

## **Annex**

To facilitate the provision of information on legislation, policies, practices and institutions on promoting beneficial ownership information transparency, including existing registry(ies) and mechanism(s) to make requests for such information, the Secretariat has prepared the following questionnaire as a guide that States parties may wish to use.

Collecting the information for this questionnaire may require cooperation by several different agencies/authorities. States parties may wish to send the questionnaire to the following agencies/authorities, depending on their national system for obtaining and recording information on legal persons and legal arrangements in their country, e.g.:

- Company registry and any other relevant registry(ies)
- Agency(ies)/authority(ies)/body(ies) responsible for obtaining and maintaining beneficial ownership information
- National competent authorities responsible for international cooperation in criminal matters, including freezing and confiscation of criminal proceeds

## **Questionnaire on Beneficial Ownership Information**

### **Contact Information**

## 1. Definition of beneficial ownership & mechanisms for obtaining beneficial ownership information

1.1 Please provide the definition of “beneficial ownership” in your country for: (a) legal persons; and (b) legal arrangements, including the relevant legislation (if applicable). Please describe criteria and thresholds that are applied to determine beneficial ownership, including any criteria for exercising control without legal ownership (e.g. voting rights, right to appoint or remove board of directors).

Section 7 of the Prohibition of Money Laundering Law-2000, (PMLL) defines “*beneficial owner*” as

"a person for whom or for whose benefit the property is being held, the transaction is being undertaken, or who has the ability to direct the disposition, whether directly or indirectly; and if the beneficiary is a corporation, also the controlling person in the corporation;"

Section 1 of the PMLL defines “controlling person” as

"(i) an individual who has the power to direct the activities of a corporation, alone or with/through others, directly or indirectly, except the power derived solely from fulfilling a position as a senior officer in a corporation ;

(ii) without precluding the previous rule, an individual will be considered a controlling person of a corporation if he holds 25% or more of any kind of controlling measures, and if there is no other person holding controlling measures of the same kind in an amount exceeding his share of holdings; and

(iii) without precluding the previous rules, in a corporation where is no individual as defined above, the controlling person will be the chairman of the board of directors or an equivalent senior officer and the managing director of the corporation, and if there are no individuals holding those positions, the senior officer that holds an effective control over the corporation."

According to this definition, the FIs must record a name of a natural person as the beneficial owners of a legal person or legal arrangement of any kind and therefore must understand the structure of ownership of complex legal person.

The definition includes a presumption that a single person holding 25% or more of the controlling shares will be seen as a "controlling person", when there is no other person holding an exceeding amount of shares of the same kind. In addition, when there is no single person in possession of one of the two definitions above, the CEO, chairperson of the board of directors or other equivalent officer who has the ultimate effective control of the legal person will be considered a "controlling person".

## **2. Access to basic information on legal persons**

2.1 Please describe the process for obtaining basic information on legal persons created or registered in your country, including the role of the company registry.

Legal persons and arrangements are required to be registered with the Israel Corporation Authority (**ICA**) (including Registrar of Companies, Registrar of Partnership, Registrar of Public Trusts, or Registrar of Associations) and the Israel Tax Authority (**ITA**).

Israel requires that all companies created in the country are registered in a company registry. Information on the creation of companies and partnerships is publicly available on ICA's website, which includes procedures, guidelines, required documentation, application forms and applicable legal provisions, as well as the list of registered companies and partnerships. The website also specifies the information and procedures involved for making changes to the registered information held by the ICA after incorporation.

By virtue of section 43 of The Companies Law all registered information in the Companies Registry is available to the public. A similar provision in section 70 of the Partnerships Ordinance pertains to partnerships. Information on the company/partnership name, registration date and number, legal form and status, and address of the registered office is publicly available free of charge. Information on current share capital and the identity of shareholders and directors and equivalent data for partnerships is publicly available subject to a small fee, while a copy of the full docket of the company/partnership, including its constitutional documents, is also available for a small fee (for a file sent by email or a CD-ROM).

The information held by the ICA regarding companies and partnerships includes the following:

1. A file listing all the active registered companies (name, company number and registration date) and a file listing all companies that are in a process of voluntary dissolution, are free to download from the ICA's website. The files are updated once a week.
2. It is possible to locate, without charge, by using the company number or name of the company or the partnership, a company or a partnership in the database, including those that have been dissolved or stricken off the registry.
3. Basic information about a company or a partnership can be downloaded from the ICA's website without charge and include: type of the company (private, public, governmental etc.), the status of the company or partnership (active, in dissolution, dissolved, etc.), the address of the company or partnership, the objectives of the company or partnership, details regarding the limitation of liability, yearly fees and in the case of a company also the date of the submission of the last annual report.
4. A digitalized extract of the company/partnership details can be obtained which include all the basic information and the details of the shareholders and directors, share capitals and charges.
5. A copy of the certificate of incorporation of the company or the partnership.
6. Documents from the company/partnership file –it is possible to receive (on a disc or a file sent by email), all the scanned documents in the company's file including the registration application, annual reports and periodic reports on changes concerning shareholders, directors, capital, by-laws or address, as well as information regarding charges. It is also possible to receive, for a fee and in the same manner, a file containing all documents in the partnership's file including the application for registration and the partnership agreement and periodic reports on changes on partners' details, change of address and changes to the partnership agreements (in a limited partnership).
7. Where shares of a company are held by a trustee, the fact of the trusteeship must be declared to the company and a record made in the companies register at the company – Internal Shareholder Register, that the trustee is a shareholder.

Companies are required to have a registered office in Israel (and the provision of the address to the Registrar); keep certain documents, including the articles of association (setting out the company's name, legal form and status, and basic regulating powers); the register of shareholders (and, for a public company, the register of substantial shareholders) and the register of directors (sections 123, 124, 127, 128 of the Companies Law). Section 130 specifies that the information to be recorded in the register of shareholders (which must be kept in the registered office, in Israel) includes the amount of shares and the class of shares held by each shareholder. Section 82 of the Companies Law permits a company to determine within its articles of association different voting rights attached to different classes of shares and that, if no such determination is made, specifies that each share will count as one vote.

