PARLIAMENT

REPUBLIC OF TRINIDAD AND TOBAGO

JOINT SELECT COMMITTEE TO CONSIDER AND REPORT ON

THE MUTUAL ADMINISTRATIVE ASSISTANCE TAX MATTERS BILL, 2018, THE TAX INFORMATION EXCHANGE AGREEMENTS BILL, 2018 AND THE INCOME TAX (AMENDMENT) BILL, 2019

REPORT

Fourth Session Eleventh Parliament (2018/2019)

TIEAB2018

MAATMB2018

ITB2019

Committee Mandate

Pursuant to resolutions of the House of Representatives on Friday September 28, 2018 and of the Senate on Friday October 19, 2018, a Joint Select Committee was established to consider and report on the **Mutual Administrative Assistance in Tax Matters Bill, 2018**, and the **Tax Information Exchange Agreements Bill, 2018** by December 31, 2018. Further, pursuant to motion made in the House of Representatives on Friday March 29, 2019, the **Income Tax (Amendment) Bill, 2019** was referred to this Joint Select Committee.

Committee Membership

Mr. Colm Imbert, MP (Chairman)
Mr. Faris Al-Rawi, MP (Vice-Chairman)
Mr. Clarence Rambharat
Dr. Lovell Francis, MP
Mr. Daniel Dookie
Dr. Lester Henry
Ms. Marlene Mc Donald, MP
Mr. Fazal Karim, MP
Mr. Rodney Charles, MP
Mr. Saddam Hosein
Mr. Paul Richards
Ms. Charrise Seepersad

Secretariat Support

Ms. Chantal La Roche, Senior Legal Officer	Secretary
Mr. Jean-Marc Morris, Legal Officer I	Assistant Secretary

Contact

The Secretary
Joint Select Committee the Mutual Administrative Assistance in Tax Matters Bill, 2018, the Tax Information Exchange Agreements Bill, 2018 and Income Tax (Amendment) Bill, 2019
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Date Laid in HOR: **Date Laid in Senate:**

HOR Paper No.: **Senate Paper No.:**

PARL No.: 14/3/77

COMMITTEE MANDATE

1. Pursuant to resolutions of the House of Representatives on Friday September 28, 2018 and of the Senate on Friday October 19, 2018, a Joint Select Committee was established to consider and report on the **Mutual Administrative Assistance in Tax Matters Bill, 2018**, and the **Tax Information Exchange Agreements Bill, 2018** by December 31, 2018. Further, pursuant to motion made in the House of Representatives on Friday March 29, 2019, the **Income Tax (Amendment) Bill, 2019** was referred to this Joint Select Committee.

MEMBERSHIP OF THE COMMITTEE

2. The following Members were appointed to serve on the Committee:

▪ Mr. Colm Imbert, MP	Chairman
▪ Mr. Faris Al-Rawi, MP	Vice-Chairman
▪ Mr. Clarence Rambharat	Member
▪ Dr. Lovell Francis, MP	Member
▪ Mr. Daniel Dookie	Member
▪ Dr. Lester Henry	Member
▪ Ms. Marlene Mc Donald, MP	Member
▪ Mr. Fazal Karim, MP	Member
▪ Mr. Rodney Charles, MP	Member
▪ Mr. Saddam Hosein	Member
▪ Mr. Paul Richards	Member
▪ Ms. Charrise Seepersad	Member

CHAIRMANSHIP

3. At its **First Meeting** on Friday January 25, 2019, your Committee elected Mr. Colm Imbert, MP to be its Chairman, in accordance with House of Representatives Standing Order 97 (3) and Senate Standing Order 87 (3).

4. Your Committee also agreed to the appointment of Mr. Faris Al-Rawi, MP as Vice-Chairman.

SECRETARIAT

5. During the session Ms. Chantal La Roche, Senior Legal Officer and Mr. Jean-Marc Morris, Legal Officer I, were appointed to serve as Secretary and Assistant Secretary, respectively.

MEETINGS

6. Since its appointment, your Committee has held nine (9) meetings on the following dates:

   - Friday January 25, 2019;
   - Friday June 07, 2019;
   - Tuesday June 25, 2019;
   - Friday July 5, 2019;
   - Friday July 19, 2019;
   - Wednesday August 14, 2019;
   - Friday August 30, 2019;
   - Friday September 6, 2019;
   - Monday September 16, 2019.

7. The Minutes of the Meetings and attendance records are attached at **Appendix I**.

INTERIM REPORTS

8. On March 29, 2019, the Committee presented an Interim Report to the Parliament which detailed the work completed to that date. The Report requested a three (3) month extension to report by May 31, 2019, which was granted.

9. On June 7, 2019, the Committee presented a Second Interim Report to the Parliament which detailed the work completed to that date. The Report requested a three (3) month extension to report by September 27, 2019, which was granted.

CONSIDERATION OF THE BILLS

APPROACH TO DELIBERATIONS

10. At its **First meeting** on Friday January 25, 2019, your Committee discussed the engagement of stakeholders. Your Committee agreed that stakeholders engaged by the Special Select Committee appointed to consider and report on the Income Tax (Amendment) Bill 2018 would be engaged and Members were invited to identify additional stakeholders.

Technical Support

11. The following technocrats from the Chief Parliamentary Counsel's Department and the Office of the Attorney General and Legal Affairs assisted the Committee during the consideration of the Bill:

    Chief Parliamentary Counsel's Department
    - Ms. Ida Eversley - Deputy Chief Parliamentary Counsel
    - Ms. Megan Doyle - Parliamentary Counsel II

    The Ministry of the Attorney General and Legal Affairs
    - Mrs. Vyana Sharma - Senior Legal Counsel & Solicitor

12. At its **Second meeting** held on Friday June 7, 2019, your Committee agreed to invite additional written stakeholder submissions from the Law Association of Trinidad and Tobago, the Delegation of the European Union to Trinidad and Tobago, the Caribbean Community and the Ministry of Finance.

13. At its **Third meeting** held on June 25, 2019, your Committee discussed the way forward in relation to the receipt of stakeholder submissions and granted extensions to various stakeholders for submission of their comments on the Bills.

14. During its **Fourth meeting** held on Friday July 5, 2019, your Committee commenced a clause by clause analysis of the Bills with the assistance of Ms. Ida Eversley, Deputy Chief Parliamentary Counsel, Ms. Megan Doyle, Parliamentary Counsel II and Ms. Vyana Sharma, Senior Legal Counsel and Solicitor, who were assigned by the Chief Parliamentary Counsel's Department and the Office of the Attorney General and Legal Affairs to support the Committee during its deliberations.

Clause by Clause Analysis

15. Your Committee commenced its clause by clause analysis of the Bill during its **Fourth meeting** held on Friday July 5, 2019 with the Income Tax (Amendment) Bill, 2019. At its **Fifth meeting**, your Committee continued its clause by clause analysis with the Mutual Administrative Assistance in Tax Matters Bill, 2018 and at its **Seventh meeting**, your Committee analysed the Tax Information Exchange Agreements Bill, 2018 clause by clause. A summary of the clause by clause deliberations is attached at **Appendix II**.

16. At its **Sixth meeting** held on August 14, 2019, your Committee examined the Chief Parliamentary Counsel's Responses to the Committee's queries raised on the Income Tax (Amendment) Bill, 2019 and The Mutual Administrative Assistance in Tax Matters Bill, 2018. The Chief Parliamentary Counsel's Responses are attached at **Appendix III**.

17. At its **Eighth meeting** held on Friday September 6, 2019, your Committee considered the consolidated versions of the Bills which incorporated amendments suggested by the Committee, the Ministry of Finance and the Organisation for Economic Co-operation and Development (OECD).

18. At its **Ninth meeting** held on Monday September 16, 2019, your Committee considered concerns raised by the Members of the Opposition in relation to the Mutual Administrative Assistance in Tax Matters Bill and the Tax Information Exchange Agreements Bill.

Written Submissions

19. During its deliberations, your Committee requested written submissions from the following organisations:
    - **American Chamber of Commerce of T&T;**
    - **Trinidad & Tobago Manufacturers Association;**
    - **Trinidad and Tobago Chamber of Industry and Commerce;**
    - **Institute of Chartered Accountants of Trinidad and Tobago;**
    - **Inland Revenue Division;**
    - **Financial Investigation Branch of the Trinidad and Tobago Police Service;**
    - **Financial Intelligence Unit of Trinidad and Tobago;**
    - **Association of Trinidad and Tobago Insurance Companies;**
    - **Bankers Association of Trinidad and Tobago;**
    - **European Business Chamber of Trinidad and Tobago;**
    - **National Anti-Money Laundering Committee;**
    - **Association of Real Estates Agents;**
    - **Ministry of Finance;**
    - **Caribbean Community;**
    - **Delegation of the European Union to Trinidad and Tobago;**
    - **Law Association of Trinidad and Tobago; and**
    - **Trinidad and Tobago Coalition of Services Institute.**

20. Submissions were received from the following stakeholders and a matrix of these submissions is attached at **Appendix IV:**

    - **American Chamber of Commerce of T&T;**

- **Trinidad and Tobago Chamber of Industry and Commerce;**
- **Financial Investigation Branch of the Trinidad and Tobago Police Service;**
- **Financial Intelligence Unit of Trinidad and Tobago;**
- **Association of Trinidad and Tobago Insurance Companies;**
- **Bankers Association of Trinidad and Tobago;**
- **Inland Revenue Division;**
- **European Business Chamber of Trinidad and Tobago;**
- **Association of Real Estates Agents;**
- **Institute of Chartered Accountants of Trinidad and Tobago;**
- **Trinidad and Tobago Extractive Industries Transparency Initiative; and**
- **Ministry of Finance.**

MAIN ISSUES DISCUSSED DURING CONSIDERATION OF THE BILLS

21. Consequent on the submissions received by your Committee and the discussions with the technical team, your Committee identified the following areas of the Bills which needed to be addressed. These issues are attached at **Appendix II** and for ease of reference are outlined in summary below:

INCOME TAX (AMENDMENT) BILL, 2019

Clause 4

- Whether the same penalty as prescribed in section 4B of the Income Tax (Amendment) Bill, 2018 should be used for instances where an unauthorised disclosure of tax payer information is made by employees of the BIR.
- Term of imprisonment of thirty (30) years on conviction on indictment may be too harsh for the type of offence.
- Whether a new subsection under section 4 should be created to provide a penalty where an unauthorised disclosure of tax payer information is made by an employee of the BIR.

Clause 5

- Whether the proposed subsections (b) and (c) are redundant.

Clause 6

- Why sections 41 and 69 of the DPA are not addressed in the proposed 93A.
- Section 41 of the DPA is not addressed because it deals with information disclosed within Trinidad and Tobago and therefore is not applicable as 93A deals with sharing of information outside of the jurisdiction.
- Clause 6 complies with the recommendations of the Global Forum.

Clause 7

- Whether this amendment would be increasing the powers of the BIR.
- The amendment does not give the BIR any additional powers, but it consolidates powers contained in other pieces of legislation such as the Value Added Tax Act.

Clause 8

- Section 117A seeks to ensure that the information provided to the BIR is credible. The amendment seeks to ensure that this applies to double taxation agreements.

MUTUAL ADMINISTRATIVE ASSISTANCE IN TAX MATTERS BILL, 2018

Clause 4

- What is meant by the term NFE? Why are NFEs targeted by the Bill?
- In relation to "board participation retirement fund": whether this retirement fund requirement originated from the standard prescribed by the OECD.

Clause 6

- January 1, 2017 was the date of commitment to Global Forum to comply. There will be a retroactive application of the Bill.

Clause 7

- Trinidad still has to enter into agreements with the various countries for the exchange of tax information to occur.
- OECD has drafted model agreements for this to be done.
- Who oversees the agreements to ensure that the agreements are in line with the model agreements?

Clause 8

- Tax Information Exchange Agreements (United States of America) Act, 2017 does not provide for the spontaneous and simultaneous exchange of tax information.
- Whether there is a possibility of trade secrets being disclosed.
- Trade secrets cannot be disclosed with tax information. Clause 8(2) (d) protects against this.
- Whether clause 8(2) (d) covers legal professional privilege. It may fall under "professional secret".

Clause 9

- Clause 9 (5) – whether the term authority ought to be used in place of country.
- Under clause 9 (8), the Board cannot disclose information unless it meets the required standard and without consent.

Clause 10

- Clause 10 (7) provides the Board with the power to request other information if the information is not in the possession of the Board. This information includes information relating to whether a person is legitimately registered for tax purposes in the territory.
- Clause 10 (7) may be ultra vires the power of the Board. If it is a requirement by the OECD then it will have to discussed by the Committee.

Clause 11

- Clause 11 (6) provides for the sharing of information from 2017 onwards.

Clause 12

- Whether a timeframe is necessary in clause 12 (4). A timeframe is provided in subclause (5).

Clause 13

- Clause 13 (1) (d) provides for a worldwide effort to target persons and entities who try to evade taxes.
- Spontaneous reporting is a positive step. This would provide for the reporting of information even in instances where a request is not made.
- Clause 13 (2) is not redundant as it provides for the implementation of necessary procedures for the exchange of information between parties.

Clause 14

- The concerns raised by the TTCIC to this clause were noted.
- The Committee agreed that the Board has to comply with Section 117 of the Income Tax Act when doing the simultaneous exchange of information.

Clause 15

- Whether the fine and custodial sentence prescribed in Clause 15 (1) is consistent with established standards.

Clause 16

- Whether the fine and custodial sentence prescribed in Clause 16 (5) is consistent with established standards.

Clause 22

- In relation to clause 22 (1), why would the Minister want to amend the schedules?
- This amendment may be necessary if a new country joins or if a country leaves the Global Forum.
- The Order will come before the Statutory Instruments committee of the Parliament.

TAX INFORMATION EXCHANGE AGREEMENTS BILL, 2018

Clause 3

- Whether there is a difference between a "declared agreement" and a "tax information exchange agreement".

Clause 4

- Whether this Bill is similar to Tax Information Exchange Agreements (United States of America) Act (FATCA), 2017.
- It was explained that Tax Information Exchange Agreements Act Chap. 76:51 (1989) existed prior to FATCA and applied across the board but did not allow for the kind of sharing that FATCA envisioned.
- It was emphasized that the Minister of Finance would not be able to access the personal and private taxpayer information being exchanged between the competent authorities.
- It was explained that Trinidad and Tobago is not allowed to sign the MAATM Treaty until it is incorporated into our domestic law. Only when the Treaty is signed would Trinidad and Tobago be allowed to enter into individual agreements with other contracting states.
- Whether there is an inconsistency between "contracting state" and "requesting state".

Clause 6

- Whether the term "general directions" should be defined.
- There is a need to clarify what general directions include and what it does not include.

Clause 7

- This provision originated from the previous repealed Tax Information Exchange Agreements Act Chap. 76:51.
- Amendment of clause as the language used was considered too convoluted.

Clause 9

- The person has no right to deny consent. Some period of time afterwards the person should be notified that their information was shared.
- Amendment of the clause to include a provision, similar to the provision in the Tax Information Exchange Agreements (United States of America) Act (FATCA), 2017, which states that the Board must notify the person whose information was shared, possibly a month afterwards.

Clause 10

- Whether the penalties are consistent with the penalties in other pieces of legislation, for example FATCA.

REPORT

22. In accordance with **Standing Orders 114(1)** and **104(1)** of the House of Representatives and the Senate, respectively, your Committee wishes to report that due to the imminent prorogation of the Fourth Session of the Eleventh Parliament, it is unable to complete its work. However, your Committee has made significant progress in advancing the Committee's work.

RECOMMENDATION

23. Your Committee recommends that the Parliament take note of the progress made by the Committee thus far including the proposals for amendments to the Bills, attached at **Appendix V** and consolidated versions of the Bills attached at **Appendix VI**.

24. Your Committee further recommends that the work of the Committee be adopted by the newly appointed Committee as part of its records, in the Fifth Session.

Respectfully submitted,

Sgd.

Mr. Colm Imbert, MP

Chairman

September 20, 2019

List of Appendices

Appendix I	Minutes of Proceedings and Attendance Record
Appendix II	Summary of Clause by Clause Consideration and Issues Arising out of the Bills
Appendix III	Reports by Chief Parliamentary Counsel
Appendix IV	Matrix of Submissions from Stakeholders
Appendix V	List of Recommended Amendments
Appendix VI	Consolidated Version of the Bills with Amendments

APPENDIX I

MINUTES

OF

PROCEEDINGS

AND

ATTENDANCE RECORD

ATTENDANCE RECORD

JOINT SELECT COMMITTEE TO CONSIDER AND REPORT ON JOINT SELECT COMMITTEE ON THE MUTUAL ADMINISTRATIVE ASSISTANCE IN TAX MATTERS BILL, 2018 AND THE TAX INFORMATION EXCHANGE AGREEMENTS BILL, 2018

Fourth Session (2017/ 2018) Eleventh Parliament

Meetings	Mr. Colm Imbert	Mr. Faris Al-Rawi	Dr. Lovell Francis	Ms. Marlene Mc Donald	Mr. Fazal Karim	Mr. Rodney Charles	Mr. Daniel Dookie	Mr. Clarence Rambharat	Mr. Saddam Hosein	Dr. Lester Henry	Mr. Paul Richards	Ms. Charrise Seepersad
First Meeting 25.01.2019	✓	✓	✓	ABSENT	✓	✓	✓	✓	✓	✓	EXCUSED	✓
Second Meeting 07.06.2016	✓	EXCUSED	EXCUSED	EXCUSED	✓	✓	EXCUSED	EXCUSED	✓	✓	✓	✓
Third Meeting 25.06.2019	✓	EXCUSED	✓	ABSENT	ABSENT	✓	✓	EXCUSED	✓	✓	ABSENT	✓
Fourth Meeting 05.07.2019	✓	✓	ABSENT	ABSENT	✓	ABSENT	ABSENT	✓	✓	✓	✓	✓
Fifth Meeting 19.07.2019	✓	✓	EXCUSED	EXCUSED	✓	✓	✓	EXCUSED	✓	✓	EXCUSED	✓
Sixth Meeting 14.08.2019	✓	✓	✓	EXCUSED	✓	✓	EXCUSED	✓	✓	✓	✓	✓
Seventh Meeting 29.08.2019	✓	✓	EXCUSED	ABSENT	✓	✓	EXCUSED	EXCUSED	✓	✓	✓	✓
Eighth Meeting 06.09.2019	✓	EXCUSED	ABSENT	ABSENT	EXCUSED	✓	✓	EXCUSED	EXCUSED	✓	EXCUSED	✓
Ninth Meeting 16.09.2019	✓	EXCUSED	✓	ABSENT	✓	✓	EXCUSED	EXCUSED	✓	ABSENT	ABSENT	✓

JOINT SELECT COMMITTEE ON THE MUTUAL ADMINISTRATIVE ASSISTANCE IN TAX MATTERS BILL, 2018 AND THE TAX INFORMATION EXCHANGE AGREEMENTS BILL, 2018

MINUTES (CONFIRMED) OF THE FIRST MEETING HELD IN THE A.N.R. ROBINSON MEETING ROOM (WEST), LEVEL 9, OFFICE OF THE PARLIAMENT, TOWER D, IWFC, #1A WRIGHTSON ROAD, PORT-OF-SPAIN ON FRIDAY JANUARY 25, 2019 AT 12:00 NOON

PRESENT

Ms. Bridgid Annisette-George	-	Speaker of the House of
Committee Members		
Mr. Colm Imbert	-	Chairman
Mr. Faris Al-Rawi	-	Vice-Chairman
Dr. Lovell Francis	-	Member
Mr. Fazal Karim	-	Member
Mr. Rodney Charles	-	Member
Mr. Daniel Dookie	-	Member
Mr. Clarence Rambharat	-	Member
Mr. Saddam Hosein	-	Member
Dr. Lester Henry	-	Member
Mrs. Charrise Seepersad	-	Member
Secretariat		
Ms. Chantal La Roche	-	Secretary
Ms. Simone Yallery	-	Assistant Secretary

ABSENT/EXCUSED

Mr. Paul Richards	-	Member *[Excused]*
Ms. Marlene Mc Donald	-	Member

COMMENCEMENT

1.1 The Speaker of the House called the meeting to order at 12:12 p.m.

1.2 The Speaker indicated that her role at the meeting was to facilitate the election of the Chairman. The Speaker informed Members that Ms Chantal La Roche has been assigned as Secretary and Ms. Simone Yallery as Assistant Secretary.

ELECTION OF A CHAIRMAN

2.1 The Speaker informed Members that in accordance with Standing Order 112 (7) of the House of Representatives and Standing Order 102 (7) of the Senate, provision is made for a Joint Select Committee to elect a Chairman.

2.2 The Speaker then invited nominations for the position of Chairman. Mr. Faris Al-Rawi nominated Mr. Colm Imbert and the nomination was seconded by Mr. Daniel Dookie.

2.3 The Speaker declared Mr. Imbert the duly elected Chairman of the Committee and exited the meeting.

2.4 The Chairman took the chair at 12.14 p.m.

ELECTION OF A VICE CHAIRMAN

3.1 The Chairman nominated Mr. Faris Al-Rawi for the position of Vice Chairman. The nomination was seconded by Mr. Daniel Dookie. The Chairman declared Mr. Faris Al- Rawi the duly elected Vice Chairman.

DETERMINATION OF A QUORUM

4.1 The Chairman advised that the Committee is required to establish a quorum in accordance with Standing Order 97(2) of the House of Representatives and 87(2) of the Senate:

> ***"A quorum of a Joint Select Committee shall be such fixed number of Members as specified by Order of the Houses or, in the absence of such Order, as the Committee may decide; such quorum may only require that each House be represented."***

4.2 The Chairman reminded Members of the provisions of Standing Orders 112(5) of the House of Representatives and 102(5) of the Senate which state:

> ***"Unless the House (or Senate) otherwise directs a quorum shall be three (3) Members. In ascertaining whether there is a quorum present, the Member in the Chair shall not be excluded."***

4.3 The Chairman recommended a quorum of three (3) Members inclusive of the Chair, to consist of one Member of Government, one Member of the Opposition and one Independent Senator and a discussion ensued. A decision on this matter was deferred to a later date.

DISCUSSION ON THE WAY FORWARD

5.1 During preliminary discussions the Chairman advised of the imminent introduction of a Bill entitled the Income Tax (Amendment) Bill and informed Members of the intention to refer the Bill to the Committee to be considered along with the Mutual Administrative Assistance in Tax Matters Bill, 2018 and the Tax Information Exchange Agreements Bill, 2018.

5.2 Members agreed that the Mutual Administrative Assistance in Tax Matters Bill, 2018 and the Tax Information Exchange Agreements Bill, 2018 and the soon to be introduced Income Tax (Amendment) Bill would be circulated to stakeholders for comments. The Committee also agreed that stakeholders engaged by the Special Select Committee appointed to consider and report on the Income Tax (Amendment) Bill 2018 would also be engaged and that Members could identify additional stakeholders.

ADJOURNMENT

6.1 There being no other business, the Chairman adjourned the meeting to a date to be fixed.

6.2 The adjournment was taken at 12:39 p.m.

I certify that these minutes are true and correct.

Chairman

Secretary

January 25, 2019

JOINT SELECT COMMITTEE TO CONSIDER AND REPORT ON THE MUTUAL ADMINISTRATIVE ASSISTANCE IN TAX MATTERS BILL, 2018, THE TAX INFORMATION EXCHANGE AGREEMENTS BILL, 2018 AND THE INCOME TAX (AMENDMENT) BILL, 2019

MINUTES (CONFIRMED) OF THE SECOND MEETING HELD IN THE A.N.R. ROBINSON MEETING ROOM (WEST), LEVEL 9, OFFICE OF THE PARLIAMENT, TOWER D, IWFC, #1A WRIGHTSON ROAD, PORT-OF-SPAIN ON FRIDAY JUNE 7, 2019 AT 10:00 A.M.

PRESENT

Committee Members

Mr. Colm Imbert	-	Chairman
Mr. Fazal Karim	-	Member
Mr. Rodney Charles	-	Member
Mr. Saddam Hosein	-	Member
Dr. Lester Henry	-	Member
Mrs. Charrise Seepersad	-	Member
Mr. Paul Richards	-	Member

Secretariat

Ms. Chantal La Roche	-	Secretary (Interim)
Mr. Jean-Marc Morris	-	Assistant Secretary
Mr. Kaleem Hosein	-	Legal Intern

ABSENT/EXCUSED

Mr. Faris Al-Rawi	-	Vice-Chairman *[Excused]*
Mr. Clarence Rambharat	-	Member *[Excused]*
Ms. Marlene Mc Donald	-	Member *[Excused]*
Dr. Lovell Francis	-	Member *[Excused]*
Mr. Daniel Dookie	-	Member *[Excused]*

COMMENCEMENT

1.1 The Chairman called the meeting to order at 10:18 a.m.

ANNOUNCEMENTS

2.1 The Chairman advised that the following Members asked to be excused from the meeting:

- Mr. Faris Al-Rawi;
- Mr. Clarence Rambharat;
- Ms. Marlene Mc Donald;
- Dr. Lovell Francis; and
- Mr. Daniel Dookie.

CONFIRMATION OF MINUTES OF THE FIRST MEETING

3.1 The Chairman invited Members to examine the Minutes of the First Meeting held on Friday
January 25, 2019.

3.2 There being no amendments, the motion for the confirmation of the Minutes was moved by Mr. Karim and seconded by Dr. Henry.

MATTERS ARISING FROM THE MINUTES

4.1 Paragraph 4.3 on page 2 of the Minutes from the First Meeting, the Chairman advised that
the Committee is required to establish a quorum in accordance with Standing Order 97(2) of the House of Representatives and 87(2) of the Senate:

"A quorum of a Joint Select Committee shall be such fixed number of Members as specified by Order of the Houses or, in the absence of such Order, as the Committee may decide; such quorum may only require that each House be represented."

4.2 The Chairman proposed a quorum of three (3) Members inclusive of the Chair, each House represented. The Committee agreed and the quorum of three (3) Members was approved in accordance with the Standing Order 97 (2) of the House of Representatives and 87 (2) of the Senate.

4.3 The Chairman suggested to the Members of the Committee that since the Income Tax (Amendment) Bill, 2019 was virtually identical to the Foreign Account Tax Compliance Act (FATCA), the Committee may consider that inviting stakeholders to appear before the Committee would prove to be of little assistance. A discussion ensued.

4.4 The Chairman advised the Committee that submissions were requested from the following stakeholders:

1. American Chamber of Commerce of T&T (AMCHAM);

2. Trinidad & Tobago Manufacturers Association (TTMA);
3. Trinidad and Tobago Chamber of Industry and Commerce;
4. Institute of Chartered Accountants of Trinidad and Tobago;
5. Inland Revenue Division;
6. Financial Investigation Branch of the Trinidad and Tobago Police Service;
7. Financial Intelligence Unit of Trinidad and Tobago;
8. Association of Trinidad and Tobago Insurance Companies (ATTIC);
9. Bankers Association of Trinidad and Tobago;
10. European Business Chamber of Trinidad and Tobago;
11. National Anti-Money Laundering Committee;
12. Association of Real Estates Agents;
13. Trinidad and Tobago Coalition of Services Institute.

4.5 Further, the Chairman advised the Committee that submissions were received from the following stakeholders:

1. American Chamber of Commerce of T&T (AMCHAM);
2. Trinidad and Tobago Chamber of Industry and Commerce;
3. Financial Investigation Branch of the Trinidad and Tobago Police Service;
4. Financial Intelligence Unit of Trinidad and Tobago;
5. Association of Trinidad and Tobago Insurance Companies (ATTIC);
6. Bankers Association of Trinidad and Tobago (BATT);
7. European Business Chamber of Trinidad and Tobago;
8. Association of Real Estates Agents;
9. Institute of Chartered Accountants of Trinidad and Tobago;
10. Trinidad and Tobago Extractive Industries Transparency Initiative.

4.6 The Chairman advised that the Committee is not yet in receipt of submissions from the Inland Revenue Division and the Trinidad and Tobago Coalition of Services Institute. The Chairman further advised that the Trinidad & Tobago Manufacturers Association (TTMA) indicated that they will not be submitting comments. Mr. Karim requested that the Secretariat to enquire why the TTMA does not wish to submit comments on the Bills.

DISCUSSION ON THE WAY FORWARD

5.1 The Committee agreed that the Final Report of the Joint Select Committee on the Tax Information Exchange Agreements Bill, 2016, complete with stakeholder submissions, would be circulated to all Members, since it is believed that the submissions would be similar to those received for the Bill.

5.2 The Committee also agreed that the Law Association of Trinidad and Tobago and the European Union Ambassador would be invited to submit comments on the Bills. These stakeholders would be given a deadline of ten (10) days.

5.3 Further, the Committee agreed that stakeholders who were originally written to but failed to provide submissions, should again be contacted and given a deadline of ten (10) days. These stakeholders include the Inland Revenue Division and the Trinidad and Tobago Coalition of Services Institute.

5.3 The Committee agreed that letters should be sent to the Secretariat of the Caribbean Community (CARICOM) and to the Ministry of Finance to determine Trinidad and Tobago's tax compliance status.

5.4 The Committee agreed that the Chief Parliamentary Council Department would be invited to the next meeting.

5.5 The Chairman indicated that he wished to have the Committee's work completed by July 4, 2019.

ADJOURNMENT

6.1 There being no other business, the Chairman adjourned the meeting to **June 25, 2019** at **10:00 a.m**.

6.2 The adjournment was taken at 10:37 a.m.

I certify that these minutes are true and correct.

Chairman

Secretary

June 7, 2019

PARLIAMENT
Republic of Trinidad and Tobago

Levels G - 7, Tower D
The Port-of-Spain International Waterfront Centre
1A Wrightson Road, Port-of-Spain

JOINT SELECT COMMITTEE ON THE MUTUAL ADMINISTRATIVE ASSISTANCE IN TAX MATTERS BILL, 2018, THE TAX INFORMATION EXCHANGE AGREEMENTS BILL, 2018 AND THE INCOME TAX (AMENDMENT) BILL, 2019

MINUTES (CONFIRMED) OF THE THIRD MEETING HELD IN THE A.N.R. ROBINSON MEETING ROOM (WEST), LEVEL 9, OFFICE OF THE PARLIAMENT, TOWER D, IWFC, #1A WRIGHTSON ROAD, PORT-OF-SPAIN ON TUESDAY JUNE 25, 2019 AT 10:00 A.M.

PRESENT

Committee Members

Mr. Colm Imbert	-	Chairman
Dr. Lovell Francis	-	Member
Dr. Lester Henry	-	Member
Mr. Daniel Dookie	-	Member
Mr. Rodney Charles	-	Member
Mr. Saddam Hosein	-	Member
Ms. Charrise Seepersad	-	Member

Secretariat

Ms. Chantal La Roche	-	Secretary
Mr. Jean-Marc Morris	-	Assistant Secretary
Mr. Kaleem Hosein	-	Legal Intern

ABSENT/EXCUSED

Mr. Faris Al-Rawi	-	Vice-Chairman *[Excused]*
Ms. Marlene Mc Donald	-	Member
Mr. Clarence Rambharat	-	Member *[Excused]*
Mr. Fazal Karim	-	Member
Mr. Paul Richards	-	Member *[Excused]*

CALL TO ORDER

1.1 The Chairman called the meeting to order at 10:28 a.m.

ANNOUNCEMENTS

2.1 The Chairman advised that the following Members asked to be excused from the meeting:

- Mr. Faris Al-Rawi;
- Mr. Clarence Rambharat; and
- Mr. Paul Richards.

CONFIRMATION OF MINUTES OF THE FIRST MEETING

3.1 The Chairman invited Members to examine the Minutes of the Second Meeting held on Friday June 7, 2019.

3.2 There being no amendments, the motion for the confirmation of the Minutes was moved by Ms. Seepersad and seconded by Mr. Hosein.

MATTERS ARISING FROM THE MINUTES

4.1 In relation to items 4.4 and 4.5, the Chairman confirmed the stakeholders from which submissions were received and those stakeholder whose submissions were still outstanding.

4.2 The Chairman advised that pursuant to the decisions of the Committee per items 5.2, 5.3 and 5.4, the Secretariat wrote to the following stakeholders:

a) the Inland Revenue Division;
b) the Trinidad and Tobago Manufacturers Association;
c) the Trinidad and Tobago Coalition of Service Industries;
d) the Ministry of Finance;
e) the Law Association of Trinidad and Tobago;
f) the Secretariat of the Caribbean Community; and
g) the Delegation of the European Union to Trinidad and Tobago.

4.3 The Chairman also advised that submissions were received from the Ministry of Finance which provided a status update on Trinidad and Tobago's Global Forum compliance. The Chairman further informed the Committee that the Secretariat had not yet received a response from the Secretariat of the Caribbean Community, the Delegation of the European Union to Trinidad and Tobago and the Inland Revenue Division.

4.4 In addition, the Chairman noted that the following entities had requested extensions of time to make submissions on the Bills:

a) the Law Association of Trinidad and Tobago (to June 28, 2019);
b) the Trinidad and Tobago Coalition of Service Industries (to July 2, 2019); and
c) the Trinidad and Tobago Manufacturers Association (no date specified).

DISCUSSION ON THE WAY FORWARD

5.1 The Committee agreed that the Law Association of Trinidad and Tobago, the Trinidad and Tobago Manufacturers Association and the Trinidad and Tobago Coalition of Service Industries would be granted the necessary extensions for submission.

5.2 Further, the Committee agreed that additional correspondence would be sent to the Secretariat of the Caribbean Community and the Delegation of the European Union to Trinidad and Tobago requesting submissions on the Bills to be provided by July 9, 2019.

5.3 It was also agreed that all stakeholder submissions received thus far as well as the consolidated matrix of the stakeholder submissions would be circulated to Members for their consideration.

5.4 The Chairman gave an undertaking to contact the Chairman of the Board of Inland Revenue in relation to their outstanding submissions on the Bills.

5.5 The Committee agreed that at the next meeting it would proceed with the clause by clause consideration of the Bills, even if all stakeholder submissions have not been received.

ADJOURNMENT

6.1 There being no other business, the Chairman adjourned the meeting to **July 5, 2019** at **10:30 a.m**.

6.2 The adjournment was taken at 10:41 a.m.

I certify that these minutes are true and correct.

Chairman

Secretary

June 25, 2019

JOINT SELECT COMMITTEE ON THE MUTUAL ADMINISTRATIVE ASSISTANCE IN TAX MATTERS BILL, 2018, THE TAX INFORMATION EXCHANGE AGREEMENTS BILL, 2018 AND THE INCOME TAX (AMENDMENT) BILL, 2019

MINUTES (CONFIRMED) OF THE FOURTH MEETING HELD IN THE A.N.R. ROBINSON MEETING ROOM (WEST), LEVEL 9, OFFICE OF THE PARLIAMENT, TOWER D, IWFC, #1A WRIGHTSON ROAD, PORT-OF-SPAIN ON FRIDAY JULY 5, 2019 AT 10:30 A.M.

PRESENT

Committee Members

Mr. Colm Imbert	-	Chairman
Mr. Faris Al-Rawi	-	Vice-Chairman
Mr. Clarence Rambharat	-	Member
Dr. Lester Henry	-	Member
Mr. Fazal Karim	-	Member
Mr. Saddam Hosein	-	Member
Mr. Paul Richards	-	Member
Ms. Charrise Seepersad	-	Member

Secretariat

Ms. Chantal La Roche	-	Secretary
Mr. Jean-Marc Morris	-	Assistant Secretary
Mr. Kaleem Hosein	-	Legal Intern

ABSENT/EXCUSED

Ms. Marlene Mc Donald	-	Member
Dr. Lovell Francis	-	Member
Mr. Daniel Dookie	-	Member
Mr. Rodney Charles	-	Member

CALL TO ORDER

1.1 The Chairman called the meeting to order at 10:44 a.m.

CONFIRMATION OF MINUTES OF THE THIRD MEETING

2.1 The Chairman invited Members to examine the Minutes of the Third Meeting held on Tuesday June 25, 2019.

2.2 There being no amendments, the motion for the confirmation of the Minutes was moved by Ms. Seepersad and seconded by Mr. Hosein.

MATTERS ARISING FROM THE MINUTES

3.1 In relation to item 4.3, the Committee examined the submission received from the Ministry of Finance which provided a status update on Trinidad and Tobago's Global Forum compliance.

3.2 Additionally, the Chairman advised that submissions were received from the Board of Inland Revenue and were circulated to Members.

3.3 Further, in relation to the Delegation of the European Union to Trinidad and Tobago, the Chairman advised that the European Commission proposed a teleconference with the Committee with a view of discussing the proposed pieces of legislation. The Committee agreed that it would consider the proposal upon the completion of the clause by clause consideration of the Bills if there is any area that requires clarification.

3.4 In relation to item 4.4, the Chairman informed that submissions were still outstanding from the following stakeholders:

d) the Law Association of Trinidad and Tobago;
e) the Trinidad and Tobago Coalition of Service Industries; and
f) the Trinidad and Tobago Manufacturers Association.

CLAUSE BY CLAUSE CONSIDERATION OF THE BILLS

Representatives of the Office of the Chief Parliamentary Counsel and the Ministry of the Attorney General and Legal Affairs were invited to join the meeting at this time

4.1 The Chairman welcomed the technocrats.

4.2 Representing the Office of the Chief Parliamentary Counsel were:

Ms. Ida Eversley	-	Deputy Chief Parliamentary Counsel
Ms. Meghan Doyle	-	Parliamentary Counsel II

4.3 Representing the Ministry of the Attorney General and Legal Affairs were:

Mrs. Vyana Sharma - Legal Counsel II

4.4 The clause by clause consideration of the Bills proceeded as outlined in **Appendix I** to these Minutes.

OTHER BUSINESS

5.1 The Committee agreed to continue the clause by clause consideration of the Bills at the next meeting.

ADJOURNMENT

6.1 There being no other business, the Chairman adjourned the meeting to **July 19, 2019** at **10:30 a.m**.

6.2 The adjournment was taken at 12:26 p.m.

I certify that these minutes are true and correct.

Chairman

Secretary

July 5, 2019

Clause by Clause examination of the Income Tax (Amendment) Bill, 2019

Friday July 5, 2019

Clause	Marginal Note	Comments/Issues and Concerns Raised	Decision Taken
Preamble		None.	Agreed.
1	Short Title	None.	Agreed.
2	Act Inconsistent with Constitution	None	Agreed.
3	Interpretation	None	Agreed.
4	New section 4D inserted	▪ Whether the same penalty as prescribed in section 4B of the Income Tax (Amendment) Bill, 2018 should be used for instances where an unauthorised disclosure of tax payer information is made by employees of the BIR. ▪ Term of imprisonment of thirty (30) years on conviction on indictment may be too harsh for the type of offence. ▪ Whether a new subsection under section 4 should be created to provide a penalty where an unauthorised disclosure of tax payer information is made by an employee of the BIR.	**Deferred.** CPC to review and redraft section with a view of providing an appropriate penalty commensurate to the seriousness of the offence of disclosure by an employee of the BIR.
		"**foreseeably relevant**": ▪ Whether the term should be replaced with "reasonable". ▪ Noted that the Global Forum requires this type of terminology for compliance.	Agreed.
		"**arrangement**": ▪ Whether this should be replaced with "agreement". ▪ Noted that the term "arrangement" is utilised when dealing with double taxation and is used in existing section 93 of the Income Tax Act.	Agreed.

Clause	Marginal Note	Comments/Issues and Concerns Raised	Decision Taken
5	Section 93 amended	▪ The amendment would provide for the sharing of tax payer information for double taxation relief. ▪ Whether the proposed subsections (b) and (c) are redundant. ▪ List of Double Taxation Treaties that Trinidad and Tobago have entered into: ➢ Brazil 2008; ➢ Canada 1996; ➢ CARICOM 1994; ➢ China 2004; ➢ Denmark 1969; ➢ France 1987; ➢ Germany 1976; ➢ India 1999; ➢ Italy 1971; ➢ Luxembourg 2001; ➢ Norway 1969; ➢ Spain 2009; ➢ Sweden 1984; ➢ Switzerland 1973; ➢ United Kingdom 1983; ➢ Venezuela 1997.	Agreed subject to the following amendments: CPC to redraft the proposed subsections by deleting subsection (b) and (c) and by renumbering the relevant remaining subsections.
6	Section 93A inserted	▪ Although the Data Protection Act (DPA) is not fully proclaimed the Bill seeks to make provisions for when the DPA is eventually proclaimed. ▪ Why sections 41 and 69 of the DPA are not addressed in the proposed 93A. ▪ Section 41 of the DPA is not addressed because it deals with information disclosed within Trinidad and Tobago and therefore is not applicable as 93A deals with sharing of information outside of the jurisdiction. ▪ Section 13 of the Tax Information Exchange Agreements Act, 2017 deals with financial institutions, hence the reason why section 69 of the DPA was addressed. Section 69 of the DPA is not addressed in this instance because the BIR is not considered a financial institution.	Agreed.

Clause	Marginal Note	Comments/Issues and Concerns Raised	Decision Taken
		▪ Clause 6 complies with the recommendations of the Global Forum.	
7	Section 117 amended	▪ Whether this amendment would be increasing the powers of the BIR. ▪ The amendment does not give the BIR any additional powers, but it consolidates powers contained in other pieces of legislation such as the Value Added Tax Act.	Agreed.
8	Section 117A amended	▪ Section 117A seeks to ensure that the information provided to the BIR is credible. The amendment seeks to ensure that this applies to double taxation agreements.	Agreed.

July 5, 2019

PARLIAMENT
Republic of Trinidad and Tobago

Levels G - 7, Tower D
The Port-of-Spain International Waterfront Centre
1A Wrightson Road, Port-of-Spain

JOINT SELECT COMMITTEE ON THE MUTUAL ADMINISTRATIVE ASSISTANCE IN TAX MATTERS BILL, 2018, THE TAX INFORMATION EXCHANGE AGREEMENTS BILL, 2018 AND THE INCOME TAX (AMENDMENT) BILL, 2019

MINUTES (CONFIRMED) OF THE FIFTH MEETING HELD IN THE A.N.R. ROBINSON MEETING ROOM (EAST), LEVEL 9, OFFICE OF THE PARLIAMENT, TOWER D, IWFC, #1A WRIGHTSON ROAD, PORT-OF-SPAIN ON FRIDAY JULY 19, 2019 AT 10:30 A.M.

