

GLOBAL FORUM ON TRANSPARENCY AND EXCHANGE
OF INFORMATION FOR TAX PURPOSES

Peer Review Report
Phase 1
Legal and Regulatory Framework

BELIZE



Global Forum on Transparency and Exchange of Information for Tax Purposes Peer Reviews: Belize 2013

PHASE 1

March 2013
(reflecting the legal and regulatory framework
as at December 2012)

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About the Global Forum

The Global Forum on Transparency and Exchange of Information for Tax Purposes is the multilateral framework within which work in the area of tax transparency and exchange of information is carried out by over 100 jurisdictions, which participate in the Global Forum on an equal footing.

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

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

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

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

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

Executive Summary

1. This report summarises the legal and regulatory framework for transparency and exchange of information in Belize. The international standard, which is set out in the Global Forum's Terms of Reference to Monitor and Review Progress Towards Transparency and Exchange of Information, is concerned with the availability of relevant information within a jurisdiction, the competent authority's ability to gain timely access to that information, and in turn, whether that information can be effectively exchanged on a timely basis with its exchange of information partners.
2. Belize is located on the north eastern coast of Central America. Its economy is primarily based on services, cultivation and trade in agricultural and marine products. The tourism sector has grown in recent years and the international financial service sector is also important for the economy.
3. Belize committed to the principles of transparency and exchange of information in March 2002 and joined the Global Forum on 1 September 2009. Belize has entered into information exchange relationships with 27 jurisdictions, via three Double Taxation Conventions (DTCs), a regional tax agreement under the framework of the Caribbean Community (CARICOM) and Tax Information Exchange Agreements (TIEAs). Of these, 24 are based on EOI agreements in force. Since 2009, Belize has sought to rapidly expand its treaty network and has entered into a number of TIEAs.
4. Belizean law has provisions that allow for the availability of identity and ownership information in respect of domestic companies, trusts and foundations. Some deficiencies are identified in the legal and regulatory framework. Belize allows international business companies to issue bearer shares and domestic companies to issue share warrants to bearer. A gap with regard to the availability of ownership information in respect of share warrants to bearer issued by domestic companies has been identified.
5. Significant gaps have also been identified regarding the availability of accounting information and the holding of underlying documentation in the case of various entities. Further the law in Belize does not put an obligation upon persons that are not taxpayers, such as international business

companies, to retain accounting documentation for a period of at least 5 years. The laws and regulations of Belize impose appropriate obligations to ensure that banking information is maintained.

6. As regards access to information, Belize does have powers to access information and is able to exchange all types of information. The competent authority under the DTCs can use all the access powers available to the Commissioner of Income Tax under the Income and Business Tax Act, for purposes of EOI. The Competent authority also has specific information gathering powers for TIEA purposes.

7. Belize's response to the recommendations in this report, as well as the application of the legal framework to the practices of its competent authority, will be considered in detail in the Phase 2 Peer Review of Belize, which is scheduled for the first half of 2014. In the meantime, a follow up report on the steps undertaken by Belize to answer the recommendations made in this report should be provided to the PRG within six months following the adoption of this report.

Introduction

Information and methodology used for the peer review of Belize

8. The assessment of the legal and regulatory framework of Belize was based on the international standards for transparency and exchange of information as described in the Global Forum's Terms of Reference to Monitor and Review Progress Towards Transparency and Exchange of Information For Tax Purposes, and was prepared using the Global Forum's Methodology for Peer Reviews and Non-Member Reviews. The assessment was based on the laws, regulations, and exchange of information mechanisms in force or effect as at January 2013, other materials supplied by Belize, and information supplied by partner jurisdictions.

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

10. The assessment was conducted by a team which consisted of two assessors and three representatives of the Global Forum Secretariat: Ms. Shelley-Anne Carreira, Manager, International Development and Treaties, South African Revenue Service; Ms. Alexandra Storckmeijer Sansonetti, State Secretariat for International Financial Matters, Federal Department of Finance, Switzerland; and Ms. Gwenaelle Le Coustumer, Mr. Bernd Person and Mr. Bhaskar Goswami from the Global Forum Secretariat.

Overview of Belize

11. Belize is a country on the north eastern coast of Central America with an area of 8 867 square miles. It is bordered to the North by Mexico, to the South and West by Guatemala, and to the East by the Caribbean Sea. As a former British colony (British Honduras), Belize is the only country in Central America where English is the official language (Spanish is also widely spoken together with some indigenous languages). The population of Belize is 313 000 and the capital of Belize is Belmopan.

12. Belize has a stable political environment, and an economy based on services, cultivation and trade in agricultural (*e.g.* sugar, bananas, and citrus) and marine products. The construction and tourism industries, particularly ecotourism, are gaining importance in recent years. According to publicly available data, for the year 2011 the contribution to GDP of agriculture was 9.7%, industry was 19.8% and services accounted for 58.7%.¹ Belize is also promoting its oil exploration industry.

13. Belize has a prominent offshore business sector. With the enactment of the International Business Companies Act in 1990, it became an attractive offshore jurisdiction for international investors. An indicator of this is that as against 13 171 domestic companies in Belize, there are 126 254 International Business Companies (IBCs). The main requirement of these companies is that they should not pursue business within Belize.

14. Belize's GDP registered zero growth in 2009 after a 3.6% increase in 2008. The real growth rate for 2010 was 2.7%, and 2% for 2011. The currency is the Belize dollar (BZD), which has been pegged to the US dollar since 1976 (2 BZD per 1 USD). Belize's major trading partners are the United States, the United Kingdom, the Caribbean Community (CARICOM), Guatemala, Mexico and Canada.²

General information on the legal system and the taxation system

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

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1. www.gfmag.com/gdp-data-country-reports/317-belize-gdp-country-report.html#axzz2FJm745mL
 2. Data are taken from US Intelligence Agency, The World Fact Book; IMF Public Information Notice (Data released on February 2012), Statistical Institute of Belize and Belize International Financial Services Commission (IFSC)

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

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

The taxation system

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

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

19. In the case of trusts, which are not legal entities but merely arrangements, the law does not specifically address the issue of their residence. The Belizean authorities indicate that as trust property is vested in the trustee, the tax authorities will seek to establish the residence of the trustee, the situs of the assets, the objects of the trust and the places where the objects are to

be fulfilled. A domestic trust or foreign trust in receipt of income in Belize is assessed to local tax. An international trust (or offshore trust) as set out in section 64(1) of the Trusts (Amendment) Act, 2007 is exempt from tax. Section 64(2) of this Act further provides that the word “resident” has the same meaning as given in the Income and Business Tax Act. The definition of “resident” shall apply in cases of all trusts.

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

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

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

23. Belizean law allows the creation of several types of offshore entities which are exempted from most types of taxes. These include International Business Companies (IBC), international trusts and international foundations or International Limited Liability Companies (ILLC).

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

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

25. Belize also offers a number of tax free regimes that are broken down into two types: Export Processing Zones (EPZ) and Commercial Free Zones (CFZ). There is one CFZ and three EPZs operating in Belize. The EPZ regulated in the EPZ Act was established to attract both local and foreign investments to boost production for export markets with a focus on manufactured goods and non-traditional agricultural products. EPZ companies enjoy various benefits including a tax holiday of 20 years with an option to extend and deduct losses from profits following the tax holiday period. After the expiry of the exemption period, they are liable to pay business tax at the rate of 2% or such other rate as may be prevailing at the relevant time. The CFZ was established to attract foreign investment in various activities including manufacturing, processing, packaging, warehousing and distribution of goods and services. CFZ companies are exempted from various taxes during the first 10 years of operation. Thereafter, they pay business tax at the rate of 2% or such other rate as may be prevailing at the time. It follows that EPZ businesses and CFZ businesses will register with the Income Tax Department after the expiry of the tax exemption period. Belize has stated that there are at present 56 EPZ businesses and 300 CFZ businesses. The amount of capital for EPZ businesses is USD 5.4 million. The capital for CFZ businesses is not readily available.

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

Commercial laws

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

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

29. As at November 2012, there were 13 171 domestic companies registered under the Companies Act, 1 578 overseas or foreign companies registered under the Companies Act, 11 Limited Liability Partnerships, 126 254 International Business Companies, 527 Limited Duration Companies, 1 775 international trusts, 119 international foundations and 34 International Limited Liability Companies.

Overview of the financial sector and relevant professions

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

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

32. The CBB regulates domestic and international (*i.e.* offshore) banks, money transmitters, credit unions and other financial institutions. Currently, Belize has 5 domestic commercial banks, 7 international banks and 13 credit unions. Total assets of international and domestic banks, as at 30 September 2012 were USD 0.7 billion and USD 1.3 billion, respectively. Total deposits in international and domestic banks were USD 0.5 billion and USD 1 billion, respectively. During the same period, Credit Unions had total assets of USD 0.3 billion and deposits of USD 0.25 billion. The CBB periodically

updates, on its website,⁴ a Warning Circular that lists the names of entities which have been brought to the attention of the CBB through some form of inquiry or complaint. These entities are purported to be conducting banking or financial business from or within Belize without being licensed.

