulation refers to the domestic provisions.[39] The multilateral mechanisms of SADC and EAC also permit the exchange of information for the purposes of administration and enforcement of the domestic tax laws of the contracting jurisdictions.

301. None of the DTCs entered into by Tanzania use the term "foreseeably relevant" in the EOI article. However, all of the DTCs in force and the EAC multilateral DTC use the term "as is necessary". The SADC agreement on assistance in tax matters uses the term "relevant" instead of "foreseeably relevant". Tanzanian authorities have confirmed that this wording is in practice considered to carry the same meaning as the wording "foreseeably relevant". The EOI manual mentions that while evaluating an incoming request or sending an outgoing request, foreseeable relevance is to be examined and the request should not be fishing for information.

Clarifications and foreseeable relevance

302. Tanzania requires that the requesting jurisdiction provide sufficient information to demonstrate the foreseeable relevance of the information requested.

303. The requesting jurisdiction should be specific in its requests like stating identity information details, transaction details, period of transactions and any other relevant information that will assist in gathering information in a timely and cost effective manner to respond.

304. Tanzanian authorities have submitted that during the 3-year period from April 2017 to March 2020, they have never declined any request on grounds that the request was not foreseeably relevant. The authorities have also indicated that they use a template for their outgoing requests which has been designed bearing in mind the foreseeable relevance standard. They examine the incoming requests against the same template TRA RFI 001

39. Article 1 of the DTC with Zambia covers income tax, corporation tax, undistributed income tax and personal tax. Hence, relevant direct taxes are covered by the DTC and information for enforcement of domestic laws pertaining to direct taxes are covered.

for establishing foreseeable relevance. The said template requires the identification of the subjects of the request, background of the tax investigation involved, information as to who may have the sought information, motivation for requesting the information, indicating that all domestic means have been exhausted and reasons for believing why the information would be in Tanzania. Where any information is missing in this regard, clarifications are sought. A template form exists for seeking clarifications from the treaty partner.

305. The template is helpful in analysing the completeness of the request but it does not explain the foreseeable relevance standard. There is a lack of adequate guidance in the EOI manual in respect of explaining the foreseeable relevance standard. Considering this lack of guidance on foreseeable relevance in the EOI manual, the understanding and interpretation of foreseeable relevance among EOI officials in practice will be examined further during the Phase 2 review. (see Annex 1).

Group requests

306. None of Tanzania's EOI agreements contains language prohibiting group requests. No prohibitive provision is contained in Tanzania's domestic law either. Tanzania has stated that it interprets its agreements and domestic law as allowing to provide information requested pursuant to group requests in line with Article 26 of the OECD.

307. The EOI manual does not mention anything on group requests. Hence, there is no guidance in the EOI manual in respect of how officials are to handle group requests and how foreseeable relevance in respect of such requests is to be examined. Tanzania has not yet received any group request and does not have experience handling such a request yet. Tanzanian authorities have explained that if they were to receive a group request, they would follow similar procedure of examining a group request as for a single request and would examine whether they meet foreseeable relevance. The procedures that Tanzania would follow in respect of a group request will be examined further during the Phase 2 review. (see Annex 1)

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

308. For exchange of information to be effective, it is necessary that a jurisdiction's obligation to provide information be 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. Tanzania's DTCs with Canada, Denmark, India and South Africa specifically state that the exchange of information is not constrained by Article 1 (on persons covered) of the relevant DTCs. The EAC Multilateral

DTC also similarly provides that EOI is not constrained by Article 1. Thus, in respect of these EOI instruments, the exchange of information would be in respect of all persons whose information may be available in Tanzania and not limited to residents of either Contracting States.

309. The DTCs with Sweden, Finland, Italy, Norway and Zambia restrict exchange of information to persons covered by the relevant conventions, i.e. Article 1 of all these treaties makes the DTCs only applicable to the residents of the respective states.

310. Tanzania's Business Process Manual (EOI Manual) states that where the request for information does not pertain to residents of either of the Contracting states, such request should be rejected. In Step 6 of the EOIR handling process, where the EOI official is expected to handle the incoming request and examine its validity against the legal instrument for exchange, the manual states that "Determine if persons covered in the request for information relates to persons who are residents of one or both of the Contracting States; If not, continue to Step 7 Reject information request or to Step 9 Partial Rejection". This is not in line with the standard when applying treaties for which exchange of information is not so limited. Tanzanian authorities acknowledge that this is a mistake in the manual and should be corrected.

311. Thus, despite differing positions in the DTCs, Tanzania's policy position as articulated in the EOI manual is that exchange of information would be in respect of only residents. **Tanzania is recommended to amend the DTCs that restrict EOI and to bring them in line with the standard so as to ensure that exchange of information is in respect of all persons. Tanzania should also amend its EOIR manual and update its practice to allow EOIR on any person where the relevant EOI instruments permit it**.

C.1.3. Obligation to exchange all types of information

312. 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 (see Article 26(5) of the OECD Model Tax Convention). Tanzania's domestic legal framework and most of its EOI mechanisms do not impose restrictions on the types of information that can be exchanged. However, Tanzania's agreements do not contain Article 26(5) of the OECD Model Tax Convention, except for the updated DTC with India, which is in force since 2011 and the multilateral SADC agreement on assistance in tax matters (Article 4(4)). Nevertheless, the absence of this language in a DTC does not automatically create restrictions on exchange of information. The commentary to Article 26(5) indicates that while paragraph 5, added to the OECD Model Tax Convention in 2005, represents a change in the structure of the Article, it should however not

be interpreted as suggesting that the previous version of the Article did not authorise the exchange of such information. Tanzania authorities have confirmed that regardless of the absence of paragraph 5 in the EOI articles of their DTCs, they would obtain and exchange all types of information as nothing in their tax laws prevents this.