PRESENT

Committee Members

Mr. Colm Imbert	-	Chairman
Mr. Faris Al-Rawi	-	Vice-Chairman
Dr. Lester Henry	-	Member
Mr. Daniel Dookie	-	Member
Mr. Rodney Charles	-	Member
Mr. Fazal Karim	-	Member
Mr. Saddam Hosein	-	Member
Ms. Charrise Seepersad	-	Member

Secretariat

Ms. Chantal La Roche	-	Secretary
Mr. Jean-Marc Morris	-	Assistant Secretary
Mr. Kaleem Hosein	-	Legal Intern

ABSENT/EXCUSED

Mr. Clarence Rambharat	-	Member *[Excused]*
Ms. Marlene Mc Donald	-	Member
Dr. Lovell Francis	-	Member
Mr. Paul Richards	-	Member *[Excused]*

CALL TO ORDER

1.1 The Chairman called the meeting to order at 10:46 a.m.

CONFIRMATION OF MINUTES OF THE FOURTH MEETING

2.1 The Chairman invited Members to examine the Minutes of the Fourth Meeting held on July 5, 2019.

2.2 There being no amendments, the motion for the confirmation of the Minutes was moved by Mr. Karim and seconded by Ms. Seepersad.

MATTERS ARISING FROM THE MINUTES

3.1 In relation to item 3.4, the Chairman advised the Committee that the Trinidad and Tobago Coalition of Service Industries (TTCSI), informed via letter dated July 4, 2019 that several members of the TTCSI, such as the Bankers Association of Trinidad and Tobago and the European Business Chamber in Trinidad and Tobago, have already submitted comments to the Committee and as such the TTCSI will not be submitting further comments.

3.2 Additionally, the Chairman advised that the submissions from the Law Association of Trinidad and Tobago (LATT) had not been received at the extended deadline date of July 12, 2019. However, the LATT informed the Secretariat that the relevant Committee of the LATT was considering the submissions on the Bills and as such, the submissions would be forwarded to the Committee as soon as possible.

3.3 In relation to the Trinidad and Tobago Manufacturers Association (TTMA), the Chairman advised that no submissions had been received but that the Association was desirous of obtaining an extension of time.

3.4 Further, in relation to the Caribbean Community Secretariat, the Chairman informed that receipt of the correspondence had been confirmed but that no submission had been received.

CLAUSE BY CLAUSE CONSIDERATION OF THE BILLS

Representatives of the Office of the Chief Parliamentary Counsel and the Ministry of the Attorney General and Legal Affairs were invited to join the meeting at this time

4.1 The Chairman welcomed the technocrats.

4.2 Representing the Office of the Chief Parliamentary Counsel (CPC) were:

Ms. Ida Eversley - Deputy Chief Parliamentary Counsel

Ms. Megan Doyle - Parliamentary Counsel II

4.3 Representing the Ministry of the Attorney General and Legal Affairs were:
Mrs. Vyana Sharma - Senior Legal Counsel & Solicitor

4.4 The clause by clause consideration of the Mutual Administrative Assistance in Tax Matters Bill, 2018 proceeded as outlined in **Appendix I** to these Minutes.

OTHER BUSINESS

5.1 The Committee agreed to continue the clause by clause consideration of the Bills at the next meeting.

5.2 In relation to Schedules 1 to 6 of the Mutual Administrative Assistance in Tax Matters Bill, the Committee requested that the CPC review the Schedules to ensure that they originate from the Organisation for Economic Co-operation and Development (OECD) prescribed standards and requirements and if there is any variation from these standards and requirements it should be brought to the attention of the Committee at the next meeting.

5.3 The Committee requested that the CPC prepare a report on all issues and concerns raised thus far during the clause by clause consideration of the Income Tax (Amendment) Bill, 2019 and the Mutual Administrative Assistance in Tax Matters Bill, 2018.

ADJOURNMENT

6.1 There being no other business, the Chairman adjourned the meeting to **August 14, 2019** at **10:30 a.m**.

6.2 The adjournment was taken at 12:09 p.m.

I certify that these minutes are true and correct.

Chairman

Secretary

July 19, 2019

Appendix I

Clause by Clause examination of the Mutual Administrative Assistance in Tax Matters Bill, 2018

Friday July 19, 2019

Clause	Marginal Note	Comments/Issues and Concerns Raised	Decision Taken
Preamble		None.	Agreed.
1	Short Title	None.	Agreed.
2	Commencement	None.	Agreed.
3	Act Inconsistent with Constitution	None.	Agreed.
4	Interpretation	"**account holder**": ▪ Whether it is the principal account holder instead of beneficial account holder targeted under the definition of the term "account holder".	Agreed.
		"**active NFE**": ▪ What is meant by the term NFE? ▪ Explained as an entity that is not a financial institution (definition contained in Schedule 1 of the Bill). ▪ Why are NFEs targeted by the Bill?	**Deferred.** CPC requested to provide a report explaining what an NFE entails and provide a detailed list of institutions that would be considered NFEs.
		▪ Disjunctive use of the word "or" after subclause (g) under the definition of the term "active NFE".	**Deferred.** CPC to review and revert.
		"**annuity contract**": ▪ Whether the definition of the term "annuity contract" is consistent with the definition utilised in the new Insurance Act?	**Deferred.** CPC to review and revert.

Clause	Marginal Note	Comments/Issues and Concerns Raised	Decision Taken
		"**board participation retirement fund**": ▪ Whether this retirement fund requirement originated from the standard prescribed by the OECD.	**Deferred.** CPC to determine whether this definition originated from the standard prescribed by the OECD and report to the Committee whether it is a standard that must be complied with.
		▪ CPC explained that all the definitions included in the Bill flow from the standard as prescribed by the OECD. The OECD met with the CPC during the drafting process of the Bill and ensured that all the definitions were up to the requisite standard.	
5	Board of Inland Revenue the competent authority for Trinidad and Tobago	None.	Agreed.
6	Application of the Act	▪ January 1, 2017 was the date of commitment to Global Forum to comply. There will be a retroactive application of the Bill.	Agreed.
7	Competent Authority Agreements	▪ Trinidad still has to enter into agreements with the various countries for the exchange of tax information to occur. ▪ OECD has drafted model agreements for this to be done. ▪ Who oversees the agreements to ensure that the agreements are in line with the model agreements	**Deferred.** CPC to provide the Committee with a report explaining the agreements and review whether a provision should be included for oversight of these agreements.
8	Exchange of Information	▪ Tax Information Exchange Agreements (United States of America) Act, 2017 does not provide for the spontaneous and simultaneous exchange of tax information. ▪ Whether there is a possibility of trade secrets being disclosed.	**Deferred.** CPC will review to determine whether legal professional privilege or any other privilege falls under "professional secret."

Clause	Marginal Note	Comments/Issues and Concerns Raised	Decision Taken
		▪ Trade secrets cannot be disclosed with tax information. Clause 8(2) (d) protects against this. ▪ Whether clause 8(2) (d) covers legal professional privilege. It may fall under "professional secret". ▪ Significant level of protection for all citizens. ▪ Clause 8(3) ensures that the Board cannot hide behind a defence that they do not have the necessary tax information.	
9	Disclosure under this Act	▪ Committee disagreed with submission by AREA. In order to share the information provision had to be made for the disclosure.	Agreed.
		▪ Clause 9 (5) – whether the term authority ought to be used in place of country. ▪ The Global Forum required this to be placed in the Bill in order to allow signing onto the treaty. Competent country is the phrase that the Global forum wants to be used not authority. ▪ Does not apply to a citizen doing business with an OECD country. ▪ Our country receiving information from another country allows our competent authority to share the information with other authorities in Trinidad and Tobago.	Agreed.
		▪ Under clause 9 (8), the Board cannot disclose information unless it meets the required standard and without consent. ▪ Explained by CPC that this is from the standard as prescribed by the OECD. Safeguard to maintain confidentiality. ▪ BIR submissions on subsection considered. The Committee disagreed with the position presented by the BIR.	Agreed.

Clause	Marginal Note	Comments/Issues and Concerns Raised	Decision Taken
10	Exchange of information upon request	▪ Clause 10 (6) – A similar provision to this was included in the Tax Information Exchange Agreements (United States of America) Act, 2017. Under that Act there is a requirement that the person whose information is shared is informed within thirty (30) days.	Agreed.
		▪ Clause 10 (7) provides the Board with the power to request other information if the information is not in the possession of the Board. This information includes information relating to whether a person is legitimately registered for tax purposes in the territory. ▪ Clause 10 (7) sounds ultra vires the power of the Board. If it is a requirement by the OECD then it will have to discussed.	**Deferred.** CPC to source the origin of the subclause to determine whether it is necessary. If not necessary then the clause should be amended or deleted.
		▪ In relation to clause 10 (8), the Committee considered the submissions of the BIR and determined the issue to be irrelevant.	Agreed.
11	Automatic exchange of information	▪ Clause 11 (2) is all the information that Global Forum requires to be exchanged.	Agreed. CPC to identify clauses of the Bill that are beyond Global Forum requirements.
		▪ Clause 11 (3) provides for the TIN – Taxpayer Identification Number. ▪ It was noted that on a multilateral basis some jurisdictions have a TIN and some jurisdictions do not. Some jurisdictions require the TIN to be share while others do not.	Agreed.

Clause	Marginal Note	Comments/Issues and Concerns Raised	Decision Taken
		▪ Clause 11 (6) provides for the sharing of information from 2017 onwards.	Agreed. CPC to ensure that Clause 11 (6) does not create a problem with regards to reporting for the financial years 2017 and 2018 as it would mean that the information would have to be submitted immediately. A proclamation clause can be inserted.
12	Requirements of reporting financial institutions	▪ Whether a timeframe is necessary in clause 12 (4). A timeframe is provided in subclause (5).	Agreed.
13	Spontaneous exchange of information	▪ Whether the used of the word "in" in 13 (1) (a) is accurate. "In" this instance "in" should be read as "to" in accordance with civil drafting.	Agreed.
		▪ Clause 13 (1) (d) provides for a worldwide effort to target persons and entities who try to evade taxes. ▪ Spontaneous reporting is a positive step. This would provide for the reporting of information even in instances where a request is not made.	Agreed.
		▪ Clause 13 (2) is not redundant as it provides for the implementation of necessary procedures for the exchange of information between parties.	Agreed.
14	Simultaneous tax examinations	▪ The concerns raised by the TTCIC to this clause were noted. ▪ The Committee agreed that the Board has to comply with Section 117 of the Income Tax Act when doing the simultaneous exchange of information.	Agreed.

Clause	Marginal Note	Comments/Issues and Concerns Raised	Decision Taken
15	Effective enforcement	▪ Whether the fine and custodial sentence prescribed in Clause 15 (1) is consistent with established standards. ▪ Clause 15 (2) – "reasonably considered" will be determined by the court.	Agreed subject to the following amendments: CPC to determine whether the fine and sentence are in accordance with the established standards.
16	Collaboration on compliance on enforcement	▪ Whether a timeframe should be placed in Clause 16 (1) and (4). May not be practical to have a timeframe. "As soon as possible" is the term that is generally used. ▪ Whether the fine and custodial sentence prescribed in Clause 16 (5) is consistent with established standards.	Agreed subject to the following amendments: CPC to determine whether the fine and sentence are in accordance with the established standards and to determine whether the penalty will be in respect to summary conviction or conviction on indictment.
17	Requirement to keep records	None.	Agreed.
18	Board to inform on breach of confidentiality	▪ The "CB Secretariat" means the "OECD Secretariat".	Agreed.
19	Use of service providers	▪ Service providers are institutions which may compile information for other financial institutions. Examples include Linx.	Agreed.
20	Immunity from suit	None.	Agreed.
21	Annual Report	None.	Agreed.
22	Minister to amend schedule	▪ In relation to clause 22 (1), why would the Minister want to amend the schedules? ▪ This amendment may be necessary if a new country joins or if a country leaves the Global Forum. ▪ The Order will come before the Statutory Instruments committee of the Parliament.	Agreed.

Clause	Marginal Note	Comments/Issues and Concerns Raised	Decision Taken
23	Minister to prescribe dates	None.	Agreed.
24	Regulations	None.	Agreed.
25	Consequential amendments – Schedule 6	None.	Agreed.

July 19, 2019

JOINT SELECT COMMITTEE ON THE MUTUAL ADMINISTRATIVE ASSISTANCE IN TAX MATTERS BILL, 2018, THE TAX INFORMATION EXCHANGE AGREEMENTS BILL, 2018 AND THE INCOME TAX (AMENDMENT) BILL, 2019

MINUTES (CONFIRMED) OF THE SIXTH MEETING HELD IN THE A.N.R. ROBINSON MEETING ROOM (WEST), LEVEL 9, OFFICE OF THE PARLIAMENT, TOWER D, IWFC, #1A WRIGHTSON ROAD, PORT-OF-SPAIN ON WEDNESDAY AUGUST 14, 2019 AT 11:30 A.M.

PRESENT

Committee Members

Mr. Colm Imbert	-	Chairman
Mr. Faris Al-Rawi	-	Vice-Chairman
Mr. Clarence Rambharat	-	Member
Dr. Lovell Francis	-	Member
Dr. Lester Henry	-	Member
Mr. Rodney Charles	-	Member
Mr. Fazal Karim	-	Member
Mr. Saddam Hosein	-	Member
Mr. Paul Richards	-	Member
Ms. Charrise Seepersad	-	Member

Secretariat

Ms. Chantal La Roche	-	Secretary
Mr. Jean-Marc Morris	-	Assistant Secretary
Ms. Sharla Elcock	-	Legal Officer I
Mr. Kaleem Hosein	-	Legal Officer I

ABSENT/EXCUSED

Mr. Daniel Dookie	-	Member *[Excused]*
Ms. Marlene Mc Donald	-	Member

CALL TO ORDER

1.1 The Chairman called the meeting to order at 11:44 a.m.

CONFIRMATION OF MINUTES OF THE FIFTH MEETING

2.1 The Chairman invited Members to examine the Minutes of the Fifth Meeting held on July 19, 2019.

2.2 There being no amendments, the motion for the confirmation of the Minutes was moved by Ms. Seepersad and seconded by Mr. Hosein.

MATTERS ARISING FROM THE MINUTES

3.1 In relation to item 3.2, the Chairman advised the Committee that via communication dated August 14, 2019, the Secretariat was informed that the Law Association of Trinidad and Tobago was still considering the Bills and would provide its comments in due course.

3.2 Additionally, the Chairman advised that the submissions from the Trinidad and Tobago Manufacturers Association (TTMA) were still outstanding as they were still being considered by the Chief Executive Officer.

3.3 Further, in relation to the Caribbean Community, the Chairman informed that receipt of Committee's correspondence dated June 25, 2019 had been acknowledged and the Secretariat of the Caribbean Community advised that it would be brought to the attention of the relevant personnel.

3.4 The Chairman also informed Members that the representatives of the Chief Parliamentary Council Department (CPC) assigned to assist the Committee with its deliberations had prepared, as requested by the Committee, a Report on the issues raised during the Clause by Clause consideration of the Income Tax (Amendment) Bill, 2019 and the Mutual Administrative Assistance in Tax Matters Bill, 2018, which was circulated to Members on August 13, 2019.

3.5 In relation to the proposal by the Delegation of the European Union to Trinidad and Tobago to meet with the Committee via teleconference, it was agreed that this offer would be considered upon the completion of the Clause by Clause consideration of the Bills. It was also agreed that suggested changes made to the Bills during the Committee meetings would be incorporated and then sent to the Delegation for comments.

EXAMINATION OF CPC RESPONSES TO JSC QUERIES ON THE INCOME TAX (AMENDMENT) BILL, 2019 AND THE MUTUAL ADMINISTRATIVE ASSISTANCE IN TAX MATTERS BILL, 2018

4.1 The Chairman welcomed the technocrats.

4.2 Representing the Office of the Chief Parliamentary Counsel (CPC) were:

Ms. Ida Eversley - Deputy Chief Parliamentary Counsel

Ms. Megan Doyle - Parliamentary Counsel II

4.3 Representing the Ministry of the Attorney General and Legal Affairs was:

Mrs. Vyana Sharma - Senior Legal Counsel & Solicitor

The Income Tax (Amendment) Bill, 2019

5.1 The Committee agreed that the proposed clause 4D did not require a penalty as it is a provision to empower the Board of Inland Revenue to provide tax payer information to a foreign tax administration authority.

5.2 In relation to the proposed penalty under Clause 6(5), the CPC submitted that the proposed penalty is almost commensurate to the penalty for disclosure of confidential information provided under the Financial Intelligence Unit Act, Chap. 72:01.

5.3 Further, the Committee requested that the CPC examine all offences under the Income Tax Act Chap. 75:01 that do not have a specific penalty and determine whether the general penalty as prescribed under section 121 of the Act is adequate. CPC was also asked to research and advise whether such an amendment is within the ambit of the Committee.

The Mutual Assistance in Tax Matters Bill 2018

6.1 The CPC informed the Committee that the Organisation for Economic Co-operation and Development (OECD) requested several further amendments be made to the Bill. The OECD amendments are outlined in **Appendix I** to these Minutes.

Clause 4 – Interpretation

6.2 In a response to a query by the Committee, the CPC provided a definition for "Active and Passive Non-Financial Entities" (NFE). It was stated that NFEs include all institutions except financial institutions.

6.3 In relation to the definition of "annuity contract", CPC advised that the definition was consistent with the definition provided under the Insurance Act No. 4 of 2018.

6.4 Further, in relation to the definition of "broad participation retirement fund", CPC confirmed that the definition originated from the Common Reporting Standards (CRS).

6.5 Additionally, the OECD requested new definitions be included into the Bill namely, definitions for the terms "financial asset" and "governmental entity". The Committee raised concerns regarding the definition of "governmental entity"; namely:

i. whether a governmental entity would be subject to special administration or scrutiny;
ii. how partially state owned banks, such as First Citizens Bank and Republic Bank would be treated in light of this definition; and
iii. how could a bank be defined as a non-financial entity.

The Committee requested further analysis from CPC on these issues.

Clause 7 – Competent Authority Agreements

6.6 The CPC provided the Committee with a report on the Competent Authority Agreements. It was noted that individual agreements, adhering to the model agreement provided, have to be entered into with each country. The model agreement would be included as a Schedule and provision would be made for it to be adjusted according to individual negotiations.

Clause 8 – Exchange of Information

6.7 Responding to the request for clarification from the Committee, CPC reported that legal professional privilege or any other privilege falls under "professional secret". It was noted that legal professional privilege applies both to legal advice and to representation in litigation proceedings and covers all facts that an attorney-at-law becomes aware of during the course of, and as a result of, his or her work as an attorney-at-law.

Clause 10 – Exchange of Information upon request

6.8 Responding to the request from the Committee to determine whether Clause 10 (7) was a necessary component of the Bill, CPC reported that the obligation created under Clause 10 (7) is contained under Article 21(3) of the Convention. CPC noted that the clause is therefore necessary and should not be amended or deleted. The Committee requested that CPC communicate with the OECD to determine whether this clause could be removed.

Clause 11 – Automatic Exchange of Information

6.9 In response to the request by the Committee for CPC to identify clauses in the Bill that were beyond Global Forum requirements, CPC reported that there were no clauses beyond Global Forum requirements.

6.10 In relation subclause (6), CPC reported that the bringing into force of this subclause could be delayed using the proclamation clause provided in Clause 2.

Clause 15 – Effective enforcement

6.11 In response to the request by the Committee for CPC to determine whether the fine and sentence were in accordance with the established standards, CPC reported that based on comparative legislation, it appeared that the criminal penalty of a fine of one hundred fifty thousand dollars ($150,000.00) contained in the Bill is a low fine to be imposed for this type of offence, whereas the imprisonment for twenty (20) years under the Bill is the highest sentence of imprisonment for this type of offence.

6.12 The Committee agreed that the penalty would be amended to be commensurate to the penalties for the similar offence under the Insurance Act. Therefore, the revised offence would be on summary conviction to a fine of three hundred thousand dollars ($300,000.00) and to imprisonment of one (1) year and on conviction on indictment to a fine of six hundred thousand dollars ($600,000.00) and to imprisonment for two (2) years.

Clause 16 – Collaboration on compliance enforcement

6.13 In response to the request by the Committee for CPC to determine whether the fine and sentence are in accordance with the established standards and to determine whether the penalty would be in respect of summary conviction or conviction on indictment, CPC reported that the intention was to make the breach of this section a strict liability offence that carries a penalty.

6.14 The Committee agreed that the fine would not be amended, but requested the inclusion of a daily penalty for every day that a financial institution fails to correct the error.

OTHER BUSINESS

7.1 The Committee agreed that at the next meeting the Tax Information Exchange Agreements Bill, 2018 would be considered clause by clause.

ADJOURNMENT

8.1 There being no other business, the Chairman adjourned the meeting to **August 30, 2019** at **11:00 a.m**.

8.2 The adjournment was taken at 1:16 p.m.

I certify that these minutes are true and correct.

Chairman

Secretary

August 14, 2019

Appendix I

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT (OECD) AMENDMENTS

Wednesday August 14, 2019

Clause	Marginal Note	Comments/Issues and Concerns Raised
4	Interpretation	▪ Regarding the definition for "active NFE", the OECD requested the words "listed in this paragraph" be deleted as it was found to be redundant.
		▪ In relation to the definition of "broad participation retirement fund", the OECD requested that the sum of fifty thousand dollars ($50,000.00), referred to in subparagraph (4) of the definition, be changed to fifty thousand United States dollars ($50,000.00 USD) to be in line with the Common Reporting Standard.
		▪ Regarding the definition of "Central Bank", the OECD requested the word "separated" be deleted and replaced with "separate".
		▪ Regarding the definition of "Common Reporting Standard", the OECD requested the date of "15th July, 2015" be changed to "15th July, 2014."
		▪ In relation to the definition of "Common Reporting Standards Due Diligence Requirements", the OECD requested that the phrase, "referred to in Schedule 1" be inserted after the word "Standard".
		▪ In relation to the definition of "excluded account", the OECD requested that in paragraph (f) (ii) the phrase "of to the" should be removed.
		▪ In terms of the definition of "national", the OECD requested that the definition be amended to delete the words "Trinidad and Tobago" and replace with "a State Party to the Convention." In relation to this amendment the Committee considered the context in which the word "national" is used in the Bill.

Clause	Marginal Note	Comments/Issues and Concerns Raised
		▪ Regarding the definition of "participating jurisdiction", the OECD requested that the word "participating" be deleted wherever it occurred. Therefore, the definition of "participating jurisdiction" is to be deleted. The rationale behind this amendment is that no State should be viewed as though it is electing to participate in the Convention. As a consequence, Schedule 5 would also be deleted as there would be a published list of jurisdictions. Further, the definition of "participating jurisdiction financial institution" ought to be changed to "reportable jurisdiction financial institution".
		▪ In relation to Clause 4 (2), the OECD requested the reference to "custodial account" be changed to "custodial institution".
		▪ Additionally, the OECD requested the definition of "tax claim" be deleted as the term is not used in the Bill.
8	Exchange of Information	▪ In relation to Clause 8 (1), the OECD requested that the phrase "of an applicant state" be inserted after the words "other competent authorities". Additionally, the words "or enforcement" be inserted after the word "administration".
9	Disclosure under this Act	▪ In relation to Clause 9, the OECD requested that the phrase "the competent authority of an applicant Party" be utilised instead of the phrase "Requesting Party." Further, the term "so requested" be deleted and replaced with "that is foreseeably relevant."
		▪ In relation to Clause 9 (4), the OECD requested the phrase, "making the request for assistance" be deleted and the term "Requesting party" be inserted.
		▪ In relation to Clause 9(5), the OECD requested the phrase "with the consent from the country supplying the information" be deleted and replaced with "consents to such sharing."
		▪ In relation to Clause 9(9), the OECD requested the term "competent authority" be deleted and replaced with "Board."

Clause	Marginal Note	Comments/Issues and Concerns Raised
		▪ In relation to Clause 9(12), the OECD requested the phrase "by the Board" be inserted after the word "received" in the first line.
11	Automatic Exchange of Information	▪ The OECD requested that subclauses (3), (4) and (5) be deleted as it was not necessary to have these explanations in the Bill.
12	Requirements of reporting financial institutions	▪ The OECD requested that new subclauses (7), (8) and (9) be inserted after subclause (6). It was noted that some of the previously deleted clauses were added to this section.

August 14, 2019

JOINT SELECT COMMITTEE ON THE MUTUAL ADMINISTRATIVE ASSISTANCE IN TAX MATTERS BILL, 2018, THE TAX INFORMATION EXCHANGE AGREEMENTS BILL, 2018 AND THE INCOME TAX (AMENDMENT) BILL, 2019

MINUTES (CONFIRMED) OF THE SEVENTH MEETING HELD IN THE A.N.R. ROBINSON MEETING ROOM (WEST), LEVEL 9, OFFICE OF THE PARLIAMENT, TOWER D, IWFC, #1A WRIGHTSON ROAD, PORT-OF-SPAIN ON FRIDAY AUGUST 30, 2019 AT 11:00 A.M.

PRESENT

Committee Members

Mr. Colm Imbert	-	Chairman
Mr. Faris Al-Rawi	-	Vice-Chairman
Dr. Lester Henry	-	Member
Mr. Rodney Charles	-	Member
Mr. Fazal Karim	-	Member
Mr. Saddam Hosein	-	Member
Mr. Paul Richards	-	Member
Ms. Charrise Seepersad	-	Member

Secretariat

Ms. Chantal La Roche	-	Secretary
Mr. Jean-Marc Morris	-	Assistant Secretary
Ms. Sharla Elcock	-	Legal Officer I

ABSENT/EXCUSED

Mr. Clarence Rambharat	-	Member *[Excused]*
Dr. Lovell Francis	-	Member *[Excused]*
Mr. Daniel Dookie	-	Member *[Excused]*
Ms. Marlene Mc Donald	-	Member

CALL TO ORDER

1.1 The Chairman called the meeting to order at 11:45 a.m.

CONFIRMATION OF MINUTES OF THE SIXTH MEETING

2.1 The Chairman invited Members to examine the Minutes of the Sixth Meeting held on August 14, 2019.

2.2 There being no amendments, the motion for the confirmation of the Minutes was moved by Mr. Karim and seconded by Dr. Henry.

MATTERS ARISING FROM THE MINUTES

3.1 In relation to item 3.1, the Chairman advised the Committee that via telephone conversation on August 29, 2019 the Law Association of Trinidad and Tobago informed that there was no further update in relation to the Association's submissions on the Bills.

3.2 Additionally, the Chairman advised that via electronic correspondence dated August 14, 2019 the Trinidad and Tobago Manufacturers (TTMA) informed the Secretariat that it does not have any submissions on the Bills as it was of the opinion that the Bill fell outside of the TTMA's remit.

3.3 The Chairman advised that electronic correspondence was sent to CARICOM, dated August 29, 2019, enquiring about the status of the requestbut to date no response had been received.

3.4 The Chairman also informed Members that the representatives of the Chief Parliamentary Council Department (CPC) assigned to assist the Committee with its deliberations had prepared, as requested by the Committee, a draft consolidated version of the Mutual Administrative Assistance in Tax Matters (MAATM) Bill, 2018 taking into account the amendments suggested by the Committee, the Ministry of Finance and the Organisation for Economic Co-operation and Development (OECD), which was circulated to Members on August 29, 2019.

3.5 The Chairman advised the Committee that the Secretariat was in receipt of a letter from the Delegation of the European Union to Trinidad and Tobago dated August 19, 2019 informing the Committee that the Directorate General for Taxation and Customs Union of the European Commission (TAXUD) does not comment on jurisdiction's transparency legislation but instead relies fully on the OECD/Global Forum's assessment for the EU list. This letter was also circulated to Members on August 29, 2019.

CLAUSE BY CLAUSE CONSIDERATION OF THE BILLS

Representatives of the Office of the Chief Parliamentary Counsel and the Ministry of the Attorney General and Legal Affairs were invited to join the meeting at this time

4.1 The Chairman welcomed the technocrats.

4.2 Representing the Office of the Chief Parliamentary Counsel (CPC) were:
Ms. Ida Eversley - Deputy Chief Parliamentary Counsel

4.3 Representing the Ministry of the Attorney General and Legal Affairs was:
Mrs. Vyana Sharma - Senior Legal Counsel & Solicitor

4.4 The clause by clause consideration of the **Tax Information Exchange Agreements Bill, 2018** proceeded as outlined in **Appendix I** to these Minutes.

OTHER BUSINESS

5.1 In relation to the enquiry made by the Committee concerning whether Clause 10(7) of the MAATM Bill could be removed, the CPC informed the Committee that the OECD had instructed that the removal of the clause would result in Trinidad and Tobago not being compliant with their Global Forum obligations. The OECD further advised that the clause directly addressed one of the reasons that Trinidad and Tobago was identified as non-compliant with the Global Forum standards.

5.2 It was further noted by the Committee that the Board of Inland Revenue, as the competent authority, is only authorised to gather tax payer information under the laws of Trinidad and Tobago.

5.3 In relation to the term "governmental entity", the CPC informed the Committee that entities like First Citizens Bank and Republic Bank would not be considered governmental entities.

5.4 The Committee agreed that at the next meeting the draft consolidated version of the MAATM Bill, 2018 and the Matrix of Offences under the Income Tax Act, Chap 75:01 would be considered.

ADJOURNMENT

6.1 There being no other business, the Chairman adjourned the meeting to **September 4, 2019** at **10:30 a.m**.

6.2 The adjournment was taken at 12:55 p.m.

I certify that these minutes are true and correct.

Chairman

Secretary

<u>August 30, 2019</u>

Clause by Clause examination of the Tax Information Exchange Agreements (TIEA) Bill, 2018

Friday August 30, 2019

Clause	Marginal Note	Comments/Issues and Concerns Raised	Decision Taken
Preamble		None.	**Agreed.**
1	Short Title	None.	**Agreed.**
2	Act Inconsistent with Constitution	None.	**Agreed.**
3	Interpretation	"**declared agreement**": ▪ Whether there is a difference between a "declared agreement" and a "tax information exchange agreement".	**Agreed.**
4	Tax Information exchange agreements	**Subclause (1)** ▪ Whether this Bill is similar to Tax Information Exchange Agreements (United States of America) Act (FATCA), 2017. ▪ It was explained that Tax Information Exchange Agreements Act Chap. 76:51 (1989) existed prior to FATCA and applied across the board but did not allow for the kind of sharing that FATCA envisioned. ▪ The Tax Information Exchange Agreements Act Chap. 76:51 (1989) was repealed by FATCA, so now the TIEA Bill seeks to bring	**Agreed.**

Clause	Marginal Note	Comments/Issues and Concerns Raised	Decision Taken
		certain elements of the repealed Act back into force. ▪ It was noted that the operationalization of the TIEA Bill would be done by subsidiary agreements whereby the competent authorities interact with each other directly. ▪ It was emphasized that the Minister of Finance would not be able to access the personal and private taxpayer information being exchanged between the competent authorities. ▪ The MAATM Bill allows Trinidad and Tobago to participate in a global tax information exchange framework. ▪ It was explained that Trinidad and Tobago is not allowed to sign the MAATM Treaty until it is incorporated into our domestic law. Only when the Treaty is signed would Trinidad and Tobago be allowed to enter into individual agreements with other contracting states. ▪ Must enter into thirteen (13) individual agreements in order to become Global Forum compliant. ▪ Whether there are any legal implications to the incorporation of a treaty before signing.	
		Subclause (2) ▪ Whether there is an inconsistency between “contracting state” and “requesting state". ▪ The TIEA Bill is unique as taxpayer information can only be exchanged upon request.	**Deferred.** CPC to amend the clause by inserting the word “agreement” after the word “exchange”.
5	Declaration of Agreement	None.	**Agreed.**
6	Implementation of Agreement	▪ The provision originated from the Tax Information Exchange Agreements Act Chap. 76:51 (1989) Act.	**Deferred.** CPC requested to amend the clause and to provide a definition for “general

Clause	Marginal Note	Comments/Issues and Concerns Raised	Decision Taken
		▪ Whether the term "general directions" should be defined. ▪ There is a need to clarify what general directions include and what it does not include.	directions". The definition should clarify what general directions include and what it does not include.
7	Powers of Board	**Subclause (1)** ▪ This provision originated from the previous repealed Act. ▪ It was noted that clauses 6 and 7 were not included in FATCA.	**Deferred.** CPC requested to rewrite the clause as the language used is too convoluted.
		Subclause (2) ▪ The word "Act" to be included after the words "under this".	**Deferred.** CPC to amend the clause by inserting the word "Act" after the words "under this".
8	Secrecy	None.	**Agreed.**
9	Exemption from	**Subclause (3)** ▪ The person has no right to deny consent. Some period of time afterwards the person should be notified that their information was shared.	**Deferred.** CPC to amend the clause to include a provision, similar to the provision in FATCA, which states that the Board must notify the person whose information was shared, possibly a month afterwards.
		Subclause (4) ▪ It was noted that some agreements state who the information can be shared with.	**Agreed.**
10	Penalty for unauthorized disclosure	▪ Whether the penalties are consistent with the penalties in other pieces of legislation, for example FATCA.	**Deferred.** CPC to determine whether the penalties are consistent with the penalties in other pieces of legislation, for example FATCA.

Clause	Marginal Note	Comments/Issues and Concerns Raised	Decision Taken
		▪ Subclause 10 (b) to be amended to "two hundred and fifty thousand dollars ($250,000 and 5 years" to match sections 8 and 23 of FATCA.	**Deferred.** CPC to amend subclause 10 (b) to increase the fine from one hundred and fifty thousand dollars ($150,000.00) to two hundred and fifty thousand dollars ($250,000.00).

August 30, 2019

JOINT SELECT COMMITTEE ON THE MUTUAL ADMINISTRATIVE ASSISTANCE IN TAX MATTERS BILL, 2018, THE TAX INFORMATION EXCHANGE AGREEMENTS BILL, 2018 AND THE INCOME TAX (AMENDMENT) BILL, 2019

MINUTES (CONFIRMED) OF THE EIGHTH MEETING HELD IN THE A.N.R. ROBINSON MEETING ROOM (WEST), LEVEL 9, OFFICE OF THE PARLIAMENT, TOWER D, IWFC, #1A WRIGHTSON ROAD, PORT-OF-SPAIN ON FRIDAY SEPTEMBER 6, 2019 AT 10:30 A.M.

PRESENT

Committee Members

Mr. Colm Imbert	-	Chairman
Mr. Daniel Dookie	-	Member
Dr. Lester Henry	-	Member
Mr. Rodney Charles	-	Member
Ms. Charrise Seepersad	-	Member

Secretariat

Ms. Chantal La Roche	-	Secretary
Mr. Jean-Marc Morris	-	Assistant Secretary
Mr. Kaleem Hosein	-	Legal Officer I

ABSENT/EXCUSED

Mr. Faris Al-Rawi	-	Vice-Chairman *[Excused]*
Mr. Clarence Rambharat	-	Member *[Excused]*
Dr. Lovell Francis	-	Member
Mr. Fazal Karim	-	Member *[Excused]*
Mr. Saddam Hosein	-	Member *[Excused]*
Mr. Paul Richards	-	Member *[Excused]*
Ms. Marlene Mc Donald	-	Member

CALL TO ORDER

1.1 The Chairman called the meeting to order at 10:45 a.m.

CONFIRMATION OF MINUTES OF THE SEVENTH MEETING

2.1 The Chairman invited Members to examine the Minutes of the Seventh Meeting held on August 30, 2019.

2.2 There being no amendments, the motion for the confirmation of the Minutes was moved by Mr. Charles and seconded by Ms. Seepersad.

MATTERS ARISING FROM THE MINUTES

3.1 In relation to item 3.1, the Chairman advised the Committee that there was no further update in relation to the Law Association of Trinidad and Tobago Association's submissions on the Bills.

3.2 The Chairman advised that electronic correspondence was sent to CARICOM, dated August 29, 2019, enquiring about the status of the request but to date no response had been received. Additionally, several calls were made to the CARICOM Secretariat but all have proven to be futile.

3.3 The Chairman also informed Members that the representatives of the Chief Parliamentary Council Department (CPC) assigned to assist the Committee with its deliberations had prepared, as requested by the Committee, draft consolidated versions of the Mutual Administrative Assistance in Tax Matters (MAATM) Bill, 2018, Tax Information Exchange Agreements Bill, 2018 and Income Tax (Amendment) Bill, 2019 taking into account the amendments suggested by the Committee, the Ministry of Finance and the Organisation for Economic Co-operation and Development (OECD), which was circulated to Members on September 5, 2019.

REVIEW OF THE CONSOLIDATED VERSIONS OF THE MUTUAL ADMINISTRATIVE ASSISTANCE IN TAX MATTERS (MAATM) BILL, 2018, TAX INFORMATION EXCHANGE AGREEMENTS BILL, 2018 AND INCOME TAX (AMENDMENT) BILL, 2019

The representative of the Office of the Chief Parliamentary Counsel was invited to join the meeting at this time

4.1 The Chairman welcomed the technocrat.

4.2 Representing the Office of the Chief Parliamentary Counsel (CPC) was:
Mr. Aneil Joseph - Senior Parliamentary Counsel (Ag.)

4.3 The Committee then considered the amended clauses of the consolidated versions of the Bills.

Income Tax (Amendment) Bill, 2019

5.1 In relation to the amendment made to clause 5 of the Bill, the Committee was informed that the amendment was made because of a repetition that occurred in the clause.

Tax Information Exchange Agreements Bill, 2018

6.1 The Committee noted the inclusion of the word "agreement" after the word "exchange" in clause 4 (2) of the Bill.

6.2 The inclusion of a new subclause 6 (3) which provides that general directions do not include any directions relative to the personal information of any specific person, was noted by the Committee.

6.3 In relation to clause 7, the Committee noted the rewording of the clause. However, the Committee requested that CPC provide evidence that the inclusion of this clause is necessary to be Global Forum compliant. Further, the Committee requested that a further review of the language be undertaken in order for there to be more clarity.

6.4 The Committee acknowledged the inclusion of a new clause 11 to allow for notification of a person whose personal information was shared with a competent authority of another State.

Mutual Administrative Assistance in Tax Matters Bill, 2018

7.1 The Committee considered the amendments made to the Bill by the Organisation for Economic Co-operation and Development (OECD) and the CPC on the basis of Committee recommendations.

7.2 Regarding clause 7 (2), the Committee requested that the clause be reviewed to allow for parliamentary oversight by providing for the agreements to be laid in Parliament and be subject to the negative resolution of the House.

OTHER BUSINESS

8.1 Mr. Charles indicated that at the next meeting he would consult with his party and report on the Opposition's position on the amended Bills.

8.2 The Committee agreed that at the next meeting it would consider the report from the CPC in relation to the requests made during the meeting.

ADJOURNMENT

9.1 There being no other business, the Chairman adjourned the meeting to **September 10, 2019** at **11:00 a.m**.

9.2 The adjournment was taken at 11:26 a.m.

I certify that these minutes are true and correct.

Chairman

Secretary

September 6, 2019

JOINT SELECT COMMITTEE ON THE MUTUAL ADMINISTRATIVE ASSISTANCE IN TAX MATTERS BILL, 2018, THE TAX INFORMATION EXCHANGE AGREEMENTS BILL, 2018 AND THE INCOME TAX (AMENDMENT) BILL, 2019

MINUTES (UNCONFIRMED) OF THE NINTH MEETING HELD IN THE A.N.R. ROBINSON MEETING ROOM (WEST), LEVEL 9, OFFICE OF THE PARLIAMENT, TOWER D, IWFC, #1A WRIGHTSON ROAD, PORT-OF-SPAIN ON MONDAY SEPTEMBER 16, 2019 AT 2:00 P.M.

PRESENT

Committee Members

Mr. Colm Imbert	-	Chairman
Dr. Lovell Francis	-	Member
Mr. Rodney Charles	-	Member
Mr. Fazal Karim	-	Member
Mr. Saddam Hosein	-	Member
Ms. Charrise Seepersad	-	Member

Secretariat

Ms. Chantal La Roche	-	Secretary
Mr. Jean-Marc Morris	-	Assistant Secretary
Ms. Sharla Elcock	-	Legal Officer I
Mr. Kaleem Hosein	-	Legal Officer I

ABSENT/EXCUSED

Mr. Faris Al-Rawi	-	Vice-Chairman *[Excused]*
Mr. Clarence Rambharat	-	Member *[Excused]*
Mr. Daniel Dookie	-	Member *[Excused]*
Dr. Lester Henry	-	Member
Mr. Paul Richards	-	Member
Ms. Marlene Mc Donald	-	Member

CALL TO ORDER

1.1 The Chairman called the meeting to order at 2:05 p.m.

CONFIRMATION OF MINUTES OF THE EIGHTH MEETING

2.1 The Chairman invited Members to examine the Minutes of the Eighth Meeting held on September 6, 2019.

2.2 Mr. Charles recommended an amendment to paragraph 8.1 of the Minutes, namely that the sentence be rewritten to reflect that he promised to consult with his party and report on the Opposition's position on the amended Bills.

2.3 There being no further amendments, the motion for the confirmation of the Minutes was moved by Ms. Seepersad and seconded by Mr. Charles.

MATTERS ARISING FROM THE MINUTES

The representatives of the Office of the Chief Parliamentary Counsel were invited to join the meeting at this time

3.1 The Chairman welcomed the technocrats.

3.2 Representing the Office of the Chief Parliamentary Counsel was:
Ms. Ida Eversley - Deputy Chief Parliamentary Counsel

3.3 Representing the Ministry of the Attorney General and Legal Affairs was:
Mrs. Vyana Sharma - Senior Legal Counsel & Solicitor

Tax Information Exchange Agreements Bill, 2018

4.1 In relation to item 6.3, the Office of the Chief Parliamentary Counsel (CPC) advised the Committee that Clause 7 of the Tax Information Exchange Agreements Bill, 2018 is not included for the purposes of Global Forum compliance. This Clause of the Bill existed in the repealed Tax Information Exchange Agreements Act Chap. 76:51 and is being re-enacted under this Bill.

4.2 Additionally, in relation to Clause 5 of the Bill, the Committee requested that a provision be included for the tax information exchange agreement to be laid in Parliament.

Mutual Administrative Assistance in Tax Matters Bill, 2018

5.1 In relation to Clause 25 of the Bill dealing with consequential amendments to the Income Tax Act Chap. 75:01, Senator Hosein raised a concern in relation to the waiver of confidentiality for persons engaged in confidential professional relationships. It was noted by Senator Hosein that attorneys-at-law may be placed in precarious situation where they may be forced to reveal their instructions to the Board of Inland Revenue. Senator Hosein questioned what safeguards would be put in place for the taxpayer in these circumstances.

5.2 Clause 8 of the Bill provides for the sharing of tax information with an applicant State either upon request, automatically, spontaneously or simultaneously. Presently, Clause 12 of the Bill provides for the notification of an account holder where the tax information is shared automatically. However, Senator Hosein questioned whether a similar mechanism can be inserted for notification of account holder in instances where the account holder's information is shared on a "spontaneous" and "request" basis.

5.3 The Committee requested that CPC liaise with the Organisation for Economic Co-operation and Development (OECD) to determine whether the Clauses in question could be varied. (The responses received from the OECD are attached as **Appendix I** to these Minutes.)