Section 69(b) of the Partnerships Ordinance requires partnerships to keep and display in their main place of business a copy of all certificates received from the registrar that confirm the information reported by the partnership to the registry. Partnerships must provide information to the registrar at the time of formation and update the information within seven days of any change. While partnerships do not have an obligation to maintain their main place of business within Israel, (i) all information regarding the partners must be reported to the registrar, which maintains its registry within Israel; and (ii) an examination conducted by the ICA showed that 100% of the registered partnership provided an address in Israel as their main place of business.

2.2 Please list the **categories** of basic information on legal persons that is obtained and recorded by the company registry (or other relevant registries), e.g. name of entity, date of incorporation, tax ID number, etc.

The categories of basic information on legal persons that are obtained and recorded by the companies' registrar are:

- Legal entity's details: company's name (in Hebrew and English), formation date, company's description, company's purpose, whether it is a SOE and whether it is obliged in paying fees (the kind of fees, amounts and the due date).
- The registered address.

- Extra activities: status of applications to the Registrar,
- The full company extract contains: detailed information on the composition of capital, details of the directors, shareholders and liens.<sup>1</sup>
- The full partnership extract: detailed information, such as partners ID or corporation numbers, addresses, sums of investment and type of partner-general or limited. The extract does not include information on partnerships reports. A separate payment could be made to view a file.<sup>2</sup>

The categories of basic information on legal persons that are obtained and recorded by the association registrar and the charitable company registrar are:

- General information on the association;
- Organization number, year of foundation, number of members, number of employees, number of volunteers,
- Official purposes of the association, field of activity, activities;
- Donations from abroad, other incomes, allowances and supports from the state and target group, annual and financial reports, financial data and the five highest-paid employees of the NPO.

The table below articulates where the various provisions on registration applicable to this criterion can be found in the Companies and Partnerships Law (and their respective regulations).

<b>FATF requirement for what should be registered at a registry</b>	<b>Companies</b>	<b>Partnerships</b>
<b>Company name</b>	Articles 18, 25 - 29; Regulation 1 and Form 1 in the Annex of the Reporting Regulations	Articles 7, 10-12; Regulation 4 and Form 1 in Annex 2 of the Partnerships Regulations
<b>Proof of incorporation</b>	Article 10, provided by the Registrar	Articles 8, 69, provided by the Registrar
<b>Legal form and status</b>	Articles 38, 140, 343	Articles 7, 58, 70; Regulation 4 and Form 1 in Annex 2 of the Partnerships Regulations
<b>Address of registered office</b>	Article 123; Regulation 1 and Form 1 in the Annex of the Reporting Regulations	Article 7; Regulation 4 and Form 1 in Annex 2 of the Partnerships Regulations
<b>Basic regulating powers</b>	Article 8, 18-19, 23 regarding bylaws; Regulation 1 and Form 1 in the Annex of the Reporting	Article 62 regarding limited partnerships; Default provisions throughout

[https://www.gov.il/en/service/company\\_extract](https://www.gov.il/en/service/company_extract)<sup>1</sup>

Ibid.<sup>2</sup>

	Regulations; Default provisions throughout Company Law if provisions are not determined otherwise in the bylaws	ordinance if provisions are not determined otherwise in the partnership agreement (Article 30 of the Partnerships Ordinance).
<b>List of directors</b>	Article 8; Regulation 1 and Form 2 in the Annex of the Reporting Regulations	Article 7 – all partners; Regulation 4 and Form 1 in Annex 2 of the of the Partnerships Regulations

2.3 Is the company registry available publicly & online in your country? **YES** / NO

If **YES**, please provide links to the company registry and any other relevant registries of legal persons, or provide details about how the public can access them.

**YES**

ICA's website :

[https://www.gov.il/en/departments/israeli\\_corporations\\_authority/govil-landing-page](https://www.gov.il/en/departments/israeli_corporations_authority/govil-landing-page)

(for specific information see: the full extract:

[https://www.gov.il/en/service/company\\_extract](https://www.gov.il/en/service/company_extract); list of companies:

[https://data.gov.il/dataset/ica\\_companies/resource/f004176c-b85f-4542-8901-](https://data.gov.il/dataset/ica_companies/resource/f004176c-b85f-4542-8901-7b3176f9a054)

[7b3176f9a054](https://data.gov.il/dataset/moj-amutot/resource/be5b7935-3922-45d4-9638-08871b17ec95); list of NPO's: [https://data.gov.il/dataset/moj-](https://data.gov.il/dataset/moj-amutot/resource/be5b7935-3922-45d4-9638-08871b17ec95)

[amutot/resource/be5b7935-3922-45d4-9638-08871b17ec95](https://data.gov.il/dataset/moj-amutot/resource/85e40960-5426-4f4c-874f-2d1ec1b94609); list of charitable

companies: [https://data.gov.il/dataset/moj-amutot/resource/85e40960-5426-4f4c-874f-](https://data.gov.il/dataset/moj-amutot/resource/85e40960-5426-4f4c-874f-2d1ec1b94609)

[2d1ec1b94609](https://data.gov.il/dataset/moj-amutot/resource/85e40960-5426-4f4c-874f-2d1ec1b94609))

The "GuideStar" website, which is managed by the ICA, contains the information regarding Non-Profit Organization (NPOs – Amutot) and charitable companies in Israel and is available to the public with no fee ([http://www.guidestar.org.il/GS\\_About?lang=iw](http://www.guidestar.org.il/GS_About?lang=iw)).

The data on Guidestar is based on governmental sources and official reports.

### 3. Access to beneficial ownership information of legal persons

3.1 Through which mechanism(s) can competent authorities (such as law enforcement, police, financial intelligence unit and tax agencies) access *beneficial ownership information* on companies and other legal persons created or registered in your country. Please select all that apply.