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

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

35. The IFSC is currently responsible for supervising 229 service providers, namely: 87 registered agents for IBCs, 51 trustee services providers, 22 providers of international insurance services, 7 mutual funds, 5 providers of international asset protection and management, 33 traders in securities, 5 international money lenders, 8 providers of brokerage/consultancy and advisory services, 2 providers of international safe custody services, 2 traders in foreign exchange, 2 money transmission service providers, 2 money brokers, 1 money exchange service provider and 2 payment processing service providers.

36. The Supervisor of International Insurance is responsible for international insurance, and the Registrar of Mutual Funds is responsible for mutual funds. As at November 2012, there were 12 international insurers, 6 principal insurance representatives and 4 international insurance managers. As at November, 2012, there were 4 public funds and 3 managers and administrators of mutual funds.

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

4. www.centralbank.org.bz.

interest in the whole or in a part of the net assets of the company, the partnership or the unit trust, as the case may be (MFA, s. 2)

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

International exchange of information for tax purposes

39. The Government of Belize committed in March 2002 to respect the principles of transparency and exchange of information by 31 December 2005, and Belize became a Global Forum Member on 1 September 2009. To date Belize has exchange of information (EOI) arrangements (DTCs, a regional instrument, and TIEAs) with 27 jurisdictions.

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

Recent developments

41. Recent developments include the entry into force of the International Limited Liability Companies (Registration) Regulations, 2012.

42. Since becoming a Global Forum Member Belize has signed 15 TIEAs of which ten have entered into force as of November 2012, and five others are awaiting ratification or notification by the treaty partners. As at December 2012, Belize has completed its internal procedures to bring the TIEAs in force and has duly notified all treaty partners through diplomatic channels. The Belizean authorities are also considering signing the Multilateral Convention on Mutual Administrative Assistance.

43. Belize has repealed its old banking law and replaced it with a new Domestic Banks and Financial Institutions Act. Pursuant to the provisions of the new law, there is no restriction on the access and exchange of banking information when it is sought pursuant to a DTC or a TIEA. Belize also

amended the regulations dealing with the immobilisation of bearer shares issued by IBCs on 1 January 2013.

44. Belize has also carried out legal amendments that allow the competent authority under the DTC with Austria and the CARICOM Agreement to exercise access powers to gather information for exchange of information purposes. In the case of the DTC with Austria and the CARICOM Agreement, the competent authority is the Minister of Finance, and there are now express provisions that allow him to use the access powers of the Commissioner of Income Tax.

Compliance with the Standards

A. Availability of Information

Overview

45. Effective exchange of information requires the availability of reliable information. In particular, it requires information on the identity of owners and other stakeholders as well as information on the transactions carried out by entities and other organisational structures. Such information may be kept for tax, regulatory, commercial or other reasons. If such information is not kept or the information is not maintained for a reasonable period of time, a jurisdiction's competent authority⁵ may not be able to obtain and provide it when requested. This section of the report describes and assesses Belize's legal and regulatory framework for availability of information.

46. Belizean law provides for the incorporation of different types of companies primarily classified into domestic companies, overseas companies, international business companies and protected cell companies. By virtue of a combination of information held by different authorities, service providers and sometimes by the companies themselves, Belize has a legal framework that ensures the retention of ownership information in most cases. However, some uncertainties have been identified regarding the retention of ownership information in respect of overseas companies, which will require close follow-up in Phase 2. In respect of partnerships (general and limited) and foundations, identity and ownership information is available in Belize.

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

47. In Belize, domestic companies can issue share warrants to bearer and International Business companies and Limited Duration Companies can issue bearer shares. Adequate mechanisms are not in place to identify the owners of the share warrants to bearer issued by domestic companies. On the other hand, bearer shares that are issued by IBCs and LDCs are immobilised and there are sufficient measures to ensure availability of identity and ownership information on their holders.

48. The law in Belize also allows for the creation of two kinds of trusts – domestic trusts and international (offshore) trusts. The concept of trusts is based on English Law but the law is codified in Belize and trusts in Belize must fall within the parameters specifically laid down by the code. Ownership and identity information is available in respect of trusts in Belize with the exception of domestic trusts that do not have any income in Belize and are therefore not registered with the tax authorities.

49. Belize law provides for enforcement provisions to ensure the maintenance of identity and ownership information.

50. The Belizean legal framework contains major deficiencies with regard to the availability of accounting information. IBCs, ILLCs, domestic trusts, international trusts and international foundations are not subject to any or sufficient accounting obligations. In addition, non taxable entities have no obligation to keep their accounting documents for at least five years or to keep underlying documentation. Based on these facts the element A.2 has been determined to be “not in place”.

51. Sufficient legal obligations are in place for banks and financial institutions to maintain all records pertaining to accounts as well as related to financial and transactional information.

A.1. Ownership and identity information

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

Companies (ToR⁶ A.1.1)

Types of companies in Belize

52. Belizean laws allow for the incorporation and registration of a wide variety of companies which are governed by the Companies Act (CoA), the

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

International Business Companies Act (IBCA), the International Limited Liability Companies Act (ILLCA) and the Protected Cell Companies Act (PCCA).

53. The CoA authorises the incorporation of various types of domestic companies: unlimited companies, companies limited by shares, companies limited by guarantee (*e.g.* non-governmental organisations), joint stock companies and associations not for profit. Companies can also be classified as local companies or overseas (foreign) companies. Companies limited by shares can issue share warrants to bearer (s. 38, see section A.1.2 below). As of November 2012, there were 13 171 domestic and 1 578 overseas companies registered in Belize. Due to limitations in the Companies Registry of Belize, a further breakdown into number of unlimited companies, companies limited by shares, companies limited by guarantee, joint stock companies and associations not for profit, is not available. Companies operating in the tax free zones are domestic companies created under the CoA and subject to all the requirements of the CoA.

54. The International Business Companies Act (IBCA) allows for the incorporation of international business companies (IBCs). The main requirement for an IBC is that it must not pursue business within Belize; it is then not subject to any tax or duty on income or profits. A Belizean IBC may also pursue specific activities subject to licensing obligations, such as trust business, banking, insurance and investment management. An IBC can also own merchant ships and pleasure craft through a licensed shipping agent (IBCA, s. 5(1)). IBCs are required to have in Belize a registered office and a registered agent licensed by the IFCS (and subject to AML obligations, IBCA, ss. 42 and 43 respectively). As of November 2012 there were 126 254 IBCs registered in Belize.

55. The IBCA further allows for the formation of a Limited Duration Company (LDC), a hybrid of IBC and LLC. Unlike the IBC, an LDC has a limited lifespan of up to 50 years which can be extended after the initial 50 years is up. Existing companies can be converted to an LDC and must be registered with the Registrar of International Business Companies (IBCA, s. 147). A member's shares or assets can be protected by having clauses in the articles of association to prevent the transfer of any share of a member. An LDC may be managed by its members and does not require a specific manager (IBCA, s. 150). The LDC enjoys all the advantages and features of the IBC and all requirements in relation to IBCs apply also to these entities. LDCs can also issue bearer shares (see section A.1.2 below). There are 527 LDCs operating in Belize.

56. Public investment companies were governed by Part XI of the IBCA, which was repealed by Act No. 14 of 1995, but the two public investment companies existing at that time were “grandfathered”. The Belizean

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

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

58. The ILLC is a legal entity with separate rights and liabilities distinct from its members and managers unless they have assumed liability over any or all debts and obligation of the ILLC by written contract (ILLCA, s. 33). Every ILLC must at all times have a registered agent resident in Belize (ILLCA, s. 27), who must be licensed by the International Financial Services Commission (IFSC). As at November 2012, there were 30 ILLCs registered in Belize.

59. The Protected Cells Companies Act (PCCA) governs the incorporation of Protected Cell Companies (PCCs). A PCC is a corporate entity which holds assets in one or more segregated cells. The purpose of the structure is to separate the assets in each cell from those in other cells. A cell of a PCC is not a separate company or legal person and cannot contract in its own name. The PCC is the contracting party in respect of the relevant cell which must be identified.

60. A PCC may only be incorporated as a mutual fund authorised under the Mutual Funds Act or be registered to conduct international insurance business under the International Insurance Act (first schedule to the PCCA). For each business, activity or agreement contracted, the PCC must disclose to any person with whom it is transacting that it is a PCC and the cell in respect of which that person is transacting, or if the entity is committing the core assets, or both core and specific cell assets (PCCA, s. 13). The PCC must use a name which contains the expression “Protected Cell Company” or “PCC” and each cell must also be clearly identified in the formation documents of the entity. The entity must keep accounting books showing the corresponding divisions among the segregated cells and the core cell within the entity. As of November 2012, there were 2 PCCs registered in Belize.