OTHER BUSINESS

6.1 The Committee requested that the CPC contact Ms. Seepersad from the Ministry of Finance and enquire about Trinidad and Tobago's position in relation to the blacklisting if these Bills are passed in the Parliament.

6.2 Further, the Committee requested that a Final Report of the Committee's work be prepared for laying in the House on Friday September 20, 2019.

ADJOURNMENT

7.1 There being no other business, the Chairman adjourned the meeting to a date to be fixed.

7.2 The adjournment was taken at 2:36 p.m.

I certify that these minutes are true and correct.

Chairman

Secretary

September 16, 2019

Organisation for Economic Co-operation and Development responses to queries raised by the Committee

1. The JSC has asked for the following in terms of information upon request and spontaneously, can we provide for a notice to be given to the affected person?

It is possible for the person subject to the request be notified by the Trinidad and Tobago Competent Authority; however, the right of notification must not unduly prevent or delay effective exchange of information (EOI). For instance, if Trinidad and Tobago's were to include a requirement for notification, this requirement must not be applied in a manner that, in the particular circumstances of a received EOI request, would frustrate the efforts of the party seeking the information. The notification rule should permit exceptions from notification, in cases in which the information request is of a very urgent nature or the notification is likely to undermine the chance of success of the investigation conducted by the requesting party.

2. Also should there be an exception to professional privilege as is being provided for under the new section 117 (2) to the Income Tax Act?

Jurisdictions are not required to provide information which would disclose information which is the subject of attorney-client privilege. Again, this safeguard must be compatible with effective EOI. The attorney-client privilege attaches to any information that constitutes "confidential communication" between a client and an attorney, solicitor, or other admitted legal representative if such communication is produced for the purposes of seeking or providing legal advice or is produced for the use in existing or contemplated legal proceedings.

Communication is "confidential" if the client can reasonably have expected the communication to be kept secret.

Communications between a client and an attorney, solicitor or other admitted legal representative are only privileged if, and to the extent that, the attorney, solicitor or other legal representative acts in his or her capacity as an attorney, solicitor or other legal representative. For instance, to the extent that an attorney acts as a nominee shareholder, a trustee, a settlor, a company director or under a power of attorney to represent the company in its business affairs, he cannot claim the attorney-client privilege with respect to any information resulting from and relating to any such activity.

The attorney-client privilege covers communications by both client and attorney provided the communications are produced for purposes of either seeking or providing legal advice.

Because the communication must be produced for the purposes of seeking or providing legal advice, the privilege does not attach to documents or records delivered to an attorney in an attempt to protect such documents or records from disclosure. Also, information on the identity of a person, such as a director or beneficial owner of a company, is typically not covered by the privilege.

3. Finally when is Trinidad and Tobago required to enact this legislation by?

As soon as possible as this legislation is necessary for Trinidad and Tobago to meet its commitments to the Global Forum. Note that Trinidad and Tobago committed to begin exchanging information automatically in 2018. Further, in order to obtain an overall rating, better than Non-Compliant, in the upcoming exchange of information on request (EOIR) peer review, this legislation must be enacted.

NB. Trinidad and Tobago's EOIR Peer Review was launched in June 2018 but the onsite visit (part of the review process) was deferred because of lack of enacted legislation.

September 16, 2019

APPENDIX II

SUMMARY
OF
CLAUSE BY CLAUSE
CONSIDERATION AND
ISSUES ARISING OUT
OF THE BILLS

Clause by Clause examination of the Income Tax (Amendment) Bill, 2019

Clause	Marginal Note	Comments/Issues and Concerns Raised	Decision Taken
Preamble		None.	Agreed.
1	Short Title	None.	Agreed.
2	Act Inconsistent with Constitution	None	Agreed.
3	Interpretation	None	Agreed.
4	New section 4D inserted	▪ Whether the same penalty as prescribed in section 4B of the Income Tax (Amendment) Bill, 2018 should be used for instances where an unauthorised disclosure of tax payer information is made by employees of the BIR. ▪ Term of imprisonment of thirty (30) years on conviction on indictment may be too harsh for the type of offence. ▪ Whether a new subsection under section 4 should be created to provide a penalty where an unauthorised disclosure of tax payer information is made by an employee of the BIR.	**Deferred.** CPC to review and redraft section with a view of providing an appropriate penalty commensurate to the seriousness of the offence of disclosure by an employee of the BIR.
		"**foreseeably relevant**": ▪ Whether the term should be replaced with "reasonable". ▪ Noted that the Global Forum requires this type of terminology for compliance.	Agreed.
		"**arrangement**": ▪ Whether this should be replaced with "agreement". ▪ Noted that the term "arrangement" is utilised when dealing with double taxation and is used in existing section 93 of the Income Tax Act.	Agreed.
5	Section 93 amended	▪ The amendment would provide for the sharing of tax payer information for double taxation relief.	Agreed subject to the following amendments: CPC to redraft the proposed subsections

Clause	Marginal Note	Comments/Issues and Concerns Raised	Decision Taken
		▪ Whether the proposed subsections (b) and (c) are redundant. ▪ List of Double Taxation Treaties that Trinidad and Tobago have entered into: ➢ Brazil 2008; ➢ Canada 1996; ➢ CARICOM 1994; ➢ China 2004; ➢ Denmark 1969; ➢ France 1987; ➢ Germany 1976; ➢ India 1999; ➢ Italy 1971; ➢ Luxembourg 2001; ➢ Norway 1969; ➢ Spain 2009; ➢ Sweden 1984; ➢ Switzerland 1973; ➢ United Kingdom 1983; ➢ Venezuela 1997.	by deleting subsection (b) and (c) and by renumbering the relevant remaining subsections.
6	Section 93A inserted	▪ Although the Data Protection Act (DPA) is not fully proclaimed the Bill seeks to make provisions for when the DPA is eventually proclaimed. ▪ Why sections 41 and 69 of the DPA are not addressed in the proposed 93A. ▪ Section 41 of the DPA is not addressed because it deals with information disclosed within Trinidad and Tobago and therefore is not applicable as 93A deals with sharing of information outside of the jurisdiction. ▪ Section 13 of the Tax Information Exchange Agreements Act, 2017 deals with financial institutions, hence the reason why section 69 of the DPA was addressed. Section 69 of the DPA is not addressed in this instance because the BIR is not considered a financial institution. ▪ Clause 6 complies with the recommendations of the Global Forum.	Agreed.
7	Section 117 amended	▪ Whether this amendment would be increasing the powers of the BIR.	Agreed.

Clause	Marginal Note	Comments/Issues and Concerns Raised	Decision Taken
		▪ The amendment does not give the BIR any additional powers, but it consolidates powers contained in other pieces of legislation such as the Value Added Tax Act.	
8	Section 117A amended	▪ Section 117A seeks to ensure that the information provided to the BIR is credible. The amendment seeks to ensure that this applies to double taxation agreements.	Agreed.

Clause by Clause examination of the Mutual Administrative Assistance in Tax Matters Bill, 2018

Clause	Marginal Note	Comments/Issues and Concerns Raised	Decision Taken
Preamble		None.	Agreed.
1	Short Title	None.	Agreed.
2	Commencement	None.	Agreed.
3	Act Inconsistent with Constitution	None.	Agreed.
4	Interpretation	"**account holder**": ▪ Whether it is the principal account holder instead of beneficial account holder targeted under the definition of the term "account holder".	Agreed.
		"**active NFE**": ▪ What is meant by the term NFE? ▪ Explained as an entity that is not a financial institution (definition contained in Schedule 1 of the Bill). ▪ Why are NFEs targeted by the Bill?	**Deferred.** CPC requested to provide a report explaining what an NFE entails and provide a detailed list of institutions that would be considered NFEs.
		▪ Disjunctive use of the word "or" after subclause (g) under the definition of the term "active NFE".	**Deferred.** CPC to review and revert.
		"**annuity contract**": ▪ Whether the definition of the term "annuity contract" is consistent with the definition utilised in the new Insurance Act?	**Deferred.** CPC to review and revert.

Clause	Marginal Note	Comments/Issues and Concerns Raised	Decision Taken
		"**board participation retirement fund**": ▪ Whether this retirement fund requirement originated from the standard prescribed by the OECD.	**Deferred.** CPC to determine whether this definition originated from the standard prescribed by the OECD and report to the Committee whether it is a standard that must be complied with.
		▪ CPC explained that all the definitions included in the Bill flow from the standard as prescribed by the OECD. The OECD met with the CPC during the drafting process of the Bill and ensured that all the definitions were up to the requisite standard.	
5	Board of Inland Revenue the competent authority for Trinidad and Tobago	None.	Agreed.
6	Application of the Act	▪ January 1, 2017 was the date of commitment to Global Forum to comply. There will be a retroactive application of the Bill.	Agreed.
7	Competent Authority Agreements	▪ Trinidad still has to enter into agreements with the various countries for the exchange of tax information to occur. ▪ OECD has drafted model agreements for this to be done. ▪ Who oversees the agreements to ensure that the agreements are in line with the model agreements	**Deferred.** CPC to provide the Committee with a report explaining the agreements and review whether a provision should be included for oversight of these agreements.
8	Exchange of Information	▪ Tax Information Exchange Agreements (United States of America) Act, 2017 does not provide for the spontaneous and simultaneous exchange of tax information. ▪ Whether there is a possibility of trade secrets being disclosed.	**Deferred.** CPC will review to determine whether legal professional privilege or any other privilege falls under "professional secret."

Clause	Marginal Note	Comments/Issues and Concerns Raised	Decision Taken
		▪ Trade secrets cannot be disclosed with tax information. Clause 8(2) (d) protects against this. ▪ Whether clause 8(2) (d) covers legal professional privilege. It may fall under "professional secret". ▪ Significant level of protection for all citizens. ▪ Clause 8(3) ensures that the Board cannot hide behind a defence that they do not have the necessary tax information.	
9	Disclosure under this Act	▪ Committee disagreed with submission by AREA. In order to share the information provision had to be made for the disclosure.	Agreed.
		▪ Clause 9 (5) – whether the term authority ought to be used in place of country. ▪ The Global Forum required this to be placed in the Bill in order to allow signing onto the treaty. Competent country is the phrase that the Global forum wants to be used not authority. ▪ Does not apply to a citizen doing business with an OECD country. ▪ Our country receiving information from another country allows our competent authority to share the information with other authorities in Trinidad and Tobago.	Agreed.
		▪ Under clause 9 (8), the Board cannot disclose information unless it meets the required standard and without consent. ▪ Explained by CPC that this is from the standard as prescribed by the OECD. Safeguard to maintain confidentiality. ▪ BIR submissions on subsection considered. The Committee disagreed with the position presented by the BIR.	Agreed.

Clause	Marginal Note	Comments/Issues and Concerns Raised	Decision Taken
10	Exchange of information upon request	▪ Clause 10 (6) – A similar provision to this was included in the Tax Information Exchange Agreements (United States of America) Act, 2017. Under that Act there is a requirement that the person whose information is shared is informed within thirty (30) days.	Agreed.
		▪ Clause 10 (7) provides the Board with the power to request other information if the information is not in the possession of the Board. This information includes information relating to whether a person is legitimately registered for tax purposes in the territory. ▪ Clause 10 (7) sounds ultra vires the power of the Board. If it is a requirement by the OECD then it will have to discussed.	**Deferred.** CPC to source the origin of the subclause to determine whether it is necessary. If not necessary then the clause should be amended or deleted.
		▪ In relation to clause 10 (8), the Committee considered the submissions of the BIR and determined the issue to be irrelevant.	Agreed.
11	Automatic exchange of information	▪ Clause 11 (2) is all the information that Global Forum requires to be exchanged.	Agreed. CPC to identify clauses of the Bill that are beyond Global Forum requirements.
		▪ Clause 11 (3) provides for the TIN – Taxpayer Identification Number. ▪ It was noted that on a multilateral basis some jurisdictions have a TIN and some jurisdictions do not. Some jurisdictions require the TIN to be share while others do not.	Agreed.

Clause	Marginal Note	Comments/Issues and Concerns Raised	Decision Taken
		▪ Clause 11 (6) provides for the sharing of information from 2017 onwards.	Agreed. CPC to ensure that Clause 11 (6) does not create a problem with regards to reporting for the financial years 2017 and 2018 as it would mean that the information would have to be submitted immediately. A proclamation clause can be inserted.
12	Requirements of reporting financial institutions	▪ Whether a timeframe is necessary in clause 12 (4). A timeframe is provided in subclause (5).	Agreed.
13	Spontaneous exchange of information	▪ Whether the used of the word "in" in 13 (1) (a) is accurate. "In" this instance "in" should be read as "to" in accordance with civil drafting.	Agreed.
		▪ Clause 13 (1) (d) provides for a worldwide effort to target persons and entities who try to evade taxes. ▪ Spontaneous reporting is a positive step. This would provide for the reporting of information even in instances where a request is not made.	Agreed.
		▪ Clause 13 (2) is not redundant as it provides for the implementation of necessary procedures for the exchange of information between parties.	Agreed.
14	Simultaneous tax examinations	▪ The concerns raised by the TTCIC to this clause were noted. ▪ The Committee agreed that the Board has to comply with Section 117 of the Income Tax Act when doing the simultaneous exchange of information.	Agreed.

Clause	Marginal Note	Comments/Issues and Concerns Raised	Decision Taken
15	Effective enforcement	▪ Whether the fine and custodial sentence prescribed in Clause 15 (1) is consistent with established standards. ▪ Clause 15 (2) – "reasonably considered" will be determined by the court.	Agreed subject to the following amendments: CPC to determine whether the fine and sentence are in accordance with the established standards.
16	Collaboration on compliance on enforcement	▪ Whether a timeframe should be placed in Clause 16 (1) and (4). May not be practical to have a timeframe. "As soon as possible" is the term that is generally used. ▪ Whether the fine and custodial sentence prescribed in Clause 16 (5) is consistent with established standards.	Agreed subject to the following amendments: CPC to determine whether the fine and sentence are in accordance with the established standards and to determine whether the penalty will be in respect to summary conviction or conviction on indictment.
17	Requirement to keep records	None.	Agreed.
18	Board to inform on breach of confidentiality	▪ The "CB Secretariat" means the "OECD Secretariat".	Agreed.
19	Use of service providers	▪ Service providers are institutions which may compile information for other financial institutions. Examples include Linx.	Agreed.
20	Immunity from suit	None.	Agreed.
21	Annual Report	None.	Agreed.
22	Minister to amend schedule	▪ In relation to clause 22 (1), why would the Minister want to amend the schedules? ▪ This amendment may be necessary if a new country joins or if a country leaves the Global Forum. ▪ The Order will come before the Statutory Instruments committee of the Parliament.	Agreed.

Clause	Marginal Note	Comments/Issues and Concerns Raised	Decision Taken
23	Minister to prescribe dates	None.	Agreed.
24	Regulations	None.	Agreed.
25	Consequential amendments – Schedule 6	None.	Agreed.

Clause by Clause examination of the Tax Information Exchange Agreements (TIEA) Bill, 2018

Clause	Marginal Note	Comments/Issues and Concerns Raised	Decision Taken
Preamble		None.	**Agreed.**
1	Short Title	None.	**Agreed.**
2	Act Inconsistent with Constitution	None.	**Agreed.**
3	Interpretation	"**declared agreement**": ▪ Whether there is a difference between a "declared agreement" and a "tax information exchange agreement".	**Agreed.**
4	Tax Information exchange agreements	**Subclause (1)** ▪ Whether this Bill is similar to Tax Information Exchange Agreements (United States of America) Act (FATCA), 2017. ▪ It was explained that Tax Information Exchange Agreements Act Chap. 76:51 (1989) existed prior to FATCA and applied across the board but did not allow for the kind of sharing that FATCA envisioned. ▪ The Tax Information Exchange Agreements Act Chap. 76:51 (1989) was repealed by FATCA, so now the TIEA Bill seeks to bring	**Agreed.**

Clause	Marginal Note	Comments/Issues and Concerns Raised	Decision Taken
		certain elements of the repealed Act back into force. ▪ It was noted that the operationalization of the TIEA Bill would be done by subsidiary agreements whereby the competent authorities interact with each other directly. ▪ It was emphasized that the Minister of Finance would not be able to access the personal and private taxpayer information being exchanged between the competent authorities. ▪ The MAATM Bill allows Trinidad and Tobago to participate in a global tax information exchange framework. ▪ It was explained that Trinidad and Tobago is not allowed to sign the MAATM Treaty until it is incorporated into our domestic law. Only when the Treaty is signed would Trinidad and Tobago be allowed to enter into individual agreements with other contracting states. ▪ Must enter into thirteen (13) individual agreements in order to become Global Forum compliant. ▪ Whether there are any legal implications to the incorporation of a treaty before signing.	
		Subclause (2) ▪ Whether there is an inconsistency between “contracting state” and “requesting state". ▪ The TIEA Bill is unique as taxpayer information can only be exchanged upon request.	**Deferred.** CPC to amend the clause by inserting the word “agreement” after the word “exchange”.
5	Declaration of Agreement	None.	**Agreed.**
6	Implementation of Agreement	▪ The provision originated from the Tax Information Exchange Agreements Act Chap. 76:51 (1989) Act.	**Deferred.** CPC requested to amend the clause and to provide a definition for “general

Clause	Marginal Note	Comments/Issues and Concerns Raised	Decision Taken
		▪ Whether the term "general directions" should be defined. ▪ There is a need to clarify what general directions include and what it does not include.	directions". The definition should clarify what general directions include and what it does not include.
7	Powers of Board	**Subclause (1)** ▪ This provision originated from the previous repealed Act. ▪ It was noted that clauses 6 and 7 were not included in FATCA.	**Deferred.** CPC requested to rewrite the clause as the language used is too convoluted.
		Subclause (2) ▪ The word "Act" to be included after the words "under this".	**Deferred.** CPC to amend the clause by inserting the word "Act" after the words "under this".
8	Secrecy	None.	**Agreed.**
9	Exemption from	**Subclause (3)** ▪ The person has no right to deny consent. Some period of time afterwards the person should be notified that their information was shared.	**Deferred.** CPC to amend the clause to include a provision, similar to the provision in FATCA, which states that the Board must notify the person whose information was shared, possibly a month afterwards.
		Subclause (4) ▪ It was noted that some agreements state who the information can be shared with.	**Agreed.**
10	Penalty for unauthorized disclosure	▪ Whether the penalties are consistent with the penalties in other pieces of legislation, for example FATCA.	**Deferred.** CPC to determine whether the penalties are consistent with the penalties in other pieces of legislation, for example FATCA.

Clause	Marginal Note	Comments/Issues and Concerns Raised	Decision Taken
		▪ Subclause 10 (b) to be amended to "two hundred and fifty thousand dollars ($250,000 and 5 years" to match sections 8 and 23 of FATCA.	**Deferred.** CPC to amend subclause 10 (b) to increase the fine from one hundred and fifty thousand dollars ($150,000.00) to two hundred and fifty thousand dollars ($250,000.00).

APPENDIX III

REPORTS

BY

THE CHIEF PARLIAMENTARY COUNSEL

CPC RESPONSES TO JSC QUERIES ON MAAC Bill, 2019

Clause	Marginal Note	Comments/Issues and Concerns Raised	Decisions Taken
4	Interpretation	"Active NFE" The use of the disjunctive "or" at the end of paragraph (g) in the definition of "Active NFE"	CPC requested to provide a report explaining what an NFE entails and provide a detailed list of institutions that would be considered NFEs. **Response:** **See separate Appendix A** **This is as contained in the Common Reporting Standards**
		"annuity contract": Whether the definition is consistent with the definition utilised in the new insurance Act.	Yes it is consistent. The definition is **the Bill** states: "annuity contract" means a contract under which the issuer agrees to make payments for a period of time determined in whole or in part by reference to the life expectancy of one or more individuals and includes a contract considered to be an annuity contract in accordance with the law, regulation or practice of the jurisdiction in which the contract was issued and under which the issuer agrees to make payments for a term of years; **The Insurance Act** provides- "annuity contract" means a contract whereby one party undertakes in return for a consideration from another party to provide an annuity, or what would be an annuity except that the periodic payments may be unequal in amount, for a term dependent solely or partly on the life of a person;
		" broad participation retirement fund" CPC to determine whether this definition originated from the CRS and is it required to be complied with	Yes the definition originates from the CRS and is required to be complied with. The only differences are as highlighted for the purposes of clarity in our drafting style. The definition from the **Bill** states- "broad participation retirement fund" means a fund established to provide retirement, disability, or death benefits, or any combination thereof, to beneficiaries that are current or former employees, or persons designated by such employees, of one or more employers in consideration for

			services rendered, provided that the fund- (a) does not have a single beneficiary with a right to more than five per cent of the assets of the fund; (b) is subject to government regulation and provides information reporting to the tax authorities; and (c) satisfies at least one of the following requirements: (i) the fund is generally, exempt from tax on investment income, or taxation of such income is deferred or taxed at a reduced rate, due to its status as a retirement or pension plan; (ii) the fund receives at least fifty per cent of its total contributions, other than transfers of assets from other Board Retirement Fund, Narrow Retirement Funds or Pension Funds of a Government Entity, International Organisation or Central Bank or from retirement and pension accounts under paragraph (a) of the definition of "Excluded Account; (iii) distributions or withdrawals from the fund are allowed only upon the occurrence of specified events related to retirement, disability, or death, except rollover distributions to other retirement funds described in paragraphs (a) to (c), Narrow Participation Retirement Fund or pension Funds of a Government entity, International Organisation or central Bank or retirement and pension accounts as described in paragraph (a) of the definition of "Excluded Account", or penalties

			apply to distributions or withdrawals made before such specified events; or (iv) contributions, other than certain permitted make-up contributions, by employees to the fund are limited by reference to earned income of the employee or may not exceed the equivalent of fifty thousand dollars annually, applying the rules set forth in the Common Reporting Standard Due Diligence Rules set forth in Section VII of Schedule 1 in respect of Special Due Diligence Rules for account aggregation and currency translation; The definition in the CRS is as follows: "broad participation retirement fund" means a fund established to provide retirement, disability, or death benefits, or any combination thereof, to beneficiaries that are current or former employees, or persons designated by such employees, of one or more employers in consideration for services rendered, provided that the fund- (a) does not have a single beneficiary with a right to more than five per cent of the assets of the fund; (b) is subject to government regulation and provides information reporting to the tax authorities; and (c) satisfies at least one of the following requirements: (i) the fund is generally, exempt from tax on investment income, or taxation

			of such income is deferred or taxed at a reduced rate, due to its status as a retirement or pension plan; (ii) the fund receives at least fifty per cent of its total contributions, other than transfers of assets from other Board Retirement Fund, Narrow Retirement Funds or Pension Funds of a Government Entity, International Organisation or Central Bank or from retirement and pension accounts under paragraph (a) of the definition of "Excluded Account; (iii) distributions or withdrawals from the fund are allowed only upon the occurrence of specified events related to retirement, disability, or death, except rollover distributions to other retirement funds described in paragraphs (a) to (c), Narrow Participation Retirement Fund or pension Funds of a Government entity, International Organisation or central Bank or retirement and pension accounts as described in paragraph (a) of

			the definition of "Excluded Account", or penalties apply to distributions or withdrawals made before such specified events; or (iv) contributions, other than certain permitted make-up contributions, by employees to the fund are limited by reference to earned income of the employee or may not exceed the equivalent of fifty thousand dollars annually, applying the rules set forth in the Common Reporting Standard Due Diligence Rules set forth in Section VII of Schedule 1 in respect of Special Due Diligence Rules for account aggregation and currency translation;
7	Competent Authority Agreements	CPC to provide the Committee with a report explaining the agreements and review whether a provision would be included for oversight of the agreements.	The report and *pdf* of the model agreements are attached as Appendix B_1 and B_2. The CPC agrees that the model can be set out in a Schedule.
8	Exchange of information	CPC will review whether legal professional privilege or any other privilege falls under "professional secret"	Yes legal Professional privilege or any other privilege falls under "professional secret". Legal professional privilege applies both to general legal advice and to representation in litigation proceedings and covers all facts that an attorney-at-law becomes aware of during the course of, and as a result of, his or her work as an attorney-at-law. Professional secrecy exists and is binding irrespective of whether or not the

			attorney-at-law is remunerated or has agreed to carry out the representation or service.
10	Exchange of information upon request	CPC to source the origin of the subclause (7) which states- "*Where a request is made for information by an applicant State, the Board shall use its information gathering measures to obtain the requested information, even though the information is not required for tax purposes in Trinidad and Tobago"*, to determine whether it is necessary. If not necessary then the clause should be amended or deleted.	This obligations is contained in the Convention under Article 21(3) which states- *"If information is requested by the applicant State in accordance with this Convention, the requested State shall use its information gathering measures to obtain the requested information, even though the requested State may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations contained in the Convention, but in no case shall such limitation, including in particular those of paragraphs 1 and 2, be construed to permit a requested State to decline to supply information solely because it has no domestic interest in such information.".* The clause is therefore necessary and should not be amended or deleted.
11	Automatic Exchange of information	CPC to identify clauses in the Bill that are beyond Global Forum requirements CPC to ensure that Clause 11(6) does not create a problem with regards to reporting for the financial years 2017 and 2018 as it would mean that information would have to be submitted immediately. A proclamation clause can be inserted.	A matrix which identifies the differences with the Bill and the Common Reporting Standards and the MAAC is attached as Appendix C. The Bill at clause 2 provides that the Act would come into operation on such date as is fixed by the president by Proclamation.
15	Effective enforcement	CPC to determine whether the fine and sentence are in accordance with the established standards.	A matrix is attached as Appendix D, which identifies the fines and custodial sentences in various pieces of legislation
16	Collaboration on compliance on enforcement	CPC to determine whether the fine and sentence are in accordance with the established standards and to determine whether the penalty will be n respect to summary conviction of conviction on indictment.	A matrix is attached as Appendix D, which identifies the fines and custodial sentences in various pieces of legislation. The intention was not to make the breach of this section an offence but one that carries a penalty. The liability is a strict one not requiring a court to determine intention. Where it was to be an offence it would have been provided that it would have been on either summary conviction or conviction on indictment punishable by a fine.

			The business of a financial institution is not to be stopped for failure to make the correction.

APPENDIX A

CPC's RESPONSE TO THE JSC ON MAAC BILL, 2019 ON ACTIVE AND PASSIVE NFEs

A NFE is a Non-Financial Entity and can be with Active or Passive. So John is a plumber whose business (entity) is incorporated in Trinidad and Tobago. Since John's entity is not a financial institution, it is an NFE.

ACTIVE NON-FINANCIAL INSTITUTIONS (NFEs)

An entity that is not a financial institution and that carries on an active trade or business is generally an active non-financial entity (active NFE) for example manufacturers, wholesalers, retailers, restaurants and bars, hotels, construction companies, health and social work. The criterion is based on income and assets, the substantially all criterion under a holding company, Treasury Centre under a Financing Company and non-profit organisations.

So an active NFE includes:

- a public corporation with shares that regularly trade on an established securities exchange (for example, the Trinidad and Tobago Stock Exchange or the New York Stock Exchange);
- an entity related to a public corporation (as described in the first bullet);
- a government (or an agency or its instrumentality thereof) that performs functions of a governmental nature, central bank or subsidiary;
- a non-profit organization that is exempt from tax.

So, a Trinidad and Tobago corporation that is dedicated only to running a restaurant, hair salon, car dealership, or factory is engaged in an active pursuit and is an active NFE. On the other hand, a personal investment corporation or trust that holds investments to produce passive income will not be an active NFE.

A business corporation or other entity can be involved in multiple activities or hold a combination of assets, which may make it more difficult to know whether it should be categorized as an active NFE. For example, a corporation may be carrying on an active business, but also earning significant income from portfolio holdings. It is an active NFE as long as the entity earned less than 50% of its gross income in its last fiscal year from passive income; and less than 50% of its assets held during that year were held to generate passive income (the passive income/asset test).

Passive income is generally understood to include income from the holding of investment property, such as interest, dividends, and rent. Note, also that certain entities (for example, registered charities) are treated as active NFEs **irrespective of** whether they derive predominantly passive income from passive assets. So, for example: Donna is a professional photographer and her business is incorporated as Generations in Trinidad and Tobago. She is the one shareholder of the corporation. In its last fiscal year, 70% of Generations' income was from fees and commissions, and 30% was from passive income in the form of interest and dividends from assets owned by Generations, which represent 25% of its total assets. Generations is therefore an active NFE.

Is the following an Active NFE:

Answer:

Number of holdings:
Of the six activities, only two relate to holding subsidiaries, that is the wood plantation and paper mill. The coal mine is an affiliate, not a subsidiary. The property is direct holdings or a minority holdings if the property is held via a company. So based on number of activities, the company does not qualify as 80% activities of holding company NFE .

Income of holdings:
Based on income, the holding company earns only $1 million from subsidiaries (the paper mill) out of a total $6 million income. So based income, the company does not qualify as 80% activities of holding NFE.

Valuation of holdings:
Based on valuation, the holding company holds $190 million valuation of subsidiaries out of a total $235 million assets. Therefore 80% of its activities based on valuation is regarding holding of subsidiary entities that do business or trade. Therefore the company qualifies to be an Active NFE of the holding company type.

Other measurements of activities:
The CRS Commentary example of activities describes where a company has subsidiary holdings of 60% of its activities and 40% acting as distribution center. The CRS does not define what activities are. It could be other measurements such as number of staff dedicated to holdings, or number of man-hours, or square meters of head office space dedicated to holdings, or cost of labour, etc. Until the standard defines what "activities" are, any of these measurements may suffice to determine what a activities are. However, to be practical it is recommended that valuation of subsidiaries take priority and the net income.

Note: It does not matter if the holding company earns passive income either from its holdings or investment portfolio. The subsidiaries are categorised as assets that have the potential to produce passive income because dividends distributed to the holding company is passive income.

PASSIVE NON-FINANCIAL ENTITY (NFEs)

Entities that do not engage in substantive business activities to produce a good or service and that are not active NFEs are generally passive NFEs. However, under the CRS, an entity that is an investment entity in a non-participating jurisdiction, managed by another financial institution and for whom at least 50% of its gross income is from investing or trading in financial assets, is considered a passive NFE.

Example

Jim is an podiatrist whose practice is incorporated in Trinidad and Tobago. He is the sole shareholder of the corporation. He is preparing to retire and has reduced the number of hours he works. So the portfolio owned by the corporation now earns more income from investment assets than from fees for service. As reported for the last fiscal year, 40% of the corporation's income was from fees and 60% was passive income from investment assets. Jim's corporation is a passive NFE.

THE MULTILATERAL COMPETENT AUTHORITY AGREEMENT

Factsheet[1]

Why an Agreement in addition to the Convention?

1. The multilateral Convention on Mutual Administrative Assistance in Tax Matters as amended by the 2010 Protocol ("the Convention") provides a legal basis for many forms of tax cooperation, including in relation to the automatic exchange of information. Where two Parties to the Convention wish to exchange information automatically, the Convention – in Article 6 – specifies that the procedures for that automatic exchange shall be determined by "mutual agreement".
2. The Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information ("the MCAA") – which is a "mutual agreement" of competent authorities – provides a multilateral administrative framework for the automatic exchange of information using the legal basis contained in Article 6 of the Convention.

What is it?

3. The MCAA is a multilateral framework that provides a standardised and efficient mechanism to facilitate the automatic exchange of information in accordance with the Standard for Automatic Exchange of Financial Information in Tax Matters ("the Standard")[2]. It avoids the need for several bilateral agreements to be concluded.
4. Its design as a framework means that even after it is joined, the MCAA always ensures each signatory has ultimate control over exactly which exchange relationships it subsequently enters into.

Who can join the MCAA?

5. The MCAA is joined through the signature of a Declaration. The Declaration can be signed by a competent authority (or someone designated by the competent authority) from:
   a. any Party to the Convention (i.e. a State that has signed and ratified the Convention) or any non-State jurisdiction to which the application of the Convention has been extended to through a territorial extension;
   b. any State who has signed the Convention that has not yet ratified it; and
   c. any State that has committed to sign the Convention.
6. The Convention needs to be in force and in effect in time for the jurisdiction to actually exchange information under the MCAA (i.e. the Convention needs to be ratified or the territorial extension notified prior to the actual exchanges, and the instrument of ratification

[1] This factsheet was obtained from the Global Forum on Transparency and the Exchange of Information for Tax Purposes on November 14th, 2016.
[2] http://www.oecd.org/ctp/exchange-of-tax-information/standard-for-automatic-exchange-of-financial-information-in-tax-matters.htm

and notification of extension deposited with the OECD, taking into account the coming into force and into effect provisions).

How does the MCAA work?

7. The main body of the MCAA simply reflects the content and operation of the Standard, with Section 1 containing the definitions, Section 2 the information to be exchanged, Section 3 the timing and method of exchange, Section 4 how the signatories will work together to ensure compliance and Section 5 the provisions to ensure confidentiality and the safeguarding of the data.
8. Sections 6 and 8 contain provisions to facilitate the smooth operation of the MCAA.
9. Section 7 contains the sub.sequent notification process which is required in order to bring the MCAA into effect between any two signatories. This process ensures the signatory always maintains control over its exchange partners.
10. The notification process requires each signatory of the MCAA to notify the Secretariat to the Coordinating Body to the Convention (the body that determines the rules of procedure for the Convention, consisting of competent authorities from each jurisdiction participating in the Convention) about the following:
    a. That it has the laws in place to implement the Standard (and the effective dates).
    b. Whether it wishes to enter reciprocal or non-reciprocal exchange relationships.
    c. The technical modalities and data requirements such as: the transmission and encryption methods; required data safeguards of others; and the confidentiality and data safeguards it has in place.
    d. The list of jurisdictions with which it intends to exchange information.
11. Where two signatories both specify the other in their list of intended exchange partners then MCAA will then come into effect between those two signatories.

What is the process to sign?

12. A Declaration (contained Annex 1) is signed by the competent authority of a jurisdiction (or on its behalf by someone designated by that competent authority), with the MCAA attached. At this point the intended exchange dates, reproduced in Annex F of the MCAA, are notified (these are subject to the necessary domestic processes so are intended and not binding).
13. The remaining notifications are then made thereafter in time to ensure entry into effect at the intended exchange dates.

PROCESS SHEET FOR THE SIGNATURE OF THE MULTILATERAL COMPETENT AUTHORITY AGREEMENT ON AUTOMATIC EXCHANGE OF FINANCIAL ACCOUNT INFORMATION

This Note sets out the procedure for the signature of the Declaration on joining the *Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information* (hereafter the "MCAA").

Procedure

Joining the MCAA is completed through the signing of a Declaration, which is attached to the MCAA, by or on behalf of the Competent Authority of the jurisdiction in question.

This signing can be completed by, or on behalf of, Competent Authorities from jurisdictions that are either Parties to the Multilateral Convention on the Mutual Administrative Assistance in Tax Matters (the "Convention"), jurisdictions that have signed but not yet ratified the Convention, or jurisdictions that have expressed an intention to sign the Convention.

Step 1

Notify the OECD Secretariat if you intend to sign a Declaration on Joining the MCAA.

Step 2

The following information must then be provided to the Secretariat:

1. Name and title of the Signatory of the Declaration on Joining the MCAA

   The Competent Authority listed in Annex B of the Convention should communicate the name and title of the person who will sign the Declaration. For countries that are not yet Parties to the Convention, the Secretariat will approach them to obtain their designation of their Competent Authority.

2. Annex F Notification

   The MCAA contains seven Annexes requiring notifications from all Signatories. Only the Annex F notification - "*Intended Exchange Dates*" - is deposited at the time of signature.

3. Letter-Head (optional)

   If Jurisdictions wish to use their own letter-head, this will need to be provided to the OECD.

The template Declaration is attached to this Note. The Secretariat will prepare and share with each signing Jurisdiction its draft Declaration on the basis of the information listed above. A final version will be presented to each Jurisdiction for signature at the ceremony.

DECLARATION

I, [NAME AND TITLE OF THE SIGNATORY], on behalf of the Competent Authority of [NAME OF THE JURISDICTION], declare that it hereby agrees to comply with the provisions of the

Multilateral Competent Authority Agreement on
Automatic Exchange of Financial Account Information

hereafter referred to as the "Agreement" and attached to this Declaration.

By means of the present Declaration, the Competent Authority of [NAME OF JURISDICTION] is to be considered a signatory of the Agreement as from [DATE]. The Agreement will come into effect in respect of the Competent Authority of [NAME OF JURISDICTION] in accordance with Section 7 thereof.

The Annex F notification referred to in Section 3(3) of the Agreement is deposited herewith.

Signed in [PLACE OF SIGNATURE] on [DATE]

[SIGNATURE]

DECLARATION

I, ____, on behalf of the Competent Authority of _,
declare that it hereby agrees to comply with the provisions of the

Multilateral Competent Authority Agreement on
Automatic Exchange of Financial Account Information

hereafter referred to as the “Agreement” and attached to this Declaration.

By means of the present Declaration, the Competent Authority of ____________________________ is to be considered a signatory of the Agreement as from [day] [month] [year].The Agreement will come into effect in respect of the Competent Authority of_in accordance with Section 7 thereof.

The Annex F notification referred to in Section 3(3) of the Agreement is deposited herewith.

Signed in [location] on [day] [month] [year]

DÉCLARATION

NOUS, _____ , au nom de l’Autorité compétente de _,
déclarons que celle-ci accepte, par la présente, de se conformer aux dispositions de l’

Accord multilatéral entre Autorités compétentes concernant l’échange automatique de renseignements relatifs aux comptes financiers

ci-après désigné sous le nom d’« Accord» et ci-joint à cette Déclaration.

Par la présente Déclaration, il convient de considérer l’Autorité compétente de ___ comme étant signataire de l’Accord à partir du 29 octobre 2014. L’Accord entrera en vigueur à l’égard de l’Autorité compétente de conformément à sa Section 7.

La notification de l’Annexe F mentionnée à la Section 3(3) de l’Accord est déposée conjointement à cette Déclaration.