- Through a registry/registries with beneficial ownership information

NO. Israel has established a dedicated inter-agency committee that is examining the establishment of a beneficial ownership registry for legal entities. See more information regarding the committee in our answer to question 7.1.

□ **Through a different mechanism**

Information held by the company and partnership registries is publicly available and therefore also to competent authorities. In addition, the Tel Aviv Stock Exchange (TASE) holds information on basic and beneficial ownership of interested parties of public, listed legal persons.

**Competent Law Enforcement Agencies (LEAs)** conducting investigations are empowered exercise a variety of investigative powers, often requiring a court order, which include: production of records, search of persons and premises, taking witness statements and seizing and obtaining evidence.

There are a number of mechanisms through which LEAs can identify whether natural or legal persons hold or control accounts, none of which require prior notification to the owner. The Israel National Police (INP) and ITA can compel the production of any financial statement. MIVZAK is a digital system that can be used to compel FIs to produce information pertaining to bank accounts, including all owners registered on the account. LEAs have also the technological tools and access to a wide variety of databases, including open public registers (e.g. Registrar of Pledges, Land Registration Office). Police can also receive information on bank accounts and controlling persons or legal entities from the Israel Money Laundering and Terror Financing Prohibition Authority (IMPA), ITA and regulators (e.g. Companies Register). In addition to banks, ISA officers may also require information from Stock Exchange Members.

**Supervisors** are provided with broad powers to supervise and ensure compliance by FIs with AML/CFT requirements, including powers to demand and seize information and conduct inspections, either with or without a warrant. Supervisors have broad powers to request documents and information for monitoring only FIs' AML/CFT compliance purposes

without a court order, so long as the premises concerned are not used exclusively for residential purposes (s.11N(b) to (d) of the PMLL). In addition, the general supervisory powers under respective sectoral laws and regulations mentioned under are also applicable.

**Mechanism:** Israel does not require legal entities or respective registrars to hold beneficial ownership information as such, but rather takes a holistic approach, relying on several mechanisms, which involve institutions actively obtaining and verifying beneficial ownership information (mainly through information obtained by the ITA information obtained by FIs and DNFBPs through the obligatory CDD process, information held by company, and information available on a stock exchange).

First, beneficial ownership information is held by FIs and DNFBPs under the CDD process. Lawyers subject to CDD obligations are always involved with the establishment of a company or partnership, and submission of the application to the registrar by a person who is not a lawyer (subject to CDD obligations) is very rare, particularly in recent years, as lawyers may submit all registration forms online, with designated digital certificates - under regulation 16A-16B of the Companies Regulations the online application to register a legal entity must be submitted by a lawyer with the rarely used exception that a natural person who is the sole shareholder and director in the company to be established may submit the application for himself after identifying himself with a personal electronic certificate. Even under this exception, a lawyer is still required in the process to verify the shareholder's signature on the articles of association. See below regarding the requirement that a lawyer (or an accountant, for annual reports), certifies the signatures on all forms submitted to the ICA regarding ownership. Furthermore, as the ITA requires any entity reporting to it to maintain an Israeli bank account, it would, in the view of the Israeli authorities, be practically impossible for an Israeli legal entity to conduct any financial activity without opening an account with an Israeli bank (who is subject to CDD obligations).

Second, the ITA obtains significant information on all legal persons which are obliged to report to it (due to having income, owning property, having

employees in Israel or buying/selling real estate in Israel), including a requirement for information to be provided to the ITA annually on the directors, shareholders and beneficial owners. The ITA requires the details of an Israeli bank account as part of the registration process of a legal person and is proactive in checking all relevant parties, including beneficial owners of legal persons and legal arrangements. The Israeli authorities consider that it is practically impossible for any Israeli entity to conduct any financial activity without providing beneficial ownership information to the ITA .

Third, in relation to public companies, under Regulation 33(c) of the Securities Regulations (Periodic and Immediate Reports) a company, the securities of which were offered to the public (and so long as such securities are held by the public) must file reports on its Interested Parties (including holders of 5% or more of the issued share capital or voting power and persons holding the power to nominate one or more of the directors or the general manager) with the ISA (and with the TASE if the company is a listed company). While not aimed at beneficial owners it is possible these provisions on legal owners and controllers might include beneficial owners. The information includes the fact of the securities being held by a trustee if that is the case, together with basic information on the trust and the beneficiary. Shareholdings in listed public companies or listed public limited partnerships where the shares/partnership interests are not held by “interested parties” are held through TASE members who are required to obtain beneficial ownership from their clients under the CDD obligations.

The above mechanisms are supported by certain verification applied with regard to the legal ownership aspect of beneficial ownership of shareholdings in companies and partnerships by the registrar of companies/partnerships respectively, where the legal owners of those companies (or partners in the partnerships) are individuals or where the ownership chain consists only of registered Israeli companies/partnerships or individuals; in such cases, identification details (name, ID number and address) of the beneficial owner can be traced by the registrar. With reference to section 23 of the Companies Law, the articles of association of a company must be signed by the first shareholders and specify the shares

allotted to each shareholder, together with the name, ID number and address of each shareholder; a lawyer must verify the identity of the signing shareholders (Regulation 1 and Form 1 in the Annex of the Companies Regulations) and sign the articles to this effect. Furthermore, in accordance with section 8(2) of the Companies Law, the first directors of a company must provide a statement confirming their ability to be directors. The statement must be verified by a lawyer (Regulation 1 and Form 2 in the Annex of the Companies Regulations) and provided to the Registrar. The initial registration form of a partnership must include the above mentioned identification details regarding all partners and their signatures on such form must be verified by a lawyer; any subsequent changes to the registration must include identification details of new/changed partners and signatures of a partner, verified by a lawyer (Articles 7, 9, 59 and 60 of the Partnerships Ordinance; Regulation 4 and forms 1 and 2 in Annex 2 of the Partnerships Regulations) .