Ownership information held by government authorities

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

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

*Registration requirements***Domestic Companies**

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

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

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

Overseas companies

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

67. Like domestic companies, foreign companies having share capital do not have to provide a list of shareholders at the time of registration, but must do so in their annual return. Section 251(6) of the Companies Act provides that every overseas company shall, in every calendar year, file with the Registrar such a statement in the form of a balance sheet as would, if it were a company incorporated in Belize and having share capital, be required under this Act to be included in the annual summary. Section 251(9) further provides that if an overseas company fails to comply with any of the foregoing provisions of this section, the company, and every officer of the company who knowingly and wilfully authorises or permits the default, shall be liable on summary conviction to a fine. The Belizean authorities indicate that this statement means that an overseas company, once registered, is equated to a domestic company and must file an annual return in the same manner as is required to be filed by a domestic company with a share capital under section 27 of the Companies Act, whether or not this company has a share capital. The annual return form (Form E appended to the CoA) is to be used only by companies with share capital and requires that the company submit the list of persons holding shares in the company. This obligation therefore does not appear to clearly apply to overseas companies without share capital. Belize states that in any event no overseas commercial companies without share capital have established a place of business in Belize. Belize is of the view that companies limited by guarantee are mostly charitable organisations and voluntary clubs not formed for trade and commerce. This issue will be followed up in the Phase 2 review of Belize.

International Business Companies (IBCs)

68. An IBC must be registered with the Registrar of International Business Companies and obtain a Certificate of Incorporation (IBCA, s. 14(3)). Without such registration, an entity cannot be called an IBC. Each IBC must have a registered office and a registered agent in Belize who is a

regulated person licensed by the International Finances Service Commission (IFSC) (IBCA ss. 42, 43). The IBCA requires the submission of the articles and memorandum of association of IBCs to the Registrar who is obliged to retain and register them (IBCA, s. 14(1)).

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

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

70. Ownership information is not provided to the Registrar although the IBCA provides an option for an IBC to register its share register and/or register of directors with the Registrar (IBCA, s. 132). Belize does not have information on the number of IBCs that register with the Registrar every year. Information on directors and shareholders must be kept by the registered agent (licensed by the IFSC and subject to the International Financial Services Practitioners (Code of Conduct) Regulations (IFSPCCR), including the specific duty to keep information on directors and shareholders contained in regulation 13 of the IFSPCCR.

International Limited Liability Companies (ILLCs)

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

72. The registration procedure is further set out in the International Limited Liability Companies (Registration) Regulations 2012 which came into force in April 2012. They require a registered agent's affidavit verifying that the person(s) on whose behalf he/she is acting are fit and proper persons. The affidavit by the registered agent has to be made in respect of all the beneficial and legal owners of the ILLC as well as the directors and other officers of the ILLC (regulation 3 of the International Limited Liability Companies (Registration) Regulations).

Protected Cell Companies

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

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

75. After receiving the Minister's consent, the company must apply to the Supervisor of International Insurance or to the Registrar of Mutual Funds for registration. Before obtaining the authorisation to operate a PCC, the applicant must confirm that all due diligence on the account owners and sources of the funds are in line with the Money Laundering (Prevention) Act (MLPA) and Regulations, the Guidance Notes, and all applicable laws currently in force (Schedule 4). It is the duty of the applicant to ensure that the due diligence on the account holders and source of funds etc. has been fulfilled. Controls in regard to anti-money laundering compliance are exercised by the Financial Intelligence Unit, which has overall responsibility for compliance with the MLTPA and the Regulations. A PCC that contravenes or fails to comply with any term or condition of consent granted by the Minister

(including the submission of ownership information and updates) commits an offence and is liable on summary conviction to a fine not exceeding USD 25 000 and/or to imprisonment for a term not exceeding six months (s. 27(2)).

Taxation requirements

76. Domestic and foreign companies doing business in Belize must register with the Income and Business Tax Department, except companies operating in the tax free zones. The registration form for companies⁷ requires the disclosure of the company name, business address, bank account information, and certificate of incorporation, memorandum and articles of association, ownership information including name, home address, tax identification number and shareholding percentage for each owner. If the company does not provide the required information on registration, then the applicant may not be registered for tax purposes.

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

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

Ownership information held by other governmental authorities

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

Ownership information held by the companies

Domestic Companies

80. All types of domestic companies are required to maintain a register in their registered office (CoA, s. 26). The register must include the names and addresses of the members and their occupations, as well as the dates at

7. Non-individuals Form TR121A.

which each person was entered in the register as a member and ceased to be a member. In the case of a company with share capital, the company must also register the number of shares held by each member as well as the amount paid for the shares by each member. A transfer of shares does not become effective until it is entered in the share register held by a company (sections 26 and 29 of the CoA). Section 29 casts a duty upon the company to record a transfer at the request of the transferor as if it were a request from the transferee. Section 26 prescribes a penalty for the failure to record any transfer indicating the mandatory nature of this requirement. The register of shareholders can be inspected by any member of the company without charge and by any other person on payment of a sum prescribed by the company (CoA, s. 31).

Overseas Companies

81. Overseas companies, if they wish to carry on business in Belize, must establish a place of business in Belize (CoA, s. 251(11)). Following this, all obligations imposed on domestic companies under the Companies Act also apply to overseas companies. The Belizean authorities explain that this will include the obligation under s. 27 of the Companies Act to keep at its registered office a register containing the names and addresses of its directors and managers, and to send to the Registrar a copy thereof. It also includes the obligation to keep a register of shareholders. The practical application of this issue will be followed up during the Phase 2 review of Belize.

International Business Companies (IBCs)

82. IBCs are required pursuant to the IBCA (s. 31) to maintain a share register that must be kept either at the registered office of the IBC or the office of the registered agent (in which case, a copy of it must be kept at the registered office of the IBC). The register must include the following identity information on the owners of shares:

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

83. Section 31 requires the share register to mention the date on which each person was entered or ceased to be registered on the share register. It

further provides that the company may delete information relating to persons who are no longer members. The share register therefore may not be sufficient to trace the transfers of shares made over several years. Belize is of the opinion that even though the information is deleted, it is not lost, as the share register must be kept at the registered office or by the registered agent, which are activities subject to AML obligations. As entities subject to AML obligations must keep “account files and business correspondence in relation to accounts” for five years, information in the share register should be available in Belize. The practical application of this obligation will be followed up during the Phase 2 review of Belize.

International Limited Liability Companies (ILLCs)

84. An ILLC is required to keep a register at the office of its registered agent or at another place which is known to the registered agent at all times. This includes a current list of the full name, last known business and residence or mailing address of each member and manager, a copy of the initial articles of organisation and all amendments, as well as copies of all operating agreements, copies of agreements relating to capital contributions and copies of all membership certificates issued (ILLCA, s. 9). In addition, a record of all transfer of members’ interests is kept with the registered agent (ILLCA, s. 54).

Protected Cell Companies

85. The PCCA does not include specific requirements for a PCC to keep ownership information. This information is held by the Registrar of the PCCs (see above, under information maintained by governmental authorities). However, the Belizean authorities point to the obligation for PCCs to inform the Ministry in charge of PCCs of any material changes registered, including on ownership, which in practice obliges PCCs to know their ownership structure. How this system operates in practice is a matter that will be reviewed during the Phase 2 review of Belize.

Ownership information held by nominees and service providers

Nominees

86. Any person acting as a nominee shareholder, by way of business would need to become a licensed service provider and is subject to AML obligations (First schedule of the MLTPA). The MLTPA imposes AML/CFT obligations on reporting entities which are defined as any person whose regular occupation or business is the carrying on of any activity in the First Schedule of the MLTPA (s. 2), including trust and company service providers

acting as a nominee shareholder for another person. As noted in the section below on Anti-money laundering Laws, a reporting entity must verify the identity of its customer by requiring the production of identification documents with the customer's name and address (MLTPA, ss. 15).

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

88. In addition, the IFS Practitioners Code (Code of Conduct) Regulations (IFSPCCR) requires that its reporting entities, when collecting ownership information on their customers, especially in the case of corporate shareholders, collect appropriate information regarding the ultimate beneficial ownership, particularly if the shareholders appear to be nominees (IFSPCCR, s. 13(7)). It is clear that non-professional nominees are not covered by any reporting obligations, be it under the AML laws or any other laws. However, this will cover only a small number of persons, so this matter will be reviewed during the Phase 2 review of Belize.

Anti-Money Laundering Laws

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

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

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

- a trust and company service provider acting as a formation agent for legal persons; as a director or secretary of a company, a partner of a partnership, or in a similar position in relation to other legal persons; as a trustee of an express trust or as a nominee shareholder for another person.