Signé à [lieu] le [date] [mois] [année]

MULTILATERAL COMPETENT AUTHORITY AGREEMENT ON AUTOMATIC EXCHANGE OF FINANCIAL ACCOUNT INFORMATION

Whereas, the jurisdictions of the signatories to the Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information (the “Agreement”) are Parties of, or territories covered by, the Convention on Mutual Administrative Assistance in Tax Matters or the Convention on Mutual Administrative Assistance in Tax Matters as amended by the Protocol amending the Convention on Mutual Administrative Assistance in Tax Matters (the “Convention”) or have signed or expressed their intention to sign the Convention and acknowledge that the Convention must be in force and in effect in relation to them before the first exchange of financial account information takes place;

Whereas, the jurisdictions intend to improve international tax compliance by further building on their relationship with respect to mutual assistance in tax matters;

Whereas, the Common Reporting Standard was developed by the OECD, with G20 countries, to tackle tax avoidance and evasion and improve tax compliance;

Whereas, a country that has signed or expressed its intention to sign the Convention will only become a Jurisdiction as defined in Section 1 of this Agreement once it has become a Party to the Convention;

Whereas, the laws of the respective Jurisdictions require or are expected to require financial institutions to report information regarding certain accounts and follow related due diligence procedures, consistent with the scope of exchange contemplated by Section 2 of this Agreement and the reporting and due diligence procedures set out in the Common Reporting Standard;

Whereas, it is expected that the laws of the Jurisdictions would be amended from time to time to reflect updates to the Common Reporting Standard and once such changes are enacted by a Jurisdiction the definition of Common Reporting Standard would be deemed to refer to the updated version in respect of that Jurisdiction;

Whereas, Chapter III of the Convention authorises the exchange of information for tax purposes, including the exchange of information on an automatic basis, and allows the competent authorities of the Jurisdictions to agree the scope and modalities of such automatic exchanges;

Whereas, Article 6 of the Convention provides that two or more Parties can mutually agree to exchange information automatically, the exchange of the information will be on a bilateral basis between the Competent Authorities;

ACCORD MULTILATERAL ENTRE AUTORITES COMPETENTES CONCERNANT L'ÉCHANGE AUTOMATIQUE DE RENSEIGNEMENTS RELATIFS AUX COMPTES FINANCIERS

Considérant que les juridictions des signataires de l'Accord multilatéral entre autorités compétentes concernant l'échange automatique de renseignements relatifs aux comptes financiers (l'« Accord ») sont des Parties à la Convention concernant l'assistance administrative mutuelle en matière fiscale ou à la Convention concernant l'assistance administrative mutuelle en matière fiscale telle qu'amendée par le Protocole d'amendement à la Convention concernant l'assistance administrative mutuelle en matière fiscale (la « Convention »), ou des territoires couverts par cette Convention, ou ont signé ou exprimé leur intention de signer la Convention et reconnu que la Convention doit être en vigueur et avoir pris effet à leur égard avant que n'ait lieu le premier échange de renseignements relatifs aux comptes financiers;

Considérant que les juridictions ont l'intention d'améliorer le respect des obligations fiscales à l'échelle internationale en approfondissant davantage leur relation concernant l'assistance mutuelle en matière fiscale;

Considérant que la Norme commune de déclaration a été élaborée par l'OCDE, avec les pays du G20, pour lutter contre l'évasion et la fraude fiscales et améliorer le respect des obligations fiscales ;

Considérant qu'un pays qui a signé ou exprimé son intention de signer la Convention ne deviendra une Juridiction telle que définie à la section 1 du présent Accord que lorsqu'il sera devenu Partie à la Convention ;

Considérant que les lois des Juridictions respectives imposent ou devraient imposer aux institutions financières de communiquer des informations concernant certains comptes et de suivre les procédures de diligence raisonnable qui s'y rattachent, conformément à la portée des échanges définie à la section 2 du présent Accord et aux procédures de déclaration et de diligence raisonnable établies dans la Norme commune de déclaration ;

Considérant que la législation des Juridictions devrait être périodiquement modifiée afin de tenir compte des mises à jour de la Norme commune de déclaration, et qu'une fois ces modifications promulguées par une Juridiction, la définition de la Norme commune de déclaration sera réputée faire référence à la version mise à jour pour cette Juridiction ;

Considérant que le chapitre III de la Convention autorise l'échange de renseignements à des fins fiscales, y compris de manière automatique, et autorise les autorités compétentes des Juridictions à définir la portée et les modalités de ces échanges automatiques ;

Considérant que l'article 6 de la Convention prévoit que deux Parties ou plusieurs peuvent convenir mutuellement d'échanger automatiquement des renseignements, et que l'échange des renseignements s'effectuera sur une base bilatérale entre Autorités compétentes ;

Whereas, the Jurisdictions have, or are expected to have, in place by the time the first exchange takes place (i) appropriate safeguards to ensure that the information received pursuant to this Agreement remains confidential and is used solely for the purposes set out in the Convention, and (ii) the infrastructure for an effective exchange relationship (including established processes for ensuring timely, accurate, and confidential information exchanges, effective and reliable communications, and capabilities to promptly resolve questions and concerns about exchanges or requests for exchanges and to administer the provisions of Section 4 of this Agreement);

Whereas, the Competent Authorities of the jurisdictions intend to conclude an agreement to improve international tax compliance based on automatic exchange pursuant to the Convention, without prejudice to national legislative procedures (if any), respecting EU law (if applicable), and subject to the confidentiality and other protections provided for in the Convention, including the provisions limiting the use of the information exchanged thereunder; Now, therefore, the Competent Authorities have agreed as follows:

SECTION 1

Definitions

1. For the purposes of this Agreement, the following terms have the following meanings:

   a) the term **"Jurisdiction"** means a country or a territory in respect of which the Convention is in force and is in effect, either through signature and ratification in accordance with Article 28, or through territorial extension in accordance with Article 29, and which is a signatory to this Agreement;

   b) the term **"Competent Authority"** means, for each respective Jurisdiction, the persons and authorities listed in Annex B of the Convention;

   c) the term **"Jurisdiction Financial Institution"** means, for each respective Jurisdiction, (i) any Financial Institution that is resident in the Jurisdiction, but excludes any branch of that Financial Institution that is located outside the Jurisdiction, and (ii) any branch of a Financial Institution that is not resident in the Jurisdiction, if that branch is located in the Jurisdiction;

   d) the term **"Reporting Financial Institution"** means any Jurisdiction Financial Institution that is not a Non-Reporting Financial Institution;

   e) the term **"Reportable Account"** means a Financial Account that is maintained by a Reporting Financial Institution and that, pursuant to due diligence procedures consistent with the Common Reporting Standard, has been identified as an account that is held by one or more persons that are Reportable Persons with respect to another Jurisdiction or by a Passive Non-Financial Entity with one or more Controlling Persons that are Reportable Persons with respect to another Jurisdiction,

f) the term **"Common Reporting Standard"** means the standard for automatic exchange of financial account information in tax matters (which includes the Commentaries), developed by the OECD, with G20 countries;

Considérant que les Juridictions ont mis en place ou devraient avoir en place lors du premier échange (i) les protections adéquates pour faire en sorte que les renseignements reçus conformément à cet Accord restent confidentiels et soient utilisés uniquement aux fins prévues par la Convention, et (ii) les infrastructures nécessaires à un échange efficace (y compris les processus garantissant un échange de renseignements en temps voulu, exact et confidentiel, des communications efficaces et fiables, et les moyens permettant de résoudre rapidement les questions et préoccupations relatives aux échanges ou aux demandes d'échanges et d'appliquer les dispositions de la section 4 du présent Accord) ;

Considérant que les Autorités compétentes des juridictions ont l'intention de conclure un accord afin d'améliorer le respect des obligations fiscales à l'échelle internationale sur la base d'échanges automatiques en application de la Convention, sans préjudice des procédures législatives nationales (s'il y en a), dans le respect du droit de l'UE (s'il est applicable) et sous réserve de la confidentialité et des garanties prévues par la Convention, y compris les dispositions qui limitent l'utilisation des renseignements échangés en vertu de celle-ci ; Les Autorités compétentes sont convenues des dispositions suivantes :

SECTION 1

Définitions

2. Aux fins du présent Accord, les termes et expressions suivants ont le sens défini ci-après :

a) Le terme « **Juridiction** » désigne un pays ou un territoire pour lequel la Convention est en vigueur et a pris effet soit par signature et ratification conformément à l'article 28, ou par extension territoriale conformément à l'article 29, et qui est signataire du présent Accord ;

b) L'expression « **Autorité compétente** » désigne, pour chaque Juridiction respective, les personnes et autorités énumérées à l'Annexe B de la Convention ;

c) L'expression « **Institution financière de la Juridiction** » désigne, pour chaque Juridiction respective, (i) toute Institution financière résidente de la Juridiction, à l'exception de toute succursale de cette Institution financière établie en dehors de la Juridiction, et (ii) toute succursale d'une Institution financière non résidente de la Juridiction si cette succursale est établie dans la Juridiction ;

d) L'expression « **Institution financière déclarante** » désigne toute Institution financière de la Juridiction qui n'est pas une Institution financière non déclarante ;

e) L'expression « **Compte déclarable** » désigne un Compte financier ouvert auprès d'une Institution financière déclarante et qui, conformément aux procédures de diligence raisonnable prévues par la Norme commune de déclaration, a été identifié en tant que compte détenu par une ou plusieurs Personnes devant faire l'objet d'une déclaration visà-vis d'une autre Juridiction, ou par une Entité non financière passive dont une ou plusieurs Personnes qui en détiennent le contrôle sont des Personnes devant faire l'objet d'une déclaration vis-à-vis d'une autre Juridiction ;

f) L'expression « **Norme commune de déclaration** » désigne la norme d'échange automatique de renseignements sur les comptes financiers en matière fiscale (y compris les Commentaires) élaborée par l'OCDE aux côtés des pays du G20 ;

g) the term **"Co-ordinating Body Secretariat"** means the OECD Secretariat that, pursuant to paragraph 3 of Article 24 of the Convention, provides support to the coordinating body that is composed of representatives of the competent authorities of the Parties to the Convention;

h) the term "**Agreement in effect**" means, in respect of any two Competent Authorities, that both Competent Authorities have indicated their intention to automatically exchange information with each other and have satisfied the other conditions set out in subparagraph 2.1. of Section 7. The Competent Authorities for which this Agreement is in effect are listed in Annex E.

2. Any capitalised term not otherwise defined in this Agreement will have the meaning that it has at that time under the law of the Jurisdiction applying the Agreement, such meaning being consistent with the meaning set forth in the Common Reporting Standard. Any term not otherwise defined in this Agreement or in the Common Reporting Standard will, unless the context otherwise requires or the Competent Authorities agree to a common meaning (as permitted by domestic law), have the meaning that it has at that time under the law of the Jurisdiction applying this Agreement, any meaning under the applicable tax laws of that Jurisdiction prevailing over a meaning given to the term under other laws of that Jurisdiction.

SECTION 2

Exchange of Information with Respect to Reportable Accounts

1.1. Pursuant to the provisions of Articles 6 and 22 of the Convention and subject to the applicable reporting and due diligence rules consistent with the Common Reporting Standard, each Competent Authority will annually exchange with the other Competent Authorities, with respect to which it has this Agreement in effect, on an automatic basis the information obtained pursuant to such rules and specified in paragraph 2.

1.2. Notwithstanding the previous paragraph, the Competent Authorities of the Jurisdictions listed in Annex A will send, but not receive, the information specified in paragraph 2. Competent Authorities of Jurisdictions not listed in Annex A will always receive the information specified in paragraph 2. Competent Authorities will not send such information to Competent Authorities of the Jurisdictions listed in Annex A.

2. The information to be exchanged is, with respect to each Reportable Account of another Jurisdiction:

a) the name, address, TIN(s) and date and place of birth (in the case of an individual) of each Reportable Person that is an Account Holder of the account and, in the case of any Entity that is an Account Holder and that, after application of due diligence procedures consistent with the Common Reporting Standard, is identified as having one or more Controlling Persons that is a Reportable Person, the name, address, and TIN(s) of the

Entity and the name, address, TIN(s) and date and place of birth of each Reportable Person;

b) the account number (or functional equivalent in the absence of an account number);

c) the name and identifying number (if any) of the Reporting Financial Institution;

g) L'expression « **Secrétariat de l'Organe de coordination** » désigne le Secrétariat de l'OCDE qui, conformément au paragraphe 3 de l'article 24 de la Convention, appuie l'organe de coordination composé de représentants des autorités compétentes des Parties à la Convention ;

h) L'expression « **Accord qui a pris effet** » signifie, pour deux Autorités compétentes quelles qu'elles soient, que les deux Autorités compétentes ont manifesté leur intention d'échanger automatiquement des renseignements l'une avec l'autre et ont rempli les autres conditions prévues à l'alinéa 2.1 de la section 7. Les Autorités compétentes pour lesquelles le présent Accord a pris effet sont énumérées à l'Annexe E.

3. Tout terme en majuscule qui n'est pas défini dans le présent Accord aura le sens que lui attribue au moment considéré, la législation de la Juridiction qui applique l'Accord, cette définition étant conforme à celle figurant dans la Norme commune de déclaration. Tout terme qui n'est pas défini dans le présent Accord ou dans la Norme commune de déclaration aura, sauf si le contexte exige une interprétation différente ou si les Autorités compétentes s'entendent sur une signification commune (comme le prévoit le droit national), le sens que lui attribue au moment considéré la législation de la Juridiction qui applique le présent Accord, toute définition figurant dans la législation fiscale applicable de cette Juridiction l'emportant sur une définition contenue dans une autre législation de la même Juridiction.

SECTION 2

Échange de renseignements concernant des Comptes déclarables

1.1 Conformément aux dispositions des articles 6 et 22 de la Convention et sous réserve des règles applicables en matière de déclaration et de diligence raisonnable définies dans la Norme commune de déclaration, chaque Autorité compétente échangera chaque année avec les autres Autorités compétentes pour lesquelles cet Accord a pris effet, de manière automatique, les renseignements obtenus conformément à ces règles et précisés dans le paragraphe 2.

1.2 Nonobstant le paragraphe précédent, les Autorités compétentes des Juridictions énumérées à l'annexe A transmettront, mais ne recevront pas, les renseignements spécifiés dans le paragraphe 2. Les Autorités compétentes des Juridictions qui ne figurent pas à l'annexe A recevront systématiquement les renseignements indiqués dans le paragraphe 2. Les Autorités compétentes n'enverront pas ces renseignements aux Autorités compétentes des Juridictions énumérées à l'annexe A.

2. Les renseignements qui doivent être échangés, concernant chaque Compte déclarable d'une autre Juridiction, sont les suivants :

a) les nom, adresse, NIF et date et lieu de naissance (dans le cas d'une personne physique) de chaque Personne devant faire l'objet d'une déclaration qui est un Titulaire de ce compte et, dans le cas d'une Entité qui est Titulaire de ce compte et pour laquelle, après application des procédures de diligence raisonnable définies dans la Norme commune de déclaration, il apparaît qu'une ou plusieurs Personnes qui en détiennent le contrôle sont des Personnes devant faire l'objet d'une déclaration, le nom, l'adresse et le NIF de cette Entité ainsi que les nom, adresse, NIF et date et lieu de naissance de chacune de ces Personnes devant faire l'objet d'une déclaration ;

b) le numéro de compte (ou son équivalent fonctionnel en l'absence de numéro de compte) ;

c) le nom et le numéro d'identification (éventuel) de l'Institution financière déclarante ;

d) the account balance or value (including, in the case of a Cash Value Insurance Contract or Annuity Contract, the Cash Value or surrender value) as of the end of the relevant calendar year or other appropriate reporting period or, if the account was closed during such year or period, the closure of the account;

e) in the case of any Custodial Account:

(1) the total gross amount of interest, the total gross amount of dividends, and the total gross amount of other income generated with respect to the assets held in the account, in each case paid or credited to the account (or with respect to the account) during the calendar year or other appropriate reporting period; and

(2) the total gross proceeds from the sale or redemption of Financial Assets paid or credited to the account during the calendar year or other appropriate reporting period with respect to which the Reporting Financial Institution acted as a custodian, broker, nominee, or otherwise as an agent for the Account Holder;

f) in the case of any Depository Account, the total gross amount of interest paid or credited to the account during the calendar year or other appropriate reporting period; and

g) in the case of any account not described in subparagraph 2(e) or (f), the total gross amount paid or credited to the Account Holder with respect to the account during the calendar year or other appropriate reporting period with respect to which the Reporting Financial Institution is the obligor or debtor, including the aggregate amount of any redemption payments made to the Account Holder during the calendar year or other appropriate reporting period.

SECTION 3

Time and Manner of Exchange of Information

1. For the purposes of the exchange of information in Section 2, the amount and characterisation of payments made with respect to a Reportable Account may be determined in accordance with the principles of the tax laws of the Jurisdiction exchanging the information.

2. For the purposes of the exchange of information in Section 2, the information exchanged will identify the currency in which each relevant amount is denominated.

3. With respect to paragraph 2 of Section 2, and subject to the notification procedure set out in Section 7, including the dates specified therein, information is to be exchanged commencing from the years specified in Annex F within nine months after the end of the calendar year to which the information relates. Notwithstanding the foregoing sentence, information is only required to be exchanged with respect to a calendar year if both Competent Authorities have this Agreement in effect and their respective Jurisdictions have in effect legislation that requires reporting with respect to such calendar year that is consistent with the scope of exchange

provided for in Section 2 and the reporting and due diligence procedures contained in the Common Reporting Standard.

d) le solde ou la valeur portée sur le compte (y compris, dans le cas d'un Contrat d'assurance avec valeur de rachat ou d'un Contrat de rente, la Valeur de rachat) à la fin de l'année civile considérée ou d'une autre période de référence adéquate ou, si le compte a été clos au cours de 1'année ou de la période en question, la clôture du compte ;

e) dans le cas d'un Compte conservateur : (1) le montant brut total des intérêts, le montant brut total des dividendes et le montant brut total des autres revenus produits par les actifs détenus sur le compte, versés ou crédités sur le compte (ou au titre du compte) au cours de l'année civile ou d'une autre période de référence adéquate ; et

(2) le produit brut total de la vente ou du rachat d'un bien versé ou crédité sur le compte au cours de l'année civile ou d'une autre période de référence adéquate au titre de laquelle l'Institution financière déclarante a agi en tant que dépositaire, courtier, prête-nom ou représentant du Titulaire de compte ;

f) dans le cas d'un Compte de dépôt, le montant brut total des intérêts versés ou crédités sur le compte au cours de l'année civile ou d'une autre période de référence adéquate ; et

g) dans le cas d'un compte qui n'est pas visé aux alinéas 2(e) ou (f), le montant brut total versé au Titulaire de compte ou porté à son crédit, au cours de l'année civile ou d'une autre période de référence adéquate, dont l'Institution financière déclarante est la débitrice, y compris le montant total de toutes les sommes remboursées au Titulaire de compte au cours de l'année civile ou d'une autre période de référence adéquate.

SECTION 3

Calendrier et modalités des échanges de renseignements

1. Aux fins de l'échange de renseignements prévu à la section 2, le montant et la qualification des versements effectués au titre d'un Compte déclarable peuvent être déterminés conformément aux principes de la législation fiscale de la Juridiction qui procède à l'échange.

2. Aux fins de l'échange de renseignements prévu à la section 2, les renseignements échangés indiquent la monnaie dans laquelle chaque montant concerné est libellé.

3. S'agissant du paragraphe 2 de la section 2 et sous condition de la notification prévue à la section 7, y compris des dates qui y sont énoncées, les renseignements doivent être échangés dans les neuf mois qui suivent la fin de l'année civile à laquelle ils se rapportent et pour la première fois par rapport aux années mentionnées à l'annexe F. Nonobstant la phrase précédente, l'obligation d'échanger les renseignements pour une année civile s'applique uniquement si cet Accord a pris effet entre les deux Autorités compétentes et si leurs Juridictions respectives sont dotées d'une législation qui prévoit la communication d'informations pour cette année civile conforme à la portée de l'échange définie à la section 2 et aux procédures de déclaration et de diligence raisonnable stipulées dans la Norme commune de déclaration.

4. [deleted]

5. The Competent Authorities will automatically exchange the information described in Section 2 in the common reporting standard schema in Extensible Markup Language.

6. The Competent Authorities will work towards and agree on one or more methods for data transmission including encryption standards with a view to maximising standardisation and minimising complexities and costs and will specify those in Annex B.

SECTION 4

Collaboration on Compliance and Enforcement

A Competent Authority will notify the other Competent Authority when the first-mentioned Competent Authority has reason to believe that an error may have led to incorrect or incomplete information reporting or there is non-compliance by a Reporting Financial Institution with the applicable reporting requirements and due diligence procedures consistent with the Common Reporting Standard. The notified Competent Authority will take all appropriate measures available under its domestic law to address the errors or non-compliance described in the notice.

SECTION 5

Confidentiality and Data Safeguards

1. All information exchanged is subject to the confidentiality rules and other safeguards provided for in the Convention, including the provisions limiting the use of the information exchanged and, to the extent needed to ensure the necessary level of protection of personal data, in accordance with the safeguards which may be specified by the supplying Competent Authority as required under its domestic law and listed in Annex C.

2. A Competent Authority will notify the Co-ordinating Body Secretariat immediately regarding any breach of confidentiality or failure of safeguards and any sanctions and remedial actions consequently imposed. The Co-ordinating Body Secretariat will notify all Competent Authorities with respect to which this is an Agreement in effect with the first mentioned Competent Authority.

SECTION 6

Consultations and Amendments

1. If any difficulties in the implementation or interpretation of this Agreement arise, a Competent Authority may request consultations with one or more of the Competent Authorities to develop appropriate measures to ensure that this Agreement is fulfilled. The Competent Authority that requested the consultations shall ensure, as appropriate, that the Co-ordinating Body Secretariat is notified of any measures that were developed and the Co-ordinating Body Secretariat will notify all Competent Authorities, even those that did not participate in the consultations, of any measures that were developed.

2. This Agreement may be amended by consensus by written agreement of all of the Competent Authorities that have the Agreement in effect. Unless otherwise agreed upon, such an amendment is effective on the first day of the month following the expiration of a period of one month after the date of the last signature of such written agreement.

4. [Supprimé]

5. Les Autorités compétentes échangeront automatiquement les informations décrites à la section 2 selon le schéma de la Norme commune de déclaration en langage XML.

6. Les Autorités compétentes œuvreront pour et s'accorderont sur une ou plusieurs méthodes de transmission de données, y compris sur des normes de cryptage en vue de maximiser la normalisation et réduire les complexités et les coûts et les mentionneront à l'annexe B.

SECTION 4

Collaboration en matière d'application et de mise en œuvre de l'Accord

Une Autorité compétente notifiera à l'autre Autorité compétente lorsque la première Autorité compétente a des raisons de croire qu'une erreur peut avoir eu pour conséquence la communication de renseignements erronés ou incomplets ou qu'une Institution financière déclarante ne respecte pas les obligations déclaratives en vigueur et les procédures de diligence raisonnable au titre de la Norme commune de déclaration. L'Autorité compétente ainsi notifiée applique toutes les dispositions appropriées de son droit interne pour corriger ces erreurs ou remédier aux manquements décrits dans la notification.

SECTION 5

Confidentialité et protection des données

1. Tous les renseignements échangés sont soumis aux obligations de confidentialité et autres protections prévues par la Convention, y compris aux dispositions qui limitent l'utilisation des renseignements échangés et, dans la mesure où cela est nécessaire pour garantir le degré requis de protection des données personnelles, conformément aux protections qui peuvent être exigées par l'Autorité compétente qui communique les données en vertu de son droit interne et figurent à l'annexe C.

2. Chaque Autorité compétente notifiera immédiatement au Secrétariat de l'Organe de coordination toute violation de l'obligation de confidentialité ou des protections et toute sanction et action corrective qui en résultent. Le Secrétariat de l'Organe de coordination notifiera à toutes les Autorités compétentes pour lesquelles le présent Accord constitue un Accord qui a pris effet avec la première Autorité compétente mentionnée.

SECTION 6

Consultations et modifications

1. En cas de difficulté dans l'application ou l'interprétation du présent Accord, chaque Autorité compétente peut solliciter des consultations avec une ou plusieurs Autorités compétentes en vue d'élaborer des mesures appropriées pour garantir l'exécution du présent Accord. L'Autorité compétente qui a demandé les consultations doit veiller, s'il y a lieu, à ce que le Secrétariat de l'Organe de coordination soit informé de toutes mesures ainsi élaborées, et le Secrétariat de l'Organe de coordination informera l'ensemble des Autorités compétentes, même celles qui n'ont pas pris part aux consultations, de toute mesure élaborée.

2. Le présent Accord peut être modifié, par consensus, par accord écrit de toutes les

Autorités compétentes pour lesquelles l'Accord a pris effet. Sauf disposition contraire, une telle modification prend effet le premier jour du mois suivant l'expiration d'une période d'un mois après la date de la dernière signature d'un tel accord écrit.

SECTION 7

Term of Agreement

1. A Competent Authority must provide, at the time of signature of this Agreement or as soon as possible after its Jurisdiction has the necessary laws in place to implement the Common Reporting Standard, a notification to the Co-ordinating Body Secretariat:

a) that its Jurisdiction has the necessary laws in place to implement the Common Reporting Standard and specifying the relevant effective dates with respect to Preexisting Accounts, New Accounts, and the application or completion of the reporting and due diligence procedures;

b) confirming whether the Jurisdiction is to be listed in Annex A;

c) specifying one or more methods for data transmission including encryption (Annex B);

d) specifying safeguards, if any, for the protection of personal data (Annex C);

e) that it has in place adequate measures to ensure the required confidentiality and data safeguards standards are met and attaching the completed confidentiality and data safeguard questionnaire, to be included in Annex D; and

f) a list of the Jurisdictions of the Competent Authorities with respect to which it intends to have this Agreement in effect, following national legislative procedures (if any).

Competent Authorities must notify the Co-ordinating Body Secretariat, promptly, of any subsequent change to be made to the above-mentioned Annexes.

2.1. This Agreement will come into effect between two Competent Authorities on the later of the following dates: (i) the date on which the second of the two Competent Authorities has provided notification to the Co-ordinating Body Secretariat under paragraph 1, including listing the other Competent Authority's Jurisdiction pursuant to subparagraph 1(f), and, if applicable, (ii) the date on which the Convention has entered into force and is in effect for both Jurisdictions.

2.2. The Co-ordinating Body Secretariat will maintain a list that will be published on the OECD website of the Competent Authorities that have signed the Agreement and between which Competent Authorities this is an Agreement in effect (Annex E).

2.3. The Co-ordinating Body Secretariat will publish on the OECD website the information provided by Competent Authorities pursuant to subparagraphs 1(a) and (b). The information provided pursuant to subparagraphs 1(c) through (f) will be made available to other signatories upon request in writing to the Co-ordinating Body Secretariat.

SECTION 7

Durée de l'Accord

1. Une Autorité compétente doit, au moment de la signature du présent Accord ou le plus tôt possible après que sa Juridiction a mis en place la législation nécessaire pour mettre en œuvre la Norme commune de déclaration, déposer une notification au Secrétariat de l'Organe de coordination :

a) indiquant que sa Juridiction a mis en place les législations nécessaires à la mise en œuvre de la Norme commune de déclaration et en précisant les dates pertinentes concernant les Comptes préexistants, les Nouveaux comptes, et l'application ou l'achèvement des procédures de déclaration et de diligence raisonnable ;

b) confirmant si la Juridiction doit figurer à l'annexe A ;

c) précisant une ou plusieurs méthodes de transmission des données y compris le cryptage (annexe B) ;

d) précisant les garanties, le cas échéant, pour la protection des données personnelles (annexe C) ;

e) indiquant qu'elle a mis en place les mesures adéquates pour assurer la confidentialité requise et le respect des normes de protection des données, et en y joignant le questionnaire rempli concernant la confidentialité et la protection des données, pour l'inclure à l'annexe D ; et

f) une liste des Juridictions des Autorités compétentes à l'égard desquelles elle a l'intention que le présent Accord prenne effet, conformément aux procédures législatives nationales (le cas échéant).

Les Autorités compétentes devront notifier rapidement toutes modifications ultérieures aux annexes mentionnées ci-dessus au Secrétariat de l'Organe de coordination.

2.1. Le présent Accord prendra effet entre les deux Autorités compétentes à la plus tardive des dates suivantes: (i) la date à laquelle la seconde des deux Autorités compétentes a déposé au Secrétariat de l'Organe de coordination la notification visée au paragraphe 1, y compris la liste des Juridictions des autres Autorités compétentes conformément à l'alinéa 1 (f), et, si cela s'applique, (ii) la date à laquelle la Convention est entrée en vigueur et a pris effet pour les deux Juridictions.

2.2. Le Secrétariat de l'Organe de coordination conservera et publiera sur le site Internet de l'OCDE une liste des Autorités compétentes qui ont signé l'Accord et entre lesquelles le présent constitue un Accord qui a pris effet (Annexe E).

2.3. Le Secrétariat de l'Organe de coordination publiera sur le site Internet de l'OCDE les informations fournies par les Autorités compétentes conformément aux alinéas 1 (a) et (b). Les informations fournies conformément aux alinéas 1 (c) à (f) seront mises à la disposition des autres signataires sur demande écrite adressée au Secrétariat de l'Organe de coordination.

3. A Competent Authority may suspend the exchange of information under this Agreement by giving notice in writing to another Competent Authority that it has determined that there is or has been significant non-compliance by the second-mentioned Competent Authority with this Agreement. Such suspension will have immediate effect. For the purposes of this paragraph, significant non-compliance includes, but is not limited to, non-compliance with the confidentiality and data safeguard provisions of this Agreement and the Convention, a failure by the Competent Authority to provide timely or adequate information as required under this Agreement or defining the status of Entities or accounts as Non-Reporting Financial Institutions and Excluded Accounts in a manner that frustrates the purposes of the Common Reporting Standard.

4. A Competent Authority may terminate its participation in this Agreement, or with respect to a particular Competent Authority, by giving notice of termination in writing to the Coordinating Body Secretariat. Such termination will become effective on the first day of the month following

the expiration of a period of 12 months after the date of the notice of termination. In the event of termination, all information previously received under this Agreement will remain confidential and subject to the terms of the Convention.

SECTION 8

Co-ordinating Body Secretariat

1. Unless otherwise provided for in the Agreement, the Co-ordinating Body Secretariat will notify all Competent Authorities of any notifications that it has received under this Agreement and will provide a notice to all signatories of the Agreement when a new Competent Authority signs the Agreement.

2. All signatories to the Agreement will share equally, on an annual basis, the costs for the administration of the Agreement by the Co-ordinating Body Secretariat. Notwithstanding the previous sentence, qualifying countries will be exempt from sharing the costs in accordance with Article X of the Rules of Procedure of the Co-ordinating Body of the Convention.

Done in English and French, both texts being equally authentic.

3. Une Autorité compétente peut suspendre l'échange de renseignements visé par le présent Accord moyennant préavis écrit adressé à une autre Autorité compétente indiquant que cette dernière commet ou a commis un manquement grave au présent Accord. Cette suspension est à effet immédiat. Aux fins du présent paragraphe, l'expression « manquement grave » désigne notamment le non-respect des obligations de confidentialité et des dispositions relatives à la protection des données du présent Accord et de la Convention, le fait pour l'Autorité compétente de ne pas communiquer des informations appropriées ou en temps voulu comme le prévoit le présent Accord, ou de qualifier des Entités ou des comptes d'Institutions financières non déclarantes et de Comptes exclus en allant à l'encontre des objectifs de la Norme commune de déclaration.

4. Une Autorité compétente peut dénoncer sa participation au présent Accord ou vis-à-vis d'une certaine Autorité compétente moyennant préavis écrit adressé au Secrétariat de l'Organe de coordination. Cette dénonciation prend effet le premier jour du mois suivant l'expiration d'un délai de douze mois à compter de la date du préavis. En cas de dénonciation, toutes les informations déjà reçues au titre du présent Accord restent confidentielles et soumises aux dispositions de la Convention.

SECTION 8

Secrétariat de l'Organe de coordination

1. Sauf disposition contraire contenue dans l'Accord, le Secrétariat de l'Organe de coordination informera l'ensemble des Autorités compétentes de toute notification qu'elle reçoit au titre du présent Accord et donnera notification à tous les signataires de l'Accord de la signature de l'Accord par une nouvelle Autorité compétente.

2. Tous les signataires de l'Accord se partageront également, sur une base annuelle, les coûts de l'administration de l'Accord par le Secrétariat de l'Organe de coordination. Nonobstant la phrase précédente, les pays éligibles seront exemptés du partage des coûts conformément à l'article X des Règles de procédure de l'Organe de coordination de la Convention.

Fait en français et en anglais, les deux textes faisant également foi.

ANNEX A:

LIST OF NON-RECIPROCAL JURISDICTIONS

[To be completed]

ANNEXE A :

LISTE DES JURIDICTIONS POUR LESQUELLES IL N'Y A PAS DE RÉCIPROCITÉ

[A compléter]

ANNEX B:

TRANSMISSION METHODS

[To be completed]

ANNEXE B:

MÉTHODES DE TRANSMISSION

[A compléter]

ANNEX C:

SPECIFIED DATA SAFEGUARDS

[To be completed]

ANNEXE C:

PRÉCISIONS CONCERNANT LA PROTECTION DES DONNÉES PERSONNELLES

[A compléter]

ANNEX D:

CONFIDENTIALITY QUESTIONNAIRE

[To be completed]

ANNEXE D:

QUESTIONNAIRE SUR LA CONFIDENTIALITÉ

[A compléter]

ANNEX E:

COMPETENT AUTHORITIES FOR WHICH THIS IS AN AGREEMENT IN EFFECT

[To be completed]

ANNEXE E :

AUTORITÉS COMPÉTENTES POUR LESQUELLES L'ACCORD A PRIS EFFET

[A compléter]

ANNEX F:

INTENDED EXCHANGE DATES

Accounts	**Intended to be defined as**	**Intended dates to exchange information by**		
New Accounts	A Financial Account maintained by a Reporting Financial Institution opened on or after [day] [month] [year].	September [year]		
		Individual High-Value Accounts	**Individual Low-Value Accounts**	**Entity Accounts**
Preexisting Accounts	A Financial Account maintained by a Reporting Financial Institution as of [day] [month] [year].	September [year]	September [year]	September [year]

ANNEXE F:

DATES PRÉVUES POUR L'ÉCHANGE DE RENSEIGNEMENTS

Comptes	**Définition prévue**	**Dates d'échange de renseignements prévues pour**

Nouveaux comptes	Un Compte financier ouvert à partir du [date] [mois] [année] auprès d'une Institution financière déclarante.	septembre [année]		
		Comptes de personnes physiques de valeur élevée	**Comptes de personnes physiques de faible valeur**	**Comptes d'entités**
Comptes Préexistants	Un Compte financier géré par une Institution financière déclarante au [date] [mois] [année].	septembre [année]	septembre [année]	septembre [année]

Appendix C

THE MUTUAL ADMINISTRATIVE ASSISTANCE IN TAX MATTERS BILL, 2019 COMPARISON MATRIX WITH THE OECD STANDARDS

CLAUSE	MARIGNAL NOTE	PROVISION	OECD STANDARD
1	Short title	**1.** This Act may be cited as the Mutual Administrative Assistance in Tax Matters Bill, 2018.	
2	Commencement	**2.** This Act shall come into operation on such date as is fixed by the President by Proclamation.	
3	Act inconsistent with Constitution	**3.** This Act shall have effect even though it is inconsistent with sections 4 and 5 of the Constitution.	Since this Act would involve the sharing of personal information which runs afoul of sections 4 and 5 of the Constitution it is required to state that it is inconsistent.
4	Interpretation	**4.** (1) In this Act- "account holder" means- (a) a person listed or identified as the holder of a financial account by the financial institution that maintains the account; (b) where a person, other than a financial institution, holds a financial account for the benefit or account of another person as agent, custodian, nominee, signatory, investment advisor, or intermediary, is not treated as holding the account for purposes of the Common Reporting Standard and such other person is treated as holding the account; (c) in the case of a cash value insurance contract or an annuity contract, any person entitled to access the cash value or change the beneficiary of the contract, but if no person can access the cash value or change the	PART E of the Standards Section VIII- Defined Terms defines "account holder" to mean: The term **"Account Holder"** means the person listed or identified as the holder of a Financial Account by the Financial Institution that maintains the account. A person, other than a Financial Institution, holding a Financial Account for the benefit or account of another person as agent, custodian, nominee, signatory, investment advisor, or intermediary, is not treated as holding the account for purposes of the Common Reporting Standard, and such other person is treated as holding the account. In the case of a Cash Value Insurance Contract or an Annuity Contract, the Account

			beneficiary then, any person named as the owner in the contract and any person with a vested entitlement to the payment under the terms of the contract; or (d) each person entitled to receive payment upon the maturity of a cash value insurance contract or an annuity contract; "active NFE" means any NFE where- (a) less than fifty per cent of the gross income of the NFE for the preceding calendar year or other appropriate reporting period is passive income and less than fifty per cent of the assets held by the NFE during the preceding calendar year or other appropriate reporting period are assets that produce or are held for the production of passive income; (b) the stock of the NFE traded on an established securities market or the NFE is a related entity of an entity, the stock of which is regularly traded on an established securities market; (c) the NFE is a governmental entity, an international organisation, a central bank, or an entity wholly owned by one or more of the foregoing listed in this paragraph; (d) substantially all of the activities of the NFE consists of – (i) holding, in whole or in part, the outstanding stock of; or (ii) providing financing and services to, one or more subsidiaries that engage in a trade or business other than a business of a financial institution, except that an entity does not qualify for this status if the entity functions, or holds itself out, as an investment fund, such as	Holder is any person entitled to access the Cash Value or change the beneficiary of the contract. If no person can access the Cash Value or change the beneficiary, the Account Holder is any person named as the owner in the contract and any person with a vested entitlement to payment under the terms of the contract. Upon the maturity of a Cash Value Insurance Contract or an Annuity Contract, each person entitled to receive a payment under the contract is treated as an Account Holder. Common Reporting Standards Section VIII- Defined Terms Part D section 9: The term **"Active NFE"** means any NFE that meets any of the following criteria: *a)* less than 50% of the NFE's gross income for the preceding calendar year or other appropriate reporting period is passive income and less than 50% of the assets held by the NFE during the preceding calendar year or other appropriate reporting period are assets that produce or are held for the production of passive income; *b)* the stock of the NFE is regularly traded on an established securities market or the NFE is a Related Entity of an Entity the stock of which is regularly traded on an established securities market;

		a private equity fund, venture capital fund, leveraged buyout fund, or any investment vehicle whose purpose is to acquire or fund companies and then hold interests in those companies as capital assets for investment purposes; (e) the NFE is not yet operating a business and has no prior operating history, but is investing capital into assets with the intent to operate a business other than that of a financial institution, provided that the NFE does not qualify for this exception after the date that is twenty-four months after the date of the initial organisation of the NFE; (f) the NFE was not a financial institution in the past five years, and is in the process of liquidating its assets or is reorganising with the intent to continue or recommence operations in a business other than that of a financial institution; (g) the NFE primarily engages in financing and hedging transactions with, or for, related entities that are not financial institutions, and does not provide financing or hedging services to any entity that is not a related entity, provided that the group of any such related entities is primarily engaged in a business other than that of a financial institution; or (h) the NFE- (i) is established and operated in its jurisdiction of residence exclusively for religious, charitable, scientific, artistic, cultural, athletic or educational purposes or is established and operated in its	*c)* the NFE is a Governmental Entity, an International Organisation, a Central Bank, or an Entity wholly owned by one or more of the foregoing; *d)* substantially all of the activities of the NFE consist of holding (in whole or in part) the outstanding stock of, or providing financing and services to, one or more subsidiaries that engage in trades or businesses other than the business of a Financial Institution, except that an Entity does not qualify for this status if the Entity functions (or holds itself out) as an investment fund, such as a private equity fund, venture capital fund, leveraged buyout fund, or any investment vehicle whose purpose is to acquire or fund companies and then hold interests in those companies as capital assets for investment purposes; *e)* the NFE is not yet operating a business and has no prior operating history, but is investing capital into assets with the intent to operate a business other than that of a Financial Institution, provided that the NFE does not qualify for this exception after the date that is 24 months after the date of the

			jurisdiction of residence and is a professional organisation, business league, chamber of commerce, labour organisation, agricultural or horticultural organisation, civic leagues or an organisation operated exclusively for the promotion of social welfare; (ii) is exempt from income tax in its jurisdiction of residence; (iii) has no shareholders or members who have a proprietary or beneficial interest in its income or assets; (iv) the applicable laws of the jurisdiction of residence of the NFE or the formation documents of the NFE do not permit any income or assets of the NFE to be distributed to, or applied for the benefit of, a private person or non-charitable entity other than pursuant to the conduct of the charitable activities of the NFE, or as payment of reasonable compensation for services rendered, or as payment representing the fair market value of the property which the NFE has purchased; and (v) the applicable laws of the jurisdiction of residence of the NFE or the formation documents of the NFE require that, upon the liquidation or dissolution of the NFE, all of its assets be distributed to a governmental entity or	initial organisation of the NFE; *f)* the NFE was not a Financial Institution in the past five years, and is in the process of liquidating its assets or is reorganising with the intent to continue or recommence operations in a business other than that of a Financial Institution; *g)* the NFE primarily engages in financing and hedging transactions with, or for, Related Entities that are not Financial Institutions, and does not provide financing or hedging services to any Entity that is not a Related Entity, provided that the group of any such Related Entities is primarily engaged in a business other than that of a Financial Institution; or *h)* the NFE meets all of the following requirements: *i)* it is established and operated in its jurisdiction of residence exclusively for religious, charitable, scientific, artistic, cultural, athletic, or educational purposes; or it is established and operated in its jurisdiction of

			other non-profit organisation, or escheat to the government of the jurisdiction of residence of the NFE or any political subdivision thereof;	residence and it is a professional organisation, business league, chamber of commerce, labour organisation, agricultural or horticultural organisation, civic league or an organisation operated exclusively for the promotion of social welfare; *ii)* it is exempt from income tax in its jurisdiction of residence; *iii)* it has no shareholders or members who have a proprietary or beneficial interest in its income or assets; *iv)* the applicable laws of the NFE's jurisdiction of residence or the NFE's formation documents do not permit any income or assets of the NFE to be distributed to, or applied for the benefit of, a private person or noncharitable

		"annuity contract" means a contract under which the issuer agrees to make payments for a period of time determined in whole or in part by reference to the life expectancy of one or more individuals and includes a contract considered to be an annuity contract in accordance with the law, regulation or practice of the jurisdiction in which the contract was issued and under which the issuer agrees to make payments for a term of years; "applicant State" means any Party applying for administrative assistance in tax matters under this Act; "Board" means the Board of Inland Revenue established by section 3 of the Income Tax Act; "broad participation retirement fund" means a fund established to provide retirement, disability, or death benefits, or any combination thereof, to	Entity other than pursuant to the conduct of the NFE's charitable activities, or as payment of reasonable compensation for services rendered, or as payment representing the fair market value of property which the NFE has purchased; and *v)* the applicable laws of the NFE's jurisdiction of residence or the NFE's formation documents require that, upon the NFE's liquidation or dissolution, all of its assets be distributed to a Governmental Entity or other non-profit organisation, or escheat to the government of the NFE's jurisdiction of residence or any political subdivision thereof. Commentary on definition: Any NFE can be an Active NFE, provided that it meets any of the criteria listed in the definition. In summary, those criteria refer to: (a) active NFEs by reason of income and

		beneficiaries that are current or former employees, or persons designated by such employees, of one or more employers in consideration for services rendered, provided that the fund- (d) does not have a single beneficiary with a right to more than five per cent of the assets of the fund; (e) is subject to government regulation and provides information reporting to the tax authorities; and (f) satisfies at least one of the following requirements: (i) the fund is generally, exempt from tax on investment income, or taxation of such income is deferred or taxed at a reduced rate, due to its status as a retirement or pension plan; (ii) the fund receives at least fifty per cent of its total contributions, other than transfers of assets from other Board Retirement Fund, Narrow Retirement Funds or Pension Funds of a Government Entity, International Organisation or Central Bank or from retirement and pension accounts under paragraph (a) of the definition of "Excluded Account; (iii) distributions or withdrawals from the fund are allowed only upon the occurrence of specified events related to retirement, disability, or death, except rollover distributions to other retirement funds	assets; *b)* publicly traded NFEs; *c)* Governmental Entities, International Organisations, Central Banks, or their wholly owned Entities; holding NFEs that are members of a nonfinancial group; *e)* start-up NFEs; *f)* NFEs that are liquidating or emerging from bankruptcy; *g)* treasury centres that are members of a nonfinancial group; or *h)* non-profit NFEs. The definition describes the criterion to qualify for the Active NFE status for "active NFEs by reason of income and assets" as follows: less than 50% of the NFE's gross income for the preceding calendar year or other appropriate reporting period is passive income and less than 50% of the assets held by the NFE during the preceding calendar year or other appropriate reporting period are assets that produce or are held for the production of passive income. In determining what is meant by "passive income", reference must be made to each jurisdiction's particular rules. Passive income would generally be considered to include the portion of gross income that consists of: *a)* dividends; *b)* interest; *c)* income equivalent to interest; *d)* rents and royalties, other than rents and royalties derived in the active conduct of a business conducted, at least in part, by employees of the NFE; *e)* annuities; *f)* the excess of gains over losses from the sale or exchange of Financial Assets that gives rise to the passive income described previously; *g)* the excess of gains over losses from transactions (including futures, forwards, options, and similar transactions) in any Financial Assets; *h)* the excess of foreign currency gains over foreign currency losses; *i)* net income from swaps; or *j)* amounts received under Cash Value Insurance Contracts. Notwithstanding the foregoing, passive income will not include, in the case of a NFE that regularly acts

		described in paragraphs (a) to (c), Narrow Participation Retirement Fund or pension Funds of a Government entity, International Organisation or central Bank or retirement and pension accounts as described in paragraph (a) of the definition of "Excluded Account", or penalties apply to distributions or withdrawals made before such specified events; or (iv) contributions, other than certain permitted make-up contributions, by employees to the fund are limited by reference to earned income of the employee or may not exceed the equivalent of fifty thousand dollars annually, applying the rules set forth in the Common Reporting Standard Due Diligence Rules set forth in Section VII of Schedule 1 in respect of Special Due Diligence Rules for account aggregation and currency translation; "cash value" means the greater of – (a) the amount that the policyholder is entitled to receive upon surrender or termination of the contract, determined without reduction for any currency charge or policy loan; or (b) the amount the policyholder can borrow under or with regard to the contract,	as a dealer in Financial Assets, any income from any transaction entered into in the ordinary course of such dealer's business as such a dealer. The value of a NFE's assets is determined based on the fair market value or book value of the assets that is reflected on the NFE's balance sheet. Paragraph (b) describes the criterion to qualify for the Active NFE status for "publicly traded NFEs" as follows: the stock of the NFE is regularly traded on an established securities market or the NFE is a Related Entity of an Entity the stock of which is regularly traded on an established securities market. Stock is "regularly traded" if there is a meaningful volume of trading with respect to the stock on an on-going basis, and an "established securities market" means an exchange that is officially recognised and supervised by a governmental authority in which the market is located and that has a meaningful annual value of shares traded on the exchange. Subparagraph (d) describes the criterion to qualify for the Active NFE status for "holding NFEs that are members of a nonfinancial group" as follows: substantially all of the activities of the NFE consist of holding (in whole or in part) the outstanding stock of, or providing financing and services to, one or more subsidiaries that engage in trades or businesses other than the business of a Financial Institution, except that an Entity does not qualify for this status if the Entity functions (or holds itself out) as an investment fund, such as a private equity fund, venture capital fund, leveraged buyout fund, or any investment vehicle whose purpose is to acquire or fund companies and then hold interests in those companies as capital assets for investment purposes. With respect to the activities mentioned in paragraph (d), "substantially all" means 80% or

			but shall not include an amount payable under an insurance contract- (c) solely by reason by death of an individual insured under a life insurance contract; (d) as a personal injury or sickness benefit or other benefit providing indemnification of an economic loss incurred upon the occurrence of the event insured against; (e) as a refund of a previously paid premium, less cost of insurance charges whether or not actually imposed, under an insurance contract, other than an investment-linked life insurance or annuity contract, due to cancellation or termination of the contract, decrease in risk exposure during the effective period of the contract, or arising from the correction of a posting or similar error with regard to the premium for the contract; (f) as a policyholder dividend, other than a termination dividend, provided that the dividend relates to an insurance contract under which the only benefits payable are described in paragraph (d); or (g) as a return of an advance premium or premium deposit for an insurance contract for which the premium is payable at least annually if the amount of the advance premium or premium deposit does not exceed the next annual premium that will be payable under the contract;	more. If, however, the NFE's holding or group finance activities constitute less than 80% of its activities but the NFE receives also active income (i.e. income that is not passive income) otherwise, it qualifies for the Active NFE status, provided that the total sum of activities meets the "substantially all test". For purposes of determining whether the activities other than holding and group finance activities of the NFE qualify it as an Active NFE, the test of paragraph (a) can be applied to such other activities. For example, if a holding company has holding or finance and service activities to one or more subsidiaries for 60% and also functions for 40% as a distribution centre for the goods produced by the group it belongs to and the income of its distribution centre activities is active according to paragraph (a), it is an Active NFE, irrespective of the fact that less than 80% of its activities consist of holding the outstanding stock of, or providing finance and services to, one or more subsidiaries. The term "substantially all" covers also a combination of holding stock of and providing finance and services to one or more subsidiaries. The term "subsidiary" means any entity whose outstanding stock is either directly or indirectly held (in whole or in part) by the NFE. One of the requirements listed in subparagraph D(9)(h) for "non-profit NFE" to qualify for the Active NFE status is that the applicable laws of the NFE's jurisdiction of residence or the NFE's formation documents do not permit any income or assets of the NFE to be distributed to, or applied for the benefit of, a private person or non-charitable Entity other than pursuant to the conduct of the NFE's charitable activities, or as payment of reasonable compensation for services rendered, or as payment representing the fair market value of property which the NFE has purchased. In addition, the income or assets of the NFE could be

			distributed to, or applied for the benefit of, a private person or noncharitable Entity as payment of reasonable compensation for the use of property. Common Reporting Standards Section VIII- Defined Terms Part C Item 6: The term **"Annuity Contract"** means a contract under which the issuer agrees to make payments for a period of time determined in whole or in part by reference to the life expectancy of one or more individuals. The term also includes a contract that is considered to be an Annuity Contract in accordance with the law, regulation, or practice of the jurisdiction in which the contract was issued, and under which the issuer agrees to make payments for a term of years. Included for the purpose of clause 10. Commentary on definition: The term "Annuity Contract", as defined in subparagraph C(6), means a contract under which the issuer agrees to make payments for a period of time determined in whole or in part by reference to the life expectancy of one or more individuals. The term also includes a contract that is considered to be an Annuity Contract in accordance with the law, regulation, or practice of the jurisdiction in which the contract was issued, and under which the issuer agrees to make payments for a term of years.
		"cash value insurance contract" means an insurance contract, other than an indemnity reinsurance contract between two insurance companies, that has a cash value;	
		"CB Secretariat" means the Organisation of Economic Co-operation and Development Secretariat that pursuant to Article 24(3) of the Convention, provides support to the co-ordinating body that is composed of representatives of the competent authorities of the Parties to the Convention;	Included as the BIR is the competent authority