Where shares are held by trustees the fact of the trusteeship must be notified to the company under section 131 of the Companies Law and recorded in the register of shareholders maintained at the company's registered office under section 124, which is publicly available; such indication is also made to the registrar of companies, if an application or report has been submitted in the online system, and subsequently reflected in the publicly available information. In turn – FIs, DFNFBPs and the ITA are made aware of such holdings by a trustee and inquire regarding the beneficial ownership as part of the CDD procedures.

Substantially all of the financial activity in Israel goes through reporting and accountable FIs & DNFNBPs, and entails reporting obligations towards the ITA. Therefore, substantially all legal persons that have financial activity or assets are subject to the above mechanisms which complement each other and include procedures for active solicitation and verification of the beneficial ownership information.

- Competent authorities do not currently have access to beneficial ownership information

If **REGISTRY**, please provide further details on such registry(ies) including:

- Authority(ies)/agency(ies) responsible for obtaining and maintaining beneficial ownership information and for maintaining the register(ies). Please list if more than one;
- Categories of beneficial ownership information (data fields) obtained, recorded and maintained on the registry(ies), e.g. name, nationality, date of birth, address, etc.;
- Types of legal entities covered within the scope of the beneficial ownership registry(ies), including any exempt entities;
- Details of the registry's(ies') access policy:
  - Is the information on the registry(ies) available to the public? YES / NO
    - If YES, please include a link(s) to the registry(ies).
    - If NO, please list the authorities/agencies that have access to this information, or that can request access.  
**See 3.1 above.**
  - Does accessing beneficial ownership information in the registry(ies) entail any costs?
  - Does the registry(ies) provide features to search information by different types of information, e.g. legal entity name, name of director, name of beneficial owner, by first or last name, by business address, by registered agent? Is it possible to search for a combination of information (Boolean searches)?
- Frequency of updates of information and triggers for updates;
- Any mechanisms to verify beneficial ownership information submitted to the registry(ies) by legal persons or their representatives (if they exist).

3.2 Please describe any other sources (mechanisms) through which competent authorities/agencies can access beneficial ownership information in your country. In each case, please describe how beneficial ownership information on companies

and other legal entities is made available to authorities and/or the public (if applicable).

*Examples may include through private-public partnerships (e.g. involving financial institutions, notaries and/or corporate service providers), though stock exchange or security exchange commission, or disclosure obligations for participation in public procurement processes, etc.*

In respect of legal persons, access to the registers of companies and partnerships held by the ICA is simple and fast, and have been routinely used by other authorities (e.g. ITA), as well as FIs (especially banks). Registered information is adequate, accurate and current, as confirmed by ITA, IMPA, and LEAs.

Banks obtain all required CDD, including in relation to beneficial owners of legal persons. Covered DNFBPs (including lawyers and accountants) are aware of the requirement to understand who is behind each transaction and ensure that appropriate CDD is conducted on the beneficial owner. Information from banks, lawyers and accountants is available promptly. Supervisors have timely access to information held by FIs and DNFBPs.

The ISA and the ITA work closely together on cases of fraud and market manipulation; obtaining good quality beneficial ownership information is a vital part of achieving success in these cases. The combination of tools used by the two authorities is sophisticated, including detailed analysis of transactions and trading patterns, leveraging of IP addresses and use of telephone system information. Both authorities focus significant effort on looking for connections between beneficial owners and they have been able to find them.

In addition to the joint cases with the ISA, the ITA undertakes investigations for its own tax purposes or it needs to obtain beneficial ownership information to meet a TIEA request. It succeeds in obtaining adequate, accurate and timely information on beneficial owners promptly and which meets operational needs. The ITA considers information from Israeli banks to be accurate and complete in virtually

all cases; it also matches the information it holds with the databases provided by the ICA. If necessary, in order to check data, bank staff are interviewed, security camera film is reviewed, other parties to transactions are met, information is obtained from IMPA, as well as other parties contacted. The ITA has responded successfully to TIEA requests for both civil and criminal cases.

Access to basic and beneficial ownership information held by Business Service Providers who are lawyers is feasible and prompt upon use of a court order. Client privilege is not considered as a hurdle by the authorities. Authorities (e.g. INP and ITA) also confirm the reliability and good quality of information obtained from lawyers, which includes all necessary records, including agreements, transaction details, invoices and emails, as well as beneficial ownership information.

IMPA, LEAs and the State Attorney Office (SAO) have confirmed that beneficial ownership information is available within Israel; that they have timely access to the information; that it is adequate, accurate and current; and that it supports the large number of successful cases against legal persons or which otherwise include legal persons. Individual authorities have significant information available as a result of the proactivity of the authorities and that this is leveraged by close co-operation and sharing of intelligence. As part of this pattern of connectivity between authorities, IMPA, like the ITA, has direct access to the ICA's updated database. In addition, LEAs have access, upon request, to IMPA's database, which contains information on beneficial owners that was received from FIs as part of their reports (both UARs and CTRs), as well as information received from foreign FIUs. LEAs can also receive beneficial ownership information through their foreign counterparts.

With respect to legal arrangements - The ICA maintains a database of some public trusts, which includes information on settlors; trustees; beneficiaries; any other beneficial owners; and the types, purpose and establishment date of the trust. In addition, the ITA holds significant information on trusts including the purposes of the trusts and the

beneficiaries in a single database, which is available to its investigators and for sharing with other authorities upon request.

The text above on timely access to basic and beneficial ownership information for legal persons applies equally to trusts with the exception that the ITA has devoted greater focus on trust structures.

IMPA, LEAs and the SAO also have had timely access to basic and beneficial ownership information, and therefore have been able to pursue investigation involving trusts.

In addition, LEAs in Israel can obtain BO information when a foreign company or trust is involved, through international cooperation, MLA or informal cooperation. For example, in a certain case, information received from a foreign country assisted in identifying the BO of a legal person.

3.3 Are foreign legal persons, foreign (express) trusts or foreign legal arrangements allowed to operate in/own assets/ and/or register in your country?

**YES** / NO

**If YES,**

- how is basic information on these arrangements recorded (if at all)?

