GLOBAL FORUM ON TRANSPARENCY AND EXCHANGE OF INFORMATION FOR TAX PURPOSES

Peer Review Report Combined: Phase 1 + Phase 2, incorporating Phase 2 ratings

NORWAY

OECD

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

COMBINED: PHASE 1 + PHASE 2,
INCORPORATING PHASE 2 RATINGS

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Table of Contents

About the Global Forum

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

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

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

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 jurisdictions' 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 plus Phase 2 – reviews. 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 Norway as well as practical implementation of that framework. The international standard which is set out in the Global Forum's Terms of Reference to Monitor and Review Progress Towards Transparency and Exchange of Information, is concerned with the availability of relevant information within a jurisdiction, the competent authority's ability to gain timely access to that information, and in turn, whether that information can be effectively exchanged with its exchange of information partners.

2. Norway is a highly developed, oil-rich country with one of the most financially healthy economies in the world. As an OECD country, Norway has been an active member of the Global Forum on Transparency and Exchange of Information for Tax Purposes since its creation.

3. Since the late 1940s, Norway has been a leader in promoting mutual assistance among governments in assessment and collection of taxes. Norway signed its first Double Taxation Convention (DTC) in 1949 and now has an extensive treaty network of 81 DTCs and 22 Tax Information Exchange Agreements (TIEAs). In addition, Norway is able to exchange information multilaterally with its six neighbouring Nordic countries under the *Nordic Convention on Mutual Assistance in Tax Matters* (*Nordic Convention*). Norway is also a founding signatory to the 2010 Protocol of the 1998 *Joint Council of Europe/OECD Convention on Mutual Administrative Assistance in Tax Matters*. Norway's exchange of information agreements in the main follow the form and substance of the OECD *Model Taxation Convention* or the OECD *Model TIEA*.

4. Nordic co-operation in tax matters plays a key role in Norway's exchange of information practices and policies, both in relation to providing exchange of information assistance under the *Nordic Convention* and, more recently, negotiating TIEAs. As a result of this co-operation, Norway signed 22 TIEAs since 2007. The number of agreements completed by Norway marks a significant step forward in international efforts to implement the international standards of transparency and exchange of information in tax

matters. Nordic co-operation has received favourable attention in the OECD and has been presented as a model for how countries can work together in taxation matters at an international level.

5. Exchange of information for tax purposes in Norway is presided over by Norway's Ministry of Finance, the Directorate of Taxes, and the Central Office of Foreign Tax Affairs (COFTA). Norway's exchange of information division was reorganised in the second half of 2009, resulting in a new division housed at COFTA. Although the reorganisation disrupted exchange of information activity for a short period of time, it generally strengthened Norway's ability to effectively exchange information by increasing personnel resources and overhauling procedures to insure effective co-ordination with regional tax offices.

6. Norway receives a relatively high volume of exchange of information requests each year. Norway's exchange of information partners report that they have a good relationship with the Norwegian competent authority and are satisfied with the quality of responses received. This is, in large part, due to Norway's comprehensive legal and regulatory framework for transparency and exchange of information.

7. Norway's system of multiple public registries, registers of shareholders held by public and private limited companies, and private registries maintained by Norway's tax authorities ensure that accurate, adequate and reasonably current information concerning the ownership and control of legal entities and arrangements is readily accessible to Norway's competent authority in a timely fashion. Norway's legal framework also ensures that bank information and accounting records are effectively maintained and accessible.

8. Norway's tax authorities have broad powers to obtain bank, ownership, identity, and accounting information and have measures to compel the production of such information. During the on-site visit, the assessment team found that Norway's institutional framework facilitates effective retrieval of information: there is a sufficient number of professional staff with clear responsibilities for obtaining information; the staff have adequate expertise and training specific to exchange of information; and Norway has adequate financial and technical resources dedicated to exchange of information. As a result of Norway's public and private registration requirements, many exchange of information requests can be responded to directly by Norway's competent authority without the involvement of regional tax offices or using the tax authorities' various access powers. Norway has recently established more efficient and effective co-ordination procedures between its competent authority and regional tax offices that address previous issues involving delays in responding to requests.

9. All of Norway's significant exchange of information partners, as well as seven of Norway's top eight trading partners, provided input to this review. The information received confirms that, notwithstanding some imperfections, Norway's practices with respect to exchange of information in tax matters are of a very high standard.

10. Norway has been assigned a rating[1] for each of the 10 essential elements as well as an overall rating. The ratings for the essential elements are based on the analysis in the text of the report, taking into account the Phase 1 determinations and any recommendations made in respect of Norway's legal and regulatory framework and the effectiveness of its exchange of information in practice. On this basis, Norway has been assigned a rating of Compliant for each essential element. In view of the ratings for each of the essential elements taken in their entirety, the overall rating for Norway is Compliant.

1.. This report reflects the legal and regulatory framework as at the date indicated on page 1 of this publication. Any material changes to the circumstances affecting the ratings may be included in Annex 1 to this report.

Introduction

Information and methodology used for the peer review of Norway

11. The assessment of the legal and regulatory framework of Norway and the practical implementation and effectiveness of this framework was based on the international standards for transparency and exchange of information as described in the Global Forum's *Terms of Reference*, 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 August 2010, other information, explanations and materials supplied by Norway during the on-site visit that took place on 8–10 June 2010, and information supplied by partner jurisdictions. During the on-site visit, the assessment team met with officials and representatives of relevant Norwegian government agencies, including the Ministry of Finance, Tax Directorate, and Central Office of Foreign Tax Affairs (see Annex 4).

12. 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) exchanging information. This review assesses Norway's legal and regulatory framework and the implementation and effectiveness of this framework against these elements and each of the enumerated aspects. In respect of each essential element a determination is made regarding Norway's legal and regulatory framework that either: *(i)* the element is in place, *(ii)* the element is in place but certain aspects of the legal implementation of the element need improvement, or *(iii)* the element is not in place. These determinations are accompanied by recommendations for improvement where relevant. In addition, to reflect the Phase 2 component, recommendations are made concerning Norway's practical application of each of the essential elements and a rating of either: *(i)* compliant, *(ii)* largely compliant, *(iii)* partially compliant, or *(iv)* non-compliant is assigned to each element. An overall rating is also assigned to reflect Norway's overall level of compliance with the standards.

13. The assessment was conducted by a team which consisted of two assessors and a representative of the Global Forum Secretariat: Ms. Calafia Franco of the México Tax Administration Service; Mr. Timur Cakmak of the Turkey Ministry of Finance-Revenue Administration; and Mr. Stewart Brant from the Global Forum Secretariat.

14. The ratings assigned in this report were adopted by the Global Forum in November 2013 as part of a comparative exercise designed to ensure the consistency of the results. An expert team of assessors was selected to propose ratings for a representative subset of 50 jurisdictions. Consequently, the assessment teams that carried out the Phase 1 and Phase 2 reviews were not involved in the assignment of ratings. These ratings have been compared with the ratings assigned to other jurisdictions for each of the essential elements to ensure a consistent and comprehensive approach. The assignment of ratings was also conducted at a different time from those reviews, and the circumstances may have changed in the meantime. Readers should consult Annex 1 for information on changes that have occurred.

Overview

15. Norway forms the western and northern part of the Scandinavian Peninsula and has common borders with Sweden, Finland and Russia. Norway is one of the most sparsely populated countries in Europe, having a total area of 385 000 square kilometers and a population of 4.8 million. Approximately 18% of Norway's population lives in Oslo, the capital and largest city of Norway.

16. Norway is a highly developed, industrial country with an open, export-oriented economy. It is one of wealthiest countries in the world in monetary value, with the largest capital reserve per capita of any nation. Norway is the world's fifth largest oil exporter. The petroleum industry accounts for around a quarter of Norway's GDP, which was NOK 2 408 billion (EUR 298 billion)[2] in 2009. Since the 1970s, the offshore oil industry has played a dominant role in the Norwegian economy, securing stable growth. Throughout this development Norway has maintained a mixed economy, with considerable participation of state-owned companies and banks. The Norwegian currency is the Norwegian krone (NOK).

17. Norway is not a member of the European Union (EU), but participates in the EU common market as a signatory to the European Economic

2. IFS – International Financial Statistics, International Monetary Fund, accessed 19 April 2010: www.imf.org/external/pubs/ft/weo/2010/01/weodata/weorept.aspx?sy=2008&ey=2015&scsm=1&ssd=1&sort=country&ds=.&br=1&c=142&s=NGDP_R%2CNGDP%2CNGDPD&grp=0&a=&pr.x=62&pr.y=13.

Area (EEA) Agreement between the countries of the EU and the European Free Trade Association (EFTA). Norway has participated in the Schengen since 25 March 2001. Norway is a founding member of the United Nations and its affiliate organisations, the Council of Europe, the Nordic Council, the North Atlantic Treaty Organisation (NATO), and the Organisation for Economic Co-operation and Development (OECD). Norway is also a member of the European Free Trade Association (EFTA), and other international organisations, including the International Monetary Fund (IMF), the Financial Action Task Force (FATF), the World Bank and the World Trade Organisation (WTO). As an OECD country, Norway has been a member of the Global Forum on Transparency and Exchange of Information for Tax Purposes (the Global Forum) since its creation.

General information on legal system and the taxation system

18. Norway is a constitutional monarchy with a parliamentary democratic system of governance. The executive branch of government is comprised of the King (the head of state), the Prime Minister (the head of Cabinet) and the Council of Ministers (the Cabinet). The legislative branch of government is the Storting (a modified unicameral parliament of elected representatives). The judicial branch of government is comprised of the Supreme Court, the Courts of Appeal and the District Courts.

19. The Norwegian Constitution of 1814 builds on principles similar to those found in the French and American Constitutions. Norway's legal system combines customary law, common law traditions and a civil law system. Primary legislation is in the form of laws. Secondary legislation is in the form of regulations. Both may be further explained in "preparatory works", the purpose of which is to give explanations to the Parliament prior to the adoption of new legislation and to give guidance to the users of the legislation after the adoption of the bill. According to established principles of legal interpretation, there is an undisputable duty on courts and other professional interpreters of statutory law to take into consideration what is said in the preparatory works to the extent they do not contradict the wording in the legislation.

Tax system

20. Norway taxes its residents (companies and individuals) on their world-wide income and wealth. All companies established in conformity with Norwegian law are regarded as being resident in Norway. In addition, companies that have the place of central management in Norway are regarded as being resident in Norway. Non-resident companies carrying out activity

in Norway and non-resident individuals working in Norway are subject to Norwegian tax on profits or compensation attributable to Norwegian sources.

21. Norway has a relatively high income tax rate and a moderate corporate tax rate. The 2010 top marginal income tax rate is 47.8%, and the flat corporate tax rate is 28%. Other taxes include a value-added tax (VAT), a tax on net wealth, and a number of environmental taxes. Petroleum companies' profits are subject to a different tax scheme. In 2009, overall tax revenue as a percentage of GDP was 43.4%.

22. The Norwegian income tax system operates with two income tax bases: General income and personal income. General income is calculated for all taxpayers, both companies and individuals. It includes all types of taxable income from work, business and capital. Costs and expenses, including interest payments on debts, are deductible in the computation of the general income. Personal income is only determined for natural persons and forms the basis for assessing a surtax on higher incomes and social security contributions. It is defined as income from personal work, including income from employment, independent personal services and single proprietorship. It also includes pensions, life annuities and various social security payments. Costs and expenses are not deductible in the computation of personal income. The personal income is also the base for calculating contributions to the National Insurance Scheme (NIS), a compulsory insurance covering *inter alia* pensions and social security.

Exchange of information for tax purposes

23. Norway's legal and regulatory framework relevant to exchange of information for tax purposes is presided over by Norway's Ministry of Finance, the Directorate of Taxes, and the Central Office of Foreign Tax Affairs (COFTA). Norway's competent authority in all matters concerning tax conventions is the Ministry of Finance. COFTA is delegated authority to act as competent authority for specific requests for exchange of information under Norway's DTCs and the Tax Directorate is delegated authority to act as competent authority for specific requests for exchange of information under Norway's TIEAs. COFTA and the Tax Directorate together are responsible for co-ordinating and responding to all exchange of information requests in Norway.

24. Norway has taken a leadership role in promoting mutual assistance among governments in assessment and collection of taxes. Since the late 1940s, Norway has practised and actively promoted exchange of information for tax purposes. It now has an extensive treaty network, having signed 109 agreements with jurisdictions from around the world. Norway is a longstanding and active participant in the work of the OECD (holding the chair position

of Working Party 8 for several years until 2010)[3] and has been a proponent of automatic and spontaneous exchange of information.

25. Norway plays a key role in Nordic co-operation, both in relation to providing assistance under the multilateral *Nordic Convention* and, more recently, negotiating tax information exchange agreements. Nordic co-operation represents a model for how jurisdictions can work together in taxation matters at an international level.

26. Norway is a founding signatory to the 2010 protocol of the 1988 *Joint Council of Europe/OECD Convention on Mutual Administrative Assistance in Tax Matters*, which is based, in part, on the structure and principles of the *Nordic Convention*.

Recent developments

27. On 11 December 2009, the Ministry of Finance transferred Norway's competent authority function for exchange of information on request (DTCs) and spontaneous information from the Directorate of Taxes in Oslo to COFTA in Stavanger. The Ministry of Finance notified all of its exchange of information partners of this change. The notification included an updated contact list for each of Norway's competent authority functions.

28. Norway signed TIEAs with ten jurisdictions in the first half of 2010: Andorra; Antigua and Barbuda; the Bahamas; Dominica; Grenada; Monaco; San Marino; St. Kitts and Nevis; St. Lucia; and St. Vincent and the Grenadines.

3. Working Party 8 investigates how member governments can co-operate to minimise the extent of tax evasion and avoidance.

Compliance with the Standards

A. Availability of Information

Overview

29. Effective exchange of information requires the availability of reliable information. In particular, it requires information on the identity of owners and other stakeholders as well as information on the transactions carried out by entities and other organisational structures. Such information may be kept for tax, regulatory, commercial or other reasons. If such information is not kept or the information is not maintained for a reasonable period of time, a jurisdiction's competent authority[4] may not be able to obtain and provide it when requested. This section of the report describes and assesses Norway's legal and regulatory framework for availability of information. It also assesses the implementation and effectiveness of this framework.

30. Norway's system of multiple public registries, registers of shareholders held by public and private limited companies, and private registries maintained by Norway's tax authorities ensures that accurate, adequate and reasonably current information concerning the ownership and control of legal entities and arrangements, accounting records, and bank information is accessible to Norway's competent authority in a timely fashion.

4. 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.

31. Information received from partner jurisdictions with an exchange of information relationship with Norway, as well as quantitative and qualitative information received from Norway, indicate that Norway actively exchanges bank, ownership, and identity information and accounting records. Based on peer input received, it is clear that Norway's tax authorities have been able to provide such information for all types of legal entities and arrangements in response to specific requests for exchange of information.

32. Norwegian laws require the maintenance of company ownership and identity information at multiple sources, including: the Norwegian tax administration's internal registries, national registries, nominees, company service providers, and internally by legal entities and arrangements conducting business in Norway. Foreign companies taxed as resident companies are obliged to maintain and report share ownership information to the tax authorities to the same extent as Norwegian companies. Under Norway's *Money Laundering Act*, there are requirements on company service providers to maintain ownership information in respect of their clients. Bearer shares are prohibited under Norwegian law.

33. Shareholdings in Norwegian companies may only be held on a nominee account on behalf of foreign shareholders. Safeguards exist to insure that nominee shareholdings are identified to the tax authorities and that nominees maintain information on their client and the ultimate individual owner of the shares.

34. All partnerships formed under Norwegian law are obliged to register with the Register of Business Enterprises and to maintain an up-to-date partnership agreement identifying all partners in the partnership. Partnerships are obliged to provide a partnership statement to Norway's tax authorities on a yearly basis. Under Norway's *Money Laundering Act*, there are requirements on partnership service providers to maintain ownership information in respect of their clients.

35. Norwegian law does not recognise the legal concept of a trust. There are, nevertheless, no obstacles for a Norwegian citizen to be a trustee of a foreign trust. Norway's tax, accounting, and anti-money laundering legislation is applicable to trust service providers and requires maintenance of information that would normally include information on the settlors, protectors, enforcers and beneficiaries of foreign trusts.

36. All foundations in Norway are obliged to register with the Foundation Register. In addition, all foundations undertaking business activities are obliged to register with the Register of Business Enterprises. Foundations are obliged to maintain records indentifying their founders, beneficiaries, and members of the foundation council. Foundations are also

required to maintain accounting records which would normally include information on beneficiaries.