313. The exchange of bank information in the absence of language akin to the Article 26(5) of the OECD Model Tax Convention in respect of the DTCs will be subject to reciprocity and will depend on the domestic limitations (if any) in the laws of the treaty partners. The legislation of all partners but Zambia has been assessed as in compliance with the standard on these aspects. Zambia is not a member of the Global Forum and has not been reviewed, therefore there may exist legal restrictions on access to bank information for EOIR purposes.

314. In respect of eight out of nine DTCs and the EAC regional DTC, the EOI article requires the exchange of "such information as is necessary for carrying out the provisions of this Agreement or of the domestic laws concerning taxes of every kind and description imposed on behalf of the Contracting States". This means that Tanzania would exchange all information that is requested by the treaty partner that may be relevant for the purposes of the partner's domestic tax laws. Tanzanian authorities have confirmed that even in the absence of paragraph 5 of Article 26 in their DTCs, they interpret the EOI article liberally and would exchange all types of information, including banking information, as requested by the treaty partner.

315. Only the DTC with Zambia has some restriction on the type of information that can be exchanged. The DTC with Zambia restricts the EOI article to read as "the taxation authorities of the Contracting States shall exchange such information, being information which is available under their respective taxation laws, as is necessary for the carrying out of the provisions of the present Convention or for the prevention of fraud or the administration of statutory provisions against legal avoidance in relation to the taxes which are the subject of this Convention". It is unclear as to what is the extent of such information that would be considered as "available under the respective taxation laws" of the two states. For instance, it is unclear whether beneficial ownership information or banking information would be considered as information available under the respective taxation laws. Further, it is not clear whether such information is restricted to information provided to the tax authorities by the taxpayers (like annual tax returns) or what the tax authorities can obtain using their access powers. Zambia is not a Global Forum Member and it is not known how the scope of exchangeable information would be interpreted by Zambia. Tanzania should ensure its EOI relationship with Zambia permit the exchange of all types of information in line with the standard (see Annex 1).

C.1.4. Absence of domestic tax interest

316. 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 standard. The requested authority must use its information gathering measures even though invoked solely to obtain and provide information to the requesting authority.

317. Only the updated 2011 DTC with India, the DTC with Canada and the SADC agreement on assistance in tax matters have equivalent of Article 26(4) of the OECD Model Tax Convention, which obliges the contracting party to use its access powers to obtain and provide information to the requesting jurisdiction even in cases where it does not have a domestic tax interest in the information requested. However, Tanzanian authorities have informed that the absence of paragraph 4 does not prevent the Tanzanian Competent Authority from using the available access powers to obtain and provide the sought information.[40] Tanzania's EOI mechanisms do not require the presence of domestic tax interest. Tanzanian authorities interpret the EOI article broadly.

318. The domestic law in Tanzania does not require the presence of domestic tax interest for the exercise of information gathering powers to respond to incoming requests. The EOI manual does not require examining domestic tax interest while handling an incoming request.

319. In view of this, whether the EOIR relationships of Tanzania are compliant will depend on its EOI partners' respective domestic laws. The Global Forum reviews of Canada, Denmark, Finland, India, Italy, Norway, South Africa and Sweden indicate the laws of these partners conform to the standard in this respect. Zambia is not a Global Forum member. Its legislation has not been reviewed and no information is available about the competent authority's powers to access information for EOIR purpose. Hence, it is not possible to confirm that the DTC with Zambia would be applied in accordance with the standard.

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

320. Information exchange may be requested both for tax administration purposes and for tax prosecution purposes. The principle of dual criminality provides that assistance for criminal purposes can only be provided if the

40. The commentary in the convention indicates that while paragraphs 4 and 5 of Article 26, added to the Model Tax Convention in 2005, represent a change in the structure of the Article, they should not be interpreted as suggesting that the previous version of the Article did not authorise the exchange of such information.

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.

321. Tanzania's DTCs with all treaty partners (with minor variations) state that "the Contracting States shall exchange such information as is necessary for the carrying out of this Convention and of the domestic laws of the Contracting States…". Thus, in all cases, the exchange of information is permitted for carrying out the provisions of the convention as well as of the domestic tax provisions of the Contracting States. If information is needed in respect of enforcing domestic criminal proceedings in tax matters by the requesting jurisdiction, Tanzania would be able to provide such information.

322. None of the DTCs entered into by Tanzania require dual criminality as a pre-requisite for exchanging information pertaining to criminal tax matters. Such requirement does not exist under Tanzania's domestic law either. This means that Tanzania is able to exchange information with a treaty partner in criminal tax matters regardless of whether Tanzania treats such tax violation as criminal or not, provided reciprocity is ensured, which is not established with Zambia (see C.1.4 above).

C.1.7. Provide information in specific form requested

323. 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 or administrative practice. A refusal to provide the information in the form requested does not affect the obligation to provide the information.

324. There are no restrictions in any of the DTCs signed by Tanzania on the provision of information in any specific form requested. Tanzania authorities have confirmed that if information were required in any specific form, they would usually be able to provide it as requested.

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

325. Exchange of information cannot take place unless a jurisdiction has exchange of information agreements in force. The standard requires that jurisdictions take all steps necessary to bring into force signed EOIR

agreements expeditiously. In addition, for information exchange to be effective, the parties to an exchange of information arrangement may need to enact a legislation necessary to comply with the terms of the arrangement.