The ICA has adopted transparency measures on basic information during company and partnership formation. Applicants are required to use prescribed forms, which require the basic information specified above, as well as the contact details of the company in Israel. Information on the purpose of the legal person is provided by way of narrative (as well as by way of the contents of the constitutive documents). The online form, which constitutes 85% of applications, requires each shareholder to confirm whether the shares are held as trustee. Both the online process and the paper form application for registration involve an Israeli lawyer. The vast majority of all registered company applications are submitted by Israeli lawyers. These lawyers are subject to CDD obligations on beneficial ownership. The MoJ is in charge of verifying compliance with these CDD obligations.

Where a shareholder/director is not an Israeli citizen, the ICA requires the applicant to provide a certified copy of the passport for individuals and a certified certificate of incorporation for legal persons. Instead of according resources to conduct verification to this group of foreign shareholders, which only constitutes 1.2% of the companies, the ICA relies on the certification conducted by an Israeli lawyer, by a foreign notary, or by an official representative of Israel in the foreign country where the passport or certificate was issued. This is a proportionate approach adopted by Israel in preventing the misuse of legal persons.

- how is beneficial ownership information on these arrangements recorded (if at all)? Please provide details of the relevant legislation and practice

See 3.1 and 3.2 above.

In addition, the ITA registers foreign companies that are not operative in Israel and are not required by law to register at the ICA, but do require an Israeli issued ID number in order to open an account with an Israeli FI.

The public trust registrar handles also foreign public trusts. A trust is considered foreign according to three elements. Namely, if an asset is abroad, the nominee is abroad or the goals of the trust are aimed to be accomplished abroad. In the case that the trustee is abroad, the registrar requires that a representative of the trustee who lives in Israel will be appointed. In the case that the asset is not in Israel, the registrar requires that the asset would be transferred to Israel. If it cannot be transferred to Israel, in the case for example that such a transfer might cause financial difficulty, the asset can remain abroad and will be supervised as any other asset by the registrar. However, in case the element of the foreign trust is that its goals are accomplished abroad, the policy is not to register these public trusts by the registrar. In addition, some public trusts combine private goals and therefor-specific beneficiaries. If a trust falls under one of these categories, the information of the beneficiaries is recorded by the registrar.

#### **4. Access to basic information and beneficial ownership information of (express) trusts and other similar legal arrangements**

4.1 Does your country recognize (express) trusts or other similar legal arrangements?

**YES** / NO

• **If YES**, please provide a broad overview of your country's system and mechanisms for obtaining beneficial ownership information on (express) trusts and other similar legal arrangements created or registered in your country.

Pursuant to the Trust Law, 5739-1979, trusts may be created by operation of law (such trusts are not considered as express trusts), by means of a contract with a trustee or by an instrument of endowment.

Trusts created by means of contract and endowment are considered to be express trusts by the Israeli authorities. Trusts are either public trusts (i.e. a trust of which one or more of the purposes is a public purpose) or private trusts.

The ITA's website provides information regarding the reporting obligation to the ITA in relation to trusts.

The ITA holds basic and beneficial ownership information on all legal persons which have an income, which own real estate, which buy/sell real estate, which have any employees in Israel, which have any assets in Israel or which undertake any financial transactions. All legal persons making disclosures to the ITA are required to have a bank account and are subject to banks' CDD requirements, including those on beneficial ownership .

The definition of beneficial ownership which applies to disclosures to the ITA is the same as that which applies to FIs. The ITA, therefore, holds information on the directors, shareholders and beneficial owners of companies and partnerships (which information is updated annually). It is proactive in checking relevant parties, including beneficial owners. It routinely uses information from the ICA and is provided with the ICA's public records at the end of each day. The validation checks include making enquiries of third parties such as banks and other authorities. Some 5% of its files of legal persons (both active and inactive) are selected on a sample basis to a full audit and validation each year to ascertain the accuracy of information provided and tax payable. These audits cover a five year period. All legal persons have been covered by these checks and a substantial number have been subject to audit more than once.

Legal arrangements are subject to the same requirements and approach as that articulated above for legal persons except that 45% of trust files (including beneficial ownership) have been subject to a full audit and validation of information in recent years so as to ascertain and ensure the accuracy of information and tax payable. Information provided includes names and residency of settlors, trustees, protectors and beneficiaries. The ITA also maintains a database of Israeli resident trusts (and foreign resident trusts which have assets in Israel) .

Based on its validation activity and case experience, and the experience and information held and used by other authorities and FIs, the ITA is confident that legal persons and trustees of legal arrangements provide accurate and updated information for the annual filings and that any inaccuracy would be very rare. The ITA has found the basic and beneficial ownership information provided to it for legal persons and legal arrangements for its own purposes to be adequate, accurate and current. This view is supported not just from its own validation and case activity but also use of the ITA's information by other authorities and its ability to successfully address foreign requests for information.

The Trust Law provides that trustees must keep account of all the affairs of a trust. LEAs confirmed that trustees (e.g. lawyers, accountants and banking group trust companies) required to provide beneficial ownership information in relation to trusts have provided correct, up to date information to them.

The ICA maintains a database of some public trusts, which includes information on settlors; trustees; beneficiaries; any other beneficial owners; and the types, purpose and establishment date of the trust. In addition, the ITA holds significant information on trusts including the purposes of the trusts and the beneficiaries in a single database, which is available to its investigators and for sharing with other authorities upon request. The text above on timely access to basic and beneficial ownership information for legal persons applies equally to trusts with the exception that the ITA has devoted greater focus on trust structures. IMPA, LEAs and the SAO also have had timely access to basic and beneficial ownership information, and therefore have been able to pursue investigation involving trusts.

- **If NO**, please skip to question 5

4.2 How *is basic information* on (express) trusts and other legal arrangements obtained and recorded in your country?

Under section 7 of the Trust Law, a trustee must maintain accounts in relation to all of the affairs of the trust, and must report to the beneficiaries annually and upon the termination of its appointment regarding the affairs of the trust. The trustee must also provide the beneficiaries with further information they may reasonably request. Under s.130 of the Income Tax Ordinance, the trustee must maintain accounting records for the trust (including any agents of and other service providers to the trust) for tax assessment purposes; registration with the ITA requires opening a bank account for the trust, which subject the trustee and the trust to CDD procedures. Although there are no specific provisions requiring that trustees must hold information on any agents of, and other service providers to, the trust, and to maintain accounting records for the trust, effectively fulfils such requirement.