37. Non-compliance with registration requirements in Norway is viewed seriously. Legal entities and arrangements which fail to register or provide subsequent notifications to the registrar can be sanctioned by significant fines or imprisonment, and may be deprived of the right to carry on a business in Norway. Failure by companies to maintain ownership and identity information of shareholders is viewed as a criminal offence, subjecting the officers of the company to fines or imprisonment. Non-compliance with Norway's tax filing requirements is similarly viewed seriously, also sanctioned by fines or imprisonment.

38. All legal entities and arrangements conducting business in Norway are required to maintain accounting records. Public and private limited companies, partnerships, foundations, and foreign companies operating in Norway are obliged to register with the Register of Company Accounts their annual account statements and auditor's report. Primary accounting documentation (e.g. annual accounts, annual report, auditor's report, and underlying documentation) must be maintained for ten years. Additional supporting documentation (e.g. contracts, suppliers duplicates of packing slips, and correspondence providing additional information) must be maintained for 3½ years.

39. Bank information must be maintained for all account-holders. Banks and other financial institutions in Norway are obliged to provide account information unsolicited to Norway's tax authorities on a yearly basis.

40. During the onsite visit, the assessment team found that Norway's tax authorities are able to respond to requests for ownership and identity information for all types of legal entities and arrangements. Norway reports rather high compliance with registration and tax filing requirements. Information received from partner jurisdictions with an exchange of information relationship with Norway confirms this.

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.

41. As detailed below in this section, Norway has several national registries for legal entities and arrangements. All Norwegian legal entities and arrangements (e.g. companies, partnerships, foundations) and Norwegian foreign companies or other legal persons conducting business in Norway are obliged to register with one or more of Norway's public registers. Different

registers contain information identifying the legal person's directors, senior managers, shareholders, and accounting records. The process of co-ordinating the reporting obligations of business and industry in Norway is a primary task for the Brønnøysund Register Centre. The Central Coordinating Register for Legal Entities at the Brønnøysund is instrumental in the co-ordination process.

42. The Central Coordinating Register of Legal Entities was established in 1995 and governed by the *Central Coordinating Register for Legal Entities Act*. Its primary task is to co-ordinate information on business and industry that resides in various public registers, and which is also frequently requested from tax authorities. It contains basic data about entities that are under reporting obligations to the Register of Employers/Employees, the Value Added Tax Register (all entities liable to pay VAT[5]), the Register of Business Enterprises, the Business Register of Statistics Norway, the Corporate Taxation Data Register (all entities liable to pay tax in arrears), the Register of Foundations, and the Register of Bankruptcies. When a company is registered in, for instance, the Register of Business Enterprises, the registration is co-ordinated so that the company is also registered in the Value Added Tax Register and the Corporate Taxation Data Register. In this way, it is not necessary for the company to register with more than one public authority.

43. All business enterprises are provided a nine-digit organisation number. This nine-digit number is common for all public business and industry registers, and allows public authorities to collaborate on information exchange. Additionally, all persons who are going to take up residence or stay in Norway for at least six months must notify the Population Register. The Population Register is a part of the Tax Office. The Population Register issues national ID numbers to all persons going to stay in Norway for more than six months. Persons staying in Norway for less than six months are given a D-number, which is required to open a bank account in Norway.

44. The co-ordination of Norway's national registries allows Norwegian tax authorities to efficiently access information. Norway's tax officials demonstrate a high level of competence in their capability to conduct queries within Norway's system of public registries using the Central Coordinating

5. Both foreign and Norwegian businesses supplying goods and services in Norway shall register in the VAT register when their sales or withdrawals of such goods and services exceed NOK 50 000 over a period of 12 months. For charitable and non-profit institutions and organisations there is a special threshold set at NOK 140 000 (EUR 17 500). A written notice of the business activities shall be sent to The Central Coordinating Register for Legal Entities or to the Tax Office where the foreigner (or his representative) has his place of business/residence (*VAT Act,* s.2-1).

Register of Legal Entities as well as within the tax administration's system of private registries (i.e. the "information warehouse") for ownership and identity information on various types of legal entities. Norway's data collection framework is effective and information regarding the ownership structure of legal entities in Norway may be extracted from this system by way of directed queries.

45. The quality and data contained in Norway's public and private registries relies on the compliance level of taxpayers' and third parties' statutory reporting obligations and tax filing requirements (e.g. reporting by securities registries, legal entities and arrangements, shareholders, taxpayers). Norway reports to have few difficulties with respect to issues regarding the availability of ownership and identity information, both for domestic tax cases and for providing exchange of information assistance. This is, in large part, due to Norway's comprehensive legal and regulatory framework.

46. Moreover, Norway has a strong compliance culture. Strong mutual trust between Norwegian policy-makers, civil servants, and citizens is a key characteristic underpinning Norway's legal and regulatory framework. Norway reports a rather high compliance rate with various registry and tax reporting obligations. This is generally enabled not only by enforcement or control, but also because the tax authorities and other regulating agencies or bodies, in return for fair and agreed upon regulations, can expect Norwegian citizens to comply.

Companies *(ToR[6] A.1.1)*

Types of companies

47. Three types of companies may be formed under Norwegian law: (1) public limited liability companies (*allmennaksjeselskap*, ASA) (hereafter referred to as "public limited company"); (2) limited liability companies (*aksjeselskap*, AS) (hereafter referred to as "private limited company"); and (3) *societas europaea* (hereafter referred to as "European company").

48. European companies are regulated by Council Regulation (EC) No. 2157/2001 of 9 October 2001 on the Statute for a European Company (SE) (the "SE Regulation"). According to Art.1 of the SE Regulation, a European company is a legal entity with capital divided into shares. The liability of each shareholder is limited to the amount the shareholder has subscribed. According to Art.10 of the SE Regulation, an SE must be treated in every Member State as if it was a public limited liability company formed in

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

accordance with the law of the Member State in which it has its registered office. The implementation of the SE Regulation by Norway was achieved through the Norwegian *Act on the European Company.* According to the Norwegian *Act on the European Company,* the provisions of the *Public Limited Liability Companies Act* apply to European companies as far as they are appropriate. Similarly, other provisions of Norwegian law applicable to public limited companies apply to European companies (s.2).

Ownership information on domestic companies

Register of business enterprises

49. All companies conducting business in Norway are obliged to register with the Register of Business Enterprises at the Brønnøysund Register Centre (*Business Enterprise Registration Act,* s.2-1).[7] All information in the Register of Business Enterprises, with the exception of national identity numbers, is available to the general public (s.8-1). The objective of this registry is to ensure the legal protection of business names and to provide the public with an updated overview of participants in Norwegian business and industry.

50. Generally, registration in the Register of Business Enterprises provides a business enterprise with: the right to operate a business enterprise; legal protection of the business name; a certificate of registration as identification for lenders, legal registration authorities, and customs and excise authorities; a business enterprise organisation number; and identification of the executives of a business enterprise.

51. All Norwegian companies are obliged to register with the Register of Business Enterprises within three months after the memorandum of association is signed (s.4-1). Information required to be registered includes (ss.3-1, 3-1a, 3-7):

- the articles of association;
- the date of the formation of the company;
- the municipality of the company and its address;
- the board members, deputy board members (if any), serving chairman of the board and general manager (managing director);
- the person(s) who represents the company externally;

7. This also applies to sole proprietorships operating a trade with purchased goods or which employ more than five persons in primary positions. Other sole proprietorships may register on a voluntary basis (s.2-1).

- the person(s) who has the power to sign documents on behalf of the company;
- whether the company has an auditor; and
- whether an administrative receiver has been appointed for the business enterprise pursuant to sections 77 and 83 of the *Norwegian Insolvency Act*.

52. For board members, observers, general managers, auditors, administrative receivers, persons authorised to sign for the company and persons empowered to sign on behalf of the company, the Register of Business Enterprises maintains information on the name, national identity number and residence of the persons in question. The same applies to the person or persons appointed to preside over the liquidation of a European company. If a board member, partner or general manager is a legal person, the Register of Business Enterprises maintains information on its business name, the organisation number and the address (s.3-7).

53. For European companies, the Register of Business Enterprises maintains, in addition to the information noted above, information that is required to be registered pursuant to the SE Regulation and information on where the company has its main office (s.3-1b).

54. The registrar insures the reliability of registered information (notifications) by verifying whether the correct notifications have been submitted, the basis for them, and that their formulation are in accordance with the law and the company's articles of association. The registrar can demand additional information for the purpose of verifying the accuracy of registered information (s.5-1). The registrar can refuse registration if it finds that a notification is not within the law or in accordance with company's articles of association (s.5-3).

55. All changes to information registered with the Register for Business Enterprises (e.g. the amount of the share capital, board members) must be promptly reported by providing notification to the registrar. If a company neglects to do so, it will be ordered to rectify the situation within a stipulated period of time (s.4-5).

56. Failure to provide a required notification to the Register of Business Enterprises is sanctioned by an overrun penalty (s.4-5). The overrun penalty amounts to NOK 500 per week for the first eight weeks, NOK 1 000 the next 10 weeks, and NOK 1 500 for the following 8 weeks (maximum penalty of NOK 26 000 (EUR 3 260)). Such a failure is also a criminal offence, and those liable to submit notifications can be sanctioned by fines up to NOK 26 000 (s.10-4). According to the Norwegian *Penal Code* section 48a,

the company may also by court judgment be deprived of the right to carry on a business or may be prohibited from carrying it on in certain forms.

Registration of securities

57. The *Act related to Registration of Financial Instruments* ("*Securities Register Act*"), section 2-1, requires all Norwegian public limited companies to register its shares and subscription rights ("register of shareholders") with a Securities Register that is maintained in Norway. A Securities Register is a computerised bookkeeping system maintained by an independent body in which the ownership of, and all transactions relating to, such shares must be recorded. Presently, the only Securities Register in Norway is the Central Securities Depository – VPS (*Verdipapirsentralen*) ("VPS"). VPS is regulated by the Norwegian Ministry of Finance regarding which instruments can or must be registered, and is supervised by the Norwegian Financial Supervisory Authority (*Finanstilsynet*). Information required to be registered includes (*Public Limited Liability Companies Act,* s.4-4):

- the company's name;
- the share capital of the company;
- the nominal value of the shares;
- the shareholders' names, dates of birth and addresses or, for bodies corporate, their business names, organisation numbers and addresses; and
- the number of shares owned by the individual shareholder and the class of shares, if any, to which the shares belong.

58. According to the *Public Limited Liability Companies Act*, section 19-1, a public limited company's failure to establish ownership registration in the Securities Register is a criminal offence, subjecting its founders, member's of the board, and general manager to fines or, in aggravating circumstances, imprisonment for up to one year. According to the Norwegian *Penal Code*, section 48a, the company may be sanctioned by fines when the criminal offence is committed by any representative of the company.

59. Norwegian private limited companies may choose between establishing their registry in a Securities Register, following the same rules governing public limited companies, or in book of shareholders (*Securities Register Act* s.2-2). If a private limited company does not establish its register in a Securities Register, it is required to create a book of shareholders (*Limited Liability Companies Act,* s.4-5). The book of shareholders must contain *inter alia* the name or company name, date of birth or organisation number, and address of each of the company's shareholders. For each shareholder, the

book of shareholders must also contain the number of shares held and, if the company has more than one class of shares, the class of shares held. Private limited companies are required to continuously update its book of shareholders to reflect any changes to share ownership (s.4-7). Companies are also required to maintain information on previous shareholders for at least ten years (s.4-7). A company's book of shareholders is publicly available at the company's address in Norway (s.4-6). A private limited company's failure to maintain a book of shareholders is a criminal offence, subject to fines or, in aggravating circumstances, imprisonment for up to one year (s.19-1).

Tax Administration's register of shareholders

60. All public and private limited companies are obliged to give shareholder information to the tax authorities pursuant to the *Tax Assessment Act* section 6-11. Such information must be submitted to the tax office, unsolicited, in the form of statements listing all matters that have a bearing on the taxation of shareholders (s.6-11), including:

- the amount of the share capital and the number and size of the shares, including changes during the income year as a result of formation, share issues, mergers, demergers etc.;
- holders of shares as of 1 January in the assessment year, identified by personal identity number, organisation number or D-number, changes in the composition of shareholders during the income year, distributed dividend and other information that may have a bearing on the taxation of the individual shareholders on realisation of the shares; and
- the capital value of the shares if the shares are not listed on a stock exchange.

61. Foreign shareholders that do not have an official identity number are registered in the Shareholder Register with name, address and country code. Based on this information, they are given Shareholder-IDs, to be used for this purpose for the subsequent years.

62. Norwegian Securities Registries (i.e. VPS) are also obliged to submit information about each investor's ownership stake in financial instruments registered in the depository to the tax authorities. Such information must be submitted to the tax office, unsolicited, in the form of a statement reflecting *inter alia* each year's profit/capital gains arising from the instruments (*Tax Assessment Act,* s.6-5).

63. All shareholder statements submitted by companies and Securities Registries is transferred to the Register of Shareholders (*Aksjonærregisteret*) kept by the tax authorities. This register contains details about all shares in all Norwegian private and public limited companies (e.g. ownership information, changes in the amount of share capital, distributed dividends). The purpose of the Register of Shareholders is to assist the shareholders and the tax-authorities to accomplish a correct assessment of income attributable to financial instruments. It is also a part of the content in the pre-filled tax return. This information is maintained and managed by the tax authorities and is not publicly available.

64. Non-compliance in providing tax-authorities with shareholder information is sanctioned by a daily penalty charge of 10 NOK (1.25 EUR) per statement (*Tax Assessment Act*, s.10-8). The duty to submit shareholder information to the tax authorities rests with the general manager of the company or with the chair of the board if the company has no general manager (s.6-14). Intentional or gross negligent non-compliance in providing the tax authorities with shareholder information is a criminal offence and punishable as tax evasion by imprisonment for up to two years (s.12-1). Non-compliance may also be punishable as gross tax evasion by fines or imprisonment up to six years (s.12-2). According to the Norwegian *Penal Code*, section 48a, the company may be sanctioned by fines when the criminal offence is committed by any representative of the company.

Ownership information on foreign companies

Register of business enterprises

65. All foreign business enterprises carrying out business activities in Norway are required to register as Norwegian Registered Foreign Companies (NUFs) at the Register of Business Enterprises prior to commencing any business activity in Norway (*Business Enterprise Registration Act*, ss. 2-1, 4-1). The company law of the jurisdiction in which the NUF was formed applies for companies registered as NUFs. Information required to be registered includes (s.3-8):

- the business name, the type of business enterprise and the business address of the foreign business enterprise (the main business enterprise);
- the owner of the main business enterprise, fully liable partners or the board of directors, stating the name, date of birth and residence of each and the signature provisions which apply;
- the share capital of the main business enterprise if the business enterprise is a limited company;

- the memorandum of association and the articles of association of the main business enterprise;
- the national legislation which regulates the main business enterprise and whether the main business enterprise is registered in an official register of business enterprises in its home country and if so, the name and address of this register, as well as the registration number of the main business enterprise;
- if applicable, the business name and address of the place of operation in Norway or on the Norwegian continental shelf;
- the type of business activity the company shall carry out;
- the board of directors and the general manager if they have been elected or appointed especially for this business enterprise; and
- whether board of directors and the general manager have the right to bind the main business enterprise with their signatures or *per procurationem*.

66. Registration of NUFs is incumbent on the board of directors of the company in Norway. If there is no board of directors, the notification requirement is incumbent on the general manager of the company in Norway. If there is no board of directors or general manager, the notification requirement is incumbent on the person or persons who are empowered to sign for the main business enterprise (s.4-2).

Tax Administration's register of shareholders

67. According to the *Tax Act* section 2-2, a foreign incorporated company becomes taxable for its global income and assets in Norway, as a resident company, if its place of effective management is in Norway. In such cases companies are obliged to report share ownership information to the tax authorities to the same extent as other Norwegian companies. Failure in providing the tax authorities with the necessary information to determine whether the foreign incorporated company is resident for tax purposes is sanctioned with additional tax or is subject to criminal charge.

Ownership information held by nominees

68. Nominee shareholdings of Norwegian companies are governed by the *Securities Register Act* and the *Public Limited Liability Companies Act*. Shareholdings in Norwegian companies may only be held on a nominee account on behalf of foreign shareholders (*Public Limited Liability Companies Act*, s.4-10).