		"central bank" means an institution that is by law or government sanction, the principal authority, other than the government of the jurisdiction itself, issuing instruments intended to circulate as currency and such institution may include an instrumentality that is separated from the government for the jurisdiction whether or not owned in whole or in part by the jurisdiction; "Common Reporting Standard" means the standard for automatic exchange of financial account information in tax matters including commentaries thereon approved on 15th July, 2015 by the Organisation of Economic Co-operation and Development; "Common Reporting Standard Due Diligence Requirements" means the due diligence requirements of the Common Reporting Standard; "competent authority" means the persons and authorities listed in Schedule 2 and in relation to Trinidad and Tobago, means the Board; "controlling person" means the natural persons who exercise control over an entity and in the case of a trust, means the settlor, the trustees, the protector, the beneficiaries or class of beneficiaries, and any other natural person exercising ultimate effective control over the trust, and in the case of a legal arrangement other than a trust, such term means persons in equivalent or similar positions and as defined in accordance with the Financial Action Task Force Recommendations of 2012;	Common reporting standards Section VIII- Defined Terms Part B Item 5: The term **"Broad Participation Retirement Fund"** means a fund established to provide retirement, disability, or death benefits, or any combination thereof, to beneficiaries that are current or former employees (or persons designated by such employees) of one or more employers in consideration for services rendered, provided that the fund: *a)* does not have a single beneficiary with a right to more than five per cent of the fund's assets; *b)* is subject to government regulation and provides information reporting to the tax authorities; and *c)* satisfies at least one of the following requirements: *i)* the fund is generally exempt from tax on investment income, or taxation of such income is deferred or taxed at a reduced rate, due to its status as a retirement or pension plan; *ii)* the fund receives at least 50% of its total contributions (other than transfers of assets from other plans described in subparagraphs B(5) through (7) or from retirement

		"Convention" means the Multilateral Convention on Mutual Administrative Assistance in Tax Matters which provides for the exchange of information as set out in Schedule 3; "custodial account" means an account, other than an insurance contract or annuity contract, that holds one or more financial assets for the benefit of another person; "custodial institution" means any entity that holds, as a substantial portion of its business, financial assets for the account of others;	and pension accounts described in subparagraph C(17)(a)) from the sponsoring employers; *iii)* distributions or withdrawals from the fund are allowed only upon the occurrence of specified events related to retirement, disability, or death (except rollover distributions to other retirement funds described in subparagraphs B(5) through (7) (Broad Retirement Funds, Narrow Retirement Funds and Pension Funds of a Government Entity, International Organisation or Central Bank) or retirement and pension accounts described in subparagraph C(17)(a))(Excluded accounts), or penalties apply to distributions or withdrawals made before such specified events; or *iv)* contributions (other than certain permitted make-up contributions) by employees to the fund are limited by reference to earned income of the employee or

		"depository account" includes any commercial, chequing, savings, time or thrift account, or an account that is evidenced by a certificate of deposit, thrift certificate, investment certificate, certificate of indebtedness or other similar instrument maintained by a financial institution in the ordinary course of a banking or similar business and also includes an amount held by an insurance company pursuant to a guaranteed investment contract or similar agreement to pay or credit interest thereon;	may not exceed USD 50 000 annually, applying the rules set forth in paragraph C of Section VII (Due Diligence Rules) for account aggregation and currency translation. Commentary on definition: Information reporting required in subparagraph B(5)(b) may vary among jurisdictions. While one jurisdiction could require that the fund provides annual information about its beneficiaries, another jurisdiction could require that the fund provides monthly information about contributions and associated tax relief, and annual information about its beneficiaries and total contributions from sponsoring employers. However, whether a fund provides information reporting to the relevant tax authorities in the jurisdiction in which the fund is established or operates is determinative of whether a fund satisfies the requirement under that subparagraph
		"depository institution" means any entity that accepts deposits in the ordinary course of a banking or similar business;	Common reporting standards Section VIII- Defined Terms Part C Item 8: The term **"Cash Value"** means the greater of *(i)* the amount that the policyholder is entitled to receive upon surrender or termination of the

		"entity" means a legal person or legal arrangement such as a corporation, partnership, trust or foundation; "excluded account" means any of the following accounts: (a) a retirement or pension account that satisfies the following requirements: (i) the account is subject to regulation as a personal retirement account or is part of a registered or regulated retirement or pension plan for the provision of retirement or pension benefits, including disability or death benefits; (ii) the account is tax-favoured, that is to say, that contributions to the account that would otherwise be subject to tax are deductible or excluded from the gross income of the account holder or taxed at a reduced rate, or taxation of investment income from the account is deferred or taxed at a reduced rate; (iii) information reporting is required to the tax authorities with respect to the account; (iv) withdrawals are conditioned on reaching a specified retirement age, disability, or death or penalties apply to withdrawals made	contract (determined without reduction for any surrender charge or policy loan), and *(ii)* the amount the policyholder can borrow under or with regard to the contract. Notwithstanding the foregoing, the term "Cash Value" does not include an amount payable under an Insurance Contract: (a) solely by reason of the death of an individual insured under a life insurance contract; *b)* as a personal injury or sickness benefit or other benefit providing indemnification of an economic loss incurred upon the occurrence of the event insured against; *c)* as a refund of a previously paid premium (less cost of insurance charges whether or not actually imposed) under an Insurance Contract (other than an investment-linked life insurance or annuity

		before such specified events; and (v) either- (A) annual contributions are limited to the equivalent of fifty thousand United States dollars or less; or (B) there is a maximum lifetime contribution limit to the account of to the equivalent of one million United States dollars or less, in each case applying the Common Reporting Standard Due Diligence Requirements set forth in Section VII of Schedule 1; (b) an account - (i) that is subject to regulation as an investment vehicle for purposes other than for retirement and is regularly traded on an established securities market, or the account is subject to regulation as a savings vehicle for	contract) due to cancellation or termination of the contract, decrease in risk exposure during the effective period of the contract, or arising from the correction of a posting or similar error with regard to the premium for the contract; *d)* as a policyholder dividend (other than a termination dividend) provided that the dividend relates to an Insurance Contract under which the only benefits payable are described in subparagraph C(8)(b); or *e)* as a return of an advance premium or premium deposit for an Insurance Contract for which the premium is payable at least annually if the amount of the advance premium or premium deposit does not exceed the

			purposes other than for retirement; (ii) that is tax-favoured, such as contributions to the account that would otherwise be subject to tax are deductible or excluded from the gross income of the account holder or taxed at a reduced rate, or taxation of investment income from the account deferred or taxed at a reduced rate; (iii) where withdrawals are conditioned on meeting specific criteria related to the purpose of the investment or savings account such as the provision of educational or medical benefits, or penalties apply to withdrawals made before such criteria are met; and (iv) annual contributions are limited to the equivalent of fifty thousand United States dollars or less, applying the rules set out in paragraph C of the Common Reporting Standard Due Diligence Requirements set out in Section VII of Schedule 1; (c) a life insurance contract with a coverage period that will end before the insured individual attains ninety years of age, provided that the contract satisfies the following requirements: (i) periodic premiums, which do not	next annual premium that will be payable under the contract. Commentary on definition: Paragraph (b) excludes from the term "Cash Value" an amount payable under an Insurance Contract as a personal injury or sickness benefit or other benefit providing indemnification of an economic loss incurred upon the occurrence of the event insured against. Such "other benefit" does not include any benefit payable under an investment-linked insurance contract. An "investment-linked insurance contract" means an insurance contract under which benefits, premiums, or the period of coverage, are adjusted to reflect the investment return or market value of assets associated with the contract. The exclusions described in paragraphs (a) and (c) are amounts payable in connection with an investment-linked life insurance contract and, in paragraph (c), also an investment-linked life annuity contract. An "investment-linked life insurance contract" is an Insurance Contract that *(i)* is an investment-liked insurance contract; and *(ii)* is a life insurance contract. An "investment-linked life annuity contract" is an Annuity Contract that *(i)* is an investment-linked annuity contract; and *(ii)* is a life annuity contract. A policyholder dividend that satisfies all the requirements described in paragraph (d) is excluded from the term "Cash Value". A "policyholder dividend" is any dividend or similar distribution to policyholders in their capacity as such, including: *a)* an amount paid or credited (including as an increase in benefits) if the amount is not fixed in the contract but rather depends on the experience of the insurance company or the discretion of management;

		decrease over time, are payable at least annually during the period the contract is in existence or until the insured attains ninety years of age, whichever is shorter; (ii) the contract has no contract value that any person can access by withdrawal, loan, or otherwise, without terminating the contract; (iii) the amount, other than a death benefit, payable upon cancellation or termination of the contract cannot exceed the aggregate premiums paid for the contract, less the sum of mortality, morbidity and expense charges, whether or not actually imposed, for the period or periods of the existence of the contract and any amounts paid prior to the cancellation or termination of the contract; and (iv) the contract is not held by a transferee for value; (d) an account that is held solely by an estate if the documentation for such account includes a copy of - (i) the death certificate of the deceased; and (ii) a grant of probate or letters of administration in respect of the estate of the deceased;	*b)* a reduction in the premium that, but for the reduction, would have been required to be paid; and *c)* an experience rated refund or credit based solely upon the claims experience of the contract or group involved. A policyholder dividend cannot exceed the premiums previously paid for the contract, less the sum of the cost of insurance and expense changes (whether or not actually imposed) during the contract's existence and the aggregate amount of any prior dividends paid or credited with regard to the contract. A policyholder dividend does not include any amount that is in the nature of interest that is paid or credited to a contract holder to the extent that such amount exceeds the minimum rate of interest required to be credited with respect to contract values under local law. Micro insurance contracts that do not have a Cash Value (including a Cash Value equal to zero) will not be considered Cash Value Insurance Contracts. Insurance wrapper products, such as private placement life insurance contracts, would generally be considered Cash Value Insurance Contracts. An "insurance wrapper product" includes an insurance contract the assets of which are *(i)* held in an account maintained by a financial institution, and *(ii)* managed in accordance with a personalised investment strategy or under the control or influence of the policyholder, owner or beneficiary of the contract. Common reporting standards Section VIII- Defined Terms Part B Item 7: The term **"Cash Value Insurance Contract"** means an Insurance Contract (other than an indemnity reinsurance contract between two insurance companies) that has a Cash Value.

		(e) an account established in connection with- (i) a court order or judgement; (ii) a sale, exchange, or lease of real or personal property, provided that- (A) the account is funded solely with a down payment, earnest money, deposit in an amount appropriate to secure an obligation directly related to the transaction or a similar payment, or is funded with a financial asset that is deposited in the account in connection with the sale, exchange, or lease of the property; (B) the account is established and used solely to secure the obligation of the purchaser to pay the purchase price for the property, the seller to	Common reporting standards Section I(1)(g): The term **"CB Secretariat"** means the OECD Secretariat that, pursuant to paragraph 3 of Article 24 of the Convention, provides support to the co-ordinating body that is composed of representatives of the competent authorities of the Parties to the Convention. Common reporting standards Section VIII- Defined Terms Part B Item 1: The term **"Central Bank"** means an institution that is by law or government sanction the principal authority, other than the government of the jurisdiction itself, issuing instruments intended to circulate as currency. Such an institution may include an instrumentality that is separate from the government of the jurisdiction, whether or not owned in whole or in part by the jurisdiction. As defined by the Multilateral Convention for Administrative Assistance in Tax Matters Convention – "the standard for automatic exchange of financial account information developed by the OECD countries, presented to the G20 in 2014 and published on the OECD website". This has been further revised as drafted.

		pay any contingent liability, or the lessor or lessee to pay for any damages relating to leased property as agreed under the lease; (C) the assets of the account, including the income earned thereon, will be paid or otherwise distributed for the benefit of the purchaser, seller, lessor or lessee, including to satisfy the obligation of the person, when the property is sold, exchanged or surrendered or the lease terminates; (D) the account is not a margin or similar account established in connection with a sale or exchange of a financial asset; and	Common reporting standards Section VIII- Defined Terms Part D Item 6 The term **"Controlling Persons"** means the natural persons who exercise control over an Entity. In the case of a trust, such term means the settlor(s), the trustee(s), the protector(s) (if any), the beneficiary(ies) or class(es) of beneficiaries, and any other natural person(s) exercising ultimate effective control over the trust, and in the case of a legal arrangement other than a trust, such term means persons in equivalent or similar positions. The term "Controlling Persons" must be interpreted in a manner consistent with the Financial Action Task Force Recommendations. Commentary on definition: the definition of the term "Controlling Persons" corresponds to the term "beneficial owner" as described in Recommendation 10 and the Interpretative Note on Recommendation 10 of the Financial Action Task Force Recommendations (as adopted in February 2012),13 and must be interpreted in a manner consistent with such Recommendations, with the aim of protecting the international financial system from misuse including with respect to tax crimes. For an Entity that is a legal person, the term "Controlling Persons" means the natural person(s) who exercises control over the Entity. "Control" over an Entity is generally exercised by the natural person(s) who ultimately has a controlling ownership interest in the Entity. A "control ownership interest" depends on the ownership structure of the legal person and is usually identified on the basis of a threshold applying a risk-based approach (e.g. any person(s) owning more than a certain percentage of the legal person,

		(E) the account is not associated with an account described in paragraph (f); (iii) an obligation of a financial institution servicing a loan secured by real property to set aside a portion of a payment solely to facilitate the payment of taxes or insurance related to the real property at a later time; or (iv) an obligation of a financial institution solely to facilitate the payment of taxes at a later time; and (f) a depository account- (i) where the account exists solely because a customer makes a payment in excess of a balance due with respect to a credit card or other revolving credit facility and the overpayment is not immediately returned to the customer; and (ii) beginning or before a date to be prescribed, where the financial institution implements policies and procedures either to prevent a customer from making an overpayment in excess of the equivalent of fifty thousand United States dollars or to	such as 25%). Where no natural person(s) exercises control through ownership interests, the Controlling Person(s) of the Entity will be the natural person(s) who exercises control of the Entity through other means. Where no natural person(s) is identified as exercising control of the Entity, the Controlling Person(s) of the Entity will be the natural person(s) who holds the position of senior managing official. In the case of a trust, the term "Controlling Persons" means the settlor(s), the trustee(s), the protector(s) (if any), the beneficiary(ies) or class(es) of beneficiaries, and any other natural person(s) exercising ultimate effective control over the trust. The settlor(s), the trustee(s), the protector(s) (if any), and the beneficiary(ies) or class(es) of beneficiaries, must always be treated Common reporting standards Section VIII- Defined Terms Part C Item 3 The term **"Custodial Account"** means an account (other than an Insurance Contract or Annuity Contract) that holds one or more Financial Assets for the benefit of another person. Common reporting standards Section VIII- Defined Terms Part A Item 4 The term **"Custodial Institution"** means any Entity that holds, as a substantial portion of its business, Financial Assets for the account of others. Commentary on definition: An Entity holds Financial Assets for the account of others as a substantial portion of its business if the Entity's

		ensure that any customer overpayment in excess of the equivalent of fifty thousand United States dollars is refunded to the customer within sixty days, in each case applying the Special Due Diligence requirements set out in the Common Reporting Standard Due Diligence Requirements in Section VII, Part C of Schedule 1 for currency translation and a customer overpayment includes credit balance resulting from merchandise returns but does not refer to credit balances to the extent of disputed charges; (g) any other account that presents a low risk of being used to evade tax, as set out in an order prescribed by the Minister;	gross income attributable to the holding of Financial Assets and related financial services equals or exceeds 20% of the Entity's gross income during the shorter of: • the three-year period that ends on 31 December (or the final day of a non-calendar year accounting period) prior to the year in which the determination is being made; or • the period during which the Entity has been in existence. "Income attributable to holding Financial Assets and related financial services" means custody, account maintenance, and transfer fees; commissions and fees earned from executing and pricing securities transactions with respect to Financial Assets held in custody; income earned from extending credit to customers with respect to Financial Assets held in custody (or acquired through such extension of credit); income earned on the bid-ask spread of Financial Assets held in custody; and fees for providing financial advice with respect to Financial Assets held in (or potentially to be held in) custody by the entity; and for clearance and settlement services. Entities that safe keep Financial Assets for the account of others, such as custodian banks, brokers and central securities depositories, would generally be considered Custodial Institutions. Entities that do not hold Financial Assets for the account of others, such as insurance brokers, will not be Custodial Institutions. Common reporting standards Section VIII- Defined Terms Part A Item 2 The term **"Depository Account"** includes any commercial, checking, savings, time, or thrift account, or an account that is evidenced by a certificate of deposit, thrift certificate, investment

		"exempt collective investment vehicle" means an investment entity that is regulated as a collective investment vehicle, provided that all of the interests in the collective investment vehicle are held by or through individuals or Entities that are not reportable persons, except a Passive NFE with controlling persons who are reportable persons however an investment entity that is regulated as a collective investment vehicle does not fail to qualify as an exempt collective investment vehicle, solely because the collective investment vehicle has issued physical shares in bearer form, provided that- (a) the collective investment vehicle has not issued, and does not issue, any physical shares in bearer form after a date to be prescribed; (b) the collective investment vehicle retires all such shares upon surrender; (c) the collective investment vehicle performs the due diligence procedures set forth in Schedule 1 and reports any information required to be reported with respect to any such shares when such shares are presented for redemption or other payment; and (d) the collective investment vehicle has in place policies and procedures to ensure that such shares are redeemed or immobilised as soon as possible, and in any event prior to a date to be prescribed.	certificate, certificate of indebtedness, or other similar instrument maintained by a Financial Institution in the ordinary course of a banking or similar business. A Depository Account also includes an amount held by an insurance company pursuant to a guaranteed investment contract or similar agreement to pay or credit interest thereon. Commentary on definition: An account that is evidenced by a passbook would generally be considered a Depository Account. Negotiable debt instruments that are traded on a regulated market or over-the counter market and distributed and held through Financial Institutions would not generally be considered Depository Accounts, but Financial Assets. An Entity is considered to be engaged in a "banking or similar business" if, in the ordinary course of its business with customers, the Entity accepts deposits or other similar investments of funds and regularly engages in one or more of the following activities: *a)* makes personal, mortgage, industrial, or other loans or provides other extensions of credit; *b)* purchases, sells, discounts, or negotiates accounts receivable, instalment obligations, notes, drafts, checks, bills of exchange, acceptances, or other evidences of indebtedness; *c)* issues letters of credit and negotiates drafts drawn thereunder; *d)* provides trust or fiduciary services; *e)* finances foreign exchange transactions; or *f)* enters into, purchases, or disposes of finance leases or leased assets. An Entity is not considered to be engaged in a banking or similar business if the Entity solely accepts deposits from persons as a collateral or security pursuant to a

			sale or lease of property or pursuant to a similar financing arrangement between such Entity and the person holding the deposit with the Entity. Savings banks, commercial banks, savings and loan associations, and credit unions would generally be considered Depository Institutions. However, whether an Entity conducts a banking or similar business is determined based upon the character of the actual activities of such Entity.
		"financial account" means an account that is maintained by a financial institution which is not an excluded account and includes a depository account, a custodial account and- (a) in the case of an investment entity, any equity or debt interest in the financial institution but does not include any equity or debt interest in an entity that is an investment entity solely because it- (i) renders investment advice to, and acts on behalf of; or (ii) manages portfolios for and acts on behalf of a customer for the purpose of investing, managing, or administering financial assets deposited in the name of the customer with a financial institution other than such entity; (b) in the case of financial institutions not described in paragraph (a), any equity or debt interest in the financial institution, if the class of interests was established with a purpose of avoiding reporting in accordance with section 12(3); and	Common reporting standards Section VIII- Defined Terms Part A Item 5 The term **"Depository Institution"** means any Entity that accepts deposits in the ordinary course of a banking or similar business. Common reporting standards Section VIII- Defined Terms Part E Item 3 The term **"Entity"** means a legal person or a legal arrangement, such as a corporation, partnership, trust, or foundation. Common reporting standards Section VIII- Defined Terms Part C Item 17 The term **"Excluded Account"** means any of the following accounts: *a)* a retirement or pension account that satisfies the following requirements: *i)* the account is subject to regulation as a personal retirement account or is part of a registered or regulated retirement or

		(c) any cash value insurance contract and any annuity contract issued or maintained by a financial institution, other than a non-investment-linked, non-transferable immediate life annuity that is issued to an individual and monetises a pension or disability benefit provided under an account that is an excluded account;	pension plan for the provision of retirement or pension benefits (including disability or death benefits); *ii)* the account is tax-favoured (i.e. contributions to the account that would otherwise be subject to tax are deductible or excluded from the gross income of the account holder or taxed at a reduced rate, or taxation of investment income from the account is deferred or taxed at a reduced rate); *iii)* information reporting is required to the tax authorities with respect to the account; *iv)* withdrawals are conditioned on reaching a specified retirement age, disability, or death, or penalties apply to withdrawals made before such specified events; and *v)* either *(i)* annual contributions are limited to USD 50 000 or less, or *(ii)* there is a maximum lifetime contribution limit to the account of USD 1 000 000 or less, in each case applying the rules set

		"financial institution" means a custodial institution, depository institution, an investment entity or a specified insurance company; "information" means facts, statements or records in any form whatsoever; "information gathering measures" means laws or administrative procedures that enable the Board to obtain and provide the requested information; "international organisation" means any international organisation or wholly owned agency or instrumentality thereof and includes any intergovernmental organisation and supranational organisation- (a) that is comprised primarily of governments; (b) that has in effect a headquarters or substantially similar agreement with the jurisdiction; and (c) the income of which does not inure to the benefit of private persons; "insurance contract" means a contract, other than an annuity contract, under which the issuer agrees to pay an amount upon the occurrence of a specified contingency involving mortality, morbidity, accident, liability or property risk;	forth in paragraph C of Section VII for account aggregation and currency translation. A Financial Account that otherwise satisfies the requirement of subparagraph C(17)(a)(v) will not fail to satisfy such requirement solely because such Financial Account may receive assets or funds transferred from one or more Financial Accounts that meet the requirements of subparagraph C(17)(a) or (b) or from one or more retirement or pension funds that meet the requirements of any of subparagraphs B(5) through (7). *b)* an account that satisfies the following requirements: *i)* the account is subject to regulation as an investment vehicle for purposes other than for retirement and is regularly traded on an established securities market, or the account is subject to regulation as a savings vehicle for purposes other than for retirement; *ii)* the account is tax-favoured (i.e. contributions to the account that would otherwise be subject to tax are deductible or excluded from the

		"investment entity" means an entity- (a) that primarily conducts as a business one or more of the following activities or operations for, or on behalf of a customer: (i) trading in foreign exchange, exchange, interest rate and index instruments, transferable securities or commodities futures trading or money market instruments, such as cheques, bills, certificates of deposits, derivatives; (ii) individual and collective portfolio management; or (iii) otherwise investing, administering or managing financial assets or money on behalf of other persons; or (b) the gross income of which is primarily attributable to investing, reinvesting, or trading in financial assets, if the entity is managed by another entity that is a depository institution, a custodial institution, a specified insurance company or an investment entity under paragraph (a), but does not include an entity that is an active NFE;	gross income of the account holder or taxed at a reduced rate, or taxation of investment income from the account is deferred or taxed at a reduced rate); *iii)* withdrawals are conditioned on meeting specific criteria related to the purpose of the investment or savings account (for example, the provision of educational or medical benefits), or penalties apply to withdrawals made before such criteria are met; and *iv)* annual contributions are limited to USD 50 000 or less, applying the rules set forth in paragraph C of Section VII for account aggregation and currency translation. A Financial Account that otherwise satisfies the requirement of subparagraph C(17)(b)(iv) will not fail to satisfy such requirement solely because such Financial Account may receive assets or funds transferred from one or more Financial Accounts that meet the requirements of subparagraph C(17)(a) or (b) or from one or more retirement or pension funds that meet the requirements of any of subparagraphs B(5) through (7).

		"Minister" means the Minister to whom responsibility for finance is assigned; "narrow participating retirement fund" means a fund established to provide retirement, disability, or death benefits to beneficiaries that are current or former employees, or persons designated by such employees, of one or more employers in consideration for services rendered, provided that- (a) the fund has fewer than fifty participants; (b) the fund is sponsored by one or more employers that are not investment entities or passive NFEs; (c) the employee and employer contributions to the fund, other than transfers of assets from	*c)* a life insurance contract with a coverage period that will end before the insured individual attains age 90, provided that the contract satisfies the following requirements: *i)* periodic premiums, which do not decrease over time, are payable at least annually during the period the contract is in existence or until the insured attains age 90, whichever is shorter; *ii)* the contract has no contract value that any person can access (by withdrawal, loan, or otherwise) without terminating the contract; *iii)* the amount (other than a death benefit) payable upon cancellation or termination of the contract cannot exceed the aggregate premiums paid for the contract, less the sum of mortality, morbidity, and expense charges (whether or not actually imposed) for the period or periods of the contract's existence and any amounts paid prior to the cancellation or termination of the contract; and *iv)* the contract is not held by a transferee for value. *d)* an account that is held solely by an estate if the documentation for such account includes a copy

		retirement and pension accounts described in paragraph (a) of the definition of excluded account are limited by reference to earned income and compensation of the employee, respectively; (d) participants that are not residents of the jurisdiction in which the fund is established are not entitled to more than twenty per cent of the assets of the fund; and (e) the fund is subject to government regulation and provides information reporting to the tax authorities; "national" means any individual possessing citizenship of Trinidad and Tobago and any legal person, partnership or association deriving its status as such from any written laws in force in Trinidad and Tobago; "new account" means a financial account maintained by a reporting financial institution opened on or after a date to be prescribed;	of the deceased's will or death certificate. *e)* an account established in connection with any of the following: *i)* a court order or judgment. *ii)* a sale, exchange, or lease of real or personal property, provided that the account satisfies the following requirements: *i)* the account is funded solely with a down payment, earnest money, deposit in an amount appropriate to secure an obligation directly related to the transaction, or a similar payment, or is funded with a Financial Asset that is deposited in the account in connection with the sale, exchange, or lease of the property; *ii)* the account is established and used solely to secure the obligation of the purchaser to pay the purchase price for the property, the seller to pay any contingent liability, or the lessor or lessee to pay for any damages relating to the

		"new entity account" means a New Account held by one or more Entities; "new individual account" means a new account held by one or more individuals; "NFE" means an entity that is not a financial institution; "non-reporting financial institution" means any financial institution that is- (a) a Governmental entity, International Organisation or Central Bank, other than with respect to a payment that is derived from an obligation held in connection with a commercial financial activity of a type engaged in by a specified insurance company, custodial institution, or depository institution; (b) a broad participation retirement fund; a narrow participation retirement fund; a pension fund of a Governmental entity, International Organisation or Central Bank; or a qualified credit card issuer; (c) any other entity that presents a low risk of being used to evade tax, has substantially similar characteristics to any of the entities described in paragraphs (a) and (b), and is defined in domestic law as a non-reporting financial institution, provided that the status of such entity as a non-reporting financial institution does not frustrate	leased property as agreed under the lease; *iii)* the assets of the account, including the income earned thereon, will be paid or otherwise distributed for the benefit of the purchaser, seller, lessor, or lessee (including to satisfy such person's obligation) when the property is sold, exchanged, or surrendered, or the lease terminates; *iv)* the account is not a margin or similar account established in connection with a sale or exchange of a Financial Asset; and *v)* the account is not associated with an account described in subparagraph C(17)(f). *iii)* an obligation of a Financial Institution servicing a loan secured by real property to set aside a portion of a payment solely to facilitate the payment of taxes or insurance related to the real property at a later time. *iv)* an obligation of a Financial Institution

		the purposes of the Common Reporting Standard; (d) an exempt collective investment vehicle; or (e) a trust to the extent that the trustee of the trust is a reporting financial institution and reports all information required to be reported under this Act with respect to all reportable accounts of the trust; "Party" means a State party to the Convention as listed in Schedule 4;	solely to facilitate the payment of taxes at a later time. *f)* a Depository Account that satisfies the following requirements: *i)* the account exists solely because a customer makes a payment in excess of a balance due with respect to a credit card or other revolving credit facility and the overpayment is not immediately returned to the customer; and *ii)* beginning on or before [xx/xx/xxxx], the Financial Institution implements policies and procedures either to prevent a customer from making an overpayment in excess of USD 50 000, or to ensure that any customer overpayment in excess of USD 50 000 is refunded to the customer within 60 days, in each case applying the rules set forth in paragraph C of Section VII for currency translation. For this purpose, a customer overpayment does not refer to credit balances to the extent of disputed charges but does include credit balances resulting from merchandise returns. *g)* any other account that presents a low risk of being used to evade tax, has substantially similar characteristics to any of

		"participating jurisdiction" means a jurisdiction listed in Schedule 5; "participating jurisdiction financial institution" means – (a) any financial institution that is resident in a participating jurisdiction but excludes any branch of that financial institution that is located outside such participating jurisdiction; and (b) any branch of a financial institution that is not resident in a participating jurisdiction, if that branch is located in such participating jurisdiction;	the accounts described in subparagraphs C(17)(a) through (f), and is defined in domestic law as an Excluded Account, provided that the status of such account as an Excluded Account does not frustrate the purposes of the Common Reporting Standard. Commentary of "Excluded Account": These categories would typically be consistent with the types of accounts excluded from the definition of "Financial Accounts" in the intergovernmental agreement concluded between such jurisdiction and the United States to improve international tax compliance including with respect to FATCA, provided that such types of accounts satisfy all the relevant requirements listed in the definition. For purposes of determining whether an account satisfies all the requirements of a particular category of Excluded Account, a Reporting Financial Institution may rely on information in its possession (including information collected pursuant to AML/KYC Procedures) or that is publicly available, based on which it can reasonably determine that the account is an Excluded Account. As a practical matter, a Reporting Financial Institution that only maintains accounts that are Excluded Accounts does not have any reporting obligations. However, it may have other obligations imposed on the Reporting Financial Institution, such as filing a nil return in the absence of Reportable Accounts. A retirement or pension account can be an Excluded Account, provided that it satisfies all the requirements listed in paragraph (a). Those requirements must be satisfied under the laws of the jurisdiction where the account is

		"passive NFE" means any- (a) NFE that is not an active NFE; or (b) an investment entity described in paragraph (b) of the definition of "investment entity" that is not a participating jurisdiction financial institution; "pension fund of a governmental entity, international organisation or central bank" means a fund established by a governmental entity, international organisation or central bank to provide retirement, disability, or death benefits to beneficiaries or participants that are current or former employees, or persons designated by such employees, or that are not current or former employees, if the benefits provided to such beneficiaries or participants are in consideration of personal services performed for the governmental entity, international organisation or central bank; "pre-existing account" means a financial account maintained by a reporting	maintained. In summary, it is required that: *a)* the account is subject to regulation; *b)* the account is tax-favoured information reporting is required to the tax authorities with respect to the account; *d)* withdrawals are conditioned on reaching a specified retirement age, disability, or death, or penalties apply to withdrawals made before such specified events; and *e)* either *(i)* annual contributions are limited to USD 50 000 or less, or *(ii)* there is a maximum lifetime contribution limit to the account of USD 1 000 000 or less, excluding rollovers. Information reporting required in paragraph (a)(iii) may vary among jurisdictions. While one jurisdiction could require annual information with respect to the account, another jurisdiction could require monthly information with respect to contributions to the account and associated tax relief, and annual information with respect to Account Holders and total contributions to the account. Thus, provided there is information reporting required to the relevant tax authorities in the jurisdiction where the account is maintained, the time and manner of such reporting is not determinative of whether the account satisfies the requirement under paragraph (a)(iii). A non-retirement account can be an Excluded Account, provided that it satisfies all the requirements listed in subparagraph C(17)(b). Those requirements must be satisfied under the laws of the jurisdiction where the account is maintained. In summary, it is required that: *a)* the account is subject to regulation, and in the case of an investment vehicle is regularly traded on an established securities market (see paragraph 112 below); *b)* the account is tax-favoured; *c)* withdrawals are conditioned on meeting specified criteria, or penalties apply to withdrawals made before such criteria are met;

		financial institution as of 30th June, 2017; "related entity of an entity" means if either entity controls the other entity, or the two entities are under common control including direct or indirect ownership of more than fifty per cent of the vote and value in an entity; "reportable account" means an account held by one or more reportable persons or by a passive NFE with one or more controlling persons that is a reportable person, provided it has been identified as such pursuant to the Common Reporting Standard Due Diligence Requirements described in Schedule 1; "reportable jurisdiction" for the purpose of applying- (a) the due diligence requirements described in Sections II to VII of Schedule 1, any jurisdiction other than the United States of America or Trinidad and Tobago; or (b) the reporting requirements described in Sections I and II of Schedule 1, any jurisdiction which is listed in Schedule 2;	and *d)* annual contributions are limited to USD 50 000 or less, excluding rollovers. Term life insurance contracts -A life insurance contract with a coverage period that will end before the insured individual attains age 90, can be an Excluded Account, provided that the contract satisfies all the requirements listed in paragraph (c). A "life insurance contract" is an Insurance Contract under which the issuer, in exchange for consideration, agrees to pay an amount upon the death of one or more individuals. Estate accounts According to paragraph (d), an account that is held solely by an estate can be an Excluded Account if the documentation for such account includes a copy of the deceased's will or death certificate. For this purpose, the Reporting Financial Institution must treat the account as having the same status that it had prior to the death of the Account Holder until the date it obtains such copy. In determining what is meant by "estate", reference must be made to each jurisdiction's particular rules on the transfer or inheritance of rights and obligations in the event of death (e.g. the rules on universal succession). Escrow accounts - Paragraph (e) generally refers to accounts where money is held by a third party on behalf of transacting parties (i.e. escrow accounts).These accounts can be excluded Accounts where they are established in connection with any of the following: *a)* a court order or judgment. *b)* a sale, exchange, or lease of real or personal property, provided that the account satisfies all the requirements listed in paragraph (e)(ii). *c)* an obligation of a Financial Institution servicing a loan secured by real property to set aside a portion of a payment solely to facilitate the payment of taxes or insurance related to the real property at a later time. *d)* an obligation of a Financial Institution solely to facilitate the payment of taxes at a later time.