The registration of public trusts is carried out by the Registrar of Trusts in a similar manner to the registration of companies or partnerships. The Registrar of Trusts forms an organizational part of the ICA and approves the registration of public trusts. Within this framework, the trustee must inform the Registrar of the following:

- (1) the name and address of the nominator;
- (2) the date of commencement of the trust;
- (3) its objectives;
- (4) its assets;
- (5) the name and address of each trustee;

The Registrar keeps a record of the said data, which is also open to the public. The Registrar publishes notice of the trust (legal arrangement) in the records.

Any changes in information must be provided to the Registrar whom also analyses annual reports including financial statements provided by trusts. If a public trust does not file an annual report (or if the provided information is incomplete, false or it is found during inspection or based on third party complaint that the trust is not

administered in line with its trust deed) the trust will not receive a Certificate of Proper Conduct.

As for basic information about public trusts, this information can be obtained at the Guidstar website mentioned above as well. This information includes the name of the trust, the trust assets, certifications, the name of trustees and a field of activity.

4.3 How is *beneficial ownership* information on (express) trusts and other legal arrangements obtained and recorded in your country?

- Through a registry/registries with beneficial ownership information
- Through a different mechanism
- Competent authorities do not currently have access to beneficial ownership information

If **REGISTRY**, please provide details on the registry(ies), authority(ies)/agency(ies) in charge of maintaining the registry(ies), type of information collected, and details on the access policy.

If **ALTERNATIVE MECHANISM**, please provide details on the mechanism, type of information collected, and details on the access policy.

See 4.1 above.

Trustees which are bank subsidiaries, lawyers or accountants are obliged to obtain beneficial ownership information as part of their CDD obligations (s.53-57 of the Banking Directive 411, First Appendix to the BSP Order). Other trustees would be required to obtain details in order to make reports to the ITA (s.131(c1)) of the Income Tax Ordinance). Under the Income Tax Ordinance and the regulations made under the ordinance (which include reporting forms), information regarding the formation of any trusts by Israeli residents and the transfer of property to a trust must be reported to the ITA within 90 days. In addition, there is a transitional period of ten years in some circumstances for settlors who become Israeli resident for the first time and for veteran

returning residents. This information includes the identity of the settlor, the trustee(s), the protector (if any) and the beneficiaries but not any other natural person who might exercise ultimate effective control of a trust (see also section 75p1 of the Income Tax Ordinance). There are no specific provisions dealing with trusts governed under Israeli law but having no connection with the country but in the circumstances mentioned above would be covered by transparency requirements in Israel. The Income Tax Ordinance covers settlors, trustees, protector and beneficiaries.

## 5. Sanctions

5.1 Please describe the types of sanctions, sanctionable conduct, and targets of sanctions for noncompliance with **beneficial ownership disclosure** regulations (whether on the registry(ies) or through an alternative mechanism).

Sanction powers available to the ICA are applicable to failure to report information and to keep information up-to-date (including in the event that a report is rejected due to mismatches in its contents). Article 354 of the Companies Law permits the Registrar to impose a financial penalty of up to NIS 7 880 (EUR 1 841) if a company fails to comply with registration, recordkeeping and reporting obligations. The sanctions apply in respect of a failure to comply with the obligation to report changes to the information previously reported within 14 days of the change, a failure to comply with the submission of the annual report, and of a failure to comply with an order made by the registrar under section 37 of the Companies Law with regard to the shareholders registry maintained by the company if the company does not comply with its recordkeeping obligations and does not remedy any discrepancies found in its records within the timeframe set by the registrar (sections 37(b) and (c) of the Companies Law).

The same penalty can also be imposed on individual directors if the company cannot or will not pay a fine .

Under section 356(b1) of the law an additional fine can be payable for every day of non-compliance with payment of the initial fine up to a maximum of NIS 250 000 (EUR 58 431). Under s.356(c), repeated offenders could be subject to a heavier fine amount. Furthermore, the ICA can sanction companies by declaring them to be “violating companies” under section 362A of the Companies Law, a status which is publicly accessible, allows the ICA to refuse to register and release charges (which significantly

limits the ability of companies to obtain credit), change the company name or purpose, and register mergers; the ICA can also deny the controlling shareholder from registering new companies. Pursuant to section 362 of the Companies Law, the ICA can seek the liquidation of a company which did not pay administrative fines. While the level of maximum financial penalties which the ICA can apply should be enhanced so as to achieve earlier compliance by companies and the power of strike-off should be added to its range of power, the ICA demonstrated that its use of sanctions has had a substantial degree of effectiveness.

The Partnerships Ordinance (ss. 9(b) and 59(b)) set out nominal fines for failure to register and file reports with the Registrar.

Under section 423 of the Penal Law, a founder, manager, member or officer of a corporation who registers, or causes the registration, of false information in the documents of a corporation (including in relation to the establishment of a company or partnership), with the intention of fraud, or who avoids registration of details which should have been registered, with the intention of fraud, is punishable with up to five years' imprisonment. In addition, the individuals signing the respective forms submitted to the ICA are required to declare that the details in the form are true and complete (such declaration is certified by a lawyer or CPA); according to article 239 of the Penal Law, a person who knowingly provides a false declaration is punishable with up to three years' imprisonment.

Non-reporting or false reporting to the ITA in relation to beneficial ownership, where required, can be sanctioned under sections 188 (nominal civil fines), 191-191B (civil fines of 15-30% of the amount of tax avoided due to the non/false-reporting) and 215 to 218A (criminal sanctions of 1-2 years' imprisonment or a fine of up to NIS 71 300 (EUR 16 665)) of the Income Tax Ordinance. If done on purpose to evade tax, it can also be penalised under section 220 of the Income Tax Ordinance (criminal sanctions of up to 7 years' imprisonment and/or a fine of up to NIS 226 000 (EUR 52 822) or twice the amount of undeclared income), which is a predicate offence.