326. Only 9 of the 27 EOI relationships of Tanzania are in force and have been given effect.

327. Tanzania's procedure for signing an agreement and giving effect through domestic law is dependent upon the provisions of the agreement itself. The Constitution of the United Republic of Tanzania provides for a requirement to table concluded international agreements before the Parliament if the articles thereof demand so. If there is no such requirement in the articles of the agreement, Tanzania is not required to table it before the parliament for the agreement to be given effect to. All of Tanzania's current DTCs do not have an express requirement for them to be passed through Parliamentary procedures to bring them into force. Hence, in respect of DTCs, the procedure is simplified. The negotiated DTC is sent by the Ministry of Finance to the Attorney General for vetting and/or opinion. Thereafter, the Ministry for Finance receives the opinion and informs the Cabinet of the DTC and the received opinion. If approved by the Cabinet, the Diplomatic Note is communicated by the Ministry of Foreign Affairs to the other Contracting State of completion of the procedures to bring the agreement into force.

328. All of the nine bilateral agreements signed by Tanzania are in force. Most of Tanzania's DTCs were signed in the 1970s. The latest DTC signed by Tanzania was the revised DTC with India in May 2011 which came into force in December 2011 and replaced the earlier DTC from 1979. The time taken for bringing into force this DTC was reasonable.

329. Besides these bilateral DTCs, Tanzania has also signed the SADC Agreement on Assistance in Tax Matters on 18 August 2012 and the East African Community (EAC) Multilateral DTC on 30 November 2010. Neither of these regional instruments are in force as yet. Tanzania has not yet submitted its instrument of ratification in respect of SADC. The EAC Multilateral DTA is currently under re-negotiation as Tanzania wants certain changes arising from BEPS to be reflected. However, signing but not ratifying these instruments has had an impact on the establishment of EOI mechanisms and EOI relationships that would have come into force. The SADC agreement can come into effect only when two-thirds of the members have ratified and deposited their instruments of ratification to the co-ordinating body of the SADC. In this regard, while Tanzania's ratification may not necessarily lead to entry into force of the instrument, it is important that Tanzania does what is required to bring the agreement into force. Similarly, the re-negotiation requirements of other articles should not stop Tanzania from giving effect to its EOI relationships through an agreement that has already been signed. **Tanzania is recommended to work towards ratifying the multilateral**

EOI agreements that have been signed but have not yet been ratified so that the associated EOI relationships can come into effect at the earliest.

EOI mechanisms

Total EOI relationships, including bilateral and multilateral or regional mechanisms	**27**
In force	9
In line with the standard	4 [India, South Africa, Denmark, Canada]
Not in line with the standard	5 [Sweden, Finland, Italy, Norway, Zambia]
Signed but not in force	18
In line with the standard	18
Not in line with the standard	0
Total bilateral EOI relationships not supplemented with multilateral or regional mechanisms	7
In force	7
In line with the standard	3 [India, Denmark, Canada]
Not in line with the standard	4 [Sweden, Finland, Italy, Norway]
Signed but not in force	0
In line with the standard	0
Not in line with the standard	0

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

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

330. Tanzania has a small treaty network comprising nine DTCs, eight of which are with Global Forum Members (Canada, Denmark, Finland, India, Italy, Norway, South Africa and Sweden). The ninth DTC is with Zambia. Except for the updated DTC with India signed in 2011, the one with South Africa in 2005, and the one with Canada in 1995, all other DTCs are older and most date back to the 1970s and 1960s. Tanzania is a party to the South African Development Community (SADC) Agreement on Assistance in Tax Matters signed on 18 August 2012 covers taxes administered by TRA and ZRB. However, the SADC agreement has not yet been ratified by Tanzania and is not yet in force. Tanzania is also a party to the East African Community (EAC) Multilateral DTA that covers Union taxes signed on 30 November 2010. However, this DTA is pending renegotiation and ratification and is not in force. Tanzania is not a signatory of the Multilateral Convention.

331. The standard requires that jurisdictions establish an EOI relationship up to the standard with all partners who are interested in entering into such relationship. One Global Forum member indicated having approached Tanzania with a request to sign a TIEA. The request was made in November 2018. However, Tanzania indicated to the peer that they have never entered into a TIEA but expressed readiness to start negotiations on other mutual areas of co-operation. It is unclear what other mutual areas of co-operation were envisaged but the peer has indicated that Tanzania's response reflected unwillingness to enter into a TIEA. Tanzania has informed that the request for TIEA from the peer was put on hold to avoid duplication of efforts given that Tanzania was considering signing the Multilateral Convention which would lead to establishing an EOI relationship with the peer. Tanzania has not yet signed the Multilateral Convention nor has expressed a formal interest in signing the same. Tanzania has informed that it is considering signing the agreement and a concept paper in this regard is under consideration by the Government.

332. Tanzania's decision to decline entering into an EOI relationship with an interested partner on the grounds that the EOI relationship would be established once the Multilateral Convention has been signed resulted in not establishing an EOI relationship with a relevant partner. Moreover, no significant progress has been made by Tanzania to sign the Multilateral Convention. **Tanzania is recommended to ensure that its EOI treaty network cover all relevant partners, meaning those jurisdictions who are interested in entering into an information exchange arrangement**.

333. The conclusions are as follows:

Legal and Regulatory Framework: not in place

Deficiencies identified/ Underlying factor	Recommendations
An interested partner had approached Tanzania with a request to enter a Tax Information Exchange Agreement. Tanzania declined the request indicating that it had never entered a TIEA with any jurisdiction. Moreover, Tanzania indicated that the request for TIEA was put on hold to avoid duplication of efforts given that Tanzania was considering signing the Multilateral Convention which would lead to establishing an EOI relationship with the peer. However, no significant progress has been made in the process for joining the Multilateral Convention.	Tanzania should ensure that its EOI treaty network covers all relevant partners, meaning those jurisdictions who are interested in entering into an information exchange arrangement.

Practical Implementation of the Standard: The assessment team is not in a position to issue a rating on this element, as it involves issues of practice that are dealt with in the Phase 2 review.