69. Nominee shareholders are obliged to have in their possession information on their client (the next legal owner in the chain of ownership), and are further obliged to provide information on the ultimate individual owner (the beneficial owner) upon request from the Norwegian authorities or from the issuer. Information on the beneficial owner includes: the name, address, personal identity number or organisation number (or another unique identity code), citizenship or country of registration for legal entities and arrangements, and the number of shares comprised at any time under the trusteeship. The obligation to give such information relates to shareholdings registered by the nominee at the time of the request. Further, the nominee is also expected to be able to provide relevant information on shareholdings recently registered by the nominee. However, the nominee has no legal obligation to provide historical information (beyond recently registered information) (*Securities Registration Act*, s.6-3; *Public Limited Liability Companies Act*, s.4-10). Creating an obligation to provide historical information is currently under consideration by the Norwegian authorities and may be subject to a regulation at a future date. While the *Terms of Reference* do not explicitly require that historical information be maintained by nominees, it is recommended that Norway enact regulations that create an obligation on nominee shareholders to maintain historical ownership and identity information on their clients.

70. All nominees must hold a licence issued by *Finanstilsynet* (The Financial Supervisory Authority of Norway, "FSA") in accordance with the *Securities Registration Act* and *Public Limited Liability Companies Act*. When issuing a licence according to the *Securities Registration Act* section 6-3, the FSA normally emphasises, *inter alia*, the following:

- the nominee shall maintain a register at all times reflecting the identity of the clients connected with all financial instruments registered on a nominee account and the number of financial instruments comprised by each nominee assignment; and
- Norwegian authorities shall at any time have access to information on beneficial owners of financial instruments registered on a nominee account. Such information shall be presented in the manner and within the timeframe deemed suitable by the authorities.

71. The duty to provide information upon request to Norwegian authorities is with the nominee. Accordingly, the nominee is under the obligation to obtain the necessary legal basis for disclosure of the information mentioned. If a nominee is subject to provisions of confidentiality, prior consent must be obtained from its clients before entering into any nominee assignment (*Public Limited Liability Companies Act*, s.4-10; *Regulations no. 1638 on nominee registration in securities funds' unit holder registers*).

72. If there are one or more sub-nominees (i.e. the nominee's clients are not/will not be the beneficial owner of the financial instruments), the licence holder will have to ensure that there exists a legal basis which makes the clients on each level obligated to submit the identity of their respective clients to Norwegian authorities upon request from the licence holder. These conditions are set in order to ensure that necessary prior consents from clients are given where one or more of the sub-nominees are subject to provisions of confidentiality (*Regulations no. 1638 on nominee registration in securities funds' unit holder registers*).

Ownership information held by directors and officers

73. Directors and officers of Norwegian companies are not statutorily required to maintain ownership information in respect of the company. These requirements lie on the company. For public and private limited companies, the CEO and at least half of the members of the board of directors must be residents of Norway. Nationals of the EEA countries are not subject to this residence requirement if they are also residents of an EEA country (*Public Limited Companies Act*, s.6-11).

Ownership information held by service providers

74. Service providers (e.g. real estate agents, accountants, auditors, lawyers) in Norway are governed by the *Act no 11 of 6 March 2009 on measures to combat money laundering and the financing of terrorism* ("*Money Laundering Act"*). Norway's *Money Laundering Act* replaces its 2003 money laundering legislation with a view of improving compliance with the FATF 40+9 Recommendations and implementing into law the European Union's 3rd Anti-Money Laundering Directive 2005/60/EC (3rd EU AML/CFT Directive). New secondary legislation (*Money Laundering Regulation*) was adopted by the Ministry of Finance on 13 March 2009.

75. Norway's *Money Laundering Act* is applicable to, *inter alia,* the financial service sector as well as lawyers, accountants, real estate agents, and trust and company service providers (entities with reporting a obligation). Its scope also encompasses all providers in goods for which payments are made in cash in excess of NOK 40 000 (EUR 5 050) (s.4). In its customer due diligence procedures, Norway's *Money Laundering Act* requires entities with reporting obligations to have procedures in place to collect information sufficient for identification and verification of each customer, take reasonable measures to identify and verify the beneficial owner, and to obtain additional information to understand the customer's circumstances and business (ownership and control structure), including the level and nature of the transactions (ss.5 through 7). There is also a requirement to monitor the customer's

transactions on an ongoing basis (s.14). The *Money Laundering Act* applies to entities with a reporting obligation that are established in Norway, including branches of foreign undertakings (s.3).

76. The term "beneficial owner" is defined in Section 2(3) of Norway's *Money Laundering Act* as "natural persons who ultimately own or control the customer and/or on whose behalf a transaction or activity is being carried out. A natural person shall in all cases be regarded as a beneficial owner if the person concerned:

- directly or indirectly owns or controls more than 25 per cent of the shares or voting rights in a company, with the exception of companies that have financial instruments listed on a regulated market in an EEA state or are subject to disclosure requirements consistent with those that apply to listing on a regulated market in an EEA state,
- exercises control over the management of a legal entity in a manner other than that referred to in (a),
- according to statutes or other basis is the beneficiary of 25 per cent or more of the assets of a foundation, trust or corresponding legal arrangement or entity,
- has the main interest in the establishment or operation of a foundation, trust or corresponding legal arrangement or entity, or
- exercises control over more than 25 per cent of the assets of a foundation, trust or corresponding legal arrangement or entity.

77. Entities with a reporting obligation are obliged to apply customer due diligence measures in connection with: establishment of customer relationship; transactions involving NOK 100 000 (EUR 12 670) or more for customers with whom the entity with a reporting obligation has no established customer relationship; suspicion that a transaction is associated with proceeds of crime or offences subject to sections 147(a), 147(b) or 147(c) of the *Penal Code*; or doubt as to whether previously obtained data concerning the customer is correct or sufficient (s.6). The Regulations to Norway's *Money Laundering Act* deem a customer relationship to be established when an entity with a reporting obligation provides a service (s.2). In June 2009, the Norwegian FSA issued extensive guidelines regarding customer due diligence procedures.

78. Entities with a reporting obligation are obliged to keep records concerning their customers that reflect: the name; personal identity number, organisation number, D-number or, if the customer has no such number, another unique identity number; permanent address; and reference to proof of identity used to verify the customer's identity. In the case of legal persons not registered in a public register, entities with a reporting obligation are also obliged to maintain

information regarding the form of organisation and date of establishment as well as the name of the general manager, managing director, or proprietor. Records unequivocally identifying beneficial owners must also be maintained. (s.8). These records must be maintained for five years after the customer relationship has ended or following the carrying out of the transaction (s.4).

79. Section 28 of the Norwegian *Money Laundering Act* states that any person who wilfully or with gross negligence contravenes provision of the Act is liable to fines. In the case of particularly aggravating circumstances, imprisonment for a term not exceeding one year may be imposed.

80. The FSA supervises that real estate agents, accountants and auditors comply with its AML/CFT framework. As regards lawyers, the Supervisory Council for Legal Practice routinely looks at compliance with the AML/CFT framework in connection with their supervision activities and follows-up with sanctions where deemed appropriate.

Document retention requirements

81. Private limited companies are obliged to maintain a share register for a minimum of ten years (*Limited Liability Companies Act*, s.4-7). The same applies to public limited liability companies; however, the share register is kept electronically by the Central Securities Depository – VPS (*Public Limited Liability Companies Act,* s.4-4; *Central Securities Depository Act*, s.6-6). The share register for private limited companies must be kept available to the public at the company's office in Norway (*Limited Liability Companies Act*, s.4-5). Information registered in the Register of Business Enterprises is maintained for an indefinite period.

82. The mandatory retention period for maintaining information in the tax authority's Register of Shareholders (*Aksjonærregisteret*) is ten years for all types of companies. This applies regardless of whether the company has been liquidated or wound up. The Norwegian tax authorities have not determined whether data shall be automatically deleted after the 10-year retention period or if some additional storage will be chosen. Presently the information is stored indefinitely.

83. Nominee shareholders in Norway have no legal obligation to maintain historical ownership and identity information on their client beyond current and recently registered information.

84. Service providers are obliged to maintain ownership and identity information of their clients for a minimum of five years (*Money Laundering Act*, s.4).

Bearer shares *(ToR A.1.2)*

85. Norwegian law does not allow the issuance of bearer shares.

Partnerships *(ToR A.1.3)*

Types of partnerships

86. The following types of partnerships are recognised in Norway: general partnerships (*ansvarlig selskap*, ANS); general partnership with divided liability (*selskap med delt ansvar*, DA); and limited partnerships (*kommanditselskap*, *KS and indre selskap*, IS). In addition, Norway recognises jointly owned shipping companies (*partrederi*[8] and inter-municipal companies (*interkommunalt selskap, IKS*)[9] as partnerships; however, these legal entities are used for special purposes only.

87. General partnerships, general partnerships with shared liability, and limited partnerships are considered separate legal entities and are governed by the *Act of 21 June 1985 Concerning Unlimited Liability Partnerships and Limited Partnerships* (the "*Partnership Act"*).

88. Section 2-3 of the *Partnership Act* requires all partnerships, excluding internal partnerships,[10] to draw up a dated written partnership agreement signed

8. Jointly owned shipping partnerships are governed by the Norwegian *Maritime Code* of 24 June 1994 No.39 chapter 5. According to section 101 of the Norwegian *Maritime Code,* a shipping partnership is a firm having for its purpose the business of a "reder", where the partners have unlimited liability in respect of the firm's obligations, either jointly and severally, or in proportion to their holdings in the firm. The "reder" is the person (or company) that runs the vessel for his or her own account, typically the owner or the demise charterer. Time charterers and voyage charterers are not considered "reders".
9. Inter-municipality companies are partnerships where all the participants are municipalities, counties or other inter-municipality companies. Inter-municipality partnerships are governed by the *Inter-municipality Partnerships Act* of 29 January 1999 no.6 and are obliged to register in the Business Enterprise Register pursuant to the *Business Enterprise Register Act* section 2-1 no. 8.
10. Section 1-2 of the *Partnership Act* defines internal partnerships as partnerships which do not act as such in relation to third parties. Participants in internal partnership can be individuals, partnerships, companies or other entities. Internally the partners of internal partnerships are jointly liable for the partnerships obligations. Externally a principal acts on behalf of the partnership. Toward third parties the principal is fully liable.

by all partners except silent partners.[11] Partnership agreements must contain *inter alia* the name of the partnership, the name and address of each partner except silent partners, the object of the partnership, the municipality in which the partnership will have its head office, whether the partners will contribute capital, and the value of any contributed assets. Subsequent amendments to the partnership agreement must be made in the same manner unless the amendments appear on the record of a partnership meeting. A partner who joins the partnership after it has been established must accede to the partnership agreement in writing (s.2-3).

Ownership information on partnerships

Register of business enterprises

89. All Norwegian partnerships are obliged to register with the Registrar of Business Enterprises (*Business Enterprise Registration Act* ss.3-3, 3-4). A partnership is considered to be Norwegian if the main office of the partnership is in Norway.[12] Information required to be registered includes:

- the partnership's name;
- the names of the partners;
- the date of the formation of the partnership;
- the objective of the partnership;
- the municipality of the partnership and its address;
- board members, if the partnership has a board, and the general manager, if another person other than the general partner is employed as the general manager;
- who represents the partnership externally, and who is empowered to sign for the partnership (s.3-3; and 3-4);
- who is empowered to sign on behalf of the partnership (if notification of such authorisation has been given) (including information on the name, national identity number and residence of the persons in question);

11. A silent partner is a partner in a partnership where it is agreed that the participation shall not appear towards third parties and where the silent partner is liable only for a fixed amount. A silent partner may be partner in an internal partnership or other partnerships.
12. The existence, or not, of Norwegian partners and the source of the partnership income are not defining factors when considering to which partnerships this obligation applies.

- whether the partnership has an auditor, and the name, business address and national identity number in those cases where the auditor is a natural person;
- if an administrative receiver has been appointed for the partnership pursuant to sections 77 and 83 of the *Norwegian Insolvency Act*, his/her name, national identity number and business address (s.3-7); and
- the partnership agreement (s.4-4).

90. In addition, limited partnerships are obliged to register the name of the general partner(s), the partnership's capital, and the name of the limited partners and their committed capital (s.3-3). General partnerships are obliged to register the name of the partners in the partnership and their respective liability for the partnership's obligations (s.3-4).

91. All changes to information registered with the Register for Business Enterprises (e.g. members of the partnership) must be promptly reported. If the partnership neglects to do so, it will be ordered to rectify the situation within a stipulated period of time. If the deadline is not met, the partnership will be ordered to pay an overrun penalty (*Business Enterprise Registration Act*, section 4-5). Failure to provide a required notification to the Register of Business Enterprises is sanctioned by the same penalties applicable to companies (see paragraph 53).

Partnership Statements for Tax Purposes

92. Section 6-11 of Norway's *Tax Assessment Act* requires all partnerships, including internal partnerships (s.4-9), to file a yearly Partnership Statement (*Selskapsoppgave*) to the Tax Office. The Partnership Statement must contain information regarding the partnership's taxable income and any information with a bearing on the tax assessment of the partners. The Partnership Statement must also contain a list of all the partners in the partnership, including silent partners, as of 1 January in the tax assessment year, each partner's holding in the partnership, their share of the profits, the addition to general income per partner and each partner's tax municipality.

93. Partnerships in Norway are not liable for tax. The tax is levied on each partner according to their share of ownership. This is done by filling out tax forms (*Deltakeroppgaver*) on behalf of each partner which in turn is delivered to the Tax Office. This also applies to foreign partners provided, however, the foreign partner is deemed to be carrying out taxable business activities through a permanent establishment (filial) in Norway when participating in the partnership. The information is maintained and managed by the tax authorities.

94. The duty to provide the statements rests with the partnership's board or general manager. If the partnership does not have a board or a general manager the duties rest with the partners jointly or with a representative appointed from among them (*Tax Assessment Act* s.4-9). Failure to provide the tax office with sufficient and accurate information is a criminal offence and subject to additional tax and also punishable by fines or by imprisonment for up to two years (gross tax evasion is punishable by fines or by imprisonment for up to six years) (*Tax Assessment Act*, ss.12-1, 12-2). Tax authorities must choose between imposing additional tax or bring a criminal charge against the taxpayer.

Information held by service providers

95. Partnership service providers (e.g. auditors, lawyers) are entities with a reporting obligation under Norway's *Money Laundering Act*. Section 2(4) of the *Money Laundering Act* defines company service providers as natural and legal persons who provide the services of *inter alia* forming legal entities, or acting as partner in a general or limited partnership. Under the *Money Laundering Act,* partnership service providers are obliged to maintain ownership and identity information regarding their clients and their client's beneficial owners. (See paragraphs 71-77.)

Information held by the partnership or partners

96. As indicated in paragraph 90, the partnership's board or general manager is obliged to maintain ownership and identity information in order to fulfil the partnership's tax reporting obligations. In addition, partners in general partnerships, general partnerships with shared liability, and limited partnerships are likely to know the names and addresses of the other partners. Section 2-3 of the *Partnership Act* requires all partners to sign the partnership agreement, which contains the names and addresses of all partners. All partners have the right to access partnership documents, including the partnerships' accounts, vouchers and other partnership documents of whatever kind (s.2-27).

Document retention requirements

97. The retention period of partnership agreements is not regulated by the *Partnerships Act*. Norwegian tax laws do not require documents such as partnership agreements to be kept for a particular period of time. However, tax assessments may only be amended within a ten-year period. Taxpayers often consider it advantageous to keep all tax relevant information for the same period. The tax authorities will keep information from the Partnership Statement (*Selskapsoppgave*) and Partner Statement (*Deltakeroppgaver*) for

at least ten years. In the case of a transfer of partnership interest or liquidation, information about former partnership interests is available from the Register of Business Enterprises as historical information. Information registered in the Register of Business Enterprises is maintained for an indefinite period.

Trusts *(ToR A.1.4)*

98. Norwegian law does not recognise the legal concept of a trust. Norway has not signed the Convention on the Law Applicable to Trusts and on their Recognition (1 July 1985, The Hague). There are, nevertheless, no obstacles for a Norwegian citizen to be a trustee of a foreign trust. Norway has taken no action to implement regulations on this matter. However, if information is considered necessary for Norwegian tax assessment purposes, the taxpayer has an obligation to disclose such information to the tax authorities. This may concern information about settlors, trustees, and beneficiaries.