False declarations can also be sanctioned under the Penal Law (same as declarations made to FIs and DFNBP) or under section 3(b) of the PMLL if done on purpose to

avoid AML/CTF reporting or cause false reporting (10 years imprisonment or a fine of up to NIS 4 520 000 (EUR 1 056 439)).

According to the PMLL, regulated financial institution must record the identification details of the beneficial owner. Chapter 5 of the PMLL establishes the supervisor's authority to summon a financial institution that has been found to be in violation of the AML/CFT requirements (inter alia regarding beneficial ownership) to an administrative sanction committee and to impose an administrative financial sanction, in cases of non-compliance.

Income Tax Ordinance confer authority to impose both civil and criminal fines with respect to noncompliance with the obligations.

Trustees who are lawyers or Certified Public Accountants are subject to the criminal, administrative and disciplinary sanctions of the PMLL and of the Codes of Ethics applying to them.

According to sections 10 to 13 of the Trust Law, trustees are subject to fiduciary obligations and are subject to the prohibition of conflict of interest or the creation of a personal benefit. Breach of fiduciary obligations can result in civil liability.

According to Section 31 of the Trust Law, a trustee of a public trust is liable under criminal liability if he did not submit the required reports to the Registrar of public trusts under section 26 of the Trust Law. The penalty is one year's imprisonment or a fine, and if he commits a fraudulent act - two years imprisonment.

5.2 Please describe the powers available to the designated authority(ies)/agency(ies) to enforce sanctions for non-compliance with the beneficial ownership disclosure requirements, **including any statistics on enforcement of such sanctions.**

IMPA is a financial intelligence unit without enforcement powers. As such, it does not maintain statistics on enforcement.

## **6. International Cooperation, asset recovery and challenges**

6.1. Does your country make beneficial ownership information available to foreign competent authorities (directly or upon request)? Please provide details of the relevant

legislative and regulatory framework in your country that allows for the international exchange of such information.

All information maintained in the registries of the ICA (including basic and certain beneficial ownership information) is publicly available, including to foreign authorities. There have been no occasions where the ICA has had to facilitate access by a foreign authority.

As for the ISA, the Israeli Securities Law enables the ISA to co-operate and provide assistance to foreign securities authorities with which it has signed a MoU. Assistance is defined as including the provision of information and documents, conducting a search and/or seizure of documents, conducting investigations and the delivery of information and documents for the purposes of administering and implementing securities laws in a foreign country and for the purpose of supervising the execution of securities laws. Non-public information to a foreign securities authority, subject to certain conditions outlined in the law is also allowed under the law (sections 54K1 to 54K9). Separately, the IOSCO MMoU allows the ISA to provide company registration records on shareholders, and beneficial ownership information, to authorities in other countries .

Section 214b of the Income Tax Ordinance enables the Director of Income Tax to transfer information to an authority of a foreign state in accordance with an international agreement (such as a TIEA) and upon fulfilment of conditions specified in the Ordinance (for example, that the information will be used for enforcement of tax legislation). The ITA has signed 55 TIEAs. In addition, under section 135g of the Ordinance the ITA has power to provide foreign tax authorities with information it has obtained (including information on trusts).

Additionally, IMPA, the ITA and other LEAs and authorities promptly provide information to foreign counterparts:

Israel has several legal mechanisms enabling competent authorities to rapidly provide the widest range of MLA – namely the International Legal Assistance Law (ILAL, section 2), the Securities Law (chapter 9B of the Securities law), and a number of bilateral MLA treaties (incl. with the United States, Canada; Australia; India and Hong Kong, China). Israel is also a signatory to the European Convention on Mutual Assistance in Criminal Matters of the Council of Europe as well as the Second Additional Protocol (see also Chapter 1). Based on the "principle of reciprocity", Israel

may grant or seek legal assistance from another country even in the absence of a convention.

Competent authorities in Israel, including LEAs and supervisory authorities, can provide a wide range of information on their foreign counterparts. IMPA and ITA can share information both simultaneously and upon request.

Information collected by IMPA on beneficial ownership can be exchanged with foreign FIUs upon request according to Section 30(f) of the PMLL; IMPA provides the information via the Egmont Source Web. In certain cases, IMPA spontaneously provides information to counterpart units when it is of the view that this is imperative.

INP (through its Operational Co-ordination Department, within the Intelligence Division) can exchange domestically available information with foreign counterparts. Request for information exchange can be made by foreign police authorities to their counterpart in INP (police-to-police) at the early intelligence stage, or through the Interpol channel. If compulsory measures are necessary (i.e. evidence), the foreign country must go through formal MLA procedure.

Israel can also exchange information informally on the basis of the 1988 Vienna and 2000 Palermo Convention, and whenever there is a bilateral agreement for co-operation regarding law enforcement (Israel has MOUs with 39 countries).

Israel is also an observer to CARIN (one contact point from INP, one from ITA), and as such can also use this channel for inquiries relating to the identification and tracing of the proceeds and instrumentalities of crime.

ISA can provide assistance to foreign securities authorities, regardless of its role as supervisor or as LEA, provided there is a signed MoU.

In its law enforcement capacity, ITA can exchange ML information domestically with foreign counterparts in the framework of MLA requests. The ITA is authorised to exchange information by virtue of double taxation treaties and the Customs MOU's and agreements or within the framework of its membership in CARIN, AMON or the ARO Platform of Experts of the EU.

6.2. Please describe how foreign competent authorities may request or access beneficial ownership information on legal persons and legal arrangements formed in

your country. Which agency(ies)/authority(ies) is/are responsible for receiving and responding to foreign requests? **Please provide contact information and instructions.**

See above section.

6.3. In your opinion, what are the main challenges faced by foreign competent authorities to access beneficial ownership information held in your country?

There is no beneficial ownership registry.