- the provision of a registered office, a business address or accommodation, correspondence or administrative address for a company, a partnership or any other legal person or arrangement (First Schedule, No. 24).
- lawyers, notaries, other independent legal professionals, accountants, auditors and tax advisers, when they prepare for or carry out transactions concerning activities such as buying and selling real estate, managing money, management of bank accounts, organisation of contributions for the creation, operation or management of companies and the creation, operation or management of legal persons or arrangements, and buying and selling of business entities.

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

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

94. The IFSC also issued additional AML regulations for its licensees. The IFSPCCR provide that a registered agent is required to maintain identity information of directors and shareholders holding a controlling interest, “as

far as practicable”, under the IFSPCCR (reg. 13(3)(6)). Section 15(3) of the MLTPA states that reporting entities must take reasonable measures to identify the principal owners and beneficiaries of the client entities and verify its control structure. The registered agent should know the business conducted by the company and the identity of directors proven by copies of identification documents of at least two directors (IFSPCCR, reg. 13(5)). However, in the case of IBCs, as noted earlier, the service provider performing the functions of registered office or registered agent will keep a copy of the share register.

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

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

Bearer shares (ToR A.1.2)

97. Domestic companies can issue share warrants to bearer, and IBCs and LDCs can issue bearer shares, but there are no appropriate mechanisms in place that allow the owners of such warrants and shares to be identified.

Domestic Companies

98. The CoA (s. 38) allows companies limited by shares, that so provide in their articles of association, to issue “warrants stating that the bearer of the warrant is entitled to the shares or stock therein specified and may provide, by coupons or otherwise, for the payment of the future dividends on the shares or stock included in the warrant”. The CoA also indicates that the shares or stock may be transferred by delivery of the warrant (s. 38(2)). Section 38(5) further provides that when a share warrant is issued, the company must strike out of its register of members the name of the concerned member as if he/she had ceased to be a member, and must enter in the register the following particulars: the fact of the issue of the warrant; statement of the shares or stock included in the warrant, distinguishing each share by its number; and the date of the issue of the warrant. The CoA does not include

provisions for the identification of the holders of share warrants by the company or any authority or service provider. The share warrants to bearer are similar to bearer shares in operation. Belize states that only one domestic company has issued warrants to bearer – 10 shares of par value of BZD 1 each. The total amount of warrants to bearer is BZD 10 (US 5). Nevertheless, a gap in the legal framework of Belize does exist.

International Business Companies

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

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

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

102. Second, registered agents may also deal with professional intermediary customers such as an overseas law firm, an accounting firm or company formation agent who requests IBCs to be incorporated in Belize on behalf of

its customer. Registered agents in Belize are not allowed to deal with professional intermediary customers in jurisdictions that are declared by the IFSC as falling below acceptable international standards (reg. 9), *i.e.* qualified as non-cooperative jurisdictions by the Financial Action Tax Force.

103. The rules have recently changed. Before 1 January 2013, the registered agent had to enter in a contractual relationship with the intermediary, requiring the intermediary to perform the “know your customer” due diligence, and provide “know your customer” information on the customer to the Belizean registered agent upon request. The intermediary retained physical custody of the bearer share certificate (IFSPCCR, reg. 8). Although the intermediary was bound by contract, it was debatable whether the system for the immobilisation of bearer shares was reliable and enforceable given that the authorities in Belize had no compulsory powers over the foreign intermediary.

104. Belize recently amended the IFSPCCR, to provide that where a registered agent deals with a professional intermediary customer, the bearer shares must now be retained by the agent in Belize rather than by the intermediary, and the registered agent must ensure that the intermediary carries out its CDD obligations. The amendment also provides that where the professional intermediary customer fails to comply with the prescribed regulations, the registered agent shall immediately resign as the registered agent of such company and the company itself shall be struck off the register of IBCs. However, the new regulations did not make it clear that the registered agent in Belize must hold information on the customer about whom “know your customer” (KYC) details are collected by the foreign intermediary, or that the foreign intermediary must provide information to the registered agents or to the authorities in Belize. Belize was of the view that it is implicit in the regulations that the intermediary must send the KYC information along with the share certificate to the registered agent. Belize holds the view that without this information, the bearer share certificate would be “useless”. To clarify the situation, Belize issued a Clarification on 18 February 2013, that makes it clear that the foreign intermediary is required to hand over the CDD information to the registered agent, along with the bearer shares. This Clarification, issued by the International Financial Services Commission, is deemed to be part of the IFSPCCR that came into force on 1 January 2013. The clarification specifies that failure on the part of the foreign intermediary to pass on the CDD information to the registered agent will attract the same penalties as would a failure to comply with the prescribed regulations. Hence, no gap remains with respect to the of issue of bearer shares by IBCs and LDCs.

Partnerships (ToR A.1.3)

105. Ownership information related to general and limited partnerships in Belize is held by the tax authorities. The Registrar also maintains ownership information on limited partnerships.

Types of partnerships

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

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

108. A limited liability partnership (LLP) is defined as an entity where the liability of the partners is limited, *i.e.* that a limited partner in an LLP is not liable for any debt or loss. One or more “designated partner” is nonetheless responsible for the legal obligations of the LLP.⁸

Ownership information held by government authorities

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

110. There is no special Registrar for general partnerships. On the other hand, every LLP must be registered with the Registrar of LLPs who is the Solicitor General. In practice, the LLPs are registered in the local Companies Registry – the same Registry which registers companies established under the Companies Act. An LLP must maintain an office in Belize, the official address of which must be provided to the Registrar (Limited Liability Partnership Act, s. 9(1)). The Registrar records in the register of LLPs any

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

information delivered to him/her and the issuance of any certificate. As of November 2012, there were 11 LLPs registered in Belize.

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

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

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

Information held by the partnership or partners

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

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

Trusts (ToR A.1.4)

116. There are two kinds of trusts in Belize – domestic trusts and international (offshore) trusts. The Trust Act (TA) as amended by the Trust (Amendment) Act 2007 which was specifically passed for the registration of international trusts (previously called “exempt trusts”) governs the creation and administration of domestic and international trusts. The Act is based on the principles of English trust law. The Belizean authorities indicate that there is no possibility for the creation of a common law trust in Belize and only statutory trusts can be created in Belize.

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

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

Registration and information maintained by the authorities

Domestic Trusts

119. Domestic trusts can be established generally either by oral declaration or by written instrument (including a will or codicil), by conduct, operation of law or in any other manner once the intention of the settlor to do so is clearly manifested (TA, s. 5(1)). There are no formalities required to create a trust, except for a unit trust, which can only be created by an instrument in writing (TA, s. 5(2)). Registration of domestic trusts is voluntary (TA, s. 63(2)) with the Registrar of the Supreme Court and as of November 2012 five trusts have been registered (mostly pursuing educational and charitable purposes). The trust may be registered by either the settlor or trustee, and this involves the submission of a copy of the trust instrument along with the registration fees (TA, s. 63(3)). The register is not open for public inspection, except when a trustee authorises in writing a person to inspect the entry of a specified trust (TA, s. 63(7)).

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

121. Turning to the tax obligations of domestic trusts, all those having income chargeable to tax, must file a tax return every year unless it is an "exempt trust". Section 105(1) of the IBTA defines receipts that are taxable under Business Tax as "all revenues, whether in cash or in kind, or whether received or accrued, of a person or entity carrying on trade or business in Belize or practising his or its profession or vocation in Belize without any deduction...". This definition also includes under the term, "receipts", rents, royalties, any other revenue receipts arising of, from property, commissions, discounts, dividends, interest including interest from investments, debentures, bills, bonds and notes. The Belizean authorities interpret these provisions as meaning that a trustee will have to file a return showing the receipts of the trust, which will be taxable as the revenue of the trustee. Under section 27 of the IBTA, the Commissioner of Income Tax may ask the trustee to prepare a statement reflecting the true statement of the income of the trust and the details of each and every person to whom that income belongs along with any other details that the Commissioner requires. The taxability of the passive investment holdings, held by trusts, not being trade or business, is unclear.

International Trusts

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

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

- Name of the trust; date of settlement and date of registration;

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

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

125. All trusts which were previously “exempt trusts” and were not registered in absence of legal obligation had to be registered within one year of the commencement date of the Trusts (Amendment) Act, 2007 (s. 65J). As of November 2012, there were 1 775 international trusts registered in Belize. Exempt trusts that were not registered with the International Trust Registry by 2008 ceased to be valid trusts under Belize law, *i.e.* they are no longer recognised as a trust and no action can be taken by the trustee, beneficiary or any other person to enforce the trust.