99. Book-keeping requirements applicable to trustees will normally result in trustees being required to have identity information on the settlor and beneficiaries for foreign trusts. The *Bookkeeping Act* generally requires accounting information to be kept or be available in Norway. Failure to comply with the *Bookkeeping Act* is an offence and subject to a fine or imprisonment. All entities which carry out business in Norway, which would include trustee activities, are required to maintain accounting records. According to the *Bookkeeping Act* every business transaction must be entered into the records. The documentation must among other things contain information about transactions and which counter-party they concern (*Regulations on Bookkeeping*, chapters 5-8). This would include information about settlors and beneficiaries. Non-compliance with the provisions of the *Bookkeeping Act* and its regulations is viewed seriously, punishable by fines or imprisonment up to three years. In particularly aggravating circumstances, imprisonment up to six years may be imposed. Complicity is punishable in the same way (*Bookkeeping Act*, s.15).

100. Trust service providers (e.g. auditors, lawyers) are entities with a reporting obligation under Norway's *Money Laundering Act* (s.4(6)). Section 2(4) of the *Money Laundering Act* defines trust service providers as natural and legal persons who provide the services of *inter alia* forming legal entities, acting as a trustee to legal persons, or administering or managing a trust or corresponding legal arrangement. Under the *Money Laundering Act,* trust service providers are obliged to maintain ownership and identity information regarding their clients and their client's beneficial owners. Customer due diligence procedures in Norway's *Money Laundering Act* are applicable to all Norwegian trustees regardless of whether they act in professional capacity or are otherwise compensated for their services (see paragraphs 71-77).

Foundations *(ToR A.1.5)*

101. Foundations in Norway are regulated by the *Foundation Act*. To qualify as a foundation (stiftelse), the foundation must have a clearly defined and distinguishable purpose and must be governed by an independent board. There are two types of foundations that can be established in Norway: a non-commercial foundation and a commercial foundation (s.4). Commercial foundations engage in commercial activity and are liable to pay corporate tax in Norway. Non-commercial foundations are established for non-commercial purposes and are tax-exempted.

102. The Norwegian Gaming and Foundation Authority (hereafter referred to as the "Foundation Authority") is the supervisory body for foundations. The tasks of the Foundation Authority are, *inter alia*, to keep a register of foundations and to conduct supervision and inspection to ensure that foundations are managed in accordance with their statutes and the *Foundations Act* (s.7).

Ownership information on foundations

103. All foundations in Norway are required to register with the Foundation Authority upon establishment. Information required to be registered includes (s.8):

- the date of establishment of the foundation and the name of the founder;
- the address of the foundation;
- members of the foundation's board, the name of its chair and any deputy members and observers on the board;
- the name of the general manager of the foundation, if any;
- the name of the auditor, the auditor's registered address and auditor number;
- the name of the accountant, if any, and the accountant's address and registration number; and
- the statutes of the foundation.

104. In the case of a foundation board's members, deputy members and observers and the general manager, the register must also contain their national ID numbers and their addresses. If the board is another foundation, the name and organisation number of that foundation must be registered (s.8).

105. In addition to the information registered pursuant to section 8 of the *Foundations Act,* all foundations are required to register a certified

copy of the foundation deed (ss. 11, 12). Section 9 of the *Foundations Act* provides that the foundation deed must, at minimum, state: the object of the foundation; the assets to be used as founding capital; the composition of the board; and any special rights to be granted to the founder or other persons in connection with the establishment of the foundation (e.g. the foundation's beneficiaries).

106. According to section 10 of the *Foundations Act*, all foundations are obliged to have statutes, which, as a minimum, must state the following:

- the name of the foundation;
- the object of the foundation;
- the number or the minimum and maximum number of board members and how the board is to be elected;
- if the foundation is to include other bodies than the board, which bodies these are, how they are to be elected and their authority and duties; and
- the amount of the founding capital.

107. All changes to information registered with the Foundation Authority must be promptly reported by providing notification to the registrar. If a foundation is wound up, the Foundation Register must be notified and the foundation removed from the register (s.8).

108. Commercial foundations are also required to register with the Register of Business Enterprises. The same information required to be registered with the Foundation Authority must also be registered with the Register of Business Enterprises (*Business Enterprise Registration Act*, s.3-6 and 3-7). All sections of the *Business Registration Act,* as appropriate (e.g. requirements to notify of any changes, penalties) apply to commercial foundations.

109. The general tax rules that apply for entities operating business activities also apply to commercial foundations. In the tax return commercial foundations must file basic identification information for the foundation, such as name, address and organisation number, and information relevant for the calculation of tax. There are no specific provisions for commercial foundations. The information the tax authorities receive in the tax return becomes part of the ordinary tax authority's register for taxable entities. Non commercial foundations, not operating any business activities, are not taxable and not obliged to file tax return.

110. All foundations in Norway are required to maintain accounting records (*Foundation Act*, s.10). According to the *Bookkeeping Act* every business transaction must be entered into the records. The documentation must

among other things contain information about the transaction and identify the name of the counter-party it concerns (e.g. identifying the foundation's beneficiaries) (*Regulations on Bookkeeping*, chapters 5-8). Non-compliance with the provisions of the *Bookkeeping Act* and its regulations is viewed seriously, punishable by fines or imprisonment up to three years. In particularly aggravating circumstances, imprisonment up to six years is imposed. Complicity is punishable in the same way (*Bookkeeping Act*, s.15).

Ownership information held by service providers

111. Foundation service providers that assist in formation of a foundation, act as trustee or a similar position with respect to the foundation, or administer or manage a foundation (e.g. members of the foundation council) are entities with a reporting obligation under Norway's *Money Laundering Act* (s.2(4)). Under the *Money Laundering Act,* foundation service providers are obliged to maintain ownership and identity information regarding their clients and their client's beneficial owners. (See paragraphs 71-77.)

Ownership information held by the foundation

112. Foundations are not statutorily required to maintain information in respect of the founders, members of the foundation council, beneficiaries or other persons with the authority to represent the foundation. However, information registered with the Foundation Registry is normally maintained by the foundation itself. Foundations with statutory bookkeeping requirements are obliged to maintain information regarding transactions and which counterparty it concerns.

Document retention requirements

113. There is no minimum retention period. In case of liquidation, information about board members, general manager, founder and any changes to this information will be available in the Foundation Register at the Foundation Authority as historical information. Information registered in the Foundation Register is maintained for an indefinite period.

Other relevant entities and arrangements

114. Non-profit organisations (NPOs) (e.g. charitable organisations, associations, investment clubs) are not subject to a specific law or regulatory body in Norway. In 2008, Norway developed the Register of Non-Profit Organisations housed at the Brønnøysund Register Centre. The Register of Non-Profit Organisations aims to improve and simplify the co-operation between non-profit organisations and government authorities. NPOs are not

obliged to register in the Register of Non-Profit Organisations, but all organisations that meet the criteria are entitled to register.

115. The information registered includes *inter alia* the name of the non-profit organisation, the organisation number, registration date, address, bank account number and category (for instance culture or sport). Statutes may also be registered.

116. NPOs that wish to receive government support will often choose to register since it is often a condition of receiving government and private support. Similarly, banks often require NPOs to register as a condition for opening an account.

117. Pursuant to section 1-2 of the *Accounting Act*, associations (including NPOs) are required to prepare an annual report if the association owns assets worth more the NOK 20 million (EUR 2.5 million) or has more than 20 employees. These associations are obliged to submit their annual accounts to the Register of Company Accounts. According to section 2 of the *Bookkeeping Act*, all enterprises which, pursuant to the *Accounting Act,* are obliged to keep accounts have a bookkeeping obligation.

118. NPO service providers (e.g. auditors, lawyers) that assist in formation of a NPO, act as trustee or a similar position with respect to the NPO, or administer or manage a NPO are entities with a reporting obligation under Norway's *Money Laundering Act* (s.2(4)). Under the *Money Laundering Act,* NPO service providers are obliged to maintain ownership and identity information regarding their clients and their client's beneficial owners. (See paragraphs 71-77.)

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

119. Non-compliance with provisions of the *Business Enterprise Registration Act* is viewed seriously. Failure to provide a required notification (e.g. initial registration and notification of subsequent changes) can be sanctioned by significant fines (up to NOK 26 000 (EUR 3 260)) (s.4-5) and, by court judgment, a business enterprise may be deprived of the right to carry on a business or may be prohibited from carrying it on in certain forms (*Penal Code*, s.48a).

120. Failure by public and private limited companies to maintain ownership and identity information of shareholders is viewed as a criminal offence, subjecting the founders, member's of the board, and general manager to fines or, in aggravating circumstances, imprisonment for up to one year (*Public Limited Liability Companies Act*, s.19-1; *Private Limited Liability Act*, s.19-1). Non compliance also subjects the company to fines when the criminal offence is committed by any representative of the company (*Penal Code*,

s.48a). Fines imposed by section 48a of the *Penal Code* must take into consideration the nature of the offense and the financial position of the convicted person (*Penal Code*, s.27).

121. All taxpayers, both individuals and companies, must submit a tax return in the beginning of the year following the tax year. The exact time varies according to different groups of taxpayers. According to section 10-1 of the *Tax Assessment Act*, taxpayers who exceed these time limits are subject to a late filing penalty amounting to a minimum of NOK 200 and a maximum of NOK 15 000 (EUR 1 880).

122. Sections 10-2 to 10-5 of the *Tax Assessment Act* provide that additional tax may be imposed if a taxpayer fails to provide the tax authorities with sufficient and accurate information. Additional tax is normally imposed at a rate of 30% (maximum rate 60%) of the tax withheld. The authority to impose additional tax is part of the Norwegian tax authorities' routine domestic administrative powers. There is no need for court approval, and consent of some other authority is not required. A taxpayer may appeal a decision to impose additional tax to the Tax Appeal Board. If the decision of the Tax Appeal Board is against the taxpayer, the taxpayer may issue a writ. If this occurs, Norway's judiciary will be involved with approving penalties imposed by the tax authorities. Norway reports that almost all cases are settled at the administrative level and that only the most serious cases are prosecuted.

123. Chapter 6 of the *Tax Assessment Act* provides an obligation on third parties to provide information about taxpayers to the tax administration for use in the pre-filled tax return and for the purpose of controlling the accuracy of the information provided by taxpayers.

124. Third parties that are obliged to provide the tax authorities with information unsolicited may be imposed a fixed daily penalty charge of NOK 10 per statement for each day the information has not been submitted (*Tax Assessment Act* s.10-8). Third parties that are to provide information to the tax authorities upon request can be imposed a daily enforcement fine of NOK 860 (EUR 108) until the information is provided (s.10-6). Intentional or gross negligent non-compliance in providing the tax authorities with information is a criminal offence and punishable as tax evasion by fines or imprisonment for up to two years (s.12-1). Non-compliance may also be punishable as gross tax evasion by fines or imprisonment up to six years (s.12-2). The authority to impose enforcement fines is part of the Norwegian tax authorities' routine domestic administrative powers. There is no need for court approval, and consent of some other authority is not required. The third parties may appeal the decision to impose an enforcement fine to the Directorate of Taxes. If the decision of the Directorate of taxes is against the third party, the third party may issue a writ. If this occurs, Norway's judiciary will be involved with approving penalties imposed by the tax authorities.

125. A service provider who contravenes provisions of the *Money Laundering Act* is liable to fines and in aggravating circumstances, imprisonment for up to one year (s.28).

126. Non-compliance with the provisions of the *Bookkeeping Act* and its regulations is viewed seriously, punishable by fines or imprisonment up to three years. In particularly aggravating circumstances, imprisonment up to six years may be imposed. Complicity is punishable in the same way (*Bookkeeping Act*, s.15). Section 10-6 of the *tax Assessment Act* allows tax authorities to issue orders to comply with statutory obligation to keep accounting records. Failure to comply with such order is subject to a daily coercive fine of NOK 860 (EUR 108) until compliance is achieved.

127. All enforcement provisions discussed in this section may be used in an exchange of information context. Norway reports that the use of enforcement measures for purposes of responding to an exchange of information request has not been necessary in the last 15 years.

128. There are a variety of penalties under Norway's laws to ensure that information required to be maintained is, in fact, maintained. The penalties appear to be proportionate and dissuasive enough to insure compliance. Most of Norway's laws provide a range of penalties, including small to large monetary fines depending on the level of infraction and imprisonment in egregious cases. During the onsite visit, the assessment team found that Norway's tax authorities are able to respond to requests for ownership and identity information for all types of legal entities and arrangements. Information received from partner jurisdictions with an exchange of information relationship with Norway confirms this.

Determination and factors underlying recommendations

Phase 1 Determination	
The element is in place.	
Factors underlying recommendations	**Recommendations**
While nominee shareholders are required to maintain current and recently registered ownership and identity information on their clients, there is no legal obligation to maintain historical ownership and identity information.	Regulations should be enacted that create an obligation on nominee shareholders to maintain historical ownership and identity information on their clients.

Phase 2 Rating
Compliant.

A.2. Accounting records

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

129. The *Terms of Reference* sets out the standards for the maintenance of reliable accounting records and the necessary accounting record retention period. It provides 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)

130. Accounting and bookkeeping obligations in Norway are primarily governed by the *Act on Annual Accounts* (the "*Accounting Act*") and the *Bookkeeping Act*. Generally, the *Accounting Act* requires particular types of legal entities to produce and register with the Register of Company Accounts their annual financial statements and auditor's report. The *Bookkeeping Act* requires all legal entities with an accounting obligation under the *Accounting Act* and legal entities with tax or VAT liability to maintain detailed accounting records in accordance with generally accepted bookkeeping principles. These principles are issued by the Norwegian Bookkeeping Standards Board (*Bokføringsstandardstyret til Norsk RegnskapsStiftelse*). There are no special rules on keeping accounting records in the *Tax Assessment Act*.

131. The *Bookkeeping Act* and the *Accounting Act* oblige limited companies, partnerships, and foundations to keep accounting records which correctly explain all transactions, enable the financial position of the entity or arrangement to be determined with reasonable accuracy at any time and allow financial statements to be prepared.

The Accounting Act

132. Companies with a statutory obligation to keep accounting records pursuant to section 1-2 of the *Accounting Act* include, *inter alia*:

- public and private limited companies;
- state-owned corporations;

- partnerships (as defined in section 1–2 first paragraph of the *Partnerships Act*[13]);
- financial institutions and other enterprises which are subject to supervision in accordance with section 1 of the *Banking, Insurance and Securities Commission Act* (7 December 1956)
- foundations; and
- foreign enterprises which are taxable to Norway.

133. Consolidated groups with securities listed on a regulated market within the EEA have to prepare financial statements in accordance with International Financial Reporting Standards (IFRS) as adopted by the European Commission and incorporated into the EEA-agreement (s.3-9). Other entities with a reporting obligation under the *Accounting Act* may voluntarily choose to prepare financial statements in accordance with the aforementioned version of IFRS. Such companies may also prepare financial statements in accordance with a simplified version of international financial reporting standards adopted through a regulation to the *Accounting Act* (s.3-9).

134. Chapters 3 through 7 of the *Accounting Act* provide requirements for, among other things, annual accounts and annual reports, fundamental accounting principles and generally accepted accounting practice (GAAP), rules for valuation, the profit and loss account, balance sheet and cash flow statement and notes. Accounting regulations provide further detailed requirements for the production and maintenance of reliable financial statements (*Regulations on Accounting*, chapters 5-8).

135. The reporting obligations under the *Accounting Act* are differentiated according to the size and type of entity. Public limited companies, financial institutions and certain other public interest entities have an obligation to prepare more extensive disclosures (e.g. on remuneration and corporate governance). Small entities are allowed exceptions in accordance with the Accounting Directives (78/660/EEC with amendments) from disclosure requirements and certain other obligations (e.g. to prepare a cash flow statement). The *Accounting Act* defines small entities as entities satisfying two of the following three criteria: income less than NOK 60 million (EUR 7.5 million), balance less than NOK 30 million, and less than 50 employees. In addition, other departures from general reporting obligations provided for in the

13. Excludes *(i)* inter-municipal partnerships and *(ii)* partnerships that are not ship owning partnerships and which have had less than NOK 5 million (EUR 625 000) in annual revenue and an average number of employees of less than five if the number of partners does not exceed five and no partner is a legal entity with limited liability (s.1-2).

Accounting Act are given for certain types of entities in regulations and in Norwegian GAAP standards (e.g. for financial institutions, for housing co-operatives and for NPOs).