6.4. In your opinion, what are the main challenges faced by competent authorities of your country to access/receive beneficial ownership information held in a foreign country?

6.5. Do you have any case studies or examples where the transparency of beneficial ownership has *enabled or enhanced the effective recovery and return of proceeds of crime in (or for) your country?*

1. The "**R**" case demonstrates a complicated ML investigation involving a worldwide fraud scheme of selling counterfeit pharmaceuticals. The illicit funds were transferred, *inter-alia*, by using a network of foreign legal persons established for that purpose, that have opened bank accounts in various countries. The information regarding the foreign companies was received, *inter-alia*, from IMPA. The case was investigated jointly by the Israeli Police and ITA, with the assistance of IMPA.
2. The "**S**" case – the defendant used a complex corporate structure, part of which was set up by a lawyer who was also involved in the criminal activities, and changed periodically the controlling persons and directors, in order to commit the fraud and launder the illicit funds.
3. **An ITA trust case** –In a case that is currently being investigated jointly by the ITA and the Israeli Police and is still confidential, the ITA has succeeded in unveiling an attempt to supposedly use a trust to commit criminal activities. The suspect is a resident of Israel that held in trusts (local and foreign) foreign companies that had high volume of income. The ITA found discrepancies between his declaration on the forms submitted with regards to forming and managing a trust in Israel, as there

was a different identity given as the creator of the trust for different years. When asked, he claimed that he was solely an advisor to the trust and not the owner or the manager, and that the creator is a foreign resident that passed away. It is suspected that the change in identity was meant to lower the tax owned, following changes made recently in the Israeli legislation. The ITA and the Israeli Police are currently jointly investigating the case with regard to suspicion of tax crimes and the commitment of other predicate offences by using the trust, such as bribery.

## **7. Good Practices for Beneficial Ownership Transparency**

7.1. Has your country implemented any specific good practices relating to Beneficial Ownership Transparency that you wish to highlight? *Examples could include good practices in verification data format, searchability, use of technology, enforcement of sanctions, automatic red flagging, use or risk-based approach.*

As part of Israel's National Risk Assessment, the risk associated with all types of legal persons and arrangement was assessed. The overall risk assessment concerning "legal persons and arrangement" was assessed as medium-high. The risk assessments intend to assist all competent authorities to allocate resources and strengthen enforcement against actual or potential money laundering and terrorist financing risks, and to develop action plans to mitigate the identified risks, through legislative or regulatory amendments, changes in enforcement policies or by any other means.

In relation to NPO's the ICA has diversified the means of supervision. Every NPO receives a "risk score" based on information held by the ICA and is based, among other things, on NPO's reports to the ICA by law. This score is used by the ICA as part of the formulation of an annual supervisory work plan and will assist to target NPOs that have a high-risk score. In this way, ICA's supervisory work will be done more efficiently while making more wise and correct use of the supervisory available resources.

In order to further enhance transparency in legal persons and arrangements, Israel established a dedicated inter-agency committee, led by the Deputy to the Attorney General in the Ministry of Justice, and comprised of representatives from the Corporations Authority (ICA), Tax Authority (ITA), IMPA, the Department of Policy

Planning and Strategy in the Ministry of Justice and relevant representatives from the Office of Legal Counsel and Legislative Affairs in the Ministry of Justice. Within this framework, Israel is considering to implement a beneficial ownership registry to ensure that adequate, accurate and timely beneficial ownership information is available to competent authorities, in line with recommendations 24 and 25 of the FATF. The committee is in the process of reviewing the different relevant mechanisms to be implemented and the required legislative amendments.

In addition, in April 2021, an amendment to the Companies Regulations (Reporting, Registration Details and Forms), 1999 (hereinafter: the "Regulations") came into force, to increase transparency of legal entities in the Companies Registry at the registrar of companies. Under section 131(a) of the Companies Law, where shares of a company are held by a trustee, the fact of the trusteeship must be declared to the company and a record made in the companies register at the company – Internal Shareholder Register, that the trustee is a shareholder. In accordance to this obligation, the Regulations were amended, to increase transparency of the Companies Register at the registrar of companies. The amendment includes an obligation, which requires a shareholder to declare, in the company registration form - request to register a company, to be submitted by a company, whether he holds the shares in trust as stated in section 131 of the Companies Law. If the shareholder does hold shares in trust, he must declare that the beneficial owner meets the same eligibility conditions for holding shares. This requirement – stating if the shares are held in trust is now required during the application process for registration of a company, when reporting on an allocation of shares or transfer of shares, and in the annual report. As mentioned above, the declaration requirement is included during the application process.

In addition, the Israel Tax Authority is also in the process of enhancing transparency for legal arrangements (trusts). The ITA is in the process of automating all its trust forms. In this framework, commencing from next year (start of 2023) tax assessment offices and representatives will be able to submit their reports online in an automated manner.

Furthermore, another inter-agency committee comprised of the ITA together with the Israel Bar association and the Institute of Certified Public Accountants in Israel has discussed and agreed that certain law amendments are needed regarding the issue of

beneficial ownership. The committee has submitted its recommendations to the head of the ITA, which is now promoting the said amendments.

## **8. Follow-up to the special session of the General Assembly against corruption**

8.1. Please describe any other measures, if any, that your country may have taken to implement paragraph 16<sup>3</sup> of the political declaration adopted by the General Assembly at its special session against corruption held in June 2021.

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<sup>3</sup> 16. We commit to making efforts in international cooperation and taking appropriate measures to enhance beneficial ownership transparency by ensuring that adequate, accurate, reliable and timely beneficial ownership information is available and accessible to competent authorities and by promoting beneficial ownership disclosures and transparency, such as through appropriate registries, where consistent with the fundamental principles of domestic legal systems and using as a guideline the relevant initiatives of regional, interregional and multilateral organizations against money-laundering. To this end, we will develop and implement the measures necessary to collect and share such information on the beneficial ownership of companies, legal structures and other complex legal mechanisms, and we will enhance the ability of competent authorities in this regard.