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

Identity information maintained by service providers

Trustees

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

128. In addition, the banking law governs the business of trust corporations. A trust corporation is a company which offers services to the public as a professional trustee engaged in the management or administration of financial or other trust assets (s. 2). This business is explicitly subsumed under the term “financial business” which is conducted in and from Belize by financial

institutions (s. 2), and financial business must be carried on only by a duly licensed institution (s. 3). The Central Bank of Belize is responsible for the issuance of the licences and all further supervision. Trust corporations by virtue of their activities are reporting entities as defined in the First schedule of the Money Laundering and Terrorism (Prevention) Act (MLTPA) and are therefore subject to AML/CFT requirements. It may thus be concluded that ownership information in respect of these trusts managed by these corporations will be available in Belize.

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

Trust agents

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

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

131. Trust agents are subject to the supervision of the IFSC. The Registrar or appointed inspectors may inspect and audit the record of trust agents to ensure compliance with the law of Belize (TA, s. 65A(6)). Since each international trust has the obligation of being represented by a licensed trust agent in Belize, and licensed trust agents must maintain full identity information related to international trusts, all identity information is available. A list of current authorised trust agents is published in the Gazette every January (TA, s. 65F(2)).

132. The mechanism described in this section ensures the availability of information on international trusts in Belize.

Foreign law trusts

133. There are no prohibitions on a Belizean resident acting as a trustee and protector or to administer a trust governed under foreign law. However, professional trustees in Belize must obtain a trustee licence from the IFSC. According to the Trust and Company Service Providers (Best Practices) Regulations, 2007, all service providers including trustees are required to ensure that the settlor, protector/beneficiaries of trusts are known and properly recorded (reg. 11(i)). Following this analysis, the result is that these regulations do not apply to non-professional trustees. But this is not a material gap and this matter will be followed up in the Phase 2 review of Belize.

Foundations (ToR A.1.5)

134. Belize law provides for the establishment of international foundations (not domestic foundations). International foundations may be established under the International Foundations Act 2010 (IFA) for purposes which are capable of fulfilment and are not unlawful, immoral or contrary to public policy (IFA, ss. 3, 11). A foundation may provide international financial services if the IFSC has granted the appropriate licence, in which case the international foundation is subject to the supervision of the IFSC. An international foundation must be registered with the Director General of the IFSC as the Registrar of International Foundations (IFA, ss. 108 and 17(2)). A foundation which is not registered is invalid. The register of international foundations must contain the name of the foundation, the name and address of its registered agent and the date of registration of the foundation (IFA, s. 17(1)). The application form (Schedule 1) also requires names and address of all Belizean and non-resident members. All changes to the particulars of the foundation must be notified to the Registrar (IFA, s. 17(2)).

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

136. Every international foundation is required to have a registered agent in Belize at all times (IFA, s. 33). The registered agent must be a regulated person who is subject to the MLTPA and must also abide by Part III of the IFSPCCR for client verification in the matter of Know Your Customer principles and identity information. As of November 2012, there were 118 international foundations registered in Belize.

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

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

Other entities and arrangements

Non-profit organisations

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

140. The NGOA provides that the Minister appoints from time to time a qualified proper person to be Registrar of NGOs, who is presently the Labour Commissioner. The NGOA (s. 6) provides that an NGO desiring to operate in Belize must prior to registration present the Registrar with the Memorandum and articles of incorporation, the name and address of the NGO, brief details of the NGOs aims and objectives, the organisational structure, the management and accounting procedures, the names, addresses and occupations of each member of the board of Directors, the estimated revenues and grants to the NGO and the bye-laws. There is no provision on the NGOA allowing public access to the information submitted by NGOs to the Registry upon application.

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

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

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

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

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

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

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

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

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

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

150. The only sanctions against NGOs are cancellation and loss of tax exemption status. The Registrar is authorised to cancel the registration of any NGO that fails to submit its audited accounts, financial statements or a report setting out its programme of activities and policies for a financial year.

In addition, a NGO loses its tax exemption privileges for the same breaches (NGOA, s. 18(1)(a,b)).

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

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

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

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

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

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

156. As of November 2012 there were approx 126 254 IBCs and 87 registered agents for IBCs in Belize, that means that each registered agent is responsible for 1 451 IBCs on average. The enforcement of the obligations according to the IBCA and the IFSSPCR as well as the effectiveness of the enforcement provisions which are in place in Belize will be considered as part of the Phase 2 Peer Review.

Determination and factors underlying recommendations

Phase 1 determination	
The element is in place but certain aspects of the legal implementation of the element need improvement.	
Factors underlying recommendations	Recommendations
Ownership and identity information may not be available in all instances in the cases of share warrants to bearer issued by domestic companies.	Belize should take necessary measures to ensure that appropriate mechanisms are in place to identify the owners of share warrants to bearer.

A.2. Accounting records

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

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

General requirements (ToR A.2.1)

158. Section 27 of the Companies Act states that every company, except a private company, must file with the Registrar a summary that includes a balance sheet audited by the auditors. However, this requirement does not amount to an obligation upon the company to maintain reliable accounting records like books of accounts and underlying documentation.

159. As for the obligations upon partnerships, section 30 of the Partnership Act states that partners are bound to render true accounts affecting the partnership to any partner or his legal representatives. This Act does not specify the specifics of the books and records that need to be maintained. In the matter of limited liability partnerships, Section 10 of the LLP Act states that a limited liability partnership shall keep for five years accounting records which are sufficient to show and explain its transactions and are such as to disclose with reasonable accuracy at any time its financial position. While these provisions do not provide for specific requirements, section 10 also states that unless specified in the partnership agreement, it shall not be necessary for the limited liability partnership to appoint an auditor to have its accounts audited.

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

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

and Commercial Free Zones (CFZ), IBCs and ILLCs. The adequacy of this provision in the context of effective EOI shall be reviewed during the Phase 2 review of Belize.

162. Section 27(7) of the Trust Act states that the trustee shall “keep accurate accounts and records of his trusteeship”. The obligation does not specify the specifics of the books and records that need to be maintained. According to the Belizean authorities, because section 32 of the IBTA does not make a distinction between the types of taxpaying entities, these accounting record keeping obligations also apply to domestic trusts. However, section 32 applies to “persons” which are defined as “a natural person or a legal person and includes a firm, a branch and anybody of persons, whether corporate or unincorporated”. Belize has advised that trusts other than international trusts and exempt trusts are considered as covered by this definition. The only provisions of the IBTA that relate to trustees are restricted to trustees of incapacitated persons (s. 24). It is therefore unclear how the IBTA applies to all domestic trusts.

163. An IBC is not subject to the IBTA and its accounting provisions. It is simply required to keep accounts and records which the directors consider “necessary or desirable” in order to reflect the financial position of the company (IBCA, s. 73). This wording leads to the conclusion that records must be kept only when deemed necessary by the director. This standard criterion is ambiguous, as it is unclear what records this would require. In fact, the only records that section 73 specifically requires the IBC to keep are minutes of all meetings and copies of all resolutions. There is no specific mention of the nature, type and quality of accounting records or underlying documentation that ought to be maintained. There is therefore no clear or specific requirement to keep reliable accounting records.

164. There are no tax or statutory obligations on ILLCs, exempt trusts and international trusts to maintain any form of accounting records.

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

accounting standards. It is recommended that this matter be checked in its practical application during the Phase 2 review.

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

167. NGOs are required to keep accounts and other records in relation to their business and must prepare audit statements for submission to the Registrar, annually (NGOA, s. 15), prepared along a form that conforms to the best commercial and accounting standards. It is recommended that this matter be tested in the Phase 2 review of Belize.

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

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

Underlying documentation (ToR A.2.2)

170. Taxpayers are required to keep proper books and records of accounts along with supporting documents for inspection by officers of the Income Tax Department as and when requested (Income and Business Tax Act, s. 32

and The Business Tax Guide, no 12). The IBCA further provides that every person carrying on a profession or business in which charges are made to members of the public must have separate records of every service transaction made in the course of that profession or business except where otherwise authorised in writing by the Commissioner (s. 32(2)).

171. No other Belizean law requires entities to keep underlying documents, especially for non taxable entities. Therefore, the requirement does not cover all entities.

Document retention (ToR A.2.3)

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

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

174. No requirement for retention of documents was found in the Companies Act. No other law appears to require non-taxable relevant entities to keep accounting books and underlying documents for any specific period.

Determination and factors underlying recommendations

Phase 1 determination	
The element is not in place.	
Factors underlying recommendations	Recommendations
IBCs, ILLCs, domestic trusts, international trusts and international foundations are not subject to adequate obligations to keep accounting records.	Belize should ensure that all entities are required to keep accounting records that are sufficient to record and explain all transactions and that at any time enable the financial position of the entity to be determined with reasonable accuracy. Belize should also ensure that there are effective penalties applicable for non-compliance.
The obligation to keep underlying documentation and accounting records applies only to taxpayers in Belize, excluding entities not in receipt of taxable income and tax exempt entities.	Belize should introduce binding requirements on all relevant entities to maintain relevant underlying documentation and accounting records for all at least 5 years. Belize should also ensure that there are effective penalties applicable for non-compliance.
Only taxpayers in Belize have an obligation to keep their accounting documentation for at least 5 years.	Belize should ensure that its laws require that accounting records, including underlying documentation, are kept for all entities for at least 5 years. Belize should also ensure that there are effective penalties applicable for non-compliance.