		"reportable person" means a reportable jurisdiction person who is not - (a) a corporation, the stock of which is regularly traded on one or more established securities market; (b) any corporation that is a related entity of a corporation described in paragraph (a); (c) a Government entity; (d) an International Organisation; (e) a Central Bank; or (f) a financial institution;	Common reporting standards Section VIII- Defined Terms Part B Item 9 The term **"Exempt Collective Investment Vehicle"** means an Investment Entity that is regulated as a collective investment vehicle, provided that all of the interests in the collective investment vehicle are held by or through individuals or Entities that are not Reportable Persons, except a Passive NFE with Controlling Persons who are Reportable Persons. An Investment Entity that is regulated as a collective investment vehicle does not fail to qualify under subparagraph B(9) as an Exempt Collective Investment Vehicle, solely because the collective investment vehicle has issued physical shares in bearer form, provided that: *a)* the collective investment vehicle has not issued, and does not issue, any physical shares in bearer form after [xx/xx/xxxx]; *b)* the collective investment vehicle retires all such shares upon surrender; *c)* the collective investment vehicle performs the due diligence procedures set forth in Sections II through VII and reports any information required to be reported with respect to any such shares when such shares are presented for redemption or other payment; and *d)* the collective investment vehicle has in place policies and

		"reportable jurisdiction person" means an individual or entity that is resident in a reportable jurisdiction under the tax laws of such jurisdiction, or an estate of a decedent that was resident of a reportable jurisdiction and where an entity such as a partnership, limited liability partnership or similar legal arrangement has no residence for tax purposes it shall be treated as resident in the jurisdiction in which its place of effective management is situated; "reporting financial institution" means any Trinidad and Tobago financial	procedures to ensure that such shares are redeemed or immobilised as soon as possible, and in any event prior to [xx/xx/xxxx]. Commentary of definition: As a practical matter, an Investment Entity all the interests in which are held by or through non-Reportable Persons would generally not have any reporting obligations, irrespective of whether it qualifies as an Exempt Collective Investment Vehicle under subparagraph B(9). However, such qualification may be relevant to other obligations imposed on the Investment Entity, such as filing a nil return in the absence of Reportable Accounts (if provided under domestic law). A rule to be used where a jurisdiction has previously allowed collective investment vehicles to issue bearer shares, is further provided by the definition. An Investment Entity that is regulated as a collective investment vehicle does not fail to qualify as an Exempt Collective Investment Vehicle, solely because the collective investment vehicle has issued physical shares in bearer form, provided that: a) the collective investment vehicle has not issued, and does not issue, any physical shares in bearer form after [xx/xx/xxxx]; *b)* the collective investment vehicle retires all such shares upon surrender; *c)* the collective investment vehicle performs the due diligence procedures set forth in Sections II through VII and reports any information required to be reported with respect to any such shares when such shares are presented for redemption or other payment; and

		institution that is not a non-reporting financial institution; "requested State" means any Party requested to provide administrative assistance in tax matters under this Act; "specified insurance company" means an entity that is an insurance company, or the holding company of an insurance company, that issues or is obligated to make payments with respect to a cash value insurance contract or an annuity contract; "tax" means any tax to which the Convention and the Tax Information Exchange Agreements (United States of America) Act, 2017 applies; "TIN" means taxpayer identification number or the functional equivalent in the absence of a taxpayer identification number; "tax claim" means any amount of tax, as well as interest thereon, related administrative fines and costs	*d)* the collective investment vehicle has in place policies and procedures to ensure that such shares are redeemed or immobilised as soon as possible and in any event prior to [xx/xx/xxxx]. Common reporting standards Section VIII- Defined Terms Part A Item 5 The term **"Financial Account"** means an account maintained by a Financial Institution, and includes a Depository Account, a Custodial Account and: *a)* in the case of an Investment Entity, any equity or debt interest in the Financial Institution. Notwithstanding the foregoing, the term "Financial Account" does not include any equity or debt interest in an Entity that is an Investment Entity solely because it *(i)* renders investment advice to, and acts on behalf of, or *(ii)* manages portfolios for, and acts on behalf of, a customer for the purpose of investing, managing, or administering Financial Assets deposited in the name of the customer with a Financial Institution other than such Entity; *b)* in the case of a Financial Institution not described in subparagraph C(1)(a), any equity or debt interest in the Financial Institution, if the class of interests was established with a purpose of

		incidental to recovery, which are owed and not yet paid; and "Trinidad and Tobago financial institution" means- (a) a financial institution that is resident in Trinidad and Tobago, but excludes any branch of that financial institution that is located outside of Trinidad and Tobago; and (b) any branch of a financial institution, if that is not resident in Trinidad and Tobago. (2) For the purposes of the definition of "custodial account" a substantial portion of a business of an entity is where the gross income of the entity attributable to the holding of financial assets and related financial services equals or exceeds twenty per cent of the gross income of the entity during the shorter of – (a) the three-year period that ends on 31st December or the final day of a non-calendar year accounting period, prior to the year in which the determination is being made; or (b) the period during which the entity has been in existence; (3) For the purposes of the definition "excluded account" a financial account that otherwise satisfies the requirement set out in paragraph (a)(v) or (b)(iv) of that definition will not fail to satisfy such requirements because	avoiding reporting in accordance with Section I; and *c)* any Cash Value Insurance Contract and any Annuity Contract issued or maintained by a Financial Institution, other than a noninvestment-linked, non-transferable immediate life annuity that is issued to an individual and monetises a pension or disability benefit provided under an account that is an Excluded Account.[1] The term "Financial Account", however, does not include any account that is an Excluded Account and is, thus, not subject to the due diligence procedures that apply for purposes of identifying Reportable Accounts among Financial Accounts (such as obtaining a self-certification). In addition, the term "Financial Account" does not include certain Annuity Contracts described in paragraph (c): a noninvestment-linked, non-transferable, immediate life annuity that is issued to an individual and monetises a pension or disability benefit provided under an account that is an Excluded Account. Pension or disability benefits include retirement or death benefits, respectively. A "noninvestment-linked, non-

[1] For example, in some Participating Jurisdictions securities may be held in owner-registered accounts that are maintained by a central securities depository and operated by other Financial Institutions. In principle, the central securities depository would be treated as the Reporting Financial Institution with respect to the accounts and, thus, responsible for fulfilling all due diligence and reporting obligations. However, since the client relationships are managed and the due diligence procedures are applied by the other Financial Institutions in their capacity of account operators, the central securities depository may not be in a position to comply with such obligations. Participating Jurisdictions may address such a case, for example, by treating the relevant Custodial Accounts as held by such other Financial Institutions, and such other Financial Institutions as responsible for any reporting required with respect to such Custodial Accounts. However, where the relevant Custodial Accounts are treated as held by such other Financial Institutions, in accordance with paragraph D of Section II, a central securities depository may report on behalf of such other Financial Institutions. A similar case may occur in some Participating Jurisdictions where trades of equity interests in an exchange traded fund are effected, and the due diligence procedures are applied, by brokers, but the end investors are directly registered in the fund's interest register. In principle, the fund would be treated as the Reporting Financial Institution with respect to the equity interests; however, it would not have the information to comply with its reporting obligations. Participating Jurisdictions may address such a case, for example, by requiring the brokers to provide all the necessary information to the fund, so that it may fulfil its reporting obligations.

		such financial account may receive assets or funds transferred from one or more financial account that meet the requirements of paragraph (a) or (b), or from one or more retirement or pension funds that meet the requirements of a broad participation retirement fund, narrow participation retirement fund or pension fund of a governmental entity, international organisation or Central Bank. (4) For the purposes of the definition of "investment entity" an entity is treated as primarily conducting as a business of one or more of the activities described in paragraph (a) of that definition or the gross income of an entity is primarily attributable to investing, reinvesting or trading in financial assets for the purposes of paragraph (b) of the definition, if the gross income of the entity attributable to the relevant activities equals or exceeds fifty per cent of the gross income of the entity during the shorter of the three-year period ending on the 31st December of the year preceding the year in which the determination is made or the period during which the entity has been in existence, however the term investment entity does not include an entity that is an Active NFE because it meets any of the criteria in subparagraphs 4(1)(d) . (5) For the purposes of applying- (a) a due diligence requirements described in Section II to VII of Schedule I, the definition of "reportable jurisdiction" means any jurisdiction other than the United States of America and Trinidad and Tobago; and (b) the reporting requirements described in Section I of Schedule I and Section II, the definition "reportable jurisdiction" means any jurisdiction which is listed in Schedule 2.	transferable, immediate life annuity" is a non-transferable Annuity Contract that *(i)* is not an investment-linked annuity contract; *(ii)* is an immediate annuity; and *(iii)* is a life annuity contract. The term "investment-linked annuity contract" means an Annuity Contract under which benefits or premiums are adjusted to reflect the investment return or market value of assets associated with the contract. The term "immediate annuity" means an Annuity Contract that *(i)* is purchased with a single premium or annuity consideration; and *(ii)* no later than one year from the purchase date of the contract commences to pay annually or more frequently substantially equal periodic payments. The term "life annuity contract" means an Annuity Contract that provides for payments over the life or lives of one or more individuals. According to paragraph (a), any equity or debt interest in an Investment Entity is considered a Financial Account. However, equity or debt interests in an Entity that is an Investment Entity solely because it is an investment advisor, or an investment manager, are not Financial Accounts. Thus, equity or debt interests that would generally be considered Financial Accounts include equity or debt interests in an Investment Entity *(i)* that is a professionally managed investment entity, or *(ii)* that functions or holds itself out as a collective investment vehicle, mutual fund, exchange traded fund, private equity fund, hedge fund, venture capital fund, leveraged buyout fund, or any similar investment vehicle established with an investment strategy of investing, reinvesting, or trading in Financial Assets. According to (b), an equity or debt interest in a Financial Institution other than those described in paragraph (a) is considered a Financial Account only if the class of interests was established with a purpose of avoiding reporting in

			accordance with Section I. Thus, equity or debt interests in a Custodial Institution, Depository Institution, Investment Entity other than an investment advisor or an investment manager described in paragraph (a), or Specified Insurance Company, that were established with a purpose of avoiding reporting will be Financial Accounts. In general, an account would be considered to be maintained by a Financial Institution as follows: • in the case of a Custodial Account, by the Financial Institution that holds custody over the assets in the account (including a Financial Institution that holds assets in street name for an Account Holder in such institution). • in case of a Depository Account, by the Financial Institution that is obligated to make payments with respect to the account (excluding an agent of a Financial Institution regardless of whether such agent is a Financial Institution). • in the case of any equity or debt interest in a Financial Institution that constitutes a Financial Account, by such Financial Institution. • in the case of a Cash Value Insurance Contract or an Annuity Contract, by the Financial Institution that is obligated to make payments with respect to the contract. However, jurisdictions have diverse legal, administrative and operational frameworks and different financial systems, and the meaning of “maintaining an account” may vary among jurisdictions depending on how a particular financial industry is structured. In some cases, a Reporting Financial Institution may not possess all the information to be reported with respect to an account and domestic guidance may be needed in such regard. In adopting such guidance, care should be taken to address any inconsistencies that may arise in a cross-border context, in particular with respect to jurisdictions that are not Participating Jurisdictions or to Financial Institutions that are

			not Participating Jurisdiction Financial Institutions, so that the guidance does not frustrate the purposes of the Common Reporting Standard Common Reporting Standards Section VIII- Defined Terms Part A Item 3 The term **"Financial Institution"** means a Custodial Institution, a Depository Institution, an Investment Entity, or a Specified Insurance Company. Commentary on definition- 8. Whether an Entity is subject to the financial laws and regulations of a Participating Jurisdiction, or is subject to supervision and examination by agencies having regulatory oversight of financial institutions, is relevant to, but not necessarily determinative of, whether that Entity qualifies as a Financial Institution under subparagraph A(3). Common reporting standards Section VIII- Defined Terms Part B Item 3 The term **"International Organisation"** means any international organisation or wholly owned agency or instrumentality thereof. This category includes any intergovernmental organisation (including a supranational organisation) *(1)* that is comprised primarily of governments; *(2)* that has in effect a headquarters or substantially similar agreement with the jurisdiction; and *(3)* the income of which does not inure

			to the benefit of private persons. Common Reporting Standards Section VIII- Defined Terms Part C Item 5 The term **"Insurance Contract"** means a contract (other than an Annuity Contract) under which the issuer agrees to pay an amount upon the occurrence of a specified contingency involving mortality, morbidity, accident, liability, or property risk. Common Reporting Standards Section VIII- Defined Terms Part A Item 6 The term **"Investment Entity"** means any Entity: *a)* that primarily conducts as a business one or more of the following activities or operations for or on behalf of a customer: *i)* trading in money market instruments (cheques, bills, certificates of deposit, derivatives, etc.); foreign exchange; exchange, interest rate and index instruments; transferable securities; or commodity futures trading; *ii)* individual and collective portfolio management; or *iii)* otherwise investing, administering, or managing Financial Assets or money on behalf of other persons; or *b)* the gross income of which is primarily

			attributable to investing, reinvesting, or trading in Financial Assets, if the Entity is managed by another Entity that is a Depository Institution, a Custodial Institution, a Specified Insurance Company, or an Investment Entity described in subparagraph A(6)(a). Commentary on definition: paragraph (a) defines the first type of "Investment Entity" as any Entity that primarily conducts as a business one or more of the following activities or operations for or on behalf of a customer: *a)* trading in money market instruments (cheques, bills, certificates of deposit, derivatives, etc.); foreign exchange; exchange, interest rate and index instruments; transferable securities; or commodity futures trading; *b)* individual and collective portfolio management; or *c)* otherwise investing, administering, or managing Financial Assets or money on behalf of other persons. Such activities or operations do not include rendering non-binding investment advice to a customer. Paragraph (b) defines the second type of "Investment Entity" as any Entity the gross income of which is primarily attributable to investing, reinvesting, or trading in Financial Assets, if the Entity is managed by another Entity that is a Depository Institution, a Custodial Institution, a Specified Insurance Company, or an Investment Entity described in paragraph (a). An Entity is "managed by" another Entity if the managing Entity performs, either directly or through another service provider, any of the activities or operations described in paragraph (a) on behalf of the managed Entity. However, an Entity does not manage another Entity if it does

			not have discretionary authority to manage the Entity's assets (in whole or part). Where an Entity is managed by a mix of Financial Institutions, NFEs or individuals, the Entity is considered to be managed by another Entity that is a Depository Institution, a Custodial Institution, a Specified Insurance Company, or an Investment Entity described in paragraph (a), if any of the managing Entities is such another Entity. An Entity is treated as primarily conducting as a business one or more of the activities described in paragraph (a), or an Entity's gross income is primarily attributable to investing, reinvesting, or trading in Financial Assets for purposes of paragraph (b), if the Entity's gross income attributable to the relevant activities equals or exceeds 50% of the Entity's gross income during the shorter of: • the three-year period ending on 31 December of the year preceding the year in which the determination is made; or • the period during which the Entity has been in existence. The term "Investment Entity", as defined does not include an Entity that is an Active NFE because it meets any of the criteria in paragraph (d) through (g) of the definition of "Active NFE" (i.e. holding NFEs and treasury centres that are members of a nonfinancial group; start-up NFEs; and NFEs that are liquidating or emerging from bankruptcy). An Entity would generally be considered an Investment Entity if it functions or holds itself out as a collective investment vehicle, mutual fund, exchange traded fund, private equity fund, hedge fund, venture capital fund, leveraged buy-out fund or any similar investment vehicle established with an investment strategy of investing, reinvesting, or trading in Financial Assets. An Entity that primarily conducts as a business investing, administering, or managing non-debt, direct interests in real property on behalf

			of other persons, such as a type of real estate investment trust, will not be an Investment Entity. The definition of the term "Investment Entity" also provides that it is tol be interpreted in a manner consistent with similar language set forth in the definition of "financial institution" in the Financial Action Task Force Recommendations.[2] Included for drafting purposes Common Reporting Standards Section VIII- Defined Terms Part A Item 5 The term **"Narrow Participation Retirement Fund"** means a fund established to provide retirement, disability, or death benefits to beneficiaries that

[2] The following examples illustrate the application of subparagraph A(6): • Example 1 (Investment advisor): Fund manager is an Investment Entity within the meaning of subparagraph A(6)(a). Fund manager, among its various business operations, organises and manages a variety of funds, including Fund A, a fund that invests primarily in equities. Fund manager hires Investment advisor, an Entity, to provide advice and discretionary management of a portion of the Financial Assets held by Fund A. Investment advisor earned more than 50% of its gross income for the last three years from providing similar services. Because Investment advisor primarily conducts a business of managing Financial Assets on behalf of clients, Investment advisor is an Investment Entity under paragraph (a) of the definition. It is recognised, however, that only the Investment Entity maintaining the Financial Accounts will be responsible for the reporting and due diligence obligations with respect to such Financial Accounts (see paragraphs 57-65 of the Commentary on Section VIII). • Example 2 (Entity that is managed by a Financial Institution): The facts are the same as in Example 1. In addition, in every year since it was organised, Fund A has earned more than 50% of its gross income from investing in Financial Assets. Accordingly, Fund A is an Investment Entity under subparagraph A(6)(b) because it is managed by Fund manager and Investment advisor and its gross income is primarily attributable to investing, reinvesting, or trading in Financial Assets.
• Example 3 (Investment manager): Investment manager, a Jurisdiction B Entity, is an Investment Entity within the meaning of subparagraph A(6)(a). Investment manager organises and registers
Fund A in Jurisdiction A. Investment manager is authorised to facilitate purchases and sales of Financial Assets held by Fund A in accordance with Fund A's investment strategy. In every year since it was organised, Fund A has earned more than 50% of its gross income from investing, reinvesting, or trading in Financial Assets. Accordingly, Fund A is an Investment Entity under subparagraph A(6)(b). Example 4 (Real estate investment fund that is managed by a Financial Institution): The facts are the same as in Example 3, except that Fund A's assets consist solely of non-debt, direct interests in real property located within and outside of Jurisdiction B. Fund A is not an Investment Entity under subparagraph A(6)(b), even though it is managed by Investment manager, because less than 50% of its gross income is attributable to investing, reinvesting, or trading in Financial Assets. • Example 5 (Trust managed by an individual): X, an individual, establishes Trust A, an irrevocable trust for the benefit of X's children, Y and Z. X appoints Trustee A, an individual, to act as the trustee of Trust A. Trust A's assets consist solely of Financial Assets, and its income consists solely of income from those Financial Assets. Pursuant to the terms of the trust instrument, Trustee A manages and administers the assets of the trust. Trustee A does not hire any
Entity as a service provider to perform any of the activities described in subparagraph A(6)(a). Trust A is not an Investment Entity under subparagraph A(6)(b) because it is managed solely by Trustee A, an individual. • Example 6 (Individual broker): B, an individual broker, primarily conducts a business of providing advice to clients, has discretionary authority to manage clients' assets, and uses the services of an entity to conduct and execute trades on behalf of clients. B provides services as an investment advisor and manager to E, a corporation. E has earned 50% or more of its gross income for the past three years from investing, reinvesting, or trading in Financial Assets. Because B is an individual, notwithstanding that B primarily conducts certain investment-related activities, B is not an Investment Entity under subparagraph A(6)(a). Further, E is not an Investment Entity under subparagraph A(6)(b) because E is managed by B, an individual.

			are current or former employees (or persons designated by such employees) of one or more employers in consideration for services rendered, provided that: *a)* the fund has fewer than 50 participants; *b)* the fund is sponsored by one or more employers that are not Investment Entities or Passive NFEs; *c)* the employee and employer contributions to the fund (other than transfers of assets from retirement and pension accounts described in subparagraph C(17)(a)) are limited by reference to earned income and compensation of the employee, respectively; *d)* participants that are not residents of the jurisdiction in which the fund is established are not entitled to more than 20% of the fund's assets; and *e)* the fund is subject to government regulation and provides information reporting to the tax authorities. Commentary on definition: paragraph (c) requires that the employee and employer contributions to the fund are limited by reference to earned income and compensation of the employee, respectively. While that subparagraph excludes certain transfers of assets from the threshold (i.e. those from

			retirement and pension accounts described in paragraph (a)of the definition of "Excluded Account", other transfers of assets could also be excluded, such as those from other plans described in subparagraphs B(5) through (7). Information reporting required in paragraph (e) may vary among jurisdictions. Whether a fund provides information reporting to the relevant tax authorities in the jurisdiction in which the fund is established or operates is determinative of whether a fund satisfies the requirement under that subparagraph. The Mutual Administrative Assistance Convention Article 3 (e) the term "nationals" in relation to a Party means: (a) all individuals possessing the nationality of that Party; and (b) all legal persons, partnerships, associations and other entities deriving their status as such from the laws in force in that Party Common Reporting Standards Section VIII- Defined Terms Part C Item 10 The term **"New Account"** means a Financial Account maintained by a Reporting Financial Institution opened on or after [xx/xx/xxxx]. Commentary on definition: However, when implementing the Common Reporting Standard, jurisdictions are free to modify subparagraph C(9) in order to also include certain new accounts of preexisting customers. In such a case, subparagraph C(9) should be replaced by the following: *9. The term "Preexisting Account" means: a) a Financial Account maintained by a Reporting*

			Financial Institution as of [*xx/xx/xxxx*]. Common Reporting Standards Section VIII- Defined Terms Part C Item 16 The term **"New Entity Account"** means a New Account held by one or more Entities. Common Reporting Standards Section VIII- Defined Terms Part C Item 12 The term **"New Individual Account"** means a New Account held by one or more individuals. Common Reporting Standards Section VIII- Defined Terms Part D Item 7 The term **"NFE"** means any Entity that is not a Financial Institution.[3] Commentary on definition: The term "NFE" is an acronym for Non-Financial Entity and it means, according to subparagraph D(7), any Entity that is not a Financial Institution. An NFE can be either a Passive NFE or an Active NFE. Common Reporting Standards Section VIII- Defined Terms Part B Item 1 The term **"Non-Reporting Financial Institution"** means any Financial Institution that is: *a)* a Governmental Entity, International Organisation or Central Bank, other than with respect to a payment that is derived from an obligation held in connection with a commercial financial

[3] Since Financial institutions (FIs) have reporting obligations and Non-Financial Entities (NFE) do not, the most important threshold question is whether the entity is a FI or NFE. There are four possible types of possible FI classifications, Custodial Institutions (securities or brokerage firms), Depository Institutions (banks), Investment Entities (either trust companies and asset management firms or trusts, portfolio holding companies mutual funds etc.) and Specified Insurance Companies. If an entity is not an FI it is an NFE. A NFE can be passive or active. AN active NFE has less than 50% of its income being passive and less than 50 % of iits assets produce or are held for the production of passive income

			activity of a type engaged in by a Specified Insurance Company, Custodial Institution, or Depository Institution; *b)* a Broad Participation Retirement Fund; a Narrow Participation Retirement Fund; a Pension Fund of a Governmental Entity, International Organisation or Central Bank; or a Qualified Credit Card Issuer; *c)* any other Entity that presents a low risk of being used to evade tax, has substantially similar characteristics to any of the Entities described in subparagraphs B(1)(a) and (b), and is defined in domestic law as a Non-Reporting Financial Institution, provided that the status of such Entity as a Non-Reporting Financial Institution does not frustrate the purposes of the Common Reporting Standard;[4] *d)* an Exempt Collective Investment Vehicle; or

4 Example 1 (Non-profit organisation): A type of non-profit organisation that is a Financial Institution does not satisfy all the requirements of any particular description listed in paragraphs (a) or (b). This type of Non-Reporting Financial Institution cannot be defined in domestic law as a Non-Reporting Financial Institution solely because it is a non-profit organisation. • Example 2 (Retirement fund also for self-employed individuals): A type of retirement fund that is a Financial Institution satisfies all the requirements listed in the definition of Broad Participation Retirement Fund. However, under the laws of the jurisdiction in which the fund is established or operates, it is required to also provide benefits to beneficiaries that are self-employed individuals. Because there is an overall, substitute requirement that provides equivalent assurance that the fund presents a low-risk of tax evasion, this type of Financial Institution could be defined in domestic law as a Non-Reporting Financial Institution. • Example 3 (Unlimited retirement fund): A type of retirement fund that is a Financial Institution satisfies all the requirements listed in subparagraph B(6), apart from the one contained in subparagraph B(6)(c) (i.e. employee and employer contributions are not limited). However, the tax relief associated to the employee and employer contributions is limited by reference to earned income and compensation of the employee, respectively. Because there is a substitute requirement that provides equivalent assurance that the fund presents a low-risk of tax evasion, this type of Financial Institution could be defined in domestic law as a Non-Reporting Financial Institution. • Example 4 (Investment vehicle exclusively for retirement funds): A type of investment vehicle that is Financial Institution is established exclusively to earn income for the benefit of one or more retirement or pension funds described in the definitions of Broad participation retirement Fund, Narrow Participation Retirement Fund or "Pension fund of a Governmental Entity, International Organisation or Central Bank, or retirement or pension accounts described in the definition of the "Excluded Account". Because all the income of the vehicle inures to the benefit of Non- Reporting Financial Institutions or Excluded Accounts, and there is an overall, substitute requirement that provides equivalent assurance that the vehicle presents a low-risk of tax evasion, this type of Financial Institution could be defined in domestic law as a Non- Reporting Financial Institution.

			e) a trust to the extent that the trustee of the trust is a Reporting Financial Institution and reports all information required to be reported pursuant to Section I with respect to all Reportable Accounts of the trust. Commentary on definition: A Financial Institution that is a Governmental Entity, International Organisation or Central Bank is a Non-Reporting Financial Institution, according to subparagraph B(1)(a), other than with respect to a payment that is derived from an obligation held in connection with a commercial financial activity of a type engaged in by a Specified Insurance Company, Custodial Institution, or Depository Institution. Thus, for example, a Central Bank that conducts a commercial financial activity, such as acting as an intermediary on behalf of persons other than in the bank's capacity as a Central Bank, is not a Non-Reporting Financial Institution under subparagraph B(1)(a) with respect to payments received in connection with an account held in connection with such activity. The term "Governmental Entity" here is intended to mean the government of a jurisdiction, any political subdivision of a jurisdiction (which, for the avoidance of doubt, includes a state, province, county, municipality, or local authority), or any wholly owned agency or instrumentality of a jurisdiction or of any one or more of the foregoing. It also includes the integral parts, controlled entities, and political subdivisions of a jurisdiction. An "integral part" and a "controlled entity" are defined in paragraph)(a) and (b),of the definition of "Government Entity" which require that no portion of their income inure to the benefit of private persons. While paragraph (c) clarifies when that is the case, income may also be considered to

			inure to the benefit of private persons if such income benefits private persons through the use of a Governmental Entity as a conduit for personal investment, or private persons who divert such income from its intended use by exerting influence or control through means explicitly or implicitly approved of by the jurisdiction. In order to promote international trade and development, many jurisdictions have established export or development financing programmes or agencies which may either provide loans directly or insure or guarantee loans granted by commercial lenders. Those agencies would generally be considered Governmental Entities and, thus, Non-Reporting Financial Institutions. In respect of International entities as defined above and Arrangements substantially similar to headquarters arrangements include, for example, arrangements that entitle the organisation's offices or establishments in the jurisdiction (e.g. a subdivision, or a local or regional office) to privileges and immunities. In respect of a "Central Bank" such an institution is generally the custodian of the banking reserves of the jurisdiction under whose law it is organised. This term may include an instrumentality that is separate from the government of the jurisdiction, whether or not owned in whole or in part by the jurisdiction. Therefore, for a Financial Institution to be a Reporting Financial Institution, it needs, first, to be a Participating Jurisdiction Financial Institution and, then, not to be a Non-Reporting Financial Institution. Paragraph B sets forth the meaning of the term "Non-Reporting Financial Institution" through several definitions.

			Common Reporting Standards Section VIII- Defined Terms Part C Item 8 The term **"Participating Jurisdiction"** means a jurisdiction *(i)* with which an agreement is in place pursuant to which it will provide the information specified in Section I, and *(ii)* which is identified in a published list. Common Reporting Standards Section VIII- Defined Terms Part C Item 8 The term **"Participating Jurisdiction Financial Institution"** means *(i)* any Financial Institution that is resident in a Participating Jurisdiction, but excludes any branch of that Financial Institution that is located outside such Participating Jurisdiction, and *(ii)* any branch of a Financial Institution that is not resident in a Participating Jurisdiction, if that branch is located in such Participating Jurisdiction. Commentary on definition: For this purpose, a Financial Institution is "resident" in a Participating Jurisdiction if it is subject to the jurisdiction of such Participating Jurisdiction (i.e. the Participating Jurisdiction is able to enforce reporting by the Financial Institution). In general, where a Financial Institution is resident for tax purposes in a Participating Jurisdiction, it is subject to the jurisdiction of such Participating Jurisdiction and it is, thus, a Participating Jurisdiction Financial Institution. In the case of a trust that is a Financial Institution (irrespective of whether it is resident for tax purposes in a Participating Jurisdiction), the trust is considered to be subject to the jurisdiction of a Participating Jurisdiction if one or more of its trustees are resident in such Participating Jurisdiction except if

			the trust reports all the information required to be reported pursuant to the CRS with respect to Reportable Accounts maintained by the trust to another Participating Jurisdiction because it is resident for tax purposes in such other Participating Jurisdiction. However, where a Financial Institution (other than a trust) does not have a residence for tax purposes (e.g. because it is treated as fiscally transparent, or it is located in a jurisdiction that does not have an income tax), it is considered to be subject to the jurisdiction of a Participating Jurisdiction and it is, thus, a Participating Jurisdiction Financial Institution if: *a)* it is incorporated under the laws of the Participating Jurisdiction; *b)* it has its place of management (including effective management) in the Participating Jurisdiction; or *c)* it is subject to financial supervision in the Participating Jurisdiction. In this context, the term “Participating Jurisdiction” refers to a jurisdiction that has implemented the Common Reporting Standard. 5. W here a Financial Institution (other than a trust) is resident in two or more Participating Jurisdictions, such Financial Institution will be subject to the reporting and due diligence obligations of the Participating Jurisdiction in which it maintains the Financial Account(s). 6. A “branch” is a unit, business, or office of a Financial Institution that is treated as a branch under the regulatory regime of a jurisdiction or that is otherwise regulated under the laws of a jurisdiction as separate from other offices, units, or branches of the Financial Institution. A branch includes a unit, business, or office of a Financial Institution located in a

			jurisdiction in which the Financial Institution is resident, and a unit, business, or office of a Financial Institution located in the jurisdiction in which the Financial Institution is created or organised. All units, businesses, or offices of a Reporting Financial Institution in a single jurisdiction shall be treated as a single branch. Common Reporting Standards Section VIII- Defined Terms Part D Item A The term **"Passive NFE"** means any: *(i)* NFE that is not an Active NFE; or *(ii)* an Investment Entity described in subparagraph A(6)(b) that is not a Participating Jurisdiction Financial Institution. Commentary on definition: The term "NFE" is an acronym for Non-Financial Entity and it means, according to subparagraph D(7), any Entity that is not a Financial Institution. An NFE can be either a Passive NFE or an Active NFE. In principle, a "Passive NFE" means an NFE that is not an Active NFE. The definition of Passive NFE also includes an Investment Entity described in subparagraph (b) of the definition of "Investment Entity" that is not a Participating Jurisdiction Financial Institution. As a result, Reporting Financial Institutions are required to look-through that type of Investment Entity, as illustrated by the following example: Jurisdiction A has a reciprocal agreement on the automatic exchange of financial account information in place with Jurisdiction B, but has no agreement in place with Jurisdiction C. W, a Jurisdiction A Reporting Financial Institution, maintains Financial Accounts for Entities X and Y, both of which are Investment Entities as described in subparagraph A(6)(b). Entity X is resident in Jurisdiction B and Entity Y is resident in Jurisdiction C. From the perspective of W, Entity X is a Participating Jurisdiction Financial Institution and Entity Y is not a

			Participating Jurisdiction Financial Institution. As a result, W must treat Entity Y is a Passive NFE pursuant to the definition. Common Reporting Standards Section VIII- Defined Terms Part B Item 7 The term **"Pension Fund of a Governmental Entity, International Organisation or Central Bank"** means a fund established by a Governmental Entity, International Organisation or Central Bank to provide retirement, disability, or death benefits to beneficiaries or participants that are current or former employees (or persons designated by such employees), or that are not current or former employees, if the benefits provided to such beneficiaries or participants are in consideration of personal services performed for the Governmental Entity, International Organisation or Central Bank. Common reporting standards Section VIII- Defined Terms Commentary on "Pre-existing Account": Subparagraphs C(9) and (10) define those terms as a Financial Account maintained by a Reporting Financial Institution as of [xx/ xx/xxxx], and opened on or after [xx/xx/xxxx], respectively. However, when implementing the Common Reporting Standard, jurisdictions are free to modify subparagraph C(9) in order to also include certain new accounts of preexisting customers. In such a case, subparagraph C(9) should be replaced by the following: *The term "Preexisting Account" means:* *a) a Financial Account maintained by a Reporting*

			Financial Institution as of [*xx/xx/xxxx*]. Common Reporting Standards Section VIII- Defined Terms Part E Item 4 An Entity is a "Related Entity" of another Entity if (a) either Entity controls the other Entity; (b) the two Entities are under common control; or (c) the two Entities are Investment Entities described in subparagraph A(6)(b), are under common management, and such management fulfils the due diligence obligations of such Investment Entities. For this purpose control includes direct or indirect ownership of more than 50% of the vote and value in an Entity. Example: the stock of the NFE is regularly traded on an established securities market or the NFE is a Related Entity of an Entity the stock of which is regularly traded on an established securities market; Common Reporting Standards Section VIII- Defined Terms Part D Item 1 The term **"Reportable Account"** means an account held by one or more Reportable Persons or by a Passive NFE with one or more Controlling Persons that is a Reportable Person, provided it has been identified as such pursuant to the due diligence procedures described in Sections II through VII. Common Reporting Standards Section VIII- Defined Terms Part D Item 4 The term **"Reportable Jurisdiction"** means a jurisdiction *(i)* with which an agreement is in place pursuant to which there is an obligation in place to provide the information

			specified in Section I, and *(ii)* which is identified in a published list. Commentary on definition: The term is relevant for the scope of financial institutions required to report and account holders subject to reporting, as well as for the requirement to look-through non-participating professionally managed investment entities. Whilst this terms seem similar with "Participating jurisdiction" , there is a significant difference: the term "Participating Jurisdiction" qualifies a jurisdiction with which an agreement on the automatic exchange of financial account information (i.e. the information specified in Section I) is in place, whilst the term "Reportable Jurisdiction" qualifies a Participating Jurisdiction with which an obligation to provide financial account information is in place. The definition requires that the jurisdiction is identified in a published list as a Reportable Jurisdiction. Each jurisdiction must make such a list publicly available, and update it as appropriate (e.g. every time the jurisdiction signs an agreement on the automatic exchange of financial account information, or such an agreement enters into force).[5] Common Reporting Standards Section VIII- Defined Terms Part D Item 2 The term **"Reportable Person"** means a Reportable Jurisdiction

[5] Example 1 (Reciprocal exchange): Jurisdiction A and Jurisdiction B have a reciprocal agreement on the automatic exchange of financial account information in place. Pursuant to that agreement, both Jurisdictions are obliged to exchange the information specified in Section I. Because Jurisdiction A has an agreement with Jurisdiction B pursuant to which there is an obligation in place to
provide the information specified in Section I, from the perspective of Jurisdiction A, Jurisdiction B is both a Participating Jurisdiction and a Reportable Jurisdiction. The same applies from the perspective of Jurisdiction B with respect to Jurisdiction A. • Example 2 (Nonreciprocal exchange): Jurisdiction X, which does not have an income tax, and Jurisdiction Y have a nonreciprocal agreement on the automatic exchange of financial account information in place. Pursuant to that agreement, only Jurisdiction X is obliged to exchange the information specified in Section I. Because Jurisdiction X has an agreement with Jurisdiction Y pursuant to which there is an obligation in place to provide the information specified in Section I, from the perspective of Jurisdiction X, Jurisdiction Y is both a Participating Jurisdiction and a Reportable Jurisdiction. However, because Jurisdiction Y has an agreement with Jurisdiction X, but it does not have an obligation in place to provide the information specified in Section I pursuant to that agreement, from the perspective of Jurisdiction Y, Jurisdiction X is a Participating Jurisdiction, but not a Reportable Jurisdiction.

			Person other than: *(i)* a corporation the stock of which is regularly traded on one or more established securities markets; *(ii)* any corporation that is a Related Entity of a corporation described in clause (i); *(iii)* a Governmental Entity; *(iv)* an International Organisation; *(v)* a Central Bank; or *(vi)* a Financial Institution. Commentary on definition: Whether a person is a Reportable Jurisdiction Persons or Reportable Person, as described in subparagraph D(2)(i), can depend on the stock of that corporation being regularly traded on one or more established securities markets. Stock is "regularly traded" if there is a meaningful volume of trading with respect to the stock on an on-going basis, and an "established securities market" means an exchange that is officially recognised and supervised by a governmental authority in which the market is located and that has a meaningful annual value of shares traded on the exchange. With respect to each class of stock of the corporation, there is a "meaningful volume of trading on an on-going basis" if *(i)* trades in each such class are effected, other than in de minimis quantities, on one or more established securities markets on at least 60 business days during the prior calendar year; and *(ii)* the aggregate number of shares in each such class that are traded on such market or markets during the prior year are at least 10% of the average number of shares outstanding in that class during the prior calendar year. A class of stock would generally be treated as meeting the "regularly traded" requirement for a calendar year if the stock is traded during such year on an established securities market and is regularly quoted by dealers making a market in the stock. A dealer makes a market in a stock only if the dealer regularly and actively offers to, and

			in fact does, purchase the stock from, and sell the stock to, customers who are not related persons with respect to the dealer in the ordinary course of a business. An exchange has a "meaningful annual value of shares traded on the exchange" if it has an annual value of shares traded on the exchange (or a predecessor exchange) exceeding USD 1 000 000 000 during each of the three calendar years immediately preceding the calendar year in which the determination is being made. If an exchange has more than one tier of market level on which stock may be separately listed or traded, each such tier must be treated as a separate exchange. Pursuant to subparagraph (vi), Financial Institutions are excluded from the term "Reportable Person" as they will do their own reporting or are otherwise considered to present a low risk of being used to evade tax. They are thus excluded from reporting, except for Investment Entities described in paragraph (b) of the definition of "Investment Entity" that are not Participating Jurisdiction Financial Institutions, which are treated as Passive NFEs and thus reported. Common Reporting Standards Section VIII- Defined Terms Part D Item 3 The term **"Reportable Jurisdiction Person"** means an individual or Entity that is resident in a Reportable Jurisdiction under the tax laws of such jurisdiction, or an estate of a decedent that was a resident of a Reportable Jurisdiction. For this purpose, an Entity such as a partnership, limited liability partnership or similar legal arrangement that has no residence for tax purposes shall be treated as resident in the jurisdiction in

			which its place of effective management is situated. Commentary on definition: As a general rule, an individual or Entity is a "Reportable Jurisdiction Person" if it is resident in a Reportable Jurisdiction under the tax laws of such jurisdiction. As an exception to this rule, an Entity that has no residence for tax purposes (e.g. because it is treated as fiscally transparent) is considered to be resident in the jurisdiction in which its place of effective management is situated. Domestic laws differ in the treatment of partnerships (including limited liability partnerships). Some jurisdictions treat partnerships as taxable units (sometimes even as companies) whereas other jurisdictions adopt what may be referred to as the fiscally transparent approach, under which the partnership is disregarded for tax purposes. Where a partnership is treated as a company or taxed in the same way, it would generally be considered to be a resident of the Reportable Jurisdiction that taxes the partnership. Where, however, a partnership is treated as fiscally transparent in a Reportable Jurisdiction, the partnership is not "liable to tax" in that jurisdiction, and so cannot be a resident thereof. An Entity such as a partnership, limited liability partnership or similar legal arrangement that has no residence for tax purposes, according to the definition, shall be treated as resident in the jurisdiction in which its place of effective management is situated. For these purposes, a legal person or a legal arrangement is considered "similar" to a partnership and a limited liability partnership where it is not treated as a taxable unit in a Reportable Jurisdiction under the tax laws of such jurisdiction. However, in order to avoid duplicate reporting (given the wide scope of the term "Controlling Persons" in the case of trusts), a trust that is a Passive NFE

			may not be considered a similar legal arrangement. The "place of effective management" is the place where key management and commercial decisions that are necessary for the conduct of the Entity's business as a whole are in substance made. All relevant facts and circumstances must be examined to determine the place of effective management. An Entity may have more than one place of management, but it can have only one place of effective management at any one time. The term "Reportable Jurisdiction Person" also includes an estate of a decedent that was a resident of a Reportable Jurisdiction. In determining what is meant by "estate", reference must be made to each jurisdiction's particular rules on the transfer or inheritance of rights and obligations in the event of death (e.g. the rules on universal succession). Common reporting standards Section VIII- Defined Terms Part A Item 1 The term **"Reporting Financial Institution"** means any Participating Jurisdiction Financial Institution that is not a Non-Reporting Financial Institution. Definition included for the purpose of clause 10. Common Reporting Standards Section VIII- Defined Terms Part A Item 8 The term **"Specified Insurance Company"** means any Entity that is an insurance company (or the holding company of an insurance company) that issues, or is obligated to make payments with respect to, a Cash Value Insurance Contract or an Annuity Contract.

			Commentary on definition: An “insurance company” is an Entity *(i)* that is regulated as an insurance business under the laws, regulations, or practices of any jurisdiction in which the Entity does business; *(ii)* the gross income of which (for example, gross premiums and gross investment income) arising from insurance, reinsurance, and Annuity Contracts for the immediately preceding calendar year exceeds 50% of total gross income for such year; or *(iii)* the aggregate value of the assets of which associated with insurance, reinsurance, and Annuity Contracts at any time during the immediately preceding calendar year exceeds 50% of total assets at any time during such year. Most life insurance companies would generally be considered Specified Insurance Companies. Entities that do not issue Cash Value Insurance Contracts or Annuity Contracts nor are obligated to make payments with respect to them, such as most non-life insurance companies, most holding companies of insurance companies, and insurance brokers, will not be Specified Insurance Companies. The reserving activities of an insurance company will not cause the company to be a Custodial Institution, a Depository Institution, or an Investment Entity. Article 3(a) of the Mutual Administrative Assistance Convention the term “tax” means any tax or social security contribution to which the Convention applies pursuant to Article 2; Common Reporting Standards Section VIII- Defined Terms Part E Item 5 The term **“TIN”** means Taxpayer Identification Number (or functional equivalent in the absence of a Taxpayer Identification Number).