C.3. Confidentiality

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

334. Tanzania's legal framework provides for confidentiality of all tax information including tax information exchanged under international agreements. While there are certain exceptions where information in possession of the tax authorities can be shared with other public authorities, international agreements prevail over domestic tax law in case there is any conflict. All of Tanzania's DTCs provide for secrecy provisions and permit the use of exchanged information only for tax purposes. Only one DTC permits the use of exchanged information for non-tax purposes upon explicit consent of the supplying state. All employees are bound by an oath of confidentiality upon taking up employment with the Tax Authority. Sanctions and penalties can be imposed on employees as well as third party contractors in case of any violation of confidentiality provisions.

335. The conclusions are as follows:

Legal and Regulatory Framework: in place

No material deficiencies have been identified in the EOI mechanisms and legislation of Tanzania concerning confidentiality.

Practical Implementation of the Standard: The assessment team is not in a position to issue a rating on this element, as it involves issues of practice that are dealt with in the Phase 2 review.

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

336. Tanzania's legal framework and DTCs provide for confidentiality provisions to protect all tax information, including exchanged information. Section 21 of the TAA requires that a person who is or was employed by the TRA to provide assistance to the authority must treat as confidential all information and documents in connection with any tax law that came into his/her possession or knowledge due to his/her employment or engagement with the TRA. This provision is wide enough to apply to all employees (existing as well as after termination of employment) and contractors. As noted earlier, section 3 of the TAA includes all international agreements entered

into by Tanzania under the ambit of tax law. Thus, all information received or exchanged under international agreements is to be kept confidential.

337. Certain exceptions are permitted in respect of the general confidentiality of all taxpayer information under the domestic law. Section 21(2) permits disclosure of tax information to i) a person employed with the TRA in the performance of his/her employment or engagement, ii) for the purposes of tax law, iii) authorised by the Commissioner General, or iv) before a tribunal or court. Further, section 21(3) permits the disclosure of tax information to i) the Minister of Finance, ii) an employee of the revenue or statistical department of Tanzania Mainland or Zanzibar, iii) the Comptroller and Auditor General or any person authorised by the Comptroller and Auditor General for the performance of official duties, or iv) the Competent Authority of a foreign jurisdiction with which Tanzania has an international agreement to the extent permitted by such international agreement.

338. Tanzanian authorities have informed that notwithstanding the exceptions to the confidentiality provision under section 21(3) of the TAA the information obtained from foreign jurisdictions by way of EOI cannot further be disclosed to the Minister or other Government Authorities without the consent of the Competent Authority of the EOI Partner because Tanzania's domestic law allows disclosure in conformity with the provisions of the treaty which, according to section 7 of the TAA, overrides Tanzania's domestic law in case of any conflict.

339. Each of Tanzania's DTCs specifies that the information received by the Contracting State is to be considered secret. The EOI article in the DTCs (with some variations) generally reads as "any information received by the Competent Authority of a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of the State and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of enforcement or prosecution in respect of, or the determination of appeals in relation to the taxes to which this Agreement applies. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions." Except for the 2011 DTC with India, none of the other DTCs permit the use of exchanged information for non-tax purposes. The DTC with India permits the use of exchanged information for non-tax purposes if such use is permitted under the laws of both states and the state supplying the information authorises such use. In the period from April 2017 to March 2020, Tanzania reported that there were no requests where the requesting partner sought Tanzania's consent to utilise the information for non-tax purposes. Similarly Tanzania did not request its partners to use information received for non-tax purposes.

340. Since the international agreements override any provisions to the contrary in Tanzania, the exceptions to the overarching confidentiality of the tax information would not affect the confidentiality of exchanged information, which, in line with the DTCs would always be considered secret and can be used and shared only with persons engaged in the administration of tax laws.

341. Tanzania has informed that there is no legal provision that allows a taxpayer to access information held by the TRA.

342. TRA is capable of imposing penalties on its staff and service providers who may in any way get involved in confidentiality breaches. The penalties involve termination of employment or service contract and/or prosecutions before the court of law where upon conviction imprisonment penalty may be given to a person responsible with confidentiality breach as per section 82 of the Tax Administration Act. Tanzanian authorities have informed that the provisions of section 82 of the TAA would apply even to ex-TRA staff who continue to be bounded by the confidentiality provisions of section 21(1) of the TAA.

343. There could be situations where the information needs to be gathered from Zanzibar and the relevant information is available in respect of non-union taxes governed by the Zanzibar Revenue Board. In respect of such situations, confidentiality is also ensured through the provisions of the TAPA. In Zanzibar, section 30 of TAPA of 2009 (Disclosure of Information) requires confidentiality to be observed by ZRB staff where unauthorised disclosure of taxpayers' information is strictly forbidden. In the event there is confidentiality breach, sanctions are imposed under section 55 of TAPA. Further, section 13 of ZRB Act No. 7 of 1996 and ZRB Staff Regulations of 2002 require any person employed in carrying out the provisions of the Act and Regulations to maintain secrecy when dealing with all documents and information and to ensure any unauthorised person does not gain access to the information. Tanzanian authorities have informed that these provisions apply even to ex-ZRB staff. Moreover, disciplinary measures of breaching confidentiality are stipulated under the first schedule of the Public Service Act No. 2 of 2011.

C.3.2. Confidentiality of other information

344. Tanzanian authorities have informed that all the other information[41] received from a treaty partner's competent authority is considered to be sensitive and confidential and is protected from disclosure by the secrecy

41. "other information" refers to all requests for information, background documents to such requests, and any other document reflecting such information including

provisions protecting tax information. All EOI related communications between Tanzania and other jurisdictions are made adhering to the confidentiality as required by the law, regulations and international standards. All correspondences involving letter mails are exclusively made by the EOI office staff where copies are maintained in confidential files kept in locked filing cabinets located in the secured EOI office which strictly cannot be accessed by unauthorised persons. Further email communications are made through a secured and dedicated EOI email address which is exclusively accessed and used by EOI office staff.