A.3. Banking information

Banking information should be available for all account-holders.

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

Record-keeping requirements (ToR A.3.1)

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

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

178. A financial institution acting as a trustee or providing services to a trust should obtain the name of the trust, nature and type of trust, country of establishment and the identity of the ultimate natural persons providing the funds, if different from the settlor. In addition, identification evidence for the settlor, protector, controller or other persons exercising effective control must be available (reg. 103, 104). For foundations, a financial institution must obtain identification evidence for the founder(s) and officer and council members who may be signatories for the accounts of the foundation (reg. 117). The Guidelines include no rules for penalties where these obligations are breached. It is unclear how the Central Bank can enforce the compliance of financial institutions without any legal provisions. The new Domestic Banks and Financial Institutions Act makes non-compliance with Guidelines an offence and punishable as such. This Act prescribes a fine of USD 10 000 for every contravention and a fine of USD 5 000 for every day that the contravention continues. The effectiveness of this new law will be assessed during the Phase 2 review of Belize.

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

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

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

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

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

Determination and factors underlying recommendations

Phase 1 determination
The element is in place.

B. Access to Information

Overview

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

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

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

has extended the powers available to the Commissioner to the competent authority for the DTC with Austria.

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

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

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).

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

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

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

191. First, the Income and Business Tax Act (IBTA, s. 95A) gives the Minister of Finance the power to enter into TIEAs which must be incorporated in an Order published in the Official Gazette. Section 95A also provides that "An Order made under this section may contain such ancillary

or consequential provisions for obtaining information or otherwise as may be necessary to give full effect to the tax information exchange agreement concerned”. The powers to access information for the purposes of EOI are found in these TIEA Orders which have the force of law (IBTA, s. 95A). In practice, all orders taken to date have the same wording and the competent authority is delegated to the Financial Secretary.

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

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

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

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

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

Secretary believes may have relevant information, to furnish such information or produce such document as may be required to comply with the request for information.

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

196. The Minister of Finance, the competent authority for the purposes of the DTC with Austria and the CARICOM Agreement, now may exercise all the powers available to the Commissioner of Income Tax under section 33 or any other provision of the Income and Business Tax Act to obtain information. Section 33 of the IBTA gives the Commissioner of Income Tax the power to enter any premises and audit or examine books and records, examine property described in an inventory and seize or retain such books, records, accounts and other documents that seem relevant to the proceedings. However, the authority is not delegated to any person; it is therefore expected that the Minister himself would make use of the gathering powers of the Commissioner. This seems rather improbable. The application of this provision is unclear as it seems impracticable in many respects. The Belizean authorities however indicate that there is little trade or travel between Austria and Belize and that the EOI provisions in the treaty are unlikely to be used intensively. The Belizean authorities similarly note that the CARICOM Agreement has not been used for EOI in practice. The implementation in practice of this provision will be reviewed in Phase 2 of the Peer review process.

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

197. 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.

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

Compulsory powers (ToR B.1.4)

199. Each TIEA Order stipulates penalties – fines and/or imprisonment – if a person who is required to provide information does not comply with a notice of the competent authority within the specified time, or otherwise

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

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

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

Secrecy provisions (ToR B.1.5)

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

Bank secrecy

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

information held by the Central Bank regarding banks and financial entities is confidential. There is no other provision on the confidentiality duty of the banks themselves on the affairs of their customers. However, section 84(7) reads, “The restrictions contained in this section or any other provisions of this Act on the disclosure of information shall not apply to a request for information pursuant to Tax Information Exchange Agreement or a Double Taxation Agreement entered into by Belize”. This provision was added because the previous banking law did not have any exceptions to the secrecy obligations that were placed upon banks besides to designated officers of the Central Bank and foreign supervisory or regulatory authorities for their lawful supervisory or regulatory purposes; to the licensee’s external auditors; or by court order. Belize has confirmed that the new DBFIA which came into force on 1 January 2013 will cover all information held by banks whether kept before or after the said date. In respect of the secrecy provisions contained in the International Banking Act, an exception is created that allows for disclosure of information that is lawfully required or permitted by any law of Belize. In any case, the DBFIA covers international banks also.

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

Professional secrecy

205. Pursuant to section 62(6) of the International Limited Liability Act, ILLCs confidential information includes any information or communication concerning the membership or beneficial ownership of any interest in an ILLC, the identity of any member or the management, business or financial affairs and transactions, assets, liabilities and the existence of or the contents of any documentation. The IBCA does not contain any confidentiality provision.

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

207. Concerning foundations, information regarding the identity of founders, beneficiaries etc. is available and must be disclosed upon a court order or written request of the Finance Intelligence Unit or other competent authority,

pertaining to the exchange of information for purposes of determining, assessing or collecting tax, the recovery and enforcement of tax claims or the investigation or prosecution of criminal tax matters (s. 104 c).

208. The TIEA Orders (para 4) provide that for EOI purposes no restriction on the disclosure of information contained in other laws shall apply, and that no person who discloses information breaches the confidentiality rules. The relationship is unclear between the TIEA orders and the laws governing the confidentiality of some information related to ILLCs and international trusts, as the relevant laws do not contain an explicit exception to the confidentiality obligation in favour of the competent authority, similar to what is done in some other laws such as the one on foundations. The Belizean authorities are of the view that para 4 of the TIEA orders unequivocally allows exchange of all information, notwithstanding what may be contained in any other law, as they follow the twin principles that a special law will prevail over general law and a law that is later in date will trump an older law. The effectiveness of this provision will be looked at during the Phase 2 review of Belize. Attorney-Client Privilege

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

210. The TIEA Orders explicitly provide that no restriction on the disclosure of information contained in any other law shall apply to a request for information pursuant to a TIEA and no suit for the breach of confidentiality or other such action shall lie against any person who discloses information, produces documents or renders other assistance in compliance with a request under the specific TIEA. Under the TIEA Orders, all professionals acting as nominees or in an agency or fiduciary capacity must provide information as requested by the Financial Secretary. This would apply even to lawyers when they act as nominees, agents or in any other fiduciary capacity (TIEA Orders, s. 4(1)).

Determination and factors underlying recommendations

Phase 1 determination
The element is in place.

B.2. Notification requirements and rights and safeguards

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

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

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

212. There are no special notification rights under Belizean laws. The TIEA Orders govern that every person who is required by the Financial Secretary to provide information must do so as soon as possible but not later than 30 days from the request for information (s. 4(3)).

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

Determination and factors underlying recommendations

Phase 1 determination
The element is in place.

C. Exchanging Information

Overview

214. Jurisdictions generally cannot exchange information for tax purposes unless they have a legal basis or mechanism for doing so. In Belize, the legal authority to exchange information is primarily derived from Tax Information Exchange Agreements (TIEAs) as well as from domestic law. A few double taxation conventions (DTCs) exist. This section of the report examines whether Belize has a network of information exchange arrangements that would allow it to achieve effective exchange of information in practice.

215. Belize's network for exchange of information covers 27 jurisdictions. 23 agreements are in force and consist of TIEAs, a multilateral double tax convention between members of the Caribbean Community, as well as DTCs with Austria, Switzerland and the United Kingdom. The DTCs with Switzerland and the United Kingdom, which are old, do not meet the standard (although there is now also a TIEA in place with the UK), and the DTC with Austria does not meet the standard since it does not permit the exchange of bank information. To further expand their EOI network, the Belizean authorities are considering signing the Multilateral Convention on Mutual Administrative Assistance.

216. Belize's EOI arrangements all contain confidentiality provisions which meet the international standard, and Belize's domestic legislation also contains relevant confidentiality provisions. In addition, Belize's EOI arrangements ensure that the parties are not obliged to provide information that would disclose any trade, business, industrial, commercial or professional secret or information the disclosure of which would be contrary to public policy.

217. There are no legal restrictions on the ability of Belize's competent authority to respond to requests within 90 days of receipt by providing the information requested or by providing an update on the status of the request. The present report does not address this element though, as this involves issues of practice that will be dealt with in the Phase 2 review.

C.1. Exchange of information mechanisms

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

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

219. To date, Belize has signed 15 TIEAs with Australia, Belgium, Denmark, Faroe Islands, Finland, France, Greenland, Iceland, Ireland, Mexico, the Netherlands, Norway, Portugal, Sweden and the United Kingdom. 12 of these are in force as of December 2012. Belize has ratified the other TIEAs (with Belgium, Portugal and Sweden), and is waiting for its treaty partners to complete their internal procedures.