136. According to Section 2-1 of the Norwegian *Auditing and Auditors Act*, entities with a statutory obligation to keep accounting records pursuant to the *Accounting Act* must ensure that their annual accounts are audited by a registered auditor or state authorised auditor in accordance with section 2-2 (statutory audit obligation). This requirement does not apply to entities with operating revenues from all business activities of less than NOK 5 million (EUR 625 000) (s.2-1, second paragraph). The threshold exemption of NOK 5 million does not apply to (i.e. these companies will always have a statutory audit obligation):

- private limited companies and public limited companies;
- partnerships (as defined in s.1-2 of the *Partnership Act*) with more than five partners;
- limited partnerships where the general partner is a legal person and where no limited partner incurs personal liability for the partnership's obligations either on an undivided basis or in respect of parts which in aggregate constitute the legal person's total obligations;
- general partnerships where all partners are legal persons and where no partner incurs personal liability for the partnership's obligations either on an undivided basis or in respect of parts which in aggregate constitute the legal person's total obligations; and
- foundations.

The register of company accounts

137. Section 8-2 of the *Accounting Act* requires all entities with reporting obligations to submit their annual accounts, including the auditor's report, to the Register of Company Accounts. The Register of Company Accounts is the primary public source of financial information in Norway. Information required to be registered includes the financial statement, director's report and auditor's report. These are all publicly available at the location of the entity obliged to register annual accounts, or at the Register of Company Accounts (s.8-1).

138. The rules regarding the role and functions of the Register of Company Accounts are based upon the provisions of the Fourth and Seventh Company Law Directives on the disclosure of company and consolidated accounts. The rules apply to financial statements, directors' reports and auditors' reports.

139. Documents as mentioned must be submitted to the Register of Company Accounts within one month after being adopted by the annual general meeting, at the latest by 1 August (s.8-2). If the documents are submitted late, the company will be liable to pay a default fine. If the documents have not been submitted within six months after the deadline has expired, the Norwegian Bankruptcy Court may enforce dissolution of the company (ss. 8-3). Negligent or material violation of the *Accounting Act* is also punishable by imprisonment for up to three years and up to six years for aggravating circumstances (s.8-5).

140. The requirements for the contents of the financial statements are set out in the *Accounting Act*. Controlling the contents is the responsibility of the board of directors of the company concerned as well as the company auditor to the extent provided for under the *Auditing and Auditors Act*. The Register of Company Accounts is only obliged to ensure that the necessary documents have been attached, and that the annual accounts have been adopted by the company's annual general meeting.

The Bookkeeping Act

141. The *Bookkeeping Act* applies to legal entities that are obliged to keep accounts pursuant to the *Accounting Act* and all other legal entities obliged to file a tax return pursuant to the *Tax Assessment Act* or *VAT Act* for the business in which it is engaged (s.2).

142. Norwegian trustees of foreign trusts are subject to Norwegian bookkeeping requirements when the trust derives income in Norway or manages assets in excess of NOK 20 million (EUR 2.5 million) within Norway (provided the trustee is seen as a professional service provider or in a contractual relationship according to classifications under Norwegian domestic legislation). Norwegain trustees of foreign trusts not meeting these classifications are not obliged under Norwegain law to maintain accounting records.

143. Section 4 of the *Bookkeeping Act* provides detailed bookkeeping requirements and specifies certain fundamental principles for bookkeeping, specification, documentation, and storage of accounting information.

Underlying documentation *(ToR A.2.2)*

144. All legal entities and arrangements with a statutory bookkeeping obligation are required to maintain underlying documentation that reflects *inter alia*: details of all sums of money received and expended and the matters in respect of which the receipt and expenditure takes place; all sales and purchases and other transactions; and the assets and the liabilities of the relevant legal entity or arrangement (*Regulations on Bookkeeping,* s.3-1).

Document retention (ToR A.2.3)

145. The Register of Company Accounts maintains the contents of submitted documents (i.e. annual accounts) pursuant to the *Accounting Act* for a period of ten years (*Accounting Act*, s.8-2).

146. The *Bookkeeping Act* requires the maintenance of accounting records by all entities governed by the Act (ss.2, 4). This applies regardless of whether the entity has been liquidated or wound up. Section 13 of the *Bookkeeping Act* provides requirements for the maintenance of particular types of accounting documentation.

147. The *Bookkeeping Act* classifies accounting documentation as either "primary" or "secondary". Documentation is classified "primary" if it is necessary in order to control the substantiality and accuracy of the financial reporting. Primary documentation must be maintained for ten years (s.13). The following types of documentation are classified as "primary":

- annual accounts and other statutory financial reporting, the annual report and the auditor's report;
- specifications of statutory financial reporting;
- documentation of entries and deleted entries, documentation of the accounting system *etc.*, and documentation of the balance sheet; and
- numbered letters from the auditor.

148. As a result, accounting records and all underlying documentation which relates to accounting entries, the accounting system and the balance sheet must be maintained for ten years. This means that underlying documentation concerning the details of all sums of money received and expended and the matters in respect of which receipt and expenditure takes place, as well as all sales and purchases and other transactions and the assets and liabilities of the relevant entity or arrangement, must be maintained for ten years.

149. Secondary documentation may give additional evidence as to the completeness of the financial reporting, and may make it possible to further substantiate the accuracy of the documentation and correct accrual of entries. Secondary documentation must be maintained for 3½ years (s.13). The following types of documentation are classified as "secondary":

- contracts/agreements concerning the business (subject to a materiality clause);
- correspondence containing additional information in support of an entry (subject to a materiality clause);

- outgoing packing slips (suppliers duplicate) or corresponding documentation available on paper at the time of delivery; and
- price lists that are required to be prepared by act or regulation.

150. Agreements, contracts and other documentation not directly relating to entries in the financial statements, tax returns etc. would be subject to the 3½ year statutory storage requirement for secondary documentation. This could for example include framework agreements relating to the payment structure and procedures for ongoing supplies of goods, though if this type of documentation is necessary to document entries, it will be considered primary documentation, and hence subject to the ten year statutory storage requirement.

151. Although secondary documentation is only required to be maintained for 3½ years, Norway reports that, in practice, legal entities and arrangements may consider it beneficial to maintain such documentation for a longer duration. This is due to Norway's 10-year statute of limitations for amending a tax return. Underlying accounting documentation may be useful for the taxpayer if the tax authorities consider amending a previously filed tax return.

152. The general rule under the *Bookkeeping Act* is that all accounting information must be maintained in Norway. The Ministry of Finance may grant exemption from the provision to store documentation in Norway, generally or in individual instances. The authority to grant exemptions has been delegated to the Directorate of Taxes. Under the directions laid down in preparatory works to the *Bookkeeping Act* and according to established practice, the Directorate of Taxes has only granted exemptions if the material is stored electronically and is accessible online in Norway, and the storage takes place under the auspices of a company in the same group abroad.

153. Peer input received indicates that Norway is able to exchange accounting records for all types of legal entities and arrangements.

Determination and factors underlying recommendations

Phase 1 Determination
The element is in place.

Phase 2 Rating
Compliant.

A.3. Banking information

Banking information should be available for all account-holders.

154. The FSA of Norway is responsible for banking supervision pursuant to the *Act on Financing Activity and Financial Institutions* (*Financial Institutions Act*) of 1998. The FSA shares the responsibility of financial stability with the Central Bank of Norway and the Ministry of Finance.

Record-keeping requirements (ToR A.3.1)

155. Section 22 of Norway's *Savings Banks Act* and Section 20 of Norway's *Commercial Banks Act* provide that any person depositing money in a new bank account is obliged to provide their name, occupation or business, and address of the depositor. No other specific record keeping requirements pertaining to the accounts or to related financial and transactional information is provided for in these Acts.

156. All financial institutions operating in Norway are entities with a reporting obligation under Norway's *Money Laundering Act* (s.2(4)).[14] In accordance with section 22 of the *Money Laundering Act,* financial institutions are obliged to retain copies of documents used in connection with customer due diligence measures and certain identifying information (e.g. name, identity number, address) for five years after the customer relationship has ended or following the carrying out of the transaction (ss. 7, 8). Financial institutions are also obliged to retain documents associated with transactions suspected to be related to proceeds of crime or terrorism for a minimum of five years after the transaction is carried out (s.17). The FSA prioritises supervision of financial institutions in line with the *Money Laundering Act*. (See paragraphs 71-77.)

157. Although there are no detailed record keeping requirements in the *Savings Banks Act, Commercial Banks Act,* or *Money Laundering Act* (beyond retention of client identification and suspicious transaction information), financial institutions in Norway are obliged pursuant to the *Tax Assessment Act* to maintain bank records pertaining to the accounts as well as to related financial and transactional information.

14. Other relevant entities with a reporting obligation include: the Central Bank of Norway; e-money institutions; undertakings operating activities consisting of transfer of money or financial claims; investment firms; management companies for securities funds; insurance companies; postal operators in connection with provision of insured mail services; security registers; and undertakings that operate deposit activities (*Money Laundering Act,* s.2(4)).

158. All financial institutions, including banks, insurance companies and securities firms, have an obligation to report, unsolicited, to the tax authorities details of their clients' economic standing, for example the amount of debit and credit balances for each account, capital invested, debt incurred and interest accrued (*Tax Assessment Act*, s.6-4). This information is maintained and used by the tax authorities to assist in preparing pre-completed tax returns that are sent to taxpayers each year.

159. In addition, and at the request of the Norwegian tax authorities, financial institutions are obliged to disclose information about the funds being managed on behalf of named persons, estates, enterprises or undertakings and about the return on the funds. Financial institutions are also obliged to disclose information about deposit and debit accounts, deposits, brokerage and other transactions. This duty of disclosure also includes information concerning vouchers and other documentation of transactions, including identification of the parties to the transactions. The Directorate of Taxes may demand any of the aforementioned financial information concerning un-named persons (s.6-4).

160. Non-compliance with reporting obligations under the *Assessment Act* is sanctioned by coercive daily fines of NOK 860 (EUR 108) (s.10-6).

161. Peer input received indicates that Norway is able to exchange bank records for all types of legal entities and arrangements. Norway reports that bank information is maintained for all clients and that its competent authority has not encountered issues regarding availability of bank information, both for domestic tax cases and for providing exchange of information assistance.

Determination and factors underlying recommendations

Phase 1 Determination
The element is in place.

Phase 2 Rating
Compliant.

B. Access To Information

162. 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 Norway's legal and regulatory framework gives the authorities access powers that cover all relevant persons and information and whether rights and safeguards are compatible with effective exchange of information. It also assesses the effectiveness of this framework in practice.

Overview

163. Norway's tax authorities have broad powers to obtain bank, ownership, identity, and accounting information and have measures to compel the production of such information. The ability of Norway's tax authorities to obtain information for exchange of information purposes is derived from its general access powers under the *Tax Assessment Act* coupled with the authority provided by the relevant exchange of information agreements. There are no statutory bank secrecy provisions in place that would restrict effective exchange of information.

164. Norway's competent authority, when requested by a foreign counterpart, can retrieve information from regional tax offices, which have broad powers under the *Tax Assessment Act* to access information from taxpayers and third parties. Norwegian tax authorities have access to all relevant public registries (e.g. Register of Business Enterprises) and also maintain their own extensive registry of information received (solicited and unsolicited) in accordance with its laws. As a result, many international exchange of information requests can be responded to directly by Norway's competent authority without the involvement of regional tax offices or using the tax authorities' various access powers.

165. Application of rights and safeguards (e.g. notification, appeal rights) in Norway do not restrict the scope of information that Norway's tax authorities can obtain.

166. Norway's institutional framework facilitates effective retrieval of information: there is a sufficient number of professional staff with clear responsibilities for obtaining information; the staff have adequate expertise and training specific to exchange of information; and Norway has adequate financial and technical resources dedicated to exchange of information.

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).

Bank, ownership, and identity information (ToR B.1.1) and accounting records (ToR B.1.2)

167. The Norwegian Tax Administration is an agency under the authority of the Ministry of Finance. The agency consists of the Tax Directorate in Oslo and local tax offices in five regions: Tax Region North, Tax Region Central Norway, Tax Region West, Tax Region South and Tax Region East. There are also three national tax offices: the Central Office of Foreign Tax Affairs (COFTA), the Central Tax Office for Large Enterprises and the Oil Taxation Office. The organisation has a total of 6 000 employees throughout the country.

168. Norway's competent authority in all matters concerning tax conventions is the Ministry of Finance. By delegation order, COFTA acts as competent authority for specific requests for exchange of information under Norway's DTCs and the Tax Directorate acts as competent authority for specific requests for exchange of information under Norway's TIEAs. COFTA and the Tax Directorate together are responsible for co-ordinating and responding to all exchange of information requests in Norway.

169. Norway's exchange of information program underwent a substantial reorganisation during the second half of 2009, resulting in the creation of a new exchange of information division housed at COFTA. COFTA is located on the south-west coast of Norway, roughly 300 kilometres from Oslo.

170. The reorganisation generally strengthened Norway's ability to effectively exchange information. Additional personnel resources were allocated

to COFTA, increasing the number of full time staff working on exchange of information matters in Norway from three (immediately prior to the reorganisation) to ten. Among the ten staff members, six are attorneys/auditors with specialised training in tax law, two are economists, and two provide oversight and assist in the management, co-ordination and training of the exchange of information staff. Training for the staff is provided and specific to exchange of information issues (obligations under exchange of information mechanisms, internal processing of requests, confidentiality obligations). Norway's competent authority has adequate financial and technical resources dedicated to exchange of information.

171. Norway has internal administrative procedures for processing incoming requests for information, including procedures relating to the exchange of information staff receiving requests and to local regional tax offices that are sources of common types of information requested. These procedures are based on the *OECD Manual on Information Exchange*. Upon receipt of a request, the competent authority performs a control check to determine whether the request is in conformity with the respective exchange of information agreement and whether the information requested can be retrieved without the assistance of a local regional tax office.

172. The exchange of information staff has access to all relevant public registries (e.g. Register of Business Enterprises) and to the tax authorities' private registries (internal information warehouse). The tax authorities' internal information warehouse uses software with the functions of receiving, processing, analysing, searching and sorting out information maintained in the most important public and government registries in Norway. Where information needed to respond to a request can be accessed through the tax authorities' internal information warehouse, Norway's competent authority is able to respond to a request without the involvement or co-ordination of other government authorities. All staff in the exchange of information division have adequate training specific to using the information warehouse. Data analysts in the Tax Directorate are also available and responsible for providing timely guidance and assistance to the exchange of information staff in this regard.

173. If requested information is in the possession or control of a taxpayer, the request must be forwarded to the regional tax office where the taxpayer resides. All five of Norway's regional tax offices are staffed with domestic tax audit case workers. The request is sent electronically and logged and tracked via the tax authorities' electronic filing system. Regional tax offices are thereafter responsible for retrieving the information requested using their administrative information gathering powers. Norway's competent authority can use the electronic filing system to track what work has been done and who is responsible for handling the case.

174. Typically, exchange of information cases are handled by regional tax auditors similarly to their domestic tax audit cases. There are no legal or procedural limitations on how a person may be audited or the number of times they may be audited which would limit the ability of auditors to use their audit power (*Tax Assessment Act* section 4-10) for the purpose of exchange of information requests. Regional tax auditors open an audit on the person or entity believed to be in possession of information requested and use administrative information gathering powers to compel production of the information. Once retrieved, the information is sent electronically back to the competent authority who reviews the information to insure it adequately responds to the request.

Bank information

175. There are no limitations on the ability of Norway's tax authorities to obtain information held by a bank or other financial institution for either civil or criminal tax purposes in response to a specific exchange of information request. There are no special procedures for the tax authorities to access information held by banks or other financial institutions. This is part of the tax authorities' routine domestic administrative powers. There is no need for court approval when the tax authorities' request information from banks and other third party financial institutions. Consent of other authorities or regulatory bodies is also not required.

176. Responding to a request for bank information can be accomplished by the competent authority without involving regional tax offices. This is especially the case where a request solely pertains to bank information. Exchange of information staff use pro forma information request letters (the same used by auditors for domestic tax cases) to request records from banks or other financial institutions. The letters typically provide a response due date of 2 weeks from the date of the request.

177. Banks' and other financial institutions' obligation to give information to Norway's tax authorities are regulated by the *Tax Assessment Act* sections 6-4 and 6-15. Section 6-4 of the *Tax Assessment Act* distinguishes between information that banks or other financial institutions are to provide to the tax authorities unsolicited and information that can be obtained upon request.

178. Section 6-4, subsection 2, of the *Tax Assessment Act* provides that banks and other financial or security trading institution are to provide information on deposits and loans, and interest, commission etc. relating to the deposits and loans, to the tax authorities unsolicited. There is no distinction between deposits and loans belonging to residents or non-residents. The tax administration can decide in what form the requested information is to be submitted.