345. All communications are treated as strictly confidential and cannot be disclosed to any person except during court proceedings pertaining to tax matters where the TRA may need to rely on such information for arguing its case using the communications as one of its evidence.

Confidentiality in practice

346. Tanzanian authorities have informed that in practice, measures are in place to ensure the confidentiality provisions are implemented. At the time of recruitment or engagement, all employees and contractors are subjected to thorough background investigation to obtain all essential facts concerning them and ultimately determine their suitability to provide service to the TRA and ZRB. For TRA employees, the background checks process is done in accordance with regulations 44 and 45 of the TRA staff Regulations. For ZRB, the verifications or personal background checks are independently carried out as required under section 78(2)(d) of the Public Service Act No. 2 of 2011. Upon completion of the recruitment process all individuals recommended to be employed by the Tanzania Revenue Authority are mandatorily required to take an oath of secrecy binding the recruited officials to treat as secret and confidential whatever information they would come across with in the course of discharging their duties. Therefore, all EOI staff as well as officials outside EOI who may be involved in the handling of exchanged or received information are required to take this oath and are bound to conduct themselves strictly in adherence to their oaths.

347. Tanzanian authorities have informed that all newly recruited staff and contractors are usually subjected by TRA and ZRB to mandatory induction programme immediately after being employed or engaged so as to familiarise them with work ethics in general and confidentiality standards in particular. Further, existing staff and contractors are regularly reminded through official Circulars or through awareness seminars to continue

communications between the requesting and requested jurisdictions and communications within the tax authorities of either jurisdiction.

observing their oath of secrecy and to strictly comply with confidentiality requirements while executing their daily employment responsibilities.

348. Further, dedicated EOI staff have been adequately trained through various EOI related training workshops and seminars organised locally and internationally by organisations such as the Global Forum, African Tax Administration Forum (ATAF), and the East African Community where confidentially has been one of the subjects well covered in the said trainings. Tanzanian authorities have expressed confidence that as a result of these trainings, these staff are well informed on not only the importance of confidentiality but also on how to practice it when executing daily EOI related activities.

349. While gathering information to answer incoming requests, the template notices mention minimal details. Only the information sought from the information holder and the relevant empowering sections from the TAA are quoted while seeking the information. It is not mentioned that the information is required for EOI purposes. The name of the requesting jurisdiction is also not mentioned.

350. Tanzania has informed that adequate physical and cyber security measures are in place to protect all tax information. The EOI Manual does not contain adequate guidance on the policies and procedures to be followed for ensuring the confidentiality of all information received from treaty partners. Although Tanzanian authorities inform that procedures are in place and templates for all correspondence have been designed keeping in mind confidentiality of information, it may be challenging to effectively fix responsibility and accountability in the event of a confidentiality breach in the absence of suitably documented confidentiality procedures to be followed in respect of EOI. The implementation of confidentiality provisions in practice will be examined further in Phase 2 (see Annex 1).

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

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

351. The 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. However, communications between a client and an attorney or other admitted legal representative are, generally, only privileged to the extent that, the attorney or other legal representative acts in his or her capacity as an attorney or other legal representative.

352. All of Tanzania's EOI relations allow for an exception to the obligation to provide the requested information similar to the exemption in Article 26(3) of the OECD Model Tax Convention. As discussed in section B.1.5, the scope of protection of information covered by this exception in Tanzania's domestic law is consistent with the standard. Tanzania's international tax agreements are part of the domestic tax law and to the extent that the provisions of the agreement are inconsistent with the provisions of any tax law, prevail over the provisions of the tax law (s. 7 of Tax Administration Act). These exchange of information mechanisms ensure that no information is exchanged that is to be protected as a trade, industrial, or commercial secret or which is subject to attorney client privilege or which would be contrary to public policy. Hence, Tanzania's information exchange mechanisms respect the rights and safeguards of taxpayers and third parties.

353. The conclusions are as follows:

Legal and Regulatory Framework: in place

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

Practical Implementation of the Standard: The assessment team is not in a position to issue a rating on this element, as it involves issues of practice that are dealt with in the Phase 2 review.

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

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

354. As the present Phase 1 review is limited to assessing the legal and regulatory framework of Tanzania, a full assessment of the implementation of exchange in practice will take place in the Phase 2 of the review. Nevertheless, based on the peer inputs received so far and Tanzania's submissions, there do appear to be some challenges that Tanzania has faced. These issues have been flagged in this report. These issues will be examined further during the Phase 2 review while examining the implementation of the EOIR standard in practice.

355. The conclusions are as follows:

Legal and Regulatory Framework

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

Practical Implementation of the Standard: The assessment team is not in a position to issue a rating on this element, as it involves issues of practice that are dealt with in the Phase 2 review.

C.5.1. Timeliness of responses to requests for information

356. Tanzania has had some limited experience in responding to EOIR requests since joining the Global Forum in 2015. Tanzania counts requests by the number of persons that are the subject of a request. A request involving multiple persons is counted as multiple requests. Over the peer review period, Tanzania received 22 requests. Most of these requests pertained to seeking information like addresses of certain taxpayers. Ownership information was sought in two cases, while accounting information was requested in four cases. Banking information was sought in three cases.

357. Tanzania's EOI manual provides step-by-step procedure for handling incoming requests. While timelines are provided for updating the Competent Authority on a regular basis on the status of the requests, timelines for key stages of handling the EOI request are not indicated. For instance, there is no guidance on how quickly an incoming EOI request has to be assigned to an EOI case officer. Further, it is not specified how quickly the EOI case officer must examine the EOI request for its completeness and meeting the foreseeable relevance standard and how quickly the requested information may be sought from the tax officials who have to use specific access powers for obtaining the requested information.