			Article 3(b) of the Mutual Administrative Assistance Convention the term "tax claim" means any amount of tax, as well as interest thereon, related administrative fines and costs incidental to recovery, which are owed and not yet paid; Common reporting standards Section VIII- Defined Terms Part C Item 3 Common reporting standards Section VIII- Defined Terms Part C Item 17 Common Reporting Standards Section VIII- Defined Terms Part A Item 6

5	Board of Inland Revenue the competent authority for Trinidad and Tobago	**5.** For the purposes of the implementing this Act in respect of Trinidad and Tobago, the Board shall be the competent authority for Trinidad and Tobago.	Since the term "competent authority" is used throughout the Bill but in certain instances in respect of Trinidad and Tobago it is the Board of Inland Revenue it was felt that it must be clear of the application of the term.
6	Application of Act	**6.** This Act shall apply to any identical or substantially similar taxes imposed in a Party after 1st January, 2017.	Because the application of this Act in terms of reporting is retroactive it was felt that this should be specifically stated. (Note that the multilateral Convention is intended to have very wide scope. It covers all forms of compulsory payments to the general government (that is, central government, political sub-divisions, local authorities and social security agencies) with the exception of customs duties and all other import-export duties and taxes covered by the World Customs Organisation.) The taxes to which the Convention applies are grouped into categories. They are grouped to take account of the fact that not all countries are able to provide assistance for certain categories of taxes and may seek to reserve on such groups via a reservation under Article 30 (see section on Reservations for further details). That being said, taxes levied at level of central government on income or profits, on capital gains or on net wealth, are among the main taxes in most systems and are best suited to international mutual cooperation and cannot be the subject of a reservation. Taxes levied at the central government applicable under the Convention include:-

			- Local taxes, and compulsory social security contributions - Estate, inheritance or gift taxes - Taxes on immovable property - General consumption taxes (such as value added or sales taxes) - Specific taxes on goods and services (such as excise taxes) - Taxes on the use or ownership of motor vehicles - Taxes on the use or ownership of movable property other than motor vehicles. However, a State may not, for practical, constitutional or political reasons, be able at the time of signature to provide to other States the full assistance envisaged by the Convention. Some States, while able to provide information concerning income, profits, capital gains and net wealth taxes levied at central government level – a minimum requirement for acceding to the Convention – may not be able to do so in relation to such taxes imposed by subordinate levels of government or to other particular types of tax. Similarly, while able to provide assistance in the establishment of liability to tax, they may not be able to do so in the recovery of tax claims or service of documents in relation to all or any particular type of tax. Thus, Article 30 of the Convention is designed to enable a State to sign the Convention with reservations about the type of tax to be covered and/or the type of assistance to be provided, so that it may limit its participation

			in the provision of mutual assistance under the Convention to certain taxes or certain forms of assistance. However, there are limits on what reservations can be made. These limits are imposed to prevent States from making whatever reservations they liked, without any restriction, which would detract from the multilateral nature of the Convention, and from the principle of reciprocity. Therefore, Article 30 also sets out a system under which States are able to negotiate reservations within stated limits. This ensures the necessary minimum degree of uniformity of Parties' rights and obligations, facilitating implementation, interpretation and settlement of any disputes; and at the same time gives Parties the degree of flexibility which they need. Reservations can be made at the time of signature or when depositing the instrument of ratification and they can also be made or withdrawn at a later stage. Trinidad and Tobago has reserved on providing assistance in the recovery of tax claims or service of documents in relation to all types of tax
7	Competent Authority Agreements	**7.** The Board shall enter into bilateral or multilateral Agreements with other competent authorities - (a) for the establishment of procedures for the exchange of information and service of documents under this Act; and (b) to set out rules and procedures as may be necessary for the collaboration on compliance with, and enforcement of matters arising under this Act.	Under Article 6

8	Exchange of information	**8.** (1) The Board shall exchange, with other competent authorities, information that is foreseeably relevant for the administration of the domestic law of the Party concerning taxes covered by this Act either upon request, automatically, spontaneously or simultaneously. (2) Nothing in this Act authorises the Board to- (a) carry out measures at variance with any written law of Trinidad and Tobago or administrative practice of the Board or the laws or administrative practices of an applicant State; (b) carry out measures which would be contrary to public policy; (c) supply information which is not obtainable under any written law or under the administrative practices of the Board or under the laws or administrative practices of an applicant State; (d) supply information which 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; (e) provide administrative assistance if and insofar as it considers the taxation in the applicant State to be contrary to generally accepted taxation principles or to the provisions of a convention for the avoidance of double taxation or of any other convention which Trinidad and Tobago has concluded with the applicant State; (f) provide administrative assistance for the purpose of administering or enforcing a provision of the tax law of the applicant State, or any requirement connected therewith, which	Article 4 (1) of the Mutual Administrative Assistance Convention provides- Article 4- General Provisions 1. The Parties shall exchange any information, in particular as provided in this section, that is foreseeably relevant for the administration or enforcement of their domestic laws concerning the taxes covered by this Convention. Article 21 of the Mutual Administrative Assistance Convention provides- Protection of person and limits to the obligation to provide assistance 2. Except in the case of Article 14, the provision of this Convention shall not be construed so as to impose on the requested State the obligation: • carry out measures at variance with its own laws or administrative practice or the laws or administrative practices of an applicant State; • carry out measures which would be contrary to public policy; • supply information which is not obtainable under any written law or its administrative practice or under the laws or administrative practices of an applicant State; • supply information which would disclose any trade, business, industrial, commercial or professional secret or

		discriminates against a national of Trinidad and Tobago as compared with a national of the applicant State in the same circumstances; and (g) provide administrative assistance if the applicant State has not pursued all reasonable measures available under its laws or administrative practices, except where recourse to such measures would give rise to disproportionate difficulty. (3) Subsection (2) shall not be construed as to authorise the Board to decline to supply information solely because information is held by a bank, other financial institution, nominee or person acting in an agency or fiduciary capacity or because it relates to ownership interests in a person.	trade process or information the disclosure of which would be contrary to public policy; • provide administrative assistance if and insofar as it considers the taxation in the applicant State to be contrary to generally accepted taxation principles or to the provisions of a convention for the avoidance of double taxation or of any other convention which the requested State has concluded with the applicant State; • provide administrative assistance for the purpose of administering or enforcing a provision of the tax law of the applicant State, or any requirement connected therewith, which discriminates against a national of the requested State compared with a national of the applicant State in the same circumstances; and • provide administrative assistance if the applicant State has not pursued all reasonable measures available under its laws or administrative practices, except where recourse to such measures would give rise to disproportionate difficulty. 4. In no case shall the provision of this Convention, including in particular those of

			paragraphs 1 and 2, construed to permit a requested State 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 fiduciary capacity or because it relates to ownership interests in a person.
9	Disclosures under this Act	**9**. (1) Nothing in- (a) section 55 of the Financial Institutions Act; (b) section 14 of the Securities Act; or (c) any other law that restricts the sharing of personal information, prevents the disclosure of information by the Board or a financial institution where that disclosure is for the assessment, collection or recovery of, the enforcement or prosecution in respect of, or the determination of appeals in relation to taxes or the oversight of the foregoing, and in accordance with and for the purpose of giving effect to the Convention. (2) The Board shall, on receipt of a request for information concerning persons from a Party, provide the information so requested to the competent authority of the Requesting Party. (3) The Board shall forward to the Party any other information relevant to a request for assistance that comes to its knowledge. (4) Where information in the possession of the Board is not sufficient to enable it to comply with a request under subsection (1), the Board shall take all relevant information gathering measures to provide the Party making the request for assistance, with the requested information. (5) The Board shall disclose information received under this Act to other agencies for non-taxation purposes where the country supplying the information has laws	Article 22 of the Mutual Administrative Assistance Convention provides- Article 22 Secrecy- 1. Any information obtained by a Party under this Convention shall be treated as secret and protected in the same manner as information obtained under the domestic law of the Party and, to the extent needed to ensure the necessary level of protection of personal data, in accordance with the safeguards which may be specified by the supplying Party as required under its domestic law. 2. Such information shall, in any case be disclosed only to persons or authorities(including courts and administrative or supervisor bodies) concerned with the assessment, collection or recovery of, the enforcement or prosecution in respect of , or the determination of appeals in relation to taxes of that Party, to the oversight of the above. Only the persons or authorities mentioned above may use the information and then only for such purposes. They may, notwithstanding the provisions of paragraph 1, disclose it in public court proceedings or in

		allowing for such sharing and with the consent from the country supplying the information. (6) Notwithstanding sections 6, 38 and 40 of the Data Protection Act, a financial institution may, for the purpose of this Act, process information collected by it in the normal course of business where the account holder of a reportable account is a reportable person. (7) Notwithstanding sections 6, 30 and 31 of the Data Protection Act, the Board shall for the purposes of this Act, receive information on a reportable person in the possession of a financial institution in respect of reportable accounts. (8) Where the Board receives information under subsection (4) in respect of reportable account it shall keep such information confidential and unless the competent authority is permitted to disclose that information under this Act, it shall not disclose that information without the consent of the person to whom that information relates. (9) Notwithstanding section 46 of the Data Protection Act, information received by the Board under this Part in respect of a reportable account shall be disclosed to the competent authority even if the individual to whom the information relates has not consented to the disclosing of his information or the jurisdiction does not have comparable safeguards as required by the Data Protection Act. (10) Notwithstanding sections 6, 41 and 69 of the Data Protection Act, a financial institution may forward to the Board information relative to an account holder in respect of a reportable account held by a financial institution for the purposes of this Act without the consent of the account holder. (11) Notwithstanding any other written law, where the Board receives information for the purposes of this Act, it shall not share that information with any person unless so permitted under this Act. (12) Where information has been obtained or received under this Act, a person who uses or discloses the information other than for the purposes for which it was obtained	judicial decision relating to such taxes. 4. Notwithstanding the provisions of paragraphs 1, 2, and 3, information received by a Party may be used for other purposes when such information may be used for such other purposes under the laws of the supplying Party and the competent authority of that party authorities such use. Information provided by a Party to another Party may be transmitted by the latter to a third Party, subject to prior authorisation by the competent authority of the first-mentioned Party.

		by the Board or received under this Act commits an offence and is liable- (a) on summary conviction to a fine of one hundred thousand dollars and to imprisonment for three years; or (b) on conviction on indictment to a fine of one hundred and fifty thousand dollars and to imprisonment for a term of five years.	
10	Exchange of information upon request	**10.** (1) The Board shall, on receipt of a request for information concerning persons or transactions from a competent authority of an applicant State, provide information that is foreseeably relevant so requested to that competent authority. (2) The Board shall forward to an applicant State any other information relevant to a request for information that comes to its knowledge. (3) Where information in the possession of the Board is not sufficient to enable it to comply with a request under subsection (1), the Board shall take all relevant information gathering measures to provide the competent authority of the applicant State with the requested information. (4) Where the competent authority of an applicant State requests information, the Board shall provide the information in the form and manner that the competent authority of the applicant State requested the information be provided. (5) Where a request for information is made by the Board to a competent authority in	Article 5 (1) of the Mutual Administrative Assistance Convention provides- 1. At the request of the applicant State, the requested State shall provide the applicant State with any information referred to in Article 4 which concerns particular person or transactions. Article 18 of the Mutual Administrative Assistance Convention provides- As soon as any other information relevant to the request for assistance comes to its knowledge the applicant State shall forward it to the requested State. Article 5 (2) of the Mutual Administrative Assistance Convention provides- 2. If the information available in the tax files of the requested State is not sufficient to enable it to comply with the request for information, that State shall take all relevant measures to provide the applicant State with the information requested.

		a requested State, the request shall indicate where appropriate- (a) the authority or agency which initiated the request made by the Board; (b) the name, address or other particulars assisting in the information of the person in respect of whom the request is made; (c) in the case of a request for information, the form in which the Board wishes the information to be supplied in order to meet its needs; (d) in the case of a request for service of documents, the nature and the subject of the document to be served; and (e) whether it is in conformity with any written law and administrative practices of the Board and whether it is justified in light of the requirements of section 8(2)(g). (6) Where a request under this section is complied with, the Board shall inform the applicant State of the action taken and of the result of the assistance as soon as possible. (7) Where a request is made for information by an applicant State, the Board shall use its information gathering measures to obtain the requested information, even though the information is not required for tax purposes in Trinidad and Tobago.	Article 20 of the Mutual Administrative Assistance Convention provides- 3. If, with respect to a request for information, the applicant State has specified the form in which it wishes the information to be supplied and the requested State is in a position to do so, the requested State shall supply it in the form requested Article 18 of the Mutual Administrative Assistance Convention provides- Information to be provided by the applicant State- 1. A request for assistance shall indicate where appropriate: a. the authority or agency which initiated the request made by the competent authority; b. the name, address, or any other particulars assisting in the information of the person in respect of whom the request is made; c. in the case of a request for information, the form in which the applicant State wishes the information to be supplied in order to meet its needs; d. in the case of a request for assistance in recovery or measures of conservancy, the nature of the tax claim, the components of the tax claim and the

			assets from which the tax claim may be recovered. e. in the case of a request for service of documents, the nature and the subject of the document to be served; and f. whether it is in conformity with any written law and administrative practices of the Board and whether it is justified in light of the requirements of Article 21 2.g. (d. was not included as this will be reserved by Trinidad and Tobago as we do not have the resources to execute recovery on behalf of another State) Article 20 of the Mutual Administrative Assistance Convention provides- Response to the request for assistance 1. If the request for assistance is complied with, the requested State shall inform the applicant State of the action taken and of the result of the assistance as soon as possible. Article 21 of the Mutual Administrative Assistance Convention provides- 2. If information is requested by the applicant State in accordance with this Convention, the requested State shall use its information gathering measures to obtain the

		(8) Where a request is made for assistance by an applicant State and the Board declines to give such assistance, it shall inform the applicant State of that decision and the reasons for the refusal as soon as possible.	requested information, even though the information is not required for its own tax purposes. Article 20 of the Mutual Administrative Assistance Convention provides- 2. If the request is declined, the requested Ste shall inform the applicant State of that decision and the reason for it as soon as possible.
11	Automatic exchange of information	**11**.(1) The Board shall annually automatically exchange with the competent authorities of the countries of the reportable jurisdiction the information set out in subsection (3). (2) The information required to be exchanged with a participating reportable jurisdiction is as follows: (a) in the case of an individual of each reportable person that is an account holder of the account, the name, address, jurisdiction of residence TIN, date and place of birth; (b) in the case of an entity that is an account holder and that, after the application of due diligence procedures consistent with Schedule 1, is identified as having one or more controlling persons that is a reportable person, the name, address and TIN of the entity and the name, address, jurisdiction of residence, TIN and date and place of birth of each reportable person; (c) the account number or functional equivalent in the absence of an account number;	Article 6 of the Mutual Administrative Assistance Convention provides- With respect to categories of cases and in accordance with procedures which they shall determine by mutual agreement, two or more Parties shall automatically exchange the information referred to in Article 4. Commentary on Section I concerning General Reporting Requirements- 3. Pursuant to paragraph A, each Reporting Financial Institution must report the following information with respect to each Reportable Account of such Reporting Financial Institution: *a)* in the case of any individual that is an Account Holder and a Reportable Person: the name, address, jurisdiction(s) of residence, TIN(s) and date and place of birth; *b)* in the case of any Entity that is an Account Holder and a Reportable Person: the name, address, jurisdiction(s) of residence and TIN(s);

		(d) the name and identifying number, if any, of the reporting financial institution; (e) the account balance or value, including the cash value insurance contract or annuity contract, the cash value or surrender value as of the end of the relevant calendar year or other appropriate reporting period or, if the account was closed during such year or period, the closure of the account; (f) in the case of a custodial account- (i) the total gross amount of interest, the total gross amount of dividends and the total gross amount of other income generated with respect to the assets held in the account, in each case paid or credited to the account, or with respect to the account, during the calendar year or other appropriate reporting period; and (ii) the total gross proceeds from the sale or redemption of financial assets paid or credited to the account during the calendar year or other appropriate reporting period with respect to which the reporting financial institution acted as custodian, broker, nominee or otherwise as an agent for the account holder; (g) in the case of a depository account, the total gross amount of interest paid or credited to the account during the calendar year or other	*c)* in the case of any Entity that is an Account Holder and that is identified as having one or more Controlling Persons that is a Reportable Person: *(1)* the name, address, jurisdiction(s) of residence and TIN(s) of the Entity; and *(2)* the name, address, jurisdiction(s) of residence, TIN(s) and date and place of birth of each Controlling Person that is a Reportable Person; *d)* the account number (or functional equivalent in the absence of an account number); *e)* the name and identifying number (if any) of the Reporting Financial Institution; and *f)* the account balance or value (including, in the case of a Cash Value Insurance Contract or Annuity Contract, the Cash Value or surrender value) as of the end of the relevant calendar year or other appropriate reporting period or, if the account was closed during such year or period, the closure of the account. 4. In addition, the following information must also be reported: *a)* in the case of any Custodial Account: *(1)* the total gross amount of interest paid or credited to the account (or with respect to the

		appropriate reporting period; and (h) in the case of any account not described in paragraph (f) or (g), the total gross amount paid or credited to the account holder with respect to the account during the calendar year or other appropriate reporting period with respect to which the reporting financial institution is the obligor or debtor, including the aggregate amount of any redemption payments made to the account holder during the calendar year or other appropriate reporting period. (4) For the purpose of the exchange of information under this section- (a) the amount and characterisation of payments with respect to a reportable account may be determined in accordance with the principles of the tax laws of Trinidad and Tobago; (b) the information reported and exchanged shall identify the currency in which each amount is denominated; and (c) notwithstanding subsection (3)(a), the TIN is not required to be reported if- (i) a TIN is not issued by the relevant reportable jurisdiction; or (ii) the domestic law of the relevant reportable jurisdiction does not require the collection of the TIN issued by such reportable jurisdiction. (5) Notwithstanding subsection (3)(a)- (a) with respect to each reportable account that is a pre-existing account, the TIN or date of birth is not required to be reported if such TIN or date of birth is not in the records of the reporting financial institution and is not	account) during the calendar year or other appropriate reporting period; *(2)* the total gross amount of dividends paid or credited to the account (or with respect to the account) during the calendar year or other appropriate reporting period; *(3)* the total gross amount of other income generated with respect to the assets held in the account paid or credited to the account (or with respect to the account) during the calendar year or other appropriate reporting period; and *(4)* the total gross proceeds from the sale or redemption of Financial Assets paid or credited to the account during the calendar year or other appropriate reporting period with respect to which the Reporting Financial Institution acted as a custodian, broker, nominee, or otherwise as an agent for the Account Holder.

		otherwise required under any written law to be collected by the reporting financial institution; and (b) the place of birth is not required to be reported unless the reporting financial institution is otherwise required to obtain and report it under any written law and it is available in the electronically searchable data maintained by the reporting financial institution. (6) Notwithstanding subsection (5)(a), a reporting financial institution shall use reasonable efforts to obtain the TIN and date of birth with respect to a pre-existing account by the end of the second calendar year following the year in which such accounts were identified as reportable accounts. (7) Information under this section shall be exchanged with respect to the year 2017 and all subsequent years within nine months after the end of the calendar year to which the information relates.	*b)* in the case of any Depository Account: the total gross amount of interest paid or credited to the account during the calendar year or other appropriate reporting period. *c)* in the case of any account other than a Custodial Account or a Depository Account: the total gross amount paid or credited to the Account Holder with respect to the account during the calendar year or other appropriate reporting period with respect to which the Reporting Financial Institution is the obligor or debtor, including the aggregate amount of any redemption payments made to the Account Holder during the calendar year or other appropriate reporting period.
12	Requirements of reporting	**12.** (1) A reporting financial institution shall comply with the due diligence requirements,	Common Reporting Standards Section II General Due diligence Requirements

	financial institutions	set out in sections II to VII and the due diligence requirements set out in Schedule 1. (2) A reporting financial institution shall establish, maintain and document the procedures set out in Schedule I that are designed to identify reportable accounts maintained by the institution. (3) For the purposes of this section a reporting financial institution shall report on, or before 31st May of the year following the calendar year to which the information set out in subsection 11(3) relates in respect of a reportable account maintained by the institution. (4) A reporting financial institution shall notify an account holder that information relating to that person has been reported to the Board as required and will be exchanged with the competent authority of an applicant state in accordance with this Act. (5) A Notification under subsection (4) shall be made by 31st January in the calendar year following the first year in which the account held by the person became a reportable. (6) A Notification under subsection (4) shall be in the form prescribed by the Minister by Order.	An account is treated as a Reportable Account beginning as of the date it is identified as such pursuant to the due diligence procedures in Sections II through VII and, unless otherwise provided, information with respect to a Reportable Account must be reported annually in the calendar year following the year to which the information relates. Commentary on Section II Part A This Section provides that the information to be exchanged is the information required to be reported under the reporting and due diligence rules of the Common Reporting Standard. See Section I (General Reporting Requirements) of the CRS and the related Commentary. 2. The first paragraph refers to the legal basis for the exchange and provides that the information will be exchanged on an annual basis. Information may also be exchanged more frequently than once a year; for example, when a Competent Authority receives corrected data from a Reporting Financial Institution, that information would generally be sent to the other Competent Authority as soon as possible after it has been received. The information to be exchanged is the information obtained pursuant to the CRS and is further specified in paragraph 2.

13	Spontaneous exchange of information	**13.** (1) The Board shall, without prior request, forward to a applicant State information of which the Board has knowledge in the following circumstances: (a) the Board has reasonable grounds to suspect that there may be a loss in tax in the Party; (b) a person liable to tax obtains a reduction in or an exemption from tax in Trinidad and Tobago which would give rise to an increase in tax or to liability to tax in the Party; (c) business dealings between a person liable to tax in Trinidad and Tobago and a person liable to tax in the Party are conducted through one or more countries in such a way that a saving in tax may result in Trinidad and Tobago or the Party or in both; (d) the Board has grounds to suspect that a saving of tax may result from artificial transfers of profits within groups of enterprises; or (e) information forwarded to the Board by the Party has enabled information to be obtained which may be relevant in assessing liability to tax in the Party. (2) The Board shall take such measures and implement such procedures as are necessary to ensure that information under subsection (1) is made available for transmission to another Party to which the subsection applies.	Article 7 of the Mutual Administrative Assistance Convention provides- 1. A Party shall, without prior request, forward to another Party information of which it has knowledge in the following circumstances: a. the first-mentioned Party has grounds for supposing that there may be a loss of tax in the other Party; b. a person liable to tax obtains a reduction in or an exemption form tax in the first-mentioned Party which would give rise to an increase in tax or to liability to tax in the other Party; c. business dealings between a person liable to tax in a Party and a person liable to tax in another Party are conducted through one or more countries on such a way that a saving tax may result in one or the other Party or in both; d. a Party has grounds for suspecting that a saving of tax may result from artificial transfers of profits within groups of enterprises. e. information forwarded to the first-mentioned Party by the other Party has enable information to be obtained which may be relevant in

			assessing liability to tax in the latter Party. 2. Each Party shall take such measures and implement such procedures as are necessary to ensure that information described in paragraph 1 will be made available for transmission to another party.
14	Simultaneous exchange of information	**14.** (1) The Board may, upon request, consult with another Party for the purpose of determining cases and procedures for simultaneous tax examinations. (2) For the purpose of subsection (1), "simultaneous tax examination" means an arrangement where two or more parties examine simultaneously, each in its own territory, the tax affairs of a person or persons in which they have a common or related interest, with a view to exchanging any relevant information which they so obtain.	Article 7 of the Mutual Administrative Assistance Convention provides- 1. At the request of one of them, two or more Parties shall consult together for the purposes of determining cases and procedures for simultaneous tax examinations. Each Party involved shall decide whether or not it wishes to participate in a particular simultaneous tax examination. 2. For the purposes of this Convention, a simultaneous tax examination means an arrangement between two or more Parties to examine simultaneously, each in its own territory, the tax affairs of a person or persons in which they have a common or related interest, with a view to exchanging information which they so obtain.
15	Effective enforcement	**15.** (1) A person who enters into any arrangement or engages in any practice, the main purpose of which can be reasonably be considered to be to avoid any requirement imposed under this Act or regulations made hereunder, commits an offence and is liable on summary conviction to a fine of one hundred and fifty thousand dollars an imprisonment for twenty years. (2) If a person enters into any arrangement or engages in any practice, the main purpose of which can be reasonably be considered to	Common Reporting Standards Section IX A. A jurisdiction must have rules and administrative procedures in place to ensure effective implementation of, and compliance with, the reporting and due diligence procedures set out above including:

		be to avoid an requirement imposed under this Act or regulations made hereunder, he shall be subject to the requirement as if the person had not entered into the arrangement or engaged in the practice.	5. effective enforcement provisions to address non-compliance. The Commentary on Paragraph 5 provides: Subparagraph A(5) requires that a jurisdiction must have effective enforcement provisions to address non-compliance. In some cases, the anti-avoidance rule described in Subparagraph A(1) may be broad enough to cover enforcement. In other cases, there may be separate or more specific rules that address certain enforcement issues on a narrower basis. For example, a jurisdiction may have rules that provide for the imposition of fines or other penalties where a person does not provide information requested by the tax authority.
16	Collaboration on compliance on enforcement	**16.**(1) Where the Board receives notification from a competent authority of a Party that an error may have led to incorrect or incomplete information reporting or there is non-compliance by a reporting financial institution with the applicable reporting requirements and due diligence procedures consistent with the Common Reporting Standard Due Diligence Requirements set out in Schedule 1, the Board shall take all appropriate measures to address the errors or non-compliance described in the notification under subsection (1). (2) Where the Board receives a notification under subsection (1), it shall determine whether the error or non-compliance is to be corrected by the Board or a financial institution. (3) Where the Board determines under subsection (2) that the error is to be corrected by the financial institution it shall, for the purpose of subsection (1), request the financial institution correct the errors contained in the information. (4) Where the Board determines under subsection (2) that the non-compliance is to be corrected by the financial institution, the	Common Reporting Standards Section IX A. A jurisdiction must have rules and administrative procedures in place to ensure effective implementation of, and compliance with, the reporting and due diligence procedures set out above including: 1. rules to prevent any Financial Institutions, persons or intermediaries from adopting practices intended to circumvent the reporting and due diligence procedures; 2. rules requiring Reporting Financial Institutions to keep records of the steps undertaken and any evidence relied upon for the performance of the above procedures and adequate measures to obtain those records; 3. administrative procedures to verify Reporting Financial Institutions' compliance with

		Board shall require the financial institution to be compliant as soon as possible. (5) Where a financial institution fails to comply with subsection (3) or subsection (4), the financial institution is liable to a penalty of one hundred thousand dollars. (6) A penalty under subsection (5) shall be payable to the Comptroller of Accounts. (7) A penalty under this section does not preclude any other penalty that the regulatory authority of the financial institution may impose under its applicable written law. (8) A financial institution may appeal against a penalty under this section to the Tax Appeal Board. (9) For the purposes of this section, "Tax Appeal Board" means the Tax Appeal Board established under section 3 of the Tax Appeal Board Act.	the reporting and due diligence procedures; administrative procedures to follow up with a Reporting Financial Institution when undocumented accounts are reported; 4. administrative procedures to ensure that the Entities and accounts defined in domestic law as Non-Reporting Financial Institutions and Excluded Accounts continue to have a low risk of being used to evade tax; and 5. effective enforcement provisions to address non-compliance. The commentary on Section IX explains "This Section deals with collaboration between the Competent Authorities on compliance and enforcement. It provides that if one Competent Authority has reason to believe that an error may have led to incorrect or incomplete information reporting or there is non-compliance by a Reporting Financial Institution that Competent Authority should notify the other Competent Authority. The notified Competent Authority will take all appropriate measures available under its domestic law to address the errors or non-compliance described in the notice. The notice under this Section must be in writing and must clearly set out the error or non-compliance and the reasons for the belief that such error or non-compliance has occurred. The notified Competent Authority should provide a response or an update as soon as possible and no later than 90 calendar days of having received the notice from the

			other Competent Authority. If the issue has not been resolved, the Competent Authority should provide the other Competent Authority with updates every 90 days. If however, after reviewing and considering the notice in good faith, the notified Competent Authority does not agree that there is, or has been, an error or non-compliance as described in the notice it should, as soon as possible, advise the other Competent Authority in writing of such determination and explain the reasons for it.
17	Requirement to keep records	**17.** A reporting financial institution shall keep records of the steps undertaken and any records obtained or created for the purpose of complying with the Common Reporting Standard Due Diligence Requirements required under Schedule 1 for a period of not less than five years after the end of the period within which the reporting financial institution is required to report the information required to be reported under Schedule 1.	Common Reporting Standards Section IX A. A jurisdiction must have rules and administrative procedures in place to ensure effective implementation of, and compliance with, the reporting and due diligence procedures set out above including: 1. rules to prevent any Financial Institutions, persons or intermediaries from adopting practices intended to circumvent the reporting and due diligence procedures; 2. **rules requiring Reporting Financial Institutions to keep records of the steps undertaken and any evidence relied upon for the performance of the above procedures and adequate measures to obtain those records**;
18	Board to inform on breach of confidentiality	**18**. The Board shall notify the CB Secretariat immediately regarding any breach of confidentiality or failure of safeguards and any sanctions and remedial actions consequently imposed.	Section 5 of the Model Competent Authority Agreement A Competent Authority will notify the CB Secretariat immediately regarding any breach of confidentiality or

			failure of safeguards and any sanctions and remedial actions consequently imposed.
19	Use of service providers	**19**. (1) A reporting financial institution may use service providers such as data providers, financial advisers or insurance agents to fulfil their reporting and due diligence obligations. (2) A reporting financial institution may use documentation collected by service providers under subsection (1) subject to conditions that may be prescribed in Regulations made under this Act. (3) Notwithstanding subsection (1) or (2), a reporting financial institution shall be ultimately responsible for the reporting and due diligence requirements under this Act.	Common Reporting Standards Section II Paragraph D- General Due Diligence Requirements D. Each Jurisdiction may allow Reporting Financial Institutions to use service providers to fulfil the reporting and due diligence obligations imposed on such Reporting Financial Institutions, as contemplated in domestic law, but these obligations shall remain the responsibility of the Reporting Financial Institutions. According to paragraph D, each Jurisdiction may allow Reporting Financial Institutions to use service providers to fulfil the reporting and due diligence obligations imposed on such Reporting Financial Institutions (e.g. a jurisdiction may permit Reporting Financial Institutions to rely on due diligence procedures performed by service providers). In such cases, Reporting Financial Institutions must satisfy the requirements contained in domestic law and remain responsible for their reporting and due diligence obligations (i.e. the service provider’s actions are imputed to the Reporting Financial Institution), including their obligations under domestic law on confidentiality and data protection. This alternative allows a Reporting Financial Institution to use a service provider that is resident in the same or in a different jurisdiction as the Reporting Financial Institution. Also, it does not modify the time and manner of the reporting and

			due diligence obligations, which remain the same as if they were still being fulfilled by the Reporting Financial Institution. For example, the service provider must report the information as the Reporting Financial Institution would have (e.g. to the same jurisdiction) and identify the Reporting Financial Institution with respect to which it fulfils the reporting and due diligence obligations.
20	Immunity from suit	**20.** The Board or any person acting under its authority or direction, who discloses confidential information in compliance with this Act, shall not be taken as having committed an offence under the provisions of any written law relating to confidentiality by reason only of that disclosure.	Included as a general provision to protect the Board and its staff in disclosure of confidential information under this Act where it is disclosed in accordance with this Act.
21	Annual report	**21.** The Minister shall cause to be laid in Parliament an annual report on the operations of the Board in relation to this Act.	While not required by the Convention it was felt that like the TIEA (USA) this was required in our administrative framework.
22	Minister to amend Schedules	**22.**(1) The Minister may by Order amend Schedules 2 and 5 to add to, or remove the name of a country or competent authority. (2) The Minister may by Order, where the parties to the Convention modify the Convention, amend the Convention or its annexes contained in Schedule 3 to reflect that modification. (3) The Minister may by Order amend Schedules 1 and 4. (4) An Order under subsection (2) shall be subject to negative resolution of Parliament.	As the Schedules may need to be amended form time to time this provision was necessary to provide for such amendments
23	Minister to prescribe dates	**23.** Where any provision of this Act requires a date to be prescribed, the Minister may, by Order, prescribe such date.	Since we had not signed on the Convention prior to the laying of the Bill in Parliament it was necessary to make provision for dates to be later prescribed.
24	Regulations	**24.** (1) The Minister may make regulations for the purpose of giving effect to anything required to be done under this Act.	Since Regulations may be required this section would empower the Minister to make

		(2) Regulations made under subsection (1) shall be subject to negative resolution of Parliament.	Regulations which are subject to Parliamentary scrutiny by negative resolution.
25	Consequential amendments Schedule 6	**25.** The Acts listed in the First Column of the Table set out in Schedule 6 are amended to the extent set out in the Second Column of the Table.	Consequential amendments to various pieces of legislation was required

APPENDIX D

Response to JSC on the Mutual Administrative Assistance in tax Matters Bill, 2019 Query as to whether the fines and custodial sentences prescribed in Clauses 15(1) and 16(5) of the Mutual Administrative Assistance in Tax Matters Bill, 2018 are consistent with established standards?

CLAUSE 15(1)

Based on the comparative legislation below, it appears that the criminal penalty of a fine of $150,000.00 under the Bill is the slightest fine to be imposed for this type of offence, whereas, the imprisonment for 20 years under the Bill is the highest sentence of imprisonment for this type of offence.

JSC QUERY:	THE MUTUAL ADMINISTRATIVE ASSISTANCE IN TAX MATTERS BILL, 2018	SECURITIES ACT CHAP. 83:02	FINANCIAL INSTITUTIONS CHAP. 79:09	INSURANCE ACT, 2018
Clause 15(1) Whether the fine and custodial sentence prescribed in Clause 15(1) is consistent with established standards?	***General description of Offence:*** Clause 15(1) A person who enters into an arrangement or engages in a practice to avoid a requirement imposed under this Act or its regulations commits an offence. ***Criminal penalty:***	***General description of Offence:*** Section 165(1)(a) A person who knowingly or recklessly makes a misrepresentation in contravention of, or otherwise in relation to, this Act commits an offence. ***Criminal penalty:*** Liable on summary	***General description of Offence:*** Section 117(2) A person who fails to comply with this Act or Regulations or Bye-laws made under this Act for which no penalty is expressly provided in the provisions of the Act or in the Fourth Schedule,	***General description of Offence:*** Section 254(3) A person who contravenes this Act or the Regulations for which no other penalty is expressly provided, commits an offence. ***Criminal penalty:*** Liable— (a) on conviction on indictment

JSC QUERY:	THE MUTUAL ADMINISTRATIVE ASSISTANCE IN TAX MATTERS BILL, 2018	SECURITIES ACT CHAP. 83:02	FINANCIAL INSTITUTIONS CHAP. 79:09	INSURANCE ACT, 2018
	Liable on summary conviction to a fine of **one hundred and fifty thousand dollars ($150,000.00)** and imprisonment for **twenty (20) years.**	conviction to a fine of **two million dollars ($2,000,000.00)** and to imprisonment for **five (5) years.** ***Administrative fine:*** An administrative fine not exceeding **five hundred thousand dollars ($500,000.00)** may be imposed instead of the criminal penalty.	commits an offence. ***Criminal penalty:*** Liable on summary conviction to a fine of **six hundred thousand dollars ($600,000.00)** and to imprisonment for **two (2) years.**	to a fine of **six hundred thousand dollars ($600,000.00)** and to imprisonment for **two (2) years** and in the case of a continuous offence, to a fine of **sixty thousand dollars ($60,000.00)** for each day the offence continues; or (b) on summary conviction to a fine of **three hundred and fifty thousand dollars ($350,000.00)** and to imprisonment for **one (1) year** and in

JSC QUERY:	THE MUTUAL ADMINISTRATIVE ASSISTANCE IN TAX MATTERS BILL, 2018	SECURITIES ACT CHAP. 83:02	FINANCIAL INSTITUTIONS CHAP. 79:09	INSURANCE ACT, 2018
				the case of a continuous offence, to a fine of **thirty thousand dollars ($30,000.00)** for each day the offence continues.

CLAUSE 16(5)

Based on the comparative legislation below, it appears that the penalty of $100,000.00 under the Bill is the only penalty without a criminal sanction attached to it, as well as, it is one of the lesser penalties to be imposed for this type of wrongdoing. For e.g. under section 155(10)(d) and (e) of the Insurance Act, a person who fails to comply with compliance directions issued by the Inspector may face a fine of $80,000.00 on summary conviction.

Under the Securities Act, Chap. 83:02, Financial Institutions Act, Chap. 79:09 and the Insurance Act, 2018, non-compliance is categorised as a criminal offence and the payment of fines and imprisonment for 5 years (only under the Securities Act) are attached as criminal sanctions.

JSC QUERY:	**THE MUTUAL ADMINISTRATIVE ASSISTANCE IN TAX MATTERS BILL, 2018**	**SECURITIES ACT CHAP. 83:02**	**FINANCIAL INSTITUTIONS CHAP. 79:09**	**INSURANCE ACT, 2018**		
Clause 16(5) Whether the fine and custodial sentence prescribed in Clause	***General description of failure:*** <u>Clause 16(5)</u> Any financial institution which fails to comply with a direction of the Board to make a correction or to ensure compliance shall be penalised.	***General description of Offence:*** <u>Section 90</u> Any person who fails to take measures directed pursuant to compliance directions as contained in Section 90(1) commits an offence.	***General description of Offence:*** <u>Section 86(9)</u> Any person who fails to comply with compliance directions issued by the Inspector of Financial Institutions under this section commits an offence.	***General description of Offence:*** <u>Section 10(8)</u> A registrant or financial holding company that fails to take measures required by the Inspector to ensure that they are observing the provisions of the Act, and that the registrant or financial holding company or subsidiary is in a sound financial condition,	***General description of Offence****:* <u>Section 35</u> Where the Board restricts the registration of an insurer instead of revoking it, the registration may be restricted by issuing such directions as the Board thinks necessary. Where an insurer fails to comply with any direction issued by the Board in those circumstances, they commit an offence.	***General description of Offence****:* <u>Section 155</u> A person who fails to comply with compliance directions issued by the Inspector commits an offence. ***Criminal penalty:*** Liable, in the case of— (a) an insurer or financial holding company, holding

JSC QUERY:	**THE MUTUAL ADMINISTRATIVE ASSISTANCE IN TAX MATTERS BILL, 2018**	**SECURITIES ACT CHAP. 83:02**	**FINANCIAL INSTITUTIONS CHAP. 79:09**	**INSURANCE ACT, 2018**		
16(5) is consistent with established standards?	***Penalty:*** Liable to a penalty of **one hundred thousand dollars ($100,000.00)** payable to the Comptroller of Accounts.	***Criminal penalty:*** Liable on summary conviction to a fine of **five million dollars ($5,000,000.00)** and to imprisonment for **five (5) years.**	***Criminal penalty:*** Liable on summary conviction— (a) in the case of a licensee or financial holding company, holding company, controlling shar	commits an offence. ***Criminal penalty:*** Liable— (a) on conviction on indictment to a fine of **six hundred thousand dollars ($600,000.00)** and in the case of a continuing offence	***Criminal penalty:*** Liable— (a) on conviction on indictment– (i) in the case of an insurer, to a fine of **six hundred thousand dollars ($600,000.00);** or (ii) in the case of a director or	company, controlling shareholder, or significant shareholder, on conviction on indictment to a fine of **five million dollars ($5,000,000.00)** and, in the case of a continuing offence, to a fine of **five hundred thousand dollars ($500,000.00)** for each day that the offence continues; (b) a director or officer, other employee or agent, or principal representative of a foreign

JSC QUERY:	THE MUTUAL ADMINISTRATIVE ASSISTANCE IN TAX MATTERS BILL, 2018	SECURITIES ACT CHAP. 83:02	FINANCIAL INSTITUTIONS CHAP. 79:09	INSURANCE ACT, 2018		
			eholder, or significant shareholder to a fine of **five million dollars ($5,000,000.00)** and in the case of a continuing offe	to a fine of **sixty thousand dollars ($60,000.00)** for each day that the offence continues; or (b) on summary conviction to a fine of **three hundred thousand dollars ($300,0**	officer, to a fine of **six hundred thousand dollars ($600,000.00)** and to imprisonment for **two (2) years**; or (b) on summary conviction— (i) in the case of an insurer, to a fine of **three hundred**	insurance company, holding company or financial holding company, on conviction on indictment to a fine of **five million dollars ($5,000,000.00)** and to imprisonment for five years and, in the case of a continuing offence, to a fine of **five hundred thousand dollars ($500,000.00)** for each day that the offence continues; (c) an agency or brokerage, on

JSC QUERY:	THE MUTUAL ADMINISTRATIVE ASSISTANCE IN TAX MATTERS BILL, 2018	SECURITIES ACT CHAP. 83:02	FINANCIAL INSTITUTIONS CHAP. 79:09	INSURANCE ACT, 2018		
			nce, to a fine of **five hundred thousand dollars ($500,000.00)** for each day that the offence continues; or (b) in the case of a direc	**00.00)** and in the case of a continuing offence to a fine of **thirty thousand dollars ($30,000.00)** for each day that the offence continues.	**thousand dollars ($300,000.00);** or (ii) in the case of a director or officer, to a fine of **three hundred thousand dollars ($300,000.00)** and to imprisonment for **one (1) year**.	summary conviction to a fine of **one hundred and fifty thousand dollars ($150,000.00)** and in the case of a continuing offence, to a fine of **fifteen thousand dollars ($15,000.00)** for each day the offence continues; (d) a director, officer or other employee of an agency or brokerage, on summary conviction to a fine of **eighty thousand**

JSC QUERY:	THE MUTUAL ADMINISTRATIVE ASSISTANCE IN TAX MATTERS BILL, 2018	SECURITIES ACT CHAP. 83:02	FINANCIAL INSTITUTIONS CHAP. 79:09	INSURANCE ACT, 2018		
			tor or officer, other employee or agent, or principal officer of a licensee or financial holding company, to a fine of **five milli**			**dollars ($80,000.00)** and in the case of a continuing offence, to a fine of **fifteen thousand dollars ($15,000.00)** for each day the offence continues; and (e) an agent, broker, sales representative, adjuster or any other person, on summary conviction to a fine of **eighty thousand dollars ($80,000.00)** and in the case of a continuing

JSC QUERY:	THE MUTUAL ADMINISTRATIVE ASSISTANCE IN TAX MATTERS BILL, 2018	SECURITIES ACT CHAP. 83:02	FINANCIAL INSTITUTIONS CHAP. 79:09	INSURANCE ACT, 2018		
			on dollars ($5,000,000.00) and to imprisonment for **five (5) years.**			offence, to a fine of **eight thousand dollars ($8,000.00)** for each day the offence continues.

CPC RESPONSES TO JSC QUERIES ON INCOME TAX (AMENDMENT) BILL, 2019

Clause	Marginal Note	Comments/Issues and Concerns Raised	Decisions Taken
4	New section 4D inserted	CPC to review and redraft section with a view to providing an appropriate penalty commensurate to the seriousness of the offence of the disclosure by an employee of the BIR	A matrix is provided at the **Appendix** of disclosures under 7 other pieces of legislation **This is as contained in the Common Reporting Standards**

APPENDIX

PENALTIES FOR BREACHING CONFIDENTIALITY UNDER VARIOUS LAWS

LEGISLATION	SECTION	PENALTY
1. Financial Intelligence Unit Act, Chap 72:01	**22 (Confidentiality of information)** (1) An FIU officer who discloses information that has come into his possession as a result of his employment in the FIU to a person otherwise than in the proper exercise of his duties, commits an offence and is liable on summary conviction to a fine of two hundred and fifty thousand dollars and imprisonment for three years.	$250,000.00 & 3 years' imprisonment
	23 (Disclosure of information) (1) Subject to subsection (2), any person other than an FIU officer, who, in the course of his business obtains or receives information from the FIU, commits an offence if he knowingly discloses— *(a)* the information to any person; or *(b)* the fact that an analysis has been recommended by the FIU, is liable on summary conviction to a fine of two hundred and fifty thousand dollars and to imprisonment for three years.	$250,000.00 & 3 years' imprisonment
2. Customs Act, Chap. 78:01	**280 (Official Secrecy)** (1) A person having an official duty or being employed in the administration of this Act, shall regard and deal with all documents, entries, declarations and data messages as secret and confidential and shall make and subscribe a declaration in the prescribed form before a Justice of the Peace. (3) A person, being in possession of any information which to his knowledge has been disclosed in contravention of this Act, who makes use of or publishes or communicates such information to any person is liable on summary conviction to a penalty of one hundred thousand dollars and imprisonment for a term of eight years.	$100,000.00 & 8 years' imprisonment
	281 (Third Party liability for information) (1) Where a person is provided with information under section 279, he shall not, for any purpose other than that for which it was given, use that information or disclose it to any other person except where so authorised by law. (2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a penalty of one hundred thousand dollars and imprisonment for a term of eight years.	$100,000.00 & 8 years' imprisonment

LEGISLATION	SECTION	PENALTY
3. Income Tax, Chap. 75:01	**121 (Offences and penalties)** (1) Any person guilty of an offence under this Act is, unless some other penalty is specifically provided for any such offence, liable on summary conviction to fine of thirty thousand dollars or to imprisonment for two years or both. (2) Where a person is guilty of an offence under this Act, the Court may, in addition to any penalty which it may impose, make an order for the immediate payment of any tax or for the penalty imposed or for both such tax and such penalty and the Court may make such order for imprisonment in default for any period not exceeding two years as it may consider fit.	$30,000.00 & 2 years' imprisonment
4. Tax Information Exchange Agreements (United States of America) Act No. 4 of 2017(FACTA)	**8. (Disclosure under this Part) (Part II 1989 TIEA)** (2) Where information has been obtained or received under this Part or the 1989 TIEA, a person who uses or discloses the information other than for the purposes for which it was obtained or received commits an offence and is liable— (a) on summary conviction to a fine of one hundred thousand dollars and to imprisonment for three years; and (b) on conviction on indictment to a fine of two hundred and fifty thousand dollars and to imprisonment for five years.	$100,000.00 & 3 years' imprisonment and $250,000.00 & 5 years' imprisonment
	23 (Penalty for disclosure under this Part) (Part III Inter-Governmental Agreements) Where information has been obtained or received under this Part, a person who uses or discloses the information other than for the purposes for which it was obtained or received commits an offence and is liable— (a) on summary conviction to a fine of one hundred thousand dollars and to imprisonment for three years; and **(b)** on conviction on indictment to a fine of two hundred and fifty thousand dollars and to imprisonment for five years.	$100,000.00 & 3 years' imprisonment and $250,000.00 & 5 years' imprisonment
5. Financial Institutions Act, Chap. 79:09	**8 (Prohibition on disclosure)** (1) No person, officer or Director of the Central Bank or person acting under the direction of the Central Bank shall disclose any information regarding the business or affairs of a licensee or any of its affiliates or information regarding a depositor, customer or other person dealing with a licensee, that is obtained in the course of official duties.	$600,000.00 & 2 years' imprisonment

LEGISLATION	SECTION	PENALTY
	(2) A person who contravenes this section commits a offence and is liable on summary conviction to a fine of six hundred thousand dollars and to imprisonment for two years.	
	55. (Information not to be disclosed) (1) No licensee, financial holding company, controlling shareholder, significant shareholder or affiliate of a licensee, and no director, officer, employee or agent of a licensee, financial holding company or other controlling shareholder or affiliate who receives information relating to the business or other affairs of a depositor or customer of the licensee or of any other person shall disclose the information unless– (a) the disclosure is required under compulsion of law; (b) there is a duty to the public to disclose the information; (c) the interest of the licensee requires disclosure; or (d) the depositor or customer expressly or impliedly consents to the disclosure. (5) A person who discloses information contravention of this section commits an offence and is liable on summary conviction to a fine of six hundred thousand dollars and to imprisonment for two years.	$600,000.00 & 2 years' imprisonment
6. Securities Act, Chap. 83:02	**14 (Confidentiality)** (1) Subject to subsection (3) no person shall make use of or disclose any confidential information other than for the administration or enforcement of this Act. (2) Notwithstanding subsection (1) or any other written law, the Commission or any duly authorised person or entity may disclose the information referred to in subsection (1)— (a) pursuant to an order of the Court; or (b) to— (i) a Commissioner, or an employee of the Commission; (ii) a representative of the government of Trinidad and Tobago duly authorised by the Minister; (iii) a duly authorised representative of the Central Bank, the Financial Intelligence Unit or a regulatory agency in Trinidad and Tobago; (iv) an expert hired or retained by the Commission; or (v) a duly authorised representative of a securities or financial regulatory authority outside of Trinidad and Tobago, in connection with the administration and enforcement of this Act or similar legislation of any foreign jurisdiction if the Commission is satisfied that the information will be treated as	$600,000.00 & 12 years' imprisonment

LEGISLATION	SECTION	PENALTY
	confidential by the person or agency to whom it is disclosed and used strictly for the purpose for which it is disclosed. (3) Subsection (1) applies to a person who receives information under subsection (2). (4) For the purposes of this section, "*confidential information*" means any information obtained as a result of a person's relationship with the Commission in the course of his duties in the exercise of the Commission's functions under this Act or any other written law that is administered by the Commission but does not include information that is or has already been made available to the public. (5) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of six hundred thousand dollars and to imprisonment for two years.	
	100. (Prohibition on use of material non-public information.) (1) No person connected to a reporting issuer shall, directly or indirectly, buy, sell, or otherwise trade in any securities of such reporting issuer, on a securities market, during any time that such person has knowledge or possession of material non-public information, however obtained, until such information has been published. (2) No person connected to a reporting issuer shall, directly or indirectly, counsel, procure or otherwise advise any person to buy, sell, or otherwise trade in any securities of such reporting issuer, on a securities market, during any time that such person has knowledge or possession of material non-public information, however obtained, until such information has been published. **101. (Prohibition on the disclosure of material non-public information.)** A person connected to a reporting issuer shall not directly or indirectly, communicate or otherwise disclose any material non-public information to any person until such information has been published, unless in the necessary course of business. **103. (Offence)** A person who contravenes sections 100 or 101 commits an offence and is liable on summary conviction to a fine of ten million dollars and to imprisonment for ten years.	$10,000,000.00 & 10 years' imprisonment
7. Insurance Act, No. 4 of 2018	**16. (Prohibition against disclosure)** (1) No director, officer or employee of the Central Bank or person acting under the direction of the Central Bank shall disclose any information regarding the business or affairs of a	$600,000.00 & 12 years' imprisonment on indictment

LEGISLATION	SECTION	PENALTY
	registrant or any of its affiliates or information regarding a policyholder, consumer or other person dealing with a registrant that is obtained in the course of official duties. (2A) The Central Bank may disclose information referred in subsection (1) to the Board of Inland Revenue in order to give effect to the Tax Information Exchange Agreements (United States of America) Act, 2017. (2B) The information referred to in sub-section (1) may be utilized by the Central Bank as required to give effect to its powers under the Tax Information Exchange Agreements (United States of America) Act, 2017. (3) Notwithstanding subsection (1) or any other written law, the Central Bank, or a person authorized in writing by the Central Bank, shall disclose the information referred to in subsection (1) to any person in accordance with an order of the court. (4) The Central Bank may enter into a Memorandum of Understanding with any person mentioned in subsections (2) and (2A) with respect to sharing information, but the absence of such Memorandum of Understanding shall not prevent the disclosure of information by the Central Bank to such person.	$50,000.00 and imprisonment for one years for summary conviction and for continuous offences to a fine of thirty thousand dollars for each day the offence continues.
	254 (offences) (3) Any person who contravenes this Act or the Regulations for which no other penalty is expressly provided, commits an offence and is liable– (a) on conviction on indictment to a fine of six hundred thousand dollars and to imprisonment for two years and in the case of a continuous offence, to a fine of sixty thousand dollars for each day the offence continues; or (b) on summary conviction to a fine of three hundred and fifty thousand dollars and to imprisonment for one year and in the case of a continuous offence, to a fine of thirty thousand dollars for each day the offence continues.	$600,000.00 and imprisonment for 12 years for conviction on indictment $50,000.00 and imprisonment for one years for summary conviction. And for continuous offences to a fine of thirty thousand dollars
	259. (Information not to be disclosed) (1) No registrant, financial holding company, controlling shareholder, significant shareholder or affiliate of a registrant, and no director, officer, employee or agent of a registrant, financial holding company or other controlling shareholder or affiliate who receives information in the course of his duties relating to the business or other affairs of a policy-holder, consumer of the insurer or of any other person shall disclose the information unless—	

LEGISLATION	SECTION	PENALTY
	(a) the disclosure is required under compulsion of law; or (b) the policyholder, consumer or other person concerned expressly consents to the disclosure. (4) This section does not apply to information which at the time of disclosure is, or has already been made available to the public from other sources or to information in the form of a summary or collection of information so framed as not to enable information relating to any particular person to be ascertained from it.	