179. Section 6-4, subsection 1 and 3, of the *Tax Assessment Act* provides that banks and financial or security trading institutions are also to provide information upon request regarding deposits and transactions, voucher/enclosure and other forms of details on customers' transactions, including identification of the parties to the transactions. Inquiries must, as a main rule, be individualised (i.e. the person or company must be named). The Directorate of Taxes or a tax office that the Directorate gives authority can, however, ask for information about persons or companies based on other criteria than name (e.g. which custumers have bought or sold mentioned financial products in a specified period; specified account numbers). These procedures can be used in connection with exchange of information requests; however, exchange of such information may be limited under the specific exchange of information mechanism.

180. According to section 16-2 of the *VAT Act*, banks and other financial institutions are obliged to give information to tax authorities (e.g. bank report concerning a taxable person's debt, savings and interest). However, unlike section 6-4 of the *Tax Assessment Act*, third parties are only obliged to provide information to the tax authorities when it is specifically requested.

181. Banks and other financial institutions that are obliged to provide information unsolicited can be imposed a fixed daily penalty charge for each day the information is not submitted. Third parties that are to provide bank information upon request can be imposed a daily enforcement fine of NOK 860 (EUR 105) until the information is provided (*Tax Assessment Act*, ss.10-8, 10-6; *VAT Act*, s.21-1). Non-compliance with the duty to provide third party information is also subjected to criminal charge (*Tax Assessment Act,* chapter 12; *VAT Act*, s.21-4).

Ownership and identity information and accounting records

182. There are no limitations on the ability of Norway's competent authority to obtain ownership and identity information and accounting records from taxpayers or third parties for civil tax purposes in response to a specific exchange of information request. For criminal tax purposes, a rule of protection against self-incrimination restricts the tax authorities from compelling taxpayers to respond to an information request when a criminal case is open. The tax authorities can always, however, access information from third parties for criminal tax matters. The authority to access ownership and identify information and accounting records from taxpayers and third parties is part of the tax authorities' routine domestic administrative powers. There is no need for court approval or consent of other authorities or regulatory bodies.

183. Taxpayers are obliged pursuant to section 4-10(1)(a) of the *Tax Assessment Act* to provide, on request from the tax authorities, their accounting

books, vouchers, contracts, correspondence, minutes of board meetings, auditor's working papers and other documents with a bearing on their tax assessment and their control thereof. This obligation includes electronic documents. The tax authorities have the right at any time to undertake inspections of taxpayer's property, stock, archive *etc*.

184. Section 4-10(1)(b) provides that taxpayers are to provide access to their office or business premise for inspection and review of business records. The tax authorities are authorised to make any copies of information, including information stored on a computer or other data storage medium, for inspection either within a taxpayers' premise or at the tax authorities' office. Taxpayers are obliged to be present during the inspection and provide necessary guidance and assistance at the tax authorities' request. Inspections of premises under section 4-10(1)(b) are, however, dependent on the co-operation of the taxpayer concerned. Tax authorities are not empowered to legally enforce a request to enter a taxpayer's premises if the taxpayer concerned refuses to co-operate. In this respect, requests pursuant to section 4-10(1)(b) differ from coercive measures associated with criminal procedures (search and seizures). If a taxpayer refuses to co-operate, tax authorities may refer the matter to law enforcement depending on the circumstances of the case.

185. Concerning third parties, chapter 6 of the *Tax Assessment Act* distinguishes between information that third parties are obliged to provide to the tax authorities unsolicited and upon request. Generally, third parties are obliged to provide upon request any information that would assist the tax authorities in an examination of a taxpayer (s.6-3). The obligation to provide information includes information concerning any economic relationship, also through intermediaries, that are connected to both parties' business (s.6-3). The tax authorities can, at any time, undertake inspections of third parties obligated to provide information (s.6-15).

186. Section 6-15 of the *Tax Assessment Act* provides that, upon consent from the Ministry of Finance, tax officials from another jurisdiction can be present during examinations of taxpayers and third parties. For this purpose, the Ministry of Finance has delegated authority to the Directorate of Taxes.

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

187. 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. Norway has no domestic tax interest with respect to its information gathering powers. Information gathering powers provided to Norway's tax authorities under the *Tax Assessment Act* can be used to provide exchange of information

assistance regardless of whether Norway needs the information for its own domestic tax purposes. Pursuant to the *Act of 28 July 1949*, all of Norway's exchange of information agreements are incorporated into domestic law with the same status as an Act of Parliament.

Compulsory powers (ToR B.1.4)

188. As previously described, Norwegian tax authorities have broad powers to compel the production of information from natural and legal persons. Under chapters 4 and 6 of the *Tax Assessment Act*, tax authorities have powers of discovery and inspection, and are able to compel production of any documents deemed relevant to their examination from taxpayers and third party record keepers. Tax authorities do not, however, have the power to compel testimony from taxpayers or third parties.

Secrecy provisions (ToR B.1.5)

189. There are no provisions under Norway's laws relating to the secrecy of ownership, identity or accounting information. Sections 6-4 and 6-15 of the *Tax Assessment Act* override confidentiality provisions applicable to banks and other financial institutions (*Commercial Banks Act*, s.18; *Savings Banks Act*, s.21).

190. All of Norway's exchange of information agreements permit Norway to decline a request if responding to the request would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy. This follows the standards set forth in Article 26 of the OECD *Model Tax Convention* and the OECD *Model TIEA*.

191. Among the situations in which Norway is not obliged to supply information in response to a request is when the requested information would disclose confidential communications protected by attorney-client privilege. Section 144 of the Norwegian *Criminal Code* provides the standards for confidentiality of attorney-client communications. According to section 144, attorneys who, contrary to law, reveal any secret which is entrusted to them in their position as an attorney, will be punished either by imposition of a fine or by imprisonment. This has been interpreted to mean that communications between a client and an attorney are, generally, only privileged to the extent that the attorney acts in his or her professional capacity as an attorney. Where an attorney acts in any other capacity other than as an attorney (e.g. as a real estate broker), the attorney-client privilege does not apply. In this case, exchange of information resulting from and relating to any such communications cannot be declined because of the attorney-client privilege.

Determination and factors underlying recommendations

Phase 1 Determination
The element is in place.

Phase 2 Rating
Compliant.

B.2. Notification requirements and rights and safeguards

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

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

192. Norway's tax authorities are not obliged to inform the person concerned of the existence of an exchange of information request. Likewise, tax authorities are not obliged to inform the taxpayer concerned prior to contacting third parties to obtain information.

193. Sections 3-5 and 3-6 of the *Tax Assessment Act* provide taxpayers and third parties with legal safeguards in the event of an order pursuant to section 4-10(1)(b) (inspection of premise). Section 3-5 provides that the taxpayer or third party who is required to disclose information must be given reasonable notice and have the right to be present and express his or her views during investigations that are undertaken pursuant to Section 4-10(1)(b). However, this applies only to the extent that it can be carried out without endangering the purpose of the investigation. Section 3-6 provides that the person who receives an order to provide information or to allow an investigation pursuant to section 4-10(1)(b) may appeal against the order if they believe that they are not required or legally permitted to comply with the order.

194. Section 3-6 of the *Tax Assessment Act* also provides taxpayers and third parties appeal rights where authorities are responding to international requests for information under sections 4-10 and 6-15. Appeals must be submitted within three days of receiving a request for information.

195. All appeals are submitted to the Tax Directorate, which has authority to make decisions. Decisions are typically made within two months of receiving an appeal. There are no further administrative appeal rights after the Tax Directorate has made a decision.

196. Appeal procedures described in this section are applicable in the case of an exchange of information request. In practice, however, they are seldom used because taxpayers and third parties typically co-operate with the tax authorities in exchange of information cases. Norway responds to the vast majority of international requests for information in tax matters within 90 days and appeal processes have not been the cause of longer timeframes taken to respond to requests. If applied in the exchange of information context, the time and effort to overcome any objection from a taxpayer or third party appears to be compatible with effective exchange of information.

Determination and factors underlying recommendations

Phase 1 Determination
The element is in place.

Phase 2 Rating
Compliant.

C. Exchanging Information

Overview

197. Jurisdictions generally cannot exchange information for tax purposes unless they have a legal basis or mechanism for doing so. A jurisdiction's practical capacity to effectively exchange information relies both on having adequate mechanisms in place as well as an adequate institutional framework. This section of the report assesses Norway's network of exchange of information agreements against the standards and the adequacy of its institutional framework to achieve effective exchange of information in practice.

198. Norway has an extensive treaty network allowing for exchange of information for tax purposes, and is currently engaged in additional treaty negotiations as well as renegotiations of its older treaties. Norway has signed agreements with 109 jurisdictions, 91 of which are in force. Of these, 106 agreements meet the standard. Norway actively seeks to amend agreements that do not meet the standard. In 2009, Norway signed protocols to its DTAs with Austria, Belgium, Luxembourg, Netherlands Antilles, Singapore, and Switzerland. The protocols amend the DTAs' exchange of information articles to meet the standard. Norway signed TIEAs with ten jurisdictions in the first half of 2010: Andorra; Antigua and Barbuda; the Bahamas; Dominica; Grenada; Monaco; San Marino; St. Kitts and Nevis; St. Lucia; and St. Vincent and the Grenadines.

199. In general, the responses the assessment team received to the peer questionnaire from Norway's exchange of information partners suggest that Norway's practices in terms of exchange of information are to a very high standard. Peer jurisdictions generally consider Norway to be a significant exchange of information partner. Norway receives a high volume of requests per year for which it has been capable of responding to in a timely manner.

200. Norway's bilateral agreements in the main follow the form and substance of the OECD *Model Taxation Convention* or the OECD *Model Agreement on Exchange of Information on Tax Matters (Model TIEA),* as in effect when the agreements were entered into.

201. All exchange of information articles in Norway's agreements contain confidentiality provisions and Norway's domestic legislation also contains relevant confidentiality provisions. These provisions apply equally to all information and documentation forming the requests received by Norway as well as to responses received from counterparties.

202. Norway's agreements ensure that the contracting parties are not obliged to provide information which would disclose trade, business, industrial, commercial or professional secrets or information which is the subject of attorney client privilege or to make disclosures which would be contrary to public policy.

203. There are no legal restrictions on the ability of Norway'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.

204. Both COFTA and the Tax Directorate have power to obtain information directly and can also direct Norway's regional tax authorities to obtain information on their behalf to respond to a request for information.

205. Norway's institutional framework facilitates effective exchange of information: there is a sufficient number of professional staff with clear responsibilities for processing requests and retrieving information; the staff has adequate expertise and training specific to exchange of information; and Norway has adequate financial and technical resources dedicated to exchange of information.

206. Beyond meeting the standard of effective exchange of information assistance in response to specific requests, Norway engages in exchange of information practices that go beyond the standard including: automatic and spontaneous exchanges of information; simultaneous examinations; and allows representatives of requesting jurisdiction's to enter its territory to conduct interviews and examine records. Peer input received indicates that that Norway actively and effectively exchanges information on a spontaneous and automatic basis with its peers.

Joint Council of Europe/OECD Convention on Mutual Administrative Assistance in Tax Matters

207. Norway is a signatory to the 1998 *Joint Council of Europe/OECD Convention on Mutual Administrative Assistance in Tax Matters* (1998 Convention) and a founding signatory to its 2010 protocol.[15] The OECD

15. The 1988 Convention was revised in 2010 primarily to align it to the internationally agreed standard on transparency and exchange of information and to open it up to States which are not members of the OECD or of the Council of Europe.

and the Council of Europe prepared this convention, which is currently in force with respect to 14 jurisdictions.[16] In addition to providing for a broad exchange of information, it also provides for mutual assistance in service of process and in collection of taxes due.

Nordic co-operation

208. The formal co-operation between the Nordic countries is amongst the oldest and most extensive regional co-operation in the world. Nordic co-operation involves Norway, Denmark, Finland, Iceland and Sweden as well as the three autonomous areas, the Faroe Island, Greenland and the Åland Islands. All these countries are part of the Nordic Council and the Nordic Council of Ministers.

209. Nordic co-operation on tax has two starting points related to exchange of information. One is to co-ordinate the Nordic approach for exchanging tax information under the *Nordic Convention on Mutual Assistance in Tax Matters* (*Nordic Convention*). The other is co-ordination of the Nordic approach to negotiations regarding TIEAs with offshore tax centres (see section C.2).

210. The Nordic countries have taken a leadership role in promoting mutual assistance among governments for the prevention of international tax evasion and for mutual assistance in assessment and collection of taxes. Since the early 1940s, the Nordic countries signed bilateral agreements amongst each other to facilitate the enforcement of taxes in cases in which taxpayers had left one of the contracting states for the other (Finland and Sweden (1943); Norway and Sweden (1949); Denmark and Sweden (1953); Finland and Norway (1954); Denmark and Finland (1955); Denmark and Norway (1956)). These agreements covered both reciprocal assistance for the enforcement of tax claims and the exchange of information (service of documents and procurement of information on tax matters).

211. In 1970, representatives of the Nordic tax administrations decided that a multilateral convention on administrative assistance in tax matters between Norway, Denmark, Finland, Iceland and Sweden should be prepared. The convention (*Convention between Denmark, Finland, Iceland, Norway and Sweden Regarding Mutual Assistance in Tax Matters*) was signed on 9 November 1972. The 1972 convention was amended in 1976, 1981, and 1987. It now forms the basis for the *Nordic Convention on Mutual Assistance in Tax Matters* (*Nordic Convention*), which has been in force since 1991. Denmark,

16. Azerbaijan, Belgium, Denmark, Finland, France, Iceland, Italy, the Kingdom of the Netherlands, Norway, Poland, Sweden, the Ukraine, the United Kingdom and the United States. In addition, Canada, Germany and Spain have signed the Convention and are awaiting ratification

Finland, Iceland, Norway, Sweden, the Faroe Islands and Greenland are signatories to the *Nordic Convention*. The *Nordic Convention* was fully renegotiated in 2007, but the new convention has not yet been signed.

212. The *Nordic Convention* has a very wide scope, containing detailed provisions on the exchange of information for tax purposes. It is divided into five parts, the most essential of which are those concerning exchange of information on request and tax enforcement, including assistance in collecting taxes due. It allows the Nordic countries to exchange bank and other information for all kinds of taxes (e.g. income, capital, inheritance, estate, gift, social security, certain indirect taxes) except import duties. Beyond providing for assistance in response to specific requests, the *Nordic Convention* contains general provisions concerning: automatic and spontaneous exchanges; simultaneous examinations; service of documents; presence and participation of representatives from requesting jurisdictions at examinations; and recovery of tax.

C.1. Exchange-of-information mechanisms

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

Foreseeably relevant standard *(ToR C.1.1)*

213. The international standard for exchange of information envisages information exchange to the widest possible extent. Nevertheless it does not allow "fishing expeditions," i.e. speculative requests for information that have no apparent nexus to an open inquiry or investigation. The balance between these two competing considerations is captured in the standard of "foreseeable relevance" which is included in paragraph 1 of Article 26 of the OECD *Model Taxation Convention* set out below:

> *"The competent authorities of the contracting states shall exchange such information as is foreseeably relevant to the carrying out of the provisions this Convention or to the administration or enforcement of the domestic laws concerning taxes of every kind and description imposed on behalf of the contracting states or their political subdivisions or local authorities in so far as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by Articles 1 and 2."*

214. All of Norway's DTCs are patterned on the OECD *Model Taxation Convention* and its commentary regarding the scope of information that can be exchanged. DTCs initially signed or amended by protocol after 2005 generally use the "foreseeably relevant" standard (e.g. Australia (2006), Malawi (2009), Poland (2009), Turkey (2010), Switzerland protocol (2009), Singapore

protocol (2009), Luxembourg protocol (2009), Belgium protocol (2009), Austria protocol (2009)). Older DTCs generally use the term "as is necessary" or "as is relevant" in lieu of "as is foreseeably relevant". The terms "as is necessary" and "as is relevant" are recognised in the commentary to Article 26 of the OECD *Model Taxation Convention* to allow for the same scope of exchange as does the term "foreseeably relevant".[17]

215. Norway's DTC with Trinidad and Tobago incorporates additional language, noting that it applies to "… such information (being information which is at their disposal under their respective taxation laws in the normal course of administration) as is necessary …". The bracketed text is not in line with the standards as it limits the exchange of information article to information at the parties' disposal under taxation laws, not information at their disposal under other laws, and it limits the exchange of information to information which is at their disposal in the normal course of administration. Thus, if it is not "normal" for one of the parties to obtain certain information, the information cannot be provided to the other Contracting State. This agreement does not meet the foreseeably relevant standard. In practice, however, this wording will not limit Norway's ability to respond to a request from Trinidad and Tobago.