Status updates and communication with partners

358. The EOI manual provides for an internal procedure to track the timeliness of responding to EOI requests. EOI case handlers are required to provide status updates to the Competent Authority of Tanzania every four weeks from the date of receipt of the request in cases where the information is readily available. Where such information is not readily available, first status update is to be provided within eight weeks from the date of receipt of the request and within every four weeks subsequently. Based on these updates, the Competent Authority can keep the treaty partners informed. While detailed steps and templates exist and it is noted that status update has to be provided by the Competent Authority to the requesting jurisdiction, the reference to the 90 days period is missing.

359. In respect of communication with partners, while one peer indicated that it received status updates in cases where information could not be provided within 90 days, another peer did not receive status updates in respect of its request.

360. During the Phase 2 review, the procedures that Tanzania has in place for handling EOI requests in a timely manner and for sending status updates to treaty partners where a request cannot be fully answered within 90 days, will be examined further. (see Annex 1)

361. A peer indicated that during their initial contact with Tanzania, they had received a specific e-mail address that was to be used when sending requests. The peer reported that their emails did not seem to reach the addressee and expressed that the communication between the peer and Tanzania could be a concern. Tanzania has explained that the peer had sent the request to the former Commissioner General who had moved on to another official assignment. Tanzania's EOI unit became aware of the existence of the pending request when there was a follow-up made by the EOI partner. Actions were taken to trace the relevant request and the requested information was provided to the EOI partner within 90 days of the EOI unit becoming aware of the pending request. Since then, Tanzania has taken steps to ensure that treaty partners are aware of the latest contact details of the Competent Authority. The contact details have been updated in the secure Global Forum Competent Authority Database and partners are also informed through email about any change to the said details.

C.5.2. Organisational processes and resources

Organisation of the competent authority

362. As noted earlier in paragraph 269, the Minister of Finance of Tanzania is the Competent Authority. However, the role has been delegated to the Commissioner General of the Tanzanian Revenue Authority for all practical purposes. The Competent Authority is supported in its functions through the EOI office, which is a centralised unit. The day-to-day activities are handled by the EOI office, which is located within the International Taxation Unit (one of the five units under the Large Taxpayers Department of the TRA). Under this set-up, the Commissioner for Large Taxpayers is also responsible for ensuring the EOI unit has all the resources required and that its functions are carried out effectively in compliance with international EOIR standards.

Resources and training

363. Tanzania has informed that six full-time staff are employed in the EOI Office. The staff are permanent employees of the Tanzanian Revenue Authority. The team is led by one manager who is supported by an assistant manager and a team leader. All the officials hold post-graduate degrees in law, economics or business administration.

364. Tanzania has informed that staff in the EOI office has been exposed to various local, regional, continental and international classroom trainings

organised by the TRA, EAC, ATAF, OECD, and the Global Forum. Staff have attended trainings on Beneficial ownership, EOI practices; Interpretation a,d Application of treaties; EOI as a tool for combating tax avoidance and evasion; Assessors and Assessed jurisdiction training; Global Forum induction programme, etc. Also, during and since the establishment of the EOI office in 2015 staff have received technical assistance and training facilitated by EOI experts from ATAF, Department for International Development[42] (DFID) of the Government of the United Kingdom and the Global Forum.

Incoming requests

365. The EOI Unit maintains an EOI register for recording incoming and outgoing requests and monitoring the status of the requested information by using a tailor made IT system to aid the management of EOI requests. The information captured in the system includes the category of a person subject to request; main person under investigation and associated particulars such as the address and identity; jurisdiction reference; EOI agreement details such as the date of entry into force of the agreement; date of receiving/sending the request; requesting/requested treaty partner; foreign competent authority name and other details; allocation of requests to EOI staff; type of information requested; status of the case; action taken or due; due date of reply and final date of response to be sent.

366. There is currently no system of measuring the performance of the unit in respect of handling of the requests.

Group requests

367. Tanzania does not have any specific guidance on how to handle group requests. Tanzania has indicated that the EOI manual does not make a specific reference to Group Requests or prescribe any specific procedure to deal with them. Tanzania has informed that their internal procedure for incoming group requests would be similar to that for individual requests. Tanzania has not received any Group Request so far.

Outgoing requests

368. Since 2016, Tanzania has made five requests, of which four requests were made in 2019.

369. The instruction manual has been developed to guide processing of outgoing requests but this manual is not officially in use currently as it awaits management approval.

42. DFID is now replaced by the Foreign, Commonwealth and Development Office.

370. Requests for information are initiated by staff in the revenue departments that deal with tax audit or investigation. These staff are required to request the Tanzanian Competent Authority for assistance in obtaining information from the competent authority of another country by completing the template TRA_RFI_0000 and submitting it to the officer in the EOI office. The EOI officer reviews the submitted template and thereafter composes a formal request for information to the competent authority of the requested state ensuring that the request is foreseeably relevant. The request is signed by the Competent Authority, is sealed and then sent through courier service to the available address of the Competent Authority of the treaty partner.

371. There is no procedure to reply to requests for clarification. The TRA experience has been to respond to all incoming requests for clarification based on the format and needs of the party requesting the clarification. For example, a clarification request received through email is responded to via email immediately after receiving the email. However, under normal circumstance the procedures available for sending or replying to an incoming request are applied.

372. One peer has indicated that although Tanzania did not have an EOI relationship in place with it, a request was sent by Tanzania in March 2019. The request was declined as no EOI relationship existed with Tanzania. Tanzania has acknowledged that such a request was sent by the Tanzanian Competent Authority. Tanzania has clarified that the request was for assistance in collection of tax liabilities in respect of a company that had ceased operations in Tanzania. The request was prepared by the TRA's Debt Management Section and was sent under the signature of the Competent Authority who had recently taken office. Tanzania has informed that the Competent Authority has been made aware of the appropriate processes and all requests are now solely processed through the EOI unit. Tanzania has explained that the EOI Unit has all the required expertise and experience in processing requests in line with the international standards. Since then, intensive and comprehensive training programmes have been conducted for a wide range of staff within the Tanzania Revenue Authority to the extent that there is sufficient awareness and knowledge on the EOI requirements including the use of the EOI Unit in matters involving multilateral relationships.