220. In addition, Belize has signed a DTC with Austria (2002), the United Kingdom (1947) and benefits from an extension of the United Kingdom's DTC with Switzerland (1961). The DTCs with the United Kingdom and Switzerland do not meet the standards. However, with the conclusion of the TIEA with the United Kingdom, Belize is able to exchange information with this jurisdiction according to the standards.⁹ The DTC with Switzerland contains a number of restrictions, of which the most important are that the exchange of information is limited to "information as is necessary for carrying out the provisions of the Convention" and the absence of a provision corresponding with Article 26(5) of the OECD Model Tax Convention regarding bank information. Although many jurisdictions can exchange bank information on a reciprocal basis in the absence of this provision, Switzerland cannot. Belize holds the view that the treaty with Switzerland is not operative as it was entered into (by British Honduras) before independence in 1981. The DTCs with Switzerland and the United Kingdom are not further considered in this section.

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

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9. The DTC with the United Kingdom contains a restrictive EOI provision, since it covers only the information already at the disposal of the tax authorities.
 10. This agreement is a double tax convention between member states of the Caribbean Community (CARICOM); its full title is: Agreement among the Governments

Foreseeably relevant standard (ToR C.I.1)

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

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

224. The CARICOM agreement (Art. 24(1)) and the DTC with Austria provide for the exchange for information that is “necessary” for carrying out the provisions of the Agreement or of the domestic laws of the Contracting Parties. The commentary of Article 26(1) of the OECD Model Tax Convention refers to the standard of “foreseeable relevance” and states that the Contracting states may agree to an alternative formulation of this standard that is consistent with the scope of the Article, for instance by replacing “foreseeably relevant” with “necessary” or “relevant”. Belize has confirmed adhering to this interpretation. In view of this recognition, these instruments meet the “foreseeably relevant” standard.

225. Under Article 2 of the TIEAs concluded with Belgium and Portugal the requested party is under no obligation “to provide information which is neither held by the authorities nor in the possession of nor obtainable by persons who are within its territorial jurisdiction”. These provisions use the word “obtainable by” instead of the expression “in the control of” used in Article 2 of the OECD Model TIEA. However, the Belizean authorities consider that there is no material difference between the two terms “obtainable by” and “in the control of”. The interpretation and implementation of those provisions will be monitored in Phase 2 of the review process.

of the member states of the Caribbean Community for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, Profits or Gains and Capital Gains and for the Encouragement of Regional Trade and Investment. Only the Bahamas, Haiti, Montserrat and Surinam, within the CARICOM, have not signed the CARICOM agreement.

In respect of all persons (ToR C.1.2)

226. For exchange of information to be effective it is necessary that a jurisdiction's obligation to provide information is not restricted by the residence or nationality of the person to whom the information relates or by the residence or nationality of the person in possession or control of the information requested. For this reason, the international standard envisages that exchange of information mechanisms will provide for exchange of information in respect of all persons.

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

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

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

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

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

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

- Antigua and Barbuda do not have access to confidential information held by certain legal entities;
- In Barbados, the competent authorities have no powers to obtain confidential information covered by the International Trust Act and the Mutual Funds Act for exchange purposes;
- Grenada has enacted a new EOI Act providing for EOI to the international standard, however the CARICOM agreement is not a scheduled agreement to the Act, meaning that the information gathering powers under Grenada’s EOI Act do not apply to the CARICOM agreement;
- Dominica’s competent authority cannot access bank information due to secrecy provisions in that jurisdiction;
- For Guyana, there is no information available about the competent authority’s power to access bank information or to access ownership, identity and accounting information for the purpose of exchange of information;
- Trinidad and Tobago are only able to access information for the purposes of their TIEA with the United States; therefore, they will not be able to exchange all information under the CARICOM Agreement.

232. It is recommended that Belize work with the parties to the CARICOM Agreement to ensure that exchange of information based on this instrument complies with the required standard.

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

Absence of domestic tax interest (ToR C.1.4)

234. The concept of “domestic tax interest” describes a situation where a contracting party can only provide information to another contracting party if it has an interest in the requested information for its own tax purposes. An inability to provide information based on a domestic tax interest requirement is not consistent with the international standard. Contracting parties must use

their information gathering measures even though invoked solely to obtain and provide information to the other contracting party.

235. All of the TIEAs and the DTC with Austria concluded by Belize explicitly permit the information to be exchanged, notwithstanding that it may not be required for a domestic tax purpose. In addition, Belize's TIEA Orders do not constrain the competent authority's access powers by a requirement that the information must be required for a domestic tax purpose. Of the parties of the CARICOM Agreement, both Jamaica and Trinidad and Tobago can obtain information only from the taxpayers who are under examination or in the course of their assessment. These domestic tax interests could be an obstacle to the effective exchange of information as reciprocity would not apply.

Absence of dual criminality principles (ToR C.1.5)

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

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

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

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

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

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

240. In some cases, a contracting party may need to receive information in a particular form to satisfy its evidentiary or other legal requirements. Such formats may include depositions of witnesses and authenticated copies of original records. Contracting parties should endeavour as far as possible to

accommodate such requests. The requested party may decline to provide the information in the specific form requested if, for instance, the requested form is not known or permitted under its law administrative practice. A refusal to provide the information in the form requested does not affect the obligation to provide the information.

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

In force (ToR C.1.8)

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

243. Belize has concluded EOI agreements with 27 jurisdictions, of which 11 TIEAs, 3 DTCs and the CARICOM Agreement have been brought into force as of December 2012.¹¹ Belize has ratified other TIEAs that are awaiting ratification or notification by the partner jurisdiction, namely Belgium, Portugal, and Sweden. The mentioned jurisdictions have not yet notified Belize that their internal procedures for bringing the TIEAs in force have been completed.

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

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

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

246. Section 50(6) of the IBTA states that the Minister shall make regulations for carrying out the provisions of any arrangement made by Belize with any other jurisdiction. As has been discussed earlier in this report, such

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

regulations have been made in respect of all agreements including the DTC with Austria and the CARICOM Agreement to give them effect through domestic law.

Determination and factors underlying recommendations

Phase 1 determination
The element is in place.

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

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

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

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

249. Belize's network of EOI agreements covers all of its key trading partners with the exception of Canada, Guatemala and the United States. Belize has advised that some significant trade partners are currently negotiating EOI instruments with Belize. Belize has also indicated that it has approached some jurisdictions to negotiate EOI agreements and the matter is pending with those jurisdictions. The Belizean authorities are also considering signing the Multilateral Convention on Mutual Administrative Assistance.

250. Ultimately, the international standard requires jurisdictions to exchange information with their relevant partners, meaning those partners who are interested in entering into an exchange of information agreement. During the course of the assessment, no jurisdiction has advised that Belize had refused to enter into negotiations or conclude an EOI agreement.

Determination and factors underlying recommendations

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

C.3. Confidentiality

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

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

251. Governments would not engage in information exchange without the assurance that the information provided would only be used for the purposes permitted under the exchange mechanism and that its confidentiality would be preserved. Information exchange instruments must therefore contain confidentiality provisions that spell out specifically to whom the information can be disclosed and the purposes for which the information can be used. In addition to the protections afforded by the confidentiality provisions of information exchange instruments, jurisdictions with tax systems generally impose strict confidentiality requirements on information collected for tax purposes.

Exchange of information mechanisms

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

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

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

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

Belize legislation

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

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

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

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

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

All other information exchanged (ToR C.3.2)

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

260. The confidentiality provisions in Belize’s EOI agreements and domestic law do not draw a distinction between information received in response to requests and information forming part of the requests themselves. As such, these provisions apply equally to all requests for such information, background documents to such requests, and any other document reflecting such information, including communications between the requesting and requested jurisdictions and communications within the tax authorities of either jurisdiction.

Determination and factors underlying recommendations

Phase 1 determination
The element is in place.

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

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

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

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

privilege. Attorney-client privilege is a feature of the legal systems of many jurisdictions.

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

Determination and factors underlying recommendations

Phase 1 determination
The element is in place.

C.5. Timeliness of responses to requests for information

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

Responses within 90 days (ToR C.5.1)

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

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

265. However, as regards the timeliness of responses to requests for information, the assessment team is not in a position to evaluate whether this element is in place, as it involves issues of practice that are dealt with in the Phase 2 review.

Organisational process and resources (ToR C.5.2)

266. A review of Belize’s organisational process and resources will be conducted in the context of the Phase 2 review.

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

267. There are no other laws or regulatory practices in Belize that impose restrictive conditions on exchange of information.

Determination and factors underlying recommendations

Phase 1 determination
The assessment team is not in a position to evaluate whether this element is in place, as it involves issues of practice that are dealt with in the Phase 2 review.