216. All of Norway's TIEAs meet the foreseeably relevant standard as they are all patterned on the OECD *Model TIEA* and its commentary regarding the scope of information that can be exchanged.

217. The *Nordic Convention allows* the Nordic countries to exchange bank and other information for all kinds of taxes except import duties. The Nordic Convention, which has been in force since 1991, provides broad assistance in exchange of information amongst the Nordic jurisdictions and meets the foreseeably relevant standard.

218. In cases were a request is unclear or incomplete, Norway reports that its competent authority routinely seeks clarifying or additional information from the requesting jurisdiction before declining a request. Information received from partner jurisdictions with an exchange of information relationship with Norway confirms this.

17. The word "necessary" in paragraph 1 of Article 26 of the 2003 OECD *Model Taxation Convention* was replaced by the phrase "foreseeably relevant" in the 2005 version. The commentary to Article 26 recognises that the term "necessary" allows for the same scope of exchange as does the term "foreseeably relevant".

In respect of all persons *(ToR C.1.2)*

219. 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 for exchange of information envisages that exchange of information mechanisms will provide for exchange of information in respect of all persons.

220. Norway's DTCs generally provide for exchange of information with respect to all persons. With the exception of Norway's DTC with Trinidad and Tobago, none of Norway's DTCs, TIEAs or multilateral agreements restricts the jurisdictional scope of the exchange of information provision to certain persons, for example those considered resident in one of the contracting States. The agreement with Trinidad and Tobago, which provides for the exchange of information for carrying out the provisions of the agreement, is only applicable provided one of the persons concerned is resident in one of the Contracting States.

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

221. 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 Taxation Convention*, which is an authoritative source of the standards, stipulates 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.

222. Only Norway's DTCs initially signed or amended by protocol after 2005 include paragraph 26(5) of the OECD *Model Taxation Convention*, which provides that a contracting state may not to 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. In 2009, Norway signed protocols to its DTAs with Austria, Belgium, Luxembourg, Singapore, and Switzerland that add Article 26(5) to the agreements. Norway's policy is to include Article 26(5) in all of its new agreements.

223. Although Norway's older DTCs do not include such a provision, there are no limitations in Norway's laws with respect to access to bank information, information held by nominees, and ownership and identity information. There may be, however, such limitations in place in the domestic laws of

some of its treaty partners. In these cases, the absence of a specific provision requiring exchange of bank information unlimited by bank secrecy may serve as a limitation on the exchange of information which can occur under the relevant DTC. Norway should continue to renegotiate its older DTAs to include paragraph 26(5) of the OECD *Model Taxation Convention*.

224. All of Norway's TIEAs include the provisions contained in Article 5 paragraphs (a) and (b) of the OECD *Model TIEA*, obliging the contracting parties to exchange all types of information.

Absence of domestic tax interest (ToR C.1.4)

225. 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.

226. All of Norway's DTCs signed or amended by protocol after 2005 contain Article 26(4) of the OECD *Model Taxation Convention*, obliging the contracting parties to use information-gathering measures to exchange requested information without regard to a domestic tax interest. Most of Norway's older DTCs do not contain such a provision. There are, however, no domestic interest restrictions on Norway's powers to access information in exchange of information cases. Norway is able to exchange information, including in cases where the information is not publicly available or already in the possession of the governmental authorities.

227. A domestic tax interest requirement may however exist for some of Norway's treaty partners. In such cases, the absence of a specific provision requiring exchange of information unlimited by domestic tax interest will serve as a limitation on the exchange of information which can occur under the relevant DTC. Norway should continue to renegotiate its older DTAs to include paragraph 26(4) of the OECD *Model Taxation Convention*.

Absence of dual criminality principles (ToR C.1.5)

228. 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 country if it had occurred in the requested country. In order to be effective, exchange of information should not be constrained by the application of the dual criminality principle.

229. There are no dual criminality requirements in 108 of Norway's 109 exchange of information agreements. Norway's DTC with Switzerland (1987, as amended by protocol in 2005) generally provides that bank information can be exchanged in cases of tax fraud, defined as "fraudulent conduct deemed to be an offence under the laws of both States and punishable by imprisonment". The 2009 protocol replaces the exchange of information provision with Article 26 of the OECD *Model Taxation Convention*. The protocol does not contain a dual criminality provision and should enter into force after the completion of the ratification process by both States.

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

230. 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").

231. All of Norway's exchange of information agreements (excluding its present DTC with Switzerland) provide for exchange of information in both civil and criminal tax matters.

232. Norway provides exchange of information assistance at the administrative level when the requested information relates to a criminal tax matter in the requesting jurisdiction. Norway reports that criminal cases are given as much priority as possible.

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

233. Exchange of information mechansisms should allow for the provision of information in specific form requested (including depositions of witnesses and production of authenticated copies of original documents) to the extent possible under a jurisdiction's domestic laws and practices.

234. There are no restrictions in the exchange of information provisions in Norway's DTCs and TIEAs that would prevent Norway from providing information in a specific form, as long as this is consistent with its own administrative practices. Indeed, several of Norway's DTCs (e.g. Argentina, Canada, Chile) include specific clauses to reinforce the need to provide information in the form requested.

235. Norway's competent authority provides information in the specific form requested to the extent permitted under Norwegian law and administrative practice. As noted in section B.1 of this report, Norway's tax authorities do not have the power to compel testimony from taxpayers or third parties.

On one occasion in the past three years, this prevented Norway from responding to a request for testimony from an uncooperative third party record keeper.

236. Norway reports, however, that in practice very few requests require that information be provided in a specific form (e.g. authenticated copies of original documents). Information received from partner jurisdictions with an exchange of information relationship with Norway indicates that Norway is able to respond to such requests.

In force (ToR C.1.8)

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

238. Norway has 91 exchange of information agreements in force (80 DTCs, 5 TIEAs, 6 *Nordic Convention*). Norway's DTCs with Austria, Belgium, the Netherlands Antilles, Singapore, and Switzerland were amended by protocol in 2009. The Singapore protocol entered in force on 4 April 2010. The other protocols have not entered into force and await ratification by the contracting parties.

239. On 15 January 2010, Norway signed a new DTC with Turkey modelled after the OECD *Model Taxation Convention*. Once effective, the DTC will replace the Norway-Turkey income and capital treaty of 1971.

240. On 9 September 2009, Norway signed a new DTC with Poland modelled after the OECD *Model Taxation Convention*. Norway ratified the new DTC on 27 November 2009 and it entered into force on 25 May 2010. It becomes effective 1 January 2011. From this date, the new DTC generally replaces the Norway-Poland income and capital treaty of 1977.

241. Norway's most recent DTC is withTurkey, signed 15 January 2010. It is presently not in force.

242. Norway has 5 TIEAs in force with Bermuda, the Cayman Islands, Guernsey, Isle of Man, and Jersey. Norway's other 17 TIEAs were signed in mid to late 2009 and 2010 and are presently not in force. Norway's most recent TIEA to enter into force is with the Cayman Islands; it was signed 1 April 2009 and entered into force 4 March 2010.

In effect (ToR C.1.9)

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

244. Article 75 of the Norwegian *Constitution* generally provides, in part, that an Act of Parliament is necessary in order to incorporate a tax treaty into domestic law. Parliamentary procedure for the implementation of tax treaties, however, has been simplified by the *Act of 28 July 1949*. The 1949 Act incorporates into domestic law any double taxation treaties (and TIEAs) which the Government of Norway enters into, provided, however, that the Norwegian Parliament has given its approval. The following procedures are followed: After the treaty has been signed, a White Paper on the treaty is put before the Parliament. Once the Parliament has approved the treaty, an approval from the King in Council is required to bring the treaty into force. Once such approval has been given, the treaty partner will be informed of the completion of the Norwegian procedures in accordance with the entry into force of the treaty. Usually, such notice is given through diplomatic channels.

245. All of Norway's agreements containing provisions for exchange of information that are in force, are also in effect, with the exception of Norway's TIEA with the Cayman Islands for civil tax matters. The Norway-Cayman Island TIEA is effective 4 March 2010 for criminal tax matters and 1 January 2011 for all other tax matters.

246. Norway's competent authority has a developed institutional framework that supports effective exchange of information. It has written procedures to be followed by exchange of information staff for processing, co-ordinating, and responding to incoming requests. Agreements (both tacit and actual) between Norway's competent authority and other relevant government agencies (e.g. regional tax offices; the FSA) provide procedures for assistance in relation to exchange of information and establish a commitment by the agencies to provide assistance in a timely manner.

Determination and factors underlying recommendations

Phase 1 Determination
The element is in place.

Phase 2 Rating
Compliant.

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

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

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. Norway has an extensive treaty network that covers all of its major trading partners (United Kingdom; Germany; Netherlands; Sweden; Denmark; China; United States; France). Norway has signed exchange of information agreements with 36 OECD/G20 countries[18] and 77 of the 92 Global Forum members. More recently, Norway has taken an active role in collaboration with other Nordic countries to expand its treaty network.

Nordic TIEA co-operation

249. Joint Nordic TIEA co-operation began in 2006 with the objective of co-ordinating the Nordic approach for entering into TIEAs with jurisdictions identified as tax havens in the 2000 OECD report *Harmful Tax Competition: An Emerging Global Issue* (2000 Report).[19] In order to strengthen the Nordic negotiating position and to keep costs for this negotiation work down, the Nordic countries co-ordinate their negotiation work under the auspices of the

18. Argentina, Australia, Austria, Belgium, Brazil, Canada, China, Czech, Denmark, Finland, France, Germany, Greece, Hungary, Iceland, India, Indonesia, Ireland, Italy, Japan, Korea, Luxembourg, Mexico, Netherlands, New Zealand, Poland, Portugal, Russia, Slovak, South Africa, Spain, Sweden, Switzerland, Turkey, UK, US.

19. On June 26, 2000, the OECD published *Towards Global Tax Co-operation: Progress in Identifying and Eliminating Harmful Tax Practices* (2000 Report), a progress report on the implementation of the report *Harmful Tax Competition: An Emerging Global Issue* (1998 Report) that aimed at preventing the spread of harmful tax competition. The 2000 Report identified potentially harmful preferential regimes in Member countries, identified 35 jurisdictions that qualified as tax havens under the factors of the 1998 Report, and updated the work with non-member countries.

Nordic Council of Ministers. The Faroe Islands and Greenland also take part in this work.

250. A steering group made up of representatives from all of the Nordic countries co-ordinates the negotiation efforts. Participants in the steering group are experts with experience from the Nordic countries' finance ministries, as well as many years experience in national and international work in the field of tax evasion. Negotiations are carried out by a team comprising a project leader and (one or more) representatives from the Nordic countries. The team reports back to the steering group. The mandate for the negotiations is stipulated by the steering group which also analyses the proposals presented during the negotiations. The actual information exchange agreements are, however, entered into on a bilateral basis.

251. Nordic co-operation in TIEA negotiations has reaped great success. As a result of this co-operation, Norway signed 22 TIEAs to the standard since 2007, 5 of which are in force:

Country	Signed	Date entered into force
Andorra	24-Feb-10	--
Anguilla	14-Dec-09	--
Antigua & Barbuda	19-May-10	--
Aruba	10-Sep-09	--
Bahamas	10-Mar-10	--
Bermuda	16-Apr-09	22-Jan-10
British Virgin Islands	18-May-09	--
Cayman Islands	01-Apr-09	04-Mar-10
Cook Islands	16-Dec-09	--
Dominica	19-May-10	--
Gibraltar	16-Dec-09	--
Grenada	19-May-10	--
Guernsey	28-Oct-08	08-Oct-09
Isle of Man	30-Oct-07	23-Aug-08
Jersey	28-Oct-08	07-Oct-09
Monaco	23-Jun-10	--
Samoa	16-Dec-09	--
San Marino	12-Jan-10	--
St. Kitts and Nevis	24-Mar-10	--
St. Lucia	19-May-10	--
St. Vincent & the Grenadines	24-Mar-10	--
Turks and Caicos Islands	16-Dec-09	--

252. Joint Nordic TIEA co-operation has contributed to strengthening the Nordic position internationally in these matters. The OECD has presented the project as a model for how OECD countries can work together in taxation matters at an international level.

Determination and factors underlying recommendations

Phase 1 Determination	
The element is in place.	
Factors underlying recommendations	**Recommendations**
	Norway should continue to develop its exchange of information network with all relevant partners.

Phase 2 Rating
Compliant.

C.3. Confidentiality

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

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

253. 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 countries with tax systems generally impose strict confidentiality requirements on information collected for tax purposes.

254. All exchange of information articles in Norway's DTCs have confidentiality provisions modeled on Article 26(2) of the OECD *Model Tax Convention*. Likewise, all of Norway's TIEAs have confidentiality provisions modeled after Article 8 of the OECD *Model TIEA*. Norway's exchange of information agreements are part of Norway's domestic law.

255. Norway's domestic legislation also contains relevant confidentiality provisions. Section 3-13 of the *Tax Assessment Act* provides that it is the duty of tax authorities to prevent others from gaining access to or obtaining

knowledge of any matter disclosed to the tax authorities concerning information about someone's wealth or income, financial matters, business matters, or an individual's personal affairs. The *Tax Assessment Act* also provides exceptions where confidentiality may be lifted in specific cases. However, for information received from a treaty partner, confidentiality may only be lifted when this is within the framework of the tax treaty.

256. Norway has internal administrative guidelines regarding confidentiality of information exchanged. All exchange of information staff and staff within the Tax Directorate's office are provided such guidelines upon taking up employment. Confidentiality is also part of the curriculum for various training programs specific to Norway's exchange of information staff and for regional tax audit case workers. The tax authorities' electronic filling and case-tracking system has safeguards to ensure the confidentiality of all information exchanged. Access to specific electronic case information is restricted on a need-to-know basis. Information received from partner jurisdictions with an exchange of information relationship with Norway indicates that Norway has a record of maintaining the confidentiality of information exchanged.

All other information exchanged (ToR C.3.2)

257. The confidentiality provisions in Norway's exchange of information agreements and domestic law do not draw a distinction between information received in response to requests or 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.

Phase 2 Rating
Compliant.

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

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

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

258. Each of Norway's exchange of information agreements ensures that the parties are not obliged to provide information which would disclose any trade, business, industrial, commercial or professional secret or information which is the subject of attorney client privilege or information the disclosure of which would be contrary to public policy.

259. As noted previously, in section B1 of this report, Norway's competent authority is able to decline to exchange information where the information is covered by attorney-client privilege. Attorney-client privilege only applies to communications between a client and an attorney to the extent that the attorney acts in his or her professional capacity as an attorney.

Determination and factors underlying recommendations

Phase 1 Determination
The element is in place.

Phase 2 Rating
Compliant.

C.5. Timeliness of responses to requests for information

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

Responses within 90 days (ToR C.5.1)

260. 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.

261. There are no provisions in Norway's laws or in its DTCs pertaining to the timeliness of responses or the timeframe within which responses should be provided. Norway's TIEAs include an obligation to either respond to the request, or provide a status update within 90 days of receipt of the request. As such there appear to be no legal restrictions on the ability of Norway'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.

262. Norway receives a high volume of requests for information each year. In the three year period from 2007 to 2009, Norway received a total of 587 requests for information. The volume of requests received each year has remained relatively constant over the past three years. Of these 587 requests for information, 442 requests (75%) were responded to within 90 days. In a few cases Norway responds to requests within 180 days. Only in exceptionally rare cases does Norway respond within one year. In the past three years, only seven highly complex requests took over a year for a final response to be provided. However, as seen during the on-site visit, cases that take longer than 90 days typically relate to complex issues or require the opening of an audit by multiple regional tax offices.

263. During the on-site visit, the assessment team found that Norway's competent authority did not have a process in place to provide requesting jurisdictions a status update within 90 days of receiving a request. Peer input received confirms this. Norway reports, however, that such a process is currently being implemented by the exchange of information divisions at COFTA and the Tax Directorate.

264. It is recommended that Norway follow through with its action plan for establishing a process to provide status updates to requesting jurisdictions. In addition, it is recommended that Norway's competent authority establish internal administrative guidance providing timeframes for each key step in the internal and external processing of requests and retrieval of information.

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

265. Norway's legal and regulatory framework relevant to exchange of information for tax purposes is presided over by Norway's Ministry of Finance, the Directorate of Taxes, and the Central Office of Foreign Tax Affairs (COFTA).

266. The Ministry of Finance has superior authority on taxes and other duties. It provides proposals for legislation in this area to Parliament and prepares the government's proposals for Norway's budget and tax programme. The Tax Law Department within the Ministry of Finance is responsible for domestic legislation regulating international exchange of information and policy and interpretation issues regarding Norway's exchange of information agreements.