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

373. No unreasonable, disproportionate or unduly restrictive conditions in respect of EOI were noted. However, this aspect will be examined further during the Phase 2 review.

Annex 1: List of in-text recommendations

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

- **Element C.1.3** (see paragraph 315): Tanzania should amend its treaty with Zambia to permit the exchange of all types of information in line with the standard.

The Global Forum may also identify some aspects with the practical application of the legal and regulatory framework that may be considered in Tanzania's Phase 2 review. In addition to, and as part of, the general review of the implementation of the standard and of the legal and regulatory framework, the following aspects will be followed up:

- **Element A.1.1** (see paragraph 95): Legal ownership information on companies that cease to exist, to the extent submitted to the Registrar, should be available. The availability in practice, in this regard will be examined further during the Phase 2 review.
- **Element A.1.1** (see paragraphs 96 and 97): The availability of up-to-date and accurate legal ownership information in respect of struck-off companies that are subsequently restored, will be examined further during the Phase 2 review.
- **Element A.1.1** (see paragraph 98): The availability of accurate and up-to-date legal ownership information on inactive companies will be examined during the Phase 2 review
- **Element A.1.1** (see paragraph 126): The Finance Act 2020 has very recently introduced the obligation for companies to keep and report their beneficial ownership information. The practical implementation of these requirements will be reviewed in Phase 2

- **Element A.1.2** (see paragraph 137): In Tanzania Mainland, through the amendments to the Companies Act 2002 introduced recently through Finance Act 2021, bearer share warrants have been prohibited and a mechanism for identifying the holders of issued bearer share warrants, if any, has been put in place. Since these changes to the legal framework have been introduced very recently, the implementation of these will be examined at the time of the Phase 2 review.
- **Element A.1.3** (see paragraph 152): Tanzanian authorities have indicated that partnerships in Tanzania Mainland would always have a bank account and hence, beneficial ownership information would be available. Since AML law is the only source of beneficial ownership information on partnerships in Tanzania, the extent to which beneficial ownership information on partnerships is available in Tanzania Mainland will be examined during the Phase 2 review.
- **Element A.1.4** (see paragraph 171): Considering the recent amendments introduced to the relevant laws on beneficial ownership on existing and new trusts, the practical implementation and the availability of such information will be examined further during the Phase 2 review.
- **Element A.2** (see paragraph 212): The availability of accounting records in line with the standard in respect of companies that are struck-off and subsequently restored will be examined during the Phase 2 review.
- **Element A.2** (see paragraph 213): The issue of availability of accounting records in respect of inactive companies will be further examined during the Phase 2 review
- **Element A.2** (see paragraph 235): The effectiveness of monetary sanctions for non-compliance with the requirements to maintain accounting records with underlying documentation will be examined during the Phase 2 review.
- **Element C.1.1** (see paragraph 305): Considering the lack of guidance on foreseeable relevance in the EOI manual, the understanding and interpretation of foreseeable relevance among EOI officials in practice will be examined further during the Phase 2 review.
- **Element C.1.1** (see paragraph 307): The procedures that Tanzania would follow in respect of a group request will be examined further during the Phase 2 review.

- **Element C.3** (see paragraph 350): The implementation of confidentiality provisions in practice will be monitored examined further in Phase 2.
- **Element C.5.1** (see paragraph 360): During the Phase 2 review, the procedures that Tanzania has in place Tanzania should ensure that its EOI manual provides for clear timelines in respect of for handling EOI requests in a timely manner and for sending status updates to treaty partners where a request cannot be fully answered within 90 days, will be examined further.

Annex 2: List of Tanzania's EOI mechanisms

Bilateral international agreements for the exchange of information

	EOI partner	Type of agreement	Signature	Entry into force
1	Canada	DTC	15 Dec 1995	29 Aug 1997
2	Denmark	DTC	6 May 1976	31 Dec 1976
3	Finland	DTC	12 May 1976	1 Jan 1979
4	India	DTC	27 May 2011	12 Dec 2011
5	Italy	DTC	Signed on 7 Mar 1973 and amended on 31 Jan 1979	6 May 1983
6	Norway	DTC	28 Apr 1976	1 Jan 1978
7	South Africa	DTC	22 Sep 2005	1 Aug 2007
8	Sweden	DTC	2 May 1976	1 Jan 1977
9	Zambia	DTC	2 Mar 1976	In force (date unknown)

Southern African Development Community's Agreement on Assistance in Tax Matters (SADAC)

The Southern African Development Community's Agreement on Assistance in Tax Matters was signed on 18 August 2012 by Angola, Botswana, Comoros, Democratic Republic of Congo, Eswatini, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Tanzania, Zambia, and Zimbabwe. It provides for a framework exchange of information automatically, spontaneously or upon request between the relevant competent authorities. This agreement is not in force yet.

East African Community Income Tax Treaty

Tanzania is a signatory to the EAC multilateral DTC signed on 30 November 2010 (not yet in force), which provides for the necessary legal basis to enhance co-operation and EOI among the five revenue authorities of Kenya, Uganda, Burundi, Rwanda, Tanzania, under Article 27. Furthermore, a "Memorandum of Understanding on the Exchange of Information on Tax Expertise and Other Related Matters" (MoU) was signed on 10 November 2010 by the five revenue authorities, which provides for detailed rules and procedures for EOI on tax matters, in line with the 2002 OECD Model TIEA.