Summary of Determinations and Factors Underlying Recommendations

Determination	Factors underlying recommendations	Recommendations
Jurisdictions should ensure that ownership and identity information for all relevant entities and arrangements is available to their competent authorities (<i>ToR A.1</i>)		
Phase 1 determination: The element is in place but certain aspect of the legal implementation of the element needs improvement.	Ownership and identity information may not be available in all instances in the cases of share warrants to bearer.	Belize should take necessary measures to ensure that appropriate mechanisms are in place to identify the owners of share warrants to bearer.
Jurisdictions should ensure that reliable accounting records are kept for all relevant entities and arrangements (<i>ToR A.2</i>)		
Phase 1 determination: The element is not in place.	IBCs, ILLCs, domestic trusts, international trusts and international foundations are not subject to adequate obligations to keep accounting records.	Belize should ensure that all entities are required to keep accounting records that are sufficient to record and explain all transactions and that at any time enable the financial position of the entity to be determined with reasonable accuracy. Belize should also ensure that there are effective penalties applicable for non-compliance.

Determination	Factors underlying recommendations	Recommendations
	The obligation to keep underlying documentation and accounting records applies only to taxpayers in Belize, excluding entities not in receipt of taxable income and tax exempt entities.	Belize should introduce binding requirements on all relevant entities to maintain underlying documentation and accounting records for at least 5 years. Belize should also ensure that there are effective penalties applicable for non-compliance.
	With the exception of taxpayers in Belize, there are currently either no, or insufficient penalties for non-compliance with obligations to maintain accounting records by all types of entities and arrangements	Belize should ensure that there are sufficient penalties applicable to all persons for non-compliance with obligations to maintain accounting records by all types of entities and arrangements. Belize should also ensure that there are effective penalties applicable for non-compliance.
Banking information should be available for all account-holders (<i>ToR A.3</i>)		
Phase 1 determination: The element is in place.		
Competent authorities should have the power to obtain and provide information that is the subject of a request under an exchange of information arrangement from any person within their territorial jurisdiction who is in possession or control of such information (irrespective of any legal obligation on such person to maintain the secrecy of the information) (<i>ToR B.1</i>)		
Phase 1 determination: The element 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 (<i>ToR B.2</i>)		
Phase 1 determination: The element is in place.		
Exchange of information mechanisms should allow for effective exchange of information (<i>ToR C.1</i>)		
Phase 1 determination: The element is in place.		

Determination	Factors underlying recommendations	Recommendations
The jurisdictions' network of information exchange mechanisms should cover all relevant partners (<i>ToR C.2</i>)		
Phase 1 determination: The element is in place.	Belize is actively trying to sign EOI instruments to the standard.	Belize should continue to develop its network of EOI mechanisms with all relevant partners.
The jurisdictions' mechanisms for exchange of information should have adequate provisions to ensure the confidentiality of information received(<i>ToR C.3</i>)		
Phase 1 determination: The element is in place.		
The exchange of information mechanisms should respect the rights and safeguards of taxpayers and third parties (<i>ToR C.4</i>)		
Phase 1 determination: The element is in place.		
The jurisdiction should provide information under its network of agreements in a timely manner (<i>ToR C.5</i>)		
The assessment team is not in a position to evaluate whether this element is in place, as it involves issues of practice that are dealt with in the Phase 2 review.		

Annex 1: Jurisdiction’s Response to the Review Report¹²

Belize is in general agreement with the Phase 1 report of Belize, as approved by the PRG at the Kuala Lumpur meeting, so that Belize can advance to Phase 2 review. We are most grateful to the assessment team for their understanding and assistance in the entire process.

We intend to study the report carefully and take all necessary measures to remedy the deficiencies pointed out by the assessment team in our legal framework, particularly, Element A2 (Accounting Information) which is said to be “not in place”. We will also follow up with countries with whom we have already initialled TIEAs (Canada, South Africa, Italy, Poland, India and Czech Republic) to formally sign the TIEAs as soon as possible. In addition, we will approach the United States once again to sign a TIEA with Belize.

Belize has already applied to the OECD Secretary General to allow Belize to sign the Multilateral Convention on Mutual Administrative Assistance in Tax Matters. We intend to follow up with the OECD so that Belize becomes a party to the Convention without delay.

Finally, Belize reiterates its commitment to the work of the Global Forum to bring about transparency and effective exchange of information in tax matters.

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

Annex 2: List of Exchange of Information Mechanisms

No.	Jurisdiction	Type of EOI agreement	Date signed	Date In force
1	Antigua and Barbuda	CARICOM Agreement	06-Jul-1994	12-Aug-1996
2	Australia	TIEA	31-Mar-2010	11-Jan-2011
3	Austria	DTC	08-May-2002	01-Dec-2002
4	Barbados	CARICOM Agreement	06-Jul-1994	12-Aug-1996
5	Belgium	TIEA	20-Dec-2009	Ratified by Belize
6	Denmark	TIEA	15-Sep-2010	9-March-2011
7	Dominica	CARICOM Agreement	06-Jul-1994	12-Aug-1996
8	Faroe Islands	TIEA	15-Sep-2010	26-Dec-2012
9	Finland	TIEA	15-Sep-2010	26-Feb-2011
10	France	TIEA	22-Nov-2010	19-Nov-2011
11	Greenland	TIEA	15-Sep-2010	24-March-2012
12	Grenada	CARICOM Agreement	06-Jul-1994	12-Aug-1996
13	Guyana	CARICOM Agreement	06-Jul-1994	12-Aug-1996
14	Iceland	TIEA	15-Sep-2010	3-Nov-2012
15	Ireland	TIEA	18-Nov-2010	11-April-2011
16	Jamaica	CARICOM Agreement	06-Jul-1994	12-Aug-1996
17	Mexico	TIEA	17-Nov-2010	9-Aug-2012
18	Netherlands	TIEA	04-Feb-2010	01-Jan-2011
19	Norway	TIEA	15-Sep-2010	26-Feb-2011
20	Portugal	TIEA	22-Oct-2010	Ratified by Belize

No.	Jurisdiction	Type of EOI agreement	Date signed	Date In force
21	Saint Kitts and Nevis	CARICOM Agreement	06-Jul-1994	12-Aug-1996
22	Saint Lucia	CARICOM Agreement	06-Jul-1994	12-Aug-1996
23	Saint Vincent and the Grenadines	CARICOM Agreement	06-Jul-1994	12-Aug-1996
24	Sweden	TIEA	15-Sep-2010	Ratified by Belize
25	Switzerland	DTC	01-Jan-1961	01-Jan-1961
26	Trinidad and Tobago	CARICOM Agreement	06-Jul-1994	12-Aug-1996
27	United Kingdom	DTC	01-Jan-1947	01-Jan-1947
	United Kingdom	TIEA	25-Mar-2010	01-Aug-2011

Annex 3: List of all Laws, Regulations and Other Relevant Material

Commercial Laws

Companies Act Chapter 250 Revised Edition 2000
International Business Companies Act Chapter 270 Revised Edition 2000
International Foundations Act, 2010
International Limited Liability Companies Act, 2011
Limited Liability Partnership Act Chapter 258 Revised Edition 2000
Mutual Funds Act Chapter 268 Revised Edition 2000
Mutual Funds Regulations Statutory Instrument No. 113 of 2000
Partnership Act Chapter 259 Revised Edition 2000
Protected Cell Companies Act Chapter 271 Revised Edition 2000
Public Trustee Act Chapter 199
Trusts Act Chapter 202 Revised Edition 2000
Trusts (Amendment) Act, 2007
Trust Corporations Act Chapter 200 Revised Edition 2000

Taxation Laws

Income and Business Tax Act Chapter 55 Revised Edition 2000 including
TIEA Orders
General Sales Tax Act, 2005 (No. 49 of 2005)

Banking Laws

Banks and Financial Institutions Act Chapter 263 Revised Editions 2000
International Banking Act Chapter 267 Revised Edition 2000
Belize Offshore Practitioners Act Chapter 273 Revised Edition 2000
Domestic Banks and Financial Institutions Act, 2012 (No. 11 of 2012)

Anti-Money Laundering Laws

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

Other Laws

Business Names Act 247 Revised Edition 2000
Interpretation Act Chapter 1 Revised Edition 2000
International Financial Services Commission Act Chapter 2000 Revised Edition 2000
International Financial Services Commission (Amendment) Act, 2007
International Financial Services Commission (Licensing) Regulations, 2007
Financial Intelligence Act, 2002 (No. 35 of 2002)
Trade Licensing Act Chapter 66 Revised Edition 2000

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

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Global Forum on Transparency and Exchange of Information for Tax Purposes

PEER REVIEWS, PHASE 1: BELIZE

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

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

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

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

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

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