The Tax Law Department is also responsible for domestic legislation, policy, and interpretation of the tax authorities' ability to access information.

267. The Directorate of Taxes is responsible for the strategic work concerning exchange of information, including interpretation issues regarding Norway's exchange of information agreements. The Tax Directorate oversees Norway's automatic exchange of information programme and is responsible for responding to, and co-ordination of, incoming exchange of information requests under Norway's TIEAs.

268. COFTA is responsible for handling all inbound and outbound exchange of information requests under Norway's DTCs, *Nordic Convention*, and the multilateral *Joint Council of Europe/OECD Convention*. COFTA is also responsible for certificates of residence and refunds of withholding tax on dividends. The Directorate of Taxes provides guidance and support to COFTA concerning exchange of information issues.

269. Norway's organisational process for providing exchange of information assistance is generally well developed (considering the recent reorganisation) and effective in practice. Norway's competent authority reports, however, to have experienced difficulties co-ordinating with regional tax offices (e.g. in determining which office to contact; lack of priorities set for exchange of information casework). These difficulties negatively affect the competent authorities' ability to respond to requests on timely basis. As a result, Norway's Tax Directorate is presently overhauling the co-ordination process as well as establishing priority guidelines for regional auditors in relation to exchange of information requests. Points of contact with primary responsibility for exchange of information requests are being appointed in each of Norway's five tax regions. This will insure accountability and streamline the co-ordination process.

270. In 2010, exchange of information staff from the Tax Directorate made a presentation on Norway's exchange of information program to approximately 200 leaders in the tax administration. Also in 2010, the Tax Directorate developed a priority letter for Norway's regional tax offices which highlights the importance of Norway's exchange of information program and sets out guidelines for providing assistance to the exchange of information staff within 90 days of receiving a request. Regional tax offices were also asked to nominate a central point of contact and meetings are expected to be held in the second of half of 2010 with the exchange of information staff and all central points of contact.

271. Norway's competent authority is staffed appropriately considering the volume of requests it receives. The staff has adequate expertise and training specific to exchange of information. Norway's Tax Directorate has adequate financial and technical resources dedicated to exchange of information.

272. It is recommended that Norway follow through with its action plan for improving the co-ordination procedures between the competent authority

and regional tax offices and establishing priority guidelines for the regional tax office staff in relation to exchange of information casework.

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

273. There are no laws or regulatory practices in Norway that impose restrictive conditions on exchange of information.

Determination and factors underlying recommendations

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

Phase 2 Rating	
Compliant.	
Factors underlying recommendations	**Recommendations**
Norway has recently established a process to enable the competent authority to provide periodic status updates to requesting jurisdictions, though the effectiveness of this new procedure has not been proven.	Norway should continue to establish a process to enable the competent authority to provide periodic status updates to requesting jurisdictions.
Norway is in the process of establishing internal administrative guidance providing timeframes for each key step in the internal and external processing of requests and retrieval of information in order to respond to requests in a timely manner.	Norway should implement internal administrative guidance providing timeframes for each key step in the internal and external processing of requests and retrieval of information in order to respond to requests in a timely manner.
Norway's competent authority has experienced difficulties co-ordinating with regional tax offices which has lead to some delays in gathering information necessary to respond to an exchange of information request.	Norway should continue to improve the co-ordination procedures between the competent authority and regional tax offices and establish priority guidelines for the regional tax office staff in relation to exchange of information casework in order to respond to requests in a timely manner.

Summary of Determinations and Factors Underlying Recommendations

Determination/rating	Factors underlying recommendations	Recommendations
Jurisdictions should ensure that ownership and identity information for all relevant entities and arrangements is available to their competent authorities. *(ToR A.1)*		
Phase 1 determination: The element is in place.	While nominee shareholders are required to maintain current and recently registered ownership and identity information on their clients, there is no legal obligation to maintain historical ownership and identity information.	Regulations should be enacted that create an obligation on nominee shareholders to maintain historical ownership and identity information on their client.
Phase 2 rating: Compliant.		
Jurisdictions should ensure that reliable accounting records are kept for all relevant entities and arrangements. *(ToR A.2)*		
Phase 1 determination: The element is in place		
Phase 2 rating: Compliant.		
Banking information should be available for all account-holders. *(ToR A.3)*		
Phase 1 determination: The element is in place.		
Phase 2 rating: Compliant.		

Determination/rating	Factors underlying recommendations	Recommendations
Competent authorities should have the power to obtain and provide information that is the subject of a request under an exchange of information arrangement from any person within their territorial jurisdiction who is in possession or control of such information (irrespective of any legal obligation on such person to maintain the secrecy of the information). *(Tor B.1)*		
Phase 1 determination: The element is in place.		
Phase 2 rating: Compliant.		
The rights and safeguards (e.g. notification, appeal rights) that apply to persons in the requested jurisdiction should be compatible with effective exchange of information. *(ToR B.2)*		
Phase 1 determination: The element is in place.		
Phase 2 rating: Compliant.		
Exchange of information mechanisms should allow for effective exchange of information. *(ToR C.1)*		
Phase 1 determination: The element is in place.		
Phase 2 rating: Compliant.		
The jurisdictions' network of information exchange mechanisms should cover all relevant partners. *(ToR C.2)*		
Phase 1 determination: The element is in place.		Norway should continue to develop its EOI network with all relevant partners.
Phase 2 rating: Compliant.		
The jurisdictions' mechanisms for exchange of information should have adequate provisions to ensure the confidentiality of information received. *(ToR C.3)*		
Phase 1 determination: The element is in place.		
Phase 2 rating: Compliant.		

Determination/rating	Factors underlying recommendations	Recommendations
The exchange of information mechanisms should respect the rights and safeguards of taxpayers and third parties. *(ToR C.4)*		
Phase 1 determination: The element is in place.		
Phase 2 rating: Compliant.		
The jurisdiction should provide information under its network of agreements in a timely manner. *(ToR C.5)*		
Phase 1 determination: This element involves issues of practice that are assessed in the Phase 2 review. Accordingly no Phase 1 determination has been made.		
Phase 2 rating: Compliant.	Norway has recently established a process to enable the competent authority to provide periodic status updates to requesting jurisdictions, though the effectiveness of this new procedure has not been proven.	Norway should continue to establish a process to enable the competent authority to provide periodic status updates to requesting jurisdictions.
	Norway is in the process of establishing internal administrative guidance providing timeframes for each key step in the internal and external processing of requests and retrieval of information in order to respond to requests in a timely manner.	Norway should continue to establish internal administrative guidance providing timeframes for each key step in the internal and external processing of requests and retrieval of information in order to respond to requests in a timely manner.

Determination/rating	Factors underlying recommendations	Recommendations
Phase 2 rating: Compliant *(continued)*.	Norway's competent authority has experienced difficulties co-ordinating with regional tax offices which has lead to some delays in gathering information necessary to respond to an exchange of information request.	Norway should continue to improve the co-ordination procedures between the competent authority and regional tax offices and establish priority guidelines for the regional tax office staff in relation to exchange of information casework in order to respond to requests in a timely manner.

Annex 1: Jurisdiction's Response to the Review Report[20]

This annex is left blank because Norway has chosen not to provide any material to include in it.

20. 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 All Exchange-of-Information Mechanisms in Force

No.	Jurisdiction	Type of EOI agreement	Date signed	Date in force
1	Albania	Double Taxation Convention (DTC)	14-Oct-98	13-Oct -99
2	Andorra	Tax Information Exchange Agreement (TIEA)	24-Feb-10	--
3	Anguilla	TIEA	14-Dec-09	--
4	Antigua & Barbuda	TIEA	19-May-10	--
5	Argentina	DTC	08-Oct-97	30-Nov -02
6	Aruba	TIEA	10-Sep-09	--
7	Australia	DTC	08-Aug-06	12-Sep-07
8	Austria	DTC	28-Nov-95	01-Dec-96
		DTC Protocol	21-Sep-09	--
9	Azerbaijan	DTC	24-Apr-96	20-Sep-96
10	Bahamas	TIEA	10-Mar-10	--
11	Bangladesh	DTC	15-Sep-04	22-Dec-05
12	Barbados	DTC	15-Nov-90	30-Jul-91
13	Belarus	DTC	15-Feb-80	28-Mar-81
14	Belgium	DTC	14-Apr-88	04-Oct-91
15	Belgium	DTC Protocol	10-Sep-09	--
16	Benin	DTC	29-May-79	24-Jun-82
17	Bermuda	TIEA	16-Apr-09	22-Jan-10
18	Bosnia and Herzegovina	DTC	01-Sep-83	20-Aug-08
19	Brazil	DTC	21-Aug-80	26-Nov-81
20	British Virgin Islands	TIEA	18-May-09	--
21	Bulgaria	DTC	01-Mar-88	01-Apr-09
22	Canada	DTC	12-Jul-02	19-Dec-02
23	Cayman Islands	TIEA	01-Apr-09	04-Mar-10
24	Chile	DTC	26-Oct-01	22-Jul-03
25	China (People's Rep.)	DTC	25-Feb-86	21-Dec-86
26	Cook Islands	TIEA	16-Dec-09	--
27	Croatia	DTC	01-Sep-83	06-Mar-96

No.	Jurisdiction	Type of EOI agreement	Date signed	Date in force
28	Cyprus[20, 21]	DTC	02-May-51	18-May-55
29	Czech Republic	DTC	19-Oct-04	09-Sep-05
30	Denmark	Multilateral Nordic Convention	07-Dec-89	09-May-91
31	Dominica	TIEA	19-May-10	--
32	Egypt	DTC	20-Oct-64	30-Jun-65
33	Estonia	DTC	14-May-93	30-Dec-93
34	Faroe Islands	Multilateral Nordic Convention	07-Dec-89	09-May-91
35	Finland	Multilateral Nordic Convention	07-Dec-89	09-May-91
36	France	DTC	19-Dec-80	10-Sep-81
37	Gambia	DTC	27-Apr-94	20-Mar-97
38	Germany	DTC	04-Oct-91	07-Oct-93
39	Gibraltar	TIEA	16-Dec-09	--
40	Greece	DTC	27-Apr-88	16-Sep-91
41	Greenland	Multilateral Nordic Convention	07-Dec-89	09-May-91
42	Grenada	TIEA	19-May-10	--
43	Guernsey	TIEA	28-Oct-08	07-Oct-09
44	Hungary	DTC	21-Oct-80	20-Sep-81
45	Iceland	Multilateral Nordic Convention	07-Dec-89	09-May-91
46	India	DTC	31-Dec-86	02-Jul-87
47	Indonesia	DTC	19-Jul-88	16-May-90
48	Ireland	DTC	22-Nov-00	27-Nov-01
49	Isle of Man	TIEA	30-Oct-07	06-Sep-08

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

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

No.	Jurisdiction	Type of EOI agreement	Date signed	Date in force
50	Israel	DTC	02-Nov-66	11-Jan-68
51	Italy	DTC	17-Jun-85	25-May-87
52	Ivory Coast	DTC	15-Feb-78	25-Jan-80
53	Jamaica	DTC	30-Sep-91	01-Oct-92
54	Japan	DTC	04-Mar-92	06-Nov-92
55	Jersey	TIEA	28-Oct-08	07-Oct-09
56	Kazakhstan	DTC	03-Apr-01	24-Jan-06
57	Kenya	DTC	13-Dec-72	10-Sep-73
58	Korea (Rep.)	DTC	05-Oct-82	01-Mar-84
59	Latvia	DTC	19-Jul-93	30-Dec-93
60	Lithuania	DTC	27-Apr-93	30-Dec-93
61	Luxembourg	DTC	06-May-83	27-Jan-85
		DTC Protocol	07-Jul-09	09-Apr-10
62	Macedonia (FYR)	DTC	01-Sep-83	01-Nov-85
63	Malawi	DTC	08-Dec-09	--
64	Malaysia	DTC	23-Dec-70	09-Sep-71
65	Malta	DTC	02-Jun-75	22-Jul-77
66	Mexico	DTC	23-Mar-95	23-Jan-06
67	Monaco	TIEA	23-Jun-10	--
68	Morocco	DTC	05-May-72	18-Dec-75
69	Nepal	DTC	13-May-96	19-Jun-97
70	Netherlands	DTC	12-Jan-90	31-Dec-90
71	Netherlands Antilles	DTC	11-Nov-89	07-Dec-90
		DTC Protocol	11-Sep-09	--
72	New Zealand	DTC	20-Apr-82	31-Mar-83
73	Pakistan	DTC	07-Oct-86	18-Feb-87
74	Philippines	DTC	09-Jul-87	23-Oct-97
75	Poland	DTC	24-May-77	30-Oct-97
		DTC	09-Sep-09 (new DTA)	--
76	Portugal	DTC	24-Jun-70	01-Oct-71
77	Qatar	DTC	29-Jun-09	30-Nov-09
78	Romania	DTC	14-Nov-80	27-Sep-81
79	Russia	DTC	26-Mar-96	20-Dec-02
80	Samoa	TIEA	16-Dec-09	--
81	San Marino	TIEA	12-Jan-10	--

No.	Jurisdiction	Type of EOI agreement	Date signed	Date in force
82	Senegal	DTC	04-Jul-94	28-Feb-97
83	Montenegro, Serbia, Serbia and Montenegro	DTC	01-Sep-83	29-May-03
84	Sierra Leone	DTC	02-May-51	18-May-55
85	Singapore	DTC	19-Dec-97	20-Apr-98
		DTC Protocol	21-Sep-09	04-Apr-10
86	Slovak Republic	DTC	27-Jun-79	28-Dec-79
87	Slovenia	DTC	18-Feb-08	10-Dec-09
88	South Africa	DTC	12-Feb-96	12-Sep-96
89	Spain	DTC	06-Oct-99	18-Dec-00
90	Sri Lanka	DTC	04-Dec-86	08-Mar-88
91	St. Kitts and Nevis	TIEA	24-Mar-10	--
92	St. Lucia	TIEA	19-May-10	--
93	St. Vincent & the Grenadines	TIEA	24-Mar-10	--
94	Sweden	Multilateral Nordic Convention	07-Dec-89	09-May-91
95	Switzerland	DTC	07-Sep-87	02-May-89
		DTC Protocol	31-Aug-09	--
96	Tanzania	DTC	28-Apr-76	04-Aug-78
97	Thailand	DTC	30-Jul-03	29-Dec-03
98	Trinidad and Tobago	DTC	29-Oct-69	07-Aug-70
99	Tunisia	DTC	31-May-78	28-Dec-79
100	Turkey	DTC	16-Dec-71	20-Jan-76
		DTC	15-Jan-10 (new DTA)	--
101	Turks and Caicos Islands	TIEA	16-Dec-09	--
102	Uganda	DTC	07-Sep-99	16-May-01
103	Ukraine	DTC	07-Mar-96	18-Sep-96
104	United Kingdom	DTC	12-Oct-00	12-Dec-00
105	United States	DTC	03-Dec-71	19-Nov-72
106	Venezuela	DTC	29-Oct-97	08-Oct-98
107	Vietnam	DTC	01-Jun-95	14-Apr-96
108	Zambia	DTC	14-Jul-71	22-Mar-73
109	Zimbabwe	DTC	09-Mar-89	28-Aug-91

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

Commercial Laws

Limited Companies Act
Public Limited Companies Act
Partnership Act
Foundations Act
Securities Register Act
Business Enterprise Registration Act

Taxation Laws

Tax Act
Tax Assessment Act
Value Added Tax Act
Act on Payment and Collecting of Taxes

Accounting Laws

Bookkeeping Act
Accounting Act
Act on Auditing and Auditors

Banking Laws

Commercial Banks Act
Savings Bank Act
Financial Institutions Act

Anti-Money Laundering

Money Laundering Act

Annex 4: People Interviewed During On-Site Visit

Ministry of Finance

Director General, Tax Law Department
Deputy Director Generals, Tax Law Department
Legal Advisors, Tax Law Department
Assistant Director General, Financial Markets Department
Advisors, Financial Markets Department

Tax Directorate

Senior Tax Advisors, Regional Department
Senior Advisors, Regional Department
Regional Director, Enforcement
Head of Office, Regional Department

Central Office of Foreign Tax Affairs (COFTA) Exchange of Information Division

Deputy Director General
Tax Lawyers

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Global Forum on Transparency and Exchange of Information for Tax Purposes

PEER REVIEWS, COMBINED: PHASE 1 + PHASE 2, incorporating Phase 2 ratings – NORWAY

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.

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