Annex 3: Methodology for the review

The reviews are based on the 2016 Terms of Reference and conducted in accordance with the 2016 Methodology for peer reviews and non-member reviews, as approved by amended the Global Forum in December 2020 and the Schedule of Reviews.

The evaluation is based on information available to the assessment team, including the exchange of information arrangements signed, laws and regulations in force or effective as at 1 September 2021, Tanzania's responses to the EOIR questionnaire and inputs from peers, as well as answers to follow-up questions.

List of laws, regulations and other materials received

Constitution

Law of Contract Act Cap. 345 R.E. 2002

Banking and Financial Institutions Act 2006

Tanzania Mainland

Companies Act Cap. 212

Business Names (Registrations) Act Cap. 213

Trustees Incorporation Act, Cap. 318 R.E 2002 as amended by the Written Laws (Miscellaneous Amendments) Act No 3 of 2019 and the Written Laws (Miscellaneous Amendments) Act No 1 of 2020 and the Rules made thereunder

Non-Governmental Organisations Act, as amended 2019

Societies Act Cap 337 of 1954 as amended by the Written Acts (Amendment) Act 2019 and Societies Rules, 2001

Anti-Money Laundering Act 2006

Anti-Money Laundering Regulations 2012, as amended in 2019

Guidelines for Verification of Customer Identities (Guidelines No. 1) and Anti-Money Laundering Guidelines for Banking Institutions (Guidelines No. 2) issued by the Financial Intelligence Unit

Tax Administration Act 2015

Income Tax Act 2004 as amended in 2019

Accountants and Auditors (Registration) Act, Cap. 286 R.E 2002

Records and Archives Management Act, Cap 309

Zanzibar

Companies Act No. 15 of 2013

Registration of Business Entity Act No. 12 of 2012

Law of Contract Act Cap. 149

Business Names Registration Decree Cap. 168

Societies Act No. 6 of 1995

Anti-Money Laundering and Proceeds of Crime Act 2009, as amended in 2012

Anti-Money Laundering and Proceeds of Crime Regulations 2015

Tax Administration and Procedures Act 2009, as revised in 2019

Wakf and Trusts Commission Act No. 2 of 2007

Current review

This report analyses Tanzania's legal and regulatory framework in relation to the international standard of transparency and EOIR, in the second round of reviews conducted by the Global Forum. As Tanzania joined the Global Forum in 2015, it was not assessed in the first round.

Information relating to the review of Tanzania is listed in the table below.

Summary

Review	Assessment team	Period under review	Legal Framework as of	Date of adoption by Global Forum
Round 2 Phase 1	Mr Arief Syahriza (Indonesia), Mr Marcus Elizabeth (Seychelles) and Mr Puneet Gulati (Global Forum Secretariat)	Not applicable	1 September 2021	18 November 2021

Annex 4: Tanzania's response to the review report[43]

Tanzania joined the Global Forum in February 2015 after realizing the impact that international tax transparency could bring to the overall Domestic Resource Mobilization agenda which is exceedingly crucial particularly to developing countries. After joining the Global Forum Tanzania received technical assistance from the Global Forum Secretariat which launched an induction program in March 2017. The program significantly helped to create awareness on the International Tax Transparency standards and provided required support in identifying deficiencies in the legal and regulatory framework that would subsequently need to be addressed for Tanzania to be fully compliant with the standards. These deficiencies were detailed in the Global Forum Secretariat's preliminary assessment report dated January 2019. Following this report Tanzania made strenuous efforts to address the gaps which culminated into legal amendments through the Finance Act, 2020 that introduced, among others, the requirements to ensure availability of information on beneficial ownership of legal entities and arrangements as well as particulars of bearers of share warrants. In this regard, Tanzania would like to genuinely appreciate for the tremendous support accorded by the Global Forum Secretariat prior to launch of the peer review.

Tanzania also wishes to express sincere gratitude to the Global Forum Assessment Team for the remarkable cooperation and support received from the official launch of the peer review on 4th December 2020 to the approval of the Draft Report by the Peer Review Group (PRG) on 3rd November 2021. Adequate guidance and unwavering support was received particularly during the period of jointly addressing PRG members' comments on the Draft Report. As such, Tanzania considers that the Phase1 peer review report ("the report") fairly reflects the level of compliance of the existing legal and regulatory framework, as at the time of the review, against the agreed international standards.

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

It is particularly noted that the report has not identified any gaps with regard to element B.1 (Access to information), element B.2 (Rights and safeguards), element C.3 (Confidentiality) and element C.4 (Rights and safeguards). However, the report has identified some gaps and contains recommendations that would require implementation. This is in respect of elements A.1, A.2, A.3, C.1 and C.2.

Looking ahead, Tanzania would like to express its strong commitment to prepare enabling environment that will facilitate effective exchange of information with all its relevant global partners. It is particularly looking forward to significantly expand its network of EOI mechanisms so as to establish the necessary legal basis for an effective Exchange of Information relationship with the vast majority of the Global Forum members in conformity to the International standards. To realize this, Tanzania acknowledges and expresses its fully commitment to implementing stipulated recommendations put forward in the report while also preparing for Phase II of the review that will look at the practical implementation of the standards. All this would be done as Tanzania wishes to be part of the large family of nations under the Global Forum that is seen by its peers as being fully compliant on implementing the agreed global tax transparency standards.

GLOBAL FORUM ON TRANSPARENCY AND EXCHANGE OF INFORMATION FOR TAX PURPOSES

Peer Review Report on the Exchange of Information on Request TANZANIA 2021 (Second Round, Phase 1)

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

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

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

This publication contains the 2021 Second Round Peer Review Report on the Exchange of Information on Request of Tanzania. It refers to Phase 1 only (Legal and Regulatory Framework).

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