Ministry of the Attorney General and Legal Affairs

MATRIX OF OFFENCES UNDER THE INCOME TAX ACT, CHAP 75:01

Prepared for the Joint Select Committee on the Mutual Administrative Assistance in Tax Matters Bill, 2019

	Income Tax Act Chapter 75:01	
Section Number	**Provision**	**Penalty**
4 Official Secrecy	(2) **Any person** having possession of or control over any document, information, returns, or assessment lists or copies of such lists relating to the income or items of income of any person **who at any time communicates or attempts to communicate such information or anything contained in such documents, returns, lists or copies to any person otherwise than for the purposes of this Act or any other written law administered by the Board**, is guilty of an offence. (4) Subsections (1) and (2) do not apply in respect of criminal proceedings, either on indictment or on summary conviction that have been commenced by the laying of information or the preferring of an indictment, under the Proceeds of Crime Act and the Anti-Terrorism Act. (5) Notwithstanding subsections (1) and (2) where a written law authorizes the disclosure by the Board of any	**121.** (1) Any person guilty of an offence under this Act is, unless some other penalty is specifically provided for any such offence, **liable on summary conviction to a fine of thirty thousand dollars or to imprisonment for two years or both.** (2) Where a person is guilty of an offence under this Act, the Court may, in addition to any penalty which it may impose, make an order for the immediate payment of any tax or for the penalty imposed or for both such tax and such penalty and the Court may make such order for imprisonment in default for any period not exceeding two years as it may consider fit.

	taxpayer information to an individual or entity, the Board shall, within a reasonable time, so disclose to the individual or entity and the individual or entity shall in respect of the taxpayer information so disclosed comply with subsection (6).	
4B	A person who receives taxpayer information under section 4 and who breaches section 4A commits an offence and is liable— *(a)* on summary conviction to a fine of three hundred thousand dollars and to imprisonment for a term of twenty years; or *(b)* on conviction on indictment to a fine of five hundred thousand dollars and to imprisonment for a term of thirty years.	*a)* on summary conviction to a fine of three hundred thousand dollars and to imprisonment for a term of twenty years; or *(b)* on conviction on indictment to a fine of five hundred thousand dollars and to imprisonment for a term of thirty years.
50 Rates of withholding tax	(4) A person liable under subsection (2) to account for and **pay over withholding tax to the Board who fails to do** so is guilty of an offence, and the provisions of section 99(4) shall apply accordingly. (2) Where, after 1st January 1966, a person or company makes any payment or distribution to any such person as is mentioned in subsection (1), or to any non-resident company, the person or the company shall under this subsection, within thirty days, account for and pay withholding tax in respect of the	**121.** (1) Any person guilty of an offence under this Act is, unless some other penalty is specifically provided for any such offence, liable on summary conviction to a **fine of thirty thousand dollars or to imprisonment for two years or both.** **99.** (4) If any person fails— *(a)* to deduct or withhold any amount required to be deducted or withheld by him by subsection (1); or *(b)* to remit or pay to the Board any amount which

	payment or distribution aforesaid at the rate referred to in subsection (1).	he is required by subsection (2) to pay to the Board by such date or dates as may be prescribed by Regulations made under section 125, **he is guilty of an offence; and, in addition to such amount, there shall become payable by such person to the Board, unless the Board otherwise directs, a sum of twenty-five per cent of such amount, or forty dollars, whichever is the greater, and he shall pay interest at the rate of twenty per cent a year on such amount and on such additional sum, unless the Board otherwise directs, from the day on or before which he was** required to make the payment to the day of payment, as if the same was tax payable by such person on the date when such amount was required to be deducted, withheld, remitted or paid, as the case may be, and the provisions of this Act relating to the collection and recovery of tax shall apply to the collection and the recovery of any such sum or amount.
62 Lists to be prepared by representative or agent	(1) Every person who, in whatever capacity, is in receipt of any money or value being income arising from any of the sources mentioned in this Act of or belonging to any other person who is chargeable in respect thereof, or would be so chargeable if he were resident in Trinidad and Tobago and not an	**121.** (1) Any person guilty of an offence under this Act is, unless some other penalty is specifically provided for any such offence, liable on summary conviction to a fine of **thirty thousand dollars or to imprisonment for two years or both.**

	incapacitated person, shall, whenever required to do so by any notice from the Board, prepare and deliver within the period mentioned in such notice a list in a form approved by the Board, signed by him, containing— *(a)* a true and correct statement of all such income; *(b)* the name and address of every person to whom the same shall belong. (2) **Any person who refuses, fails or neglects to comply with the provisions of this section is guilty of an offence.**	
76 Returns of income	(5) Any person liable to **furnish a return of income in respect of any year of income who fails**, neglects or refuses to do so is guilty of an offence.	**121.** (1) Any person guilty of an offence under this Act is, unless some other penalty is specifically provided for any such offence, liable on summary conviction to a fine of **thirty thousand dollars or to imprisonment for two years or both.**
76 Returns of income	(6) Any person who fails, **neglects or refuses to furnish a return of income for the year of income 1987 and subsequent years after six months from the time required** to file the return, shall thereafter in addition to any other penalty provided in this Act, unless the Board otherwise directs, be liable to a **penalty of one hundred dollars for every six months or part thereof during which such failure, neglect or refusal continues.**	**121.** (1) Any person guilty of an offence under this Act is, unless some other penalty is specifically provided for any such offence, liable on summary conviction to a fine of thirty thousand dollars or to imprisonment for two years or both.

77 Power of Board to require returns	(2) Any person who, after being required by the Board to **make a return, fails or neglects to do so within the time specified is, whether or not any liability to tax is involved, guilty of an offence**.	**121.** (1) Any person guilty of an offence under this Act is, unless some other penalty is specifically provided for any such offence, liable on summary conviction to a fine of thirty thousand dollars or to imprisonment for two years or both.
78 Partnerships	(1) Where a trade, business, profession or vocation is carried on by two or more persons jointly, the income of any partner from the partnership for the year of income shall be deemed to be the share to which he is entitled in the income of the partnership for that year (such income being ascertained in accordance with the provisions of this Act) and shall be included in the return of income to be made by such partner under the provisions of this Act. (2) *(a)* The precedent partner, that is to say, the partner who of the partners resident in Trinidad and Tobago— (i) is first named in the agreement of partnership; (ii) if there be no agreement, is named singly or with precedence to the other partners in the usual name of the firm; or (iii) is the precedent acting partner, if the partner named with precedence is not an acting partner, shall make and deliver a return of the income of the partnership for any year, such income being	**121.** (1) Any person guilty of an offence under this Act is, unless some other penalty is specifically provided for any such offence, liable on summary conviction to a fine of thirty thousand dollars or to imprisonment for two years or both.

	ascertained in accordance with the provisions of this Act and shall declare therein the names and addresses of the other partners in the firm together with the amount of the share of the said income to which each partner was entitled for that year. *(b)* Where no partner is resident in Trinidad and Tobago, the return shall be made and delivered by the attorney, agent, manager or factor of the firm resident in Trinidad and Tobago. (3) **Any person who refuses, fails or neglects to deliver any return required under this section is guilty of an offence.**	
97 Power of Board to require schedule of particulars	(1) The Board may, by notice in writing, require any person to furnish it within a specified time with a schedule containing such particulars as it may require for the purposes of this Act with respect to the income of such person. (2) **Any person who fails or neglects duly to furnish** **such schedules is guilty of an offence**.	**121.** (1) Any person guilty of an offence under this Act is, unless some other penalty is specifically provided for any such offence, liable on summary conviction to a fine of thirty thousand dollars or to imprisonment for two years or both.
97 Power of Board to require schedule of particulars	(4) Any person who, without lawful excuse, refuses or neglects to attend or give evidence in pursuance of such notice or to produce such books or other documents, or who refuses to answer any lawful question touching the matters under **consideration or knowingly or**	**121.** (1) Any person guilty of an offence under this Act is, unless some other penalty is specifically provided for any such offence, liable on summary conviction to a fine of thirty thousand dollars or to imprisonment for two years or both.

	wilfully gives any false evidence under this section, is guilty of an offence.	
99 Deductions and payment of emoluments	(4) If any person fails— *(a)* to deduct or withhold any amount required to be deducted or withheld by him by subsection (1); or *(b)* to remit or pay to the Board any amount which he is required by subsection (2) to pay to the Board by such date or dates as may be prescribed by Regulations made under section 125, he is guilty of an offence; and, in addition to such amount, there shall become payable by such person to the Board, unless the Board otherwise directs, a sum of twenty-five per cent of such amount, or forty dollars, whichever is the greater, and he shall pay interest at the rate of twenty per cent a year on such amount and on such additional sum, unless the Board otherwise directs, from the day on or before which he was required to make the payment to the day of payment, as if the same was tax payable by such person on the date when such amount was required to be deducted, withheld, remitted or paid, as the case may be, and the provisions of this Act relating to the collection and recovery of tax shall apply to the collection and the recovery of any such sum or amount.	**121.** (1) Any person guilty of an offence under this Act is, unless some other penalty is specifically provided for any such offence, liable on summary conviction to a fine of thirty thousand dollars or to imprisonment for two years or both.

107 Obstruction of officers	**Any person, who by himself or by any person in his employ, obstructs, molests or hinders—** ***(a)* an authorised person or any person employed in relation to any duty of tax in the execution** of his duty, or of any of the powers or authorities by law given to the authorised person or any other person; or *(b)* any person acting in the aid of an authorised person or any person so employed, **is guilty of an offence.**	**121.** (1) Any person guilty of an offence under this Act is, unless some other penalty is specifically provided for any such offence, liable on summary conviction to a fine of thirty thousand dollars or to imprisonment for two years or both.
116 Traders, etc., to keep accounts, books and records in English language	(4) **Any person who fails to keep such records, books of account and every account or voucher as may be required to be so kept by this section is guilty of an offence**.	**121.** (1) Any person guilty of an offence under this Act is, unless some other penalty is specifically provided for any such offence, liable on summary conviction to a fine of thirty thousand dollars or to imprisonment for two years or both.
117 Powers of inspection of records	(5) A person is guilty of an offence who— *(a)* fails to give to the Board any information in accordance with this section; or *(b)* fails to produce for the inspection of the Board or any person duly authorised by it any records which he may be	**121.** (1) Any person guilty of an offence under this Act is, unless some other penalty is specifically provided for any such offence, liable on summary conviction to a fine of thirty thousand dollars or to imprisonment for two years or both.

	required by the Board or such duly authorised person to produce.	
118 Powers of entry for certain purposes	(6) Any person who in compliance with the provisions of this section, or of a warrant issued thereunder, is admitted into a factory or workplace, discloses to any person any information obtained by him in the factory or workplace with regard to any manufacturing process or trade secret, is, unless such disclosure was made in the performance of his duty, liable to a fine of fifteen thousand dollars or to imprisonment for twelve months.	Liable to a fine of fifteen thousand dollars or to imprisonment for twelve months
118 Powers of entry for certain purposes	(7) Any person who hinders or molests or interferes with any person doing anything that he is authorised to do or prevent or attempts to prevent any person from doing any such thing and any person who, unless he is unable to do so, fails or refuses to do anything he is required by or pursuant to this section to do is guilty of an offence and liable on summary conviction to a fine of fifteen thousand dollars and to imprisonment for two years.	Liable on summary conviction to a fine of fifteen thousand dollars and to imprisonment for two years.
119 Offence in respect of fraud	(1) Any person who— *(a)* knowingly or recklessly makes or participates in or assents to or acquiesces in the making of false or deceptive statements or representations in a return, certificate, statement, declaration	Liable on summary conviction to a fine of fifty thousand dollars and to imprisonment for three years.

	or answer made under this Act or any Regulations; *(b)* with intent to evade payment of a tax imposed by this Act, destroys, alters, mutilates, secretes or otherwise disposes of any records or books of account; *(c)* knowingly or recklessly makes or assents to or acquiesces in the making of false or deceptive entries, or omits or assents to or acquiesces in the omission to enter a material particular in any records or books of account; *(d)* wilfully in any manner evades or attempts to evade, compliance with this Act or payment of taxes imposed by this Act; *(e)* with intent to deceive, furnishes the Central Bank or Public Agency under section 76A(1) with a B.I.R. file number which is not his own; *(f)* being an employee or an officer, and who, with intent to deceive, furnishes his employer under section 76B, with a B.I.R. file number which is not his own; *(g)* being an employer, and who knowingly or recklessly records under section 76B, a B.I.R. file number of an employee or officer which is different from the number furnished by that employee or officer;	

	(h) conspires with any person to commit an offence described in paragraphs *(a)* to *(g)*, is guilty of an offence, and in addition to any penalty otherwise provided is liable on summary conviction to a fine of fifty thousand dollars and to imprisonment for three years.	
120 Failure to perform required duty	Any person who fails or neglects to perform any duty required to be performed under this Act is guilty of an offence.	**121.** (1) Any person guilty of an offence under this Act is, unless some other penalty is specifically provided for any such offence, liable on summary conviction to a fine of thirty thousand dollars or to imprisonment for two years or both.
130 Power to obtain information as to interest paid or credited without deduction of tax.	(1C) Subject to subsection (1D), a person required by subsection (1) to make a return in accordance with that subsection who fails to obtain or to enter the Board of Inland Revenue file number in accordance with subsection (1A), is guilty of an offence but it is a good defence to a complaint brought under this subsection that any such failure was not due to the wilful neglect or default of the person so required to obtain or to enter the said file number. (1) Subject to subsections (2) and (3), every person carrying on a trade or business either on his own behalf or who, in the ordinary course of the operations thereof, receives or retains money in such	**121.** (1) Any person guilty of an offence under this Act is, unless some other penalty is specifically provided for any such offence, liable on summary conviction to a fine of thirty thousand dollars or to imprisonment for two years or both.

	circumstances that interest becomes payable thereon which is paid or credited, and, in particular, every person carrying on the trade or business of banking shall, if required to do so by notice from the Board, make and deliver to the Board, within the time specified in the notice, a return of all interest paid or credited by him as aforesaid during a year specified in the notice in the course of his trade or business or any such part of his trade or business as may be so specified, giving the names and addresses of the persons to whom the interest was paid or credited and stating in each case the amount of interest.	
130 Power to obtain information as to interest paid or credited without deduction of tax.	(1D) A depositor to whom this section applies who fails to supply his Board of Inland Revenue file number in accordance with subsection (1B) is guilty of an offence and liable on summary conviction to a fine of fifteen thousand dollars and to imprisonment for one year.	Liable on summary conviction to a fine of fifteen thousand dollars and to imprisonment for one year.
	SUBSIDIARY LEGISLATION ***Income Tax (Miscellaneous Clearance) Regulations***	
11 Offence and penalty	A person who contravenes or fails to comply with any of these Regulations is liable on summary conviction to a fine of	Liable on summary conviction to a fine of one thousand dollars or to imprisonment for three months.

	one thousand dollars or to imprisonment for three months.	
26 Change in allowances	(2) If any person wilfully fails to file a further declaration as required by subregulation (1) he is guilty of an offence and is liable on summary conviction to a fine of one thousand dollars. (1) On a change occurring by reason of which the allowable deductions or allowable tax credits of a person by whom a declaration has been filed are less than those claimed by him in his declaration, the person shall file a further declaration within the time specified in regulation 20(2)*(b)*.	Liable on summary conviction to a fine of one thousand dollars.
27 Obstructing the Board	Any person who hinders, prevents or obstructs the Board or any person authorised in writing by the Board in that behalf from inspecting any wages sheets or other documents or records mentioned in regulation 22 after being called upon to produce the same, is guilty of an offence and is liable on summary conviction to a fine of one thousand dollars or to imprisonment for three months.	Liable on summary conviction to a fine of one thousand dollars or to imprisonment for three months

APPENDIX IV

MATRIX

OF

SUBMISSIONS

FROM

STAKEHOLDERS

MATRIX OF ISSUES RAISED IN COMMENTS SUBMITTED TO THE JOINT SELECT COMMITTEE ON THE MUTUAL ADMINISTRATIVE ASSISTANCE IN TAX MATTERS BILL, 2018, THE TAX INFORMATION EXCHANGE AGREEMENTS BILL, 2018 AND THE INCOME TAX (AMENDMENT) BILL, 2019– CLAUSE SPECIFIC

THE MUTUAL ADMINISTRATIVE ASSISTANCE IN TAX MATTERS BILL, 2018

STAKEHOLDER	CLAUSE	COMMENT
BANKERS ASSOCIATION OF TRINIDAD AND TOBAGO (**BATT**)	Clause 3	• Due diligence for Pre-Existing Individual Account, does not clearly indicate the dollar value threshold for "lower value accounts". The bill notes thresholds for non-reportable Pre-existing entity accounts and High Value accounts.
INSTITUTE OF CHARTERED ACCOUNTANTS OF TRINIDAD AND TOBAGO (**ICATT**)	Clause 4	• Clause 4(1) (b) - definition of "account holder" needs to be reworded to unambiguously identify the 'account holder' targeted. • Under definition of 'active NEE' insertion of the conjunction "or" after paragraph (g) and before (h) seems in order if (h) is the final paragraph under this sub-clause; however, the definition continues with other paragraphs (1) and (j) which seems misplaced and confusing and probably destroys the meaning of 'active NFE' and probably makes it redundant. • Under the definition of 'Board' considering an imminent move from BIR to a Revenue Authority can there be an extension of the definition to allow for a substitution of another successor entity to the BIR. This should eliminate subsequent legislative amendments required for the Revenue Authority to be the competent authority which it might be argued may require another 3/5 majority.
INSTITUTE OF CHARTERED ACCOUNTANTS OF TRINIDAD AND TOBAGO (**ICATT**)	Clause 5	• "The Board of Inland Revenue is the competent Authority"- Under the definition of 'Board' considering an imminent move from BIR to a Revenue Authority can there be an extension of the definition to allow for a substitution of another successor entity to the BIR. This should eliminate subsequent legislative amendments required for the Revenue

STAKEHOLDER	CLAUSE	COMMENT
		Authority to be the competent authority which it might be argued may require another 3/5 majority.
ASSOCIATION OF REAL ESTATES AGENTS (**AREA**)	Clauses 5-8	• Who will monitor the Board, and who will have oversight of the Board's activities. Bills are not drafted on the basis of trust. There must be monitoring and oversight of any person or body or agency with this level of responsibility and power.
ASSOCIATION OF REAL ESTATES AGENTS (**AREA**)	Clause 8	• Make provision for a point of appeal in the event the private sector has a complaint about disclosure of trade secrets. There must be an independent person or body to whom a businessman can complain if trade secrets etc. are shared without authority.
INSTITUTE OF CHARTERED ACCOUNTANTS OF TRINIDAD AND TOBAGO (**ICATT**)	Clause 8	• Clause 8(2) (a) and (b) - the word "measures' means nothing unless expressed in the context of the Act itself. In other words perhaps, the words "under this Act" should follow "measures"
ASSOCIATION OF REAL ESTATES AGENTS (**AREA**)	Clause 9	• "Those provisions therefore are contrary to the Convention and the Act now makes provision for sharing notwithstanding the secrecy provision." (Explanatory Note) What does this mean? That data protection is a thing of the past?
TRINIDAD AND TOBAGO CHAMBER OF INDUSTRY AND COMMERCE (**TTCIC**)	Clause 14	• We are concerned that via the process of simultaneous tax examinations the BIR will be able to receive bank information, not otherwise obtainable under the provisions of the Income Tax Act (ITA), and utilize such information in tax audits. This is especially troubling since the Mutual Administrative Assistance in Tax Matters Bill, 2018 does not provide the safeguards contained in the ITA of providing notice to the affected person and giving him the opportunity of challenging, in Court, such request for bank information. We are of the view that clause 14 should be amended to make it clear that any simultaneous examination of a taxpayer's affairs by the BIR should be subject to the provisions of section 117 of the ITA.
AMERICAN CHAMBER OF COMMERCE OF	Clause 15	• The term "reasonably considered" does not layout a process or method and as such should be further defined.

STAKEHOLDER	CLAUSE	COMMENT
TRINIDAD AND TOBAGO (**AMCHAMTT**)		• The fine seems low compared to the severity of the prison time. We suggest that the fine be increased to $500,000.
ASSOCIATION OF REAL ESTATES AGENTS (**AREA**)	Clause 15	• Avoidance of the requirements imposed by this Act could result in 20 years imprisonment. – Is this excessive?
AMERICAN CHAMBER OF COMMERCE OF TRINIDAD AND TOBAGO (**AMCHAMTT**)	Clause 16	• Clause 16 (1) – In addressing errors, what would be the time-frame allowed to financial institutions? • Clause 16 (4)- A time-frame "as soon as possible" is ascribed to the remedy of errors, however this should be further defined.
ASSOCIATION OF REAL ESTATES AGENTS (**AREA**)	Clause 19	• "The Bill will empower financial institutions to use service providers… but the institutions remain responsible for reporting and for CDD." (Explanatory Note) How are the service providers monitored and regulated? They do not appear to be named in this Bill as individually coming under the provisions of the Act.
FINANCIAL INTELLIGENCE UNIT OF TRINIDAD AND TOBAGO (**FIUTT**)	Clause 21	• There is no time stipulation for the submission of the annual report to the Minister, neither any specification on the contents of the annual report. It is recommended that provisions inserted requiring the submission of the annual report within a specified timeframe after the fiscal or financial year (e.g. sixty days after). That the annual report on the performance on the operations of the Board to the Minister include statistics on competent authority agreements; exchange of information, disclosure under the Act; exchange of information upon request; automatic exchange of information; spontaneous exchange of information; simultaneous tax examinations; and compliance and enforcement action taken.
TRINIDAD AND TOBAGO EXTRACTIVE INDUSTRIES	Schedule 2	• TTEITI would like to be included as a competent authority under Schedule 2.

STAKEHOLDER	CLAUSE	COMMENT
TRANSPARENCY INITIATIVE (**TTEITI**)		

THE TAX INFORMATION EXCHANGE AGREEMENTS BILL, 2018

STAKEHOLDER	CLAUSE	COMMENT
AMERICAN CHAMBER OF COMMERCE OF TRINIDAD AND TOBAGO (**AMCHAMTT**)	Clause 3	• Definition of 'the Board" should include reference to a successor organization.
AMERICAN CHAMBER OF COMMERCE OF TRINIDAD AND TOBAGO (**AMCHAMTT**)	Clause 4	• Clause 4 (1) – Allowances are made for government to government sharing of information but no indication as to the cost of enforcing the legislation, how the cost will be shared, which parties will be responsible.
TRINIDAD AND TOBAGO CHAMBER OF INDUSTRY AND COMMERCE (**TTCIC**)	Clause 6	• It is not clear to us what this provision is seeking to achieve. The issue of the Minister giving directions to the BIR is a sensitive one and in this regard, the term 'general directions" is somewhat vague. It is generally understood and accepted that the Minister may properly give directions to the BIR in respect of matters of policy. In the circumstances, perhaps the provision can be reworded with more precision by substituting the words "policy directions" for "general directions".
ASSOCIATION OF REAL ESTATES AGENTS (**AREA**)	Clause 6	• Clause 6 (2)- Appears to give the Minister a certain amount of unfettered power.
AMERICAN CHAMBER OF COMMERCE OF TRINIDAD AND TOBAGO (**AMCHAMTT**)	Clause 6	• Clause 6 (2) – The term "general directions" should be defined further. Usually such terminology is ascribed directly to a section or clause. i.e. "general direction means a direction authorised by section 20" as noted in the Tax Agreements Amendments Bill (No. 2)2010 in Australia.
INSTITUTE OF CHARTERED ACCOUNTANTS OF TRINIDAD AND TOBAGO (**ICATT**)	Clause 6	• Clause 6(2) provides that the Minister may give general directions to the Board as to the performance by it of its functions under this Act, and the Board shall comply with any direction so given - we are unsure of the reasoning for this intervention by the Minister and how one will measure the general directions. Our concerns is also on the privacy of the information and that exchange is between

STAKEHOLDER	CLAUSE	COMMENT
		competent authorities - how does the Minister fit into this and the functioning of this Act.
ASSOCIATION OF REAL ESTATES AGENTS (**AREA**)	Clause 7	• Clause 7(1) Safeguards against abuse of power should be introduced to the Bill. The clause appears to remove safeguards designed to avoid the abuse of power by the Board.
AMERICAN CHAMBER OF COMMERCE OF TRINIDAD AND TOBAGO (**AMCHAMTT**)	Clause 8	• Further details on the chain of possession for information that is obtained should be provided.
INSTITUTE OF CHARTERED ACCOUNTANTS OF TRINIDAD AND TOBAGO (**ICATT**)	Clause 8	• Clause 8 provides that nothing in section 4 of the Income Tax Act, or any other law to a like effect, prevents the disclosure of information where that disclosure is in accordance with, and for the purpose of giving effect to, a declared agreement - section 4 of the Income Tax Act (amendment) Bill is intended to empower the Board of Inland Revenue to provide taxpayer information to a foreign tax administration authority for the administration and enforcement of the domestic laws of another jurisdiction with which there is an arrangement for double taxation relief or exchange of information in relation to taxes - does this therefore make section 8 of this Bill or section 4 of the Income Tax (Amendment) bill redundant or superfluous?
ASSOCIATION OF REAL ESTATES AGENTS (**AREA**)	Clause 9	• Clause 9 (1) and (2) - Protection of data needs to be strengthened. Clause removes some of the protection already granted under the Data Protection Act. A retrograde step. • Clause 9 (3) - Sharing of data should only be with jurisdictions with comparable safeguards and respect for privacy. Rights of the individual and/or entity.
AMERICAN CHAMBER OF COMMERCE OF TRINIDAD AND TOBAGO (**AMCHAMTT**)	Clause 10	• Clause 10 (a) and (b) – Fines should be increased. Given the nature of the legislation and what it seeks to address, fines should be large to act as a deterrent.

THE INCOME TAX (AMENDMENT) BILL, 2019

STAKEHOLDER	CLAUSE	COMMENT
INSTITUTE OF CHARTERED ACCOUNTANTS OF TRINIDAD AND TOBAGO (**ICATT**)	Clause 4	• Clause 4D - states that the Board shall provide taxpayer information that is "foreseeably relevant" to the administration and enforcement of the domestic laws of another jurisdiction.... ICATT is of the view that use of the word "foreseeably relevant" is not certain enough and too wide for the purposes of this provision.
AMERICAN CHAMBER OF COMMERCE OF TRINIDAD AND TOBAGO (**AMCHAMTT**)	Clause 4	• Information is only meant to be given when it is 'foreseeably relevant' to the administration and enforcement of domestic tax laws of another jurisdiction with which T&T has an arrangement for double taxation relief/exchange of Information In relation to taxes. • Is the generalized nature of "foreseeably relevant" too vague a definition to include in the bills? Who determines what is foreseeably relevant? Is the onus on T&T institutions to define and evaluate or does that responsibility rest with the requesting country? • In the similar International Tax Agreements Amendment Bill (No. 2) 2010 in Australia, Chapter 1 Article 7, the term "foreseeably relevant" is further defied for clarification. *"competent authorities are not entitled to request information from another country which Is unlikely to be relevant to tax affairs of a taxpayer, or to the administration and enforcement of tax laws."*
TRINIDAD AND TOBAGO CHAMBER OF INDUSTRY AND COMMERCE (**TTCIC**)	Clause 5	• Clause 5 (a) and (b) – We note, however, that clauses 5(a) and 5(b) of the Bill appear to address the same amendment. Clause 5(b) appears to be the more correct version so that the current clause 5(a) should be deleted and the current clause 5(b) renumbered as clause 5(a) and the other clauses renumbered accordingly. Further, the amendment should read: • "and for the receipt and sharing of information relative to such arrangements • current clause 5(a) should be deleted and the current clause 5(b) renumbered as clause 5(a) and the other clauses renumbered accordingly. Further, the amendment should read: "and for the receipt and sharing of information relative to such arrangements
ASSOCIATION OF REAL ESTATES AGENTS (**AREA**)	Clause 6	• This clause has the same general provisions as clause 9 of the Tax Information Exchange Agreements Act, 2018.

STAKEHOLDER	CLAUSE	COMMENT
BANKERS ASSOCIATION OF TRINIDAD AND TOBAGO (**BATT**)	Clause 7	• Clarity required on what is classified as "other enactments for a similar purpose"
INSTITUTE OF CHARTERED ACCOUNTANTS OF TRINIDAD AND TOBAGO (**ICATT**)	Clause 93	• Clauses 93A. (1) and (2) - provide that notwithstanding relevant sections of the Data Protection Act, the Board may, for the purposes of section 93, process and receive information collected by it under this Act - we do not understand the relevance of giving the Board authority to "process" information.

GENERAL COMMENTS

STAKEHOLDER	NAME OF BILL	COMMENT
FINANCIAL INTELLIGENCE UNIT OF TRINIDAD AND TOBAGO (**FIUTT**)	• The Mutual Administrative Assistance in Tax Matters Bill, 2018. The Tax Information Exchange Agreements Bill 2018 and the Income Tax (Amendment) Bill, 2019	• The issue being the apparent inconsistency in the penalties (fines and term of imprisonment) for persons who use or disclose the information obtained by the Board for the purposes for which it was obtained.
EUROPEAN BUSINESS CHAMBER OF TRINIDAD AND TOBAGO (**EUROCHAMTT**)	• The Mutual Administrative Assistance in Tax Matters Bill, 2018. The Tax Information Exchange Agreements Bill 2018 and the Income Tax (Amendment) Bill, 2019	• Firstly, we would like to state that as a member of the Global community with a desire to trade globally and to attract global investment. Trinidad and Tobago must cooperate with the global bodies in which it is a member to ensure good tax governance. This means, being involved in finding solutions as well as implementing in a professional and timely manner, the legislation, standards and measures agreed by these bodies to fight tax evasion which may entail lifting bank secrecy, disclosure of ownership. transparency, information exchange and steps to abolish tax avoidance strategies. • EUROCHAMTT is of the view that once the appropriate measures as well as safeguards and deterrents against unauthorized disclosure and abuse are in place, the local tax authorities who are now part of a global environment, should be empowered with the necessary legal framework that permits disclosure of relevant Information on a timely

STAKEHOLDER	NAME OF BILL	COMMENT
		basis in response to requests by other tax authorities, for the purpose of determining taxes payable. • EUROCHAMTT acknowledges that while disclosure of tax information by the tax authorities may infringe on the fundamental rights guaranteed to citizens under the Constitution and also under the Data Protection Act, neither the Constitution nor the Data Protection Act were intended to create an environment to encourage secrecy for the purpose of criminal activity. We therefore believe that where this information is disclosed solely for the purpose of preventing illegal activity such as tax avoidance, and the safeguards and deterrents are sufficient to prevent abuse and unlawful disclosure by the authorities, disclosure is justified.
FINANCIAL INVESTIGATION BRANCH OF THE TRINIDAD AND TOBAGO POLICE SERVICE (**FIB**)	• The Mutual Assistance in Tax Matters Bill, 2018	• The Bill is well drafted and would empower the Board of Inland Revenue to enter into bi-lateral or multi-lateral agreements with other competent authorities in other jurisdictions. The manner for the sharing of this information is adequately outlined as well as the restrictions in relation to the types of information the Board is not authorized to share. • The Bill also makes provision for the sharing of information notwithstanding the secrecy provisions of other domestic legislation which is a plus for competent authorities seeking to detect tax breaches. It is also important to note that there is a safeguard in the Bill via the creation of an offence for any person who discloses the information other than for the purposes stipulated in the Bill thereby ensuring that the information is protected from being misused. • Overall this bill is well drafted and provides the necessary mechanisms for increasing co-operation among tax authorities to detect and prosecute the incidence of tax evasion and avoidance. • Overall well drafted. • Overall the bill removes the secrecy provisions of the Present Income Tax Act and other domestic legislation to allow for the sharing of information among competent authorities for the purpose of detecting and prosecuting tax offences by the relevant jurisdictions. This cadre of

STAKEHOLDER	NAME OF BILL	COMMENT
	• The Tax Information Exchange Agreement Bill 2018 • The Income Tax (Amendment) Bill, 2019	legislation mentioned above is essential in the fight against transnational white collar crime and is essential for preserving the stability of the international financial system in keeping with the recommendations of the Financial Action Task Force and the Global Forum.
ASSOCIATION OF TRINIDAD AND TOBAGO INSURANCE COMPANIES (**ATTIC**)	• The Mutual Administrative Assistance in Tax Matters Bill, 2018. The Tax Information Exchange Agreements Bill 2018 and the Income Tax (Amendment) Bill, 2019	• The timeline for completion of the review of existing clients should be updated as currently gives 31/12/18 as the deadline. • Should the reference to the Insurance Act be revisited in light of the new Insurance Act 2018 being assented to on June 4, 2018?
ASSOCIATION OF REAL ESTATES AGENTS (**AREA**)	• The Mutual Administrative Assistance in Tax Matters Bill, 2018. • The Tax Information Exchange Agreements Bill 2018 • The Income Tax (Amendment) Bill, 2019	• See no reference to amendments to laws that control the setting up of shell companies that move funds internationally. These are known to be a favoured route for criminal acts

Updated September 18, 2019

THE MINISTRY OF FINANCE GLOBAL FORUM STATUS UPDATE

MINISTRY OF FINANCE

MEMORANDUM

TAX TREATY UNIT

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File Reference: F (DPS) 1/1/1

FROM: Permanent Secretary, Ministry of Finance

TO: Secretary to the Joint Select Committee on the Mutual Administrative Assistance in Tax Matters, 2018, Tax Information Exchange Agreements Bill, 2018 and the Income Tax (Amendment) Bill, 2019
Office of the Parliament of the Republic of Trinidad and Tobago

DATE: June 24, 2019

SUBJECT: **The Joint Select Committee of Parliament appointed to consider and report on The Mutual Administrative Assistance in Tax Matters Bill, 2018, the Tax Information Exchange Agreements Bill, 2018 and the Income Tax (Amendment) Bill, 2019**

Reference is made to your letter dated June 13, 2019 on the subject at caption.

In this connection and attached is a status update on Trinidad and Tobago's compliance with its Global Forum obligations.

Should you require additional information, you can contact Mrs. Savitree Seepersad, Deputy Permanent Secretary at telephone number: 612-9700 ext. 2630 or via email at seepersads@gov.tt.

....

Permanent Secretary
Ministry of Finance

The Joint Select Committee of Parliament appointed to consider and report on The Mutual Administrative Assistance in Tax Matters Bill, 2018, the Tax Information Exchange Agreements Bill, 2018 and the Income Tax (Amendment) Bill, 2019

The Joint Select Committee of Parliament appointed to consider and report on The Mutual Administrative Assistance in Tax Matters Bill, 2018, the Tax Information Exchange Agreements Bill, 2018 and the Income Tax (Amendment) Bill, 2019 is desirous of ascertaining the status of Trinidad and Tobago's compliance with its Global Forum on Tax Transparency and Exchange of Information obligations that Trinidad and Tobago has met to date, as well as the obligations that are still outstanding to make Trinidad and Tobago a fully compliant member of the Global Forum.

Background

On October 4, 2011 Trinidad and Tobago became a member of the Global Forum on Transparency and Exchange of Information for Tax Purposes (Global Forum), which carried with it obligations to:

(i) commit to implement the standard on transparency and exchange of information on request (EOIR); and
(ii) participate in and contribute to the Global Forum's peer review process.

Trinidad and Tobago had its Phase 1 Peer Review in 2011 and was deemed **non-compliant** by the Global Forum. Recommendations were made to improve TT rating (see attached Appendix 1), however, no action was taken at that time to address same.

In 2014, the Global Forum introduced a new global standard on the automatic exchange of financial account information in tax matters (AEOI), more commonly known as the Common Reporting Standard (CRS). This standard is very similar to the Model 1 IGA that many jurisdictions use for implementing the US Foreign Account Taxpayer Compliance Act (FATCA). Trinidad and Tobago committed to the CRS and to commence its first exchanges of information in accordance with the new standard by September 2017.

In 2016, the Global Forum revised its terms of reference to take into consideration the Financial Action Task Force (FATF) guidelines as it relates to beneficial ownership. The Global Forum recognized the need for jurisdictions to ensure that ownership, identity, accounting and banking information is made available as this information serves a plethora of purposes such as tax, anti-money laundering, regulatory, and commercial or other reasons.

In addition, in February 2016, the Global Forum embarked on a Fast Track Process to get all member countries/jurisdictions that were not Global Forum compliant in the Phase 1 Peer Review fully compliant so that the Phase 2 Peer Reviews could be conducted with all members, with the Global Forum's new terms of reference. Trinidad and Tobago was one of fifteen (15) countries that attempted the Fast Track Review (a mini peer review). At the end of the process in June 2016, Trinidad and Tobago remained non-compliant because none of the recommendations of the 2011 report was addressed at that time. Following the Fast Track Review, Trinidad and Tobago, through its Minister of Finance requested technical support from the Global Forum's Secretariat in achieving Global Forum compliance.

During discussions on the way forward with the Secretariat, the Ministry of Finance was advised that Trinidad and Tobago would be required to complete a number of action items to implement the new global standard (the CRS) and bring its Global Forum rating to a satisfactory level. The steps include the following:

- requesting a deferral of Trinidad and Tobago's commitment to commence exchanging information automatically from 2017 to 2018;
- enacting relevant domestic legislation; and
- ensuring that administrative and information technology (IT) infrastructure are put in place to effect the exchanges of information.

Trinidad and Tobago formally requested a deferral of its commitment to commence exchanging information for tax purposes automatically from 2017 to 2018 which was the last date offered for a deferral at that time. This request was acceded to by the Global Forum.

In December 2016, following the completion of our Fast Track exercise, Cabinet, appointed a Committee, chaired by the Treasury Solicitor and included technical and legal staff of the Board of Inland Revenue, the Tax Treaty Unit, the Ministry of the Attorney General and Legal Affairs and the Chief Parliamentary Counsel. This Committee was tasked with drafting the necessary legislation to ensure Global Forum compliance. The Committee worked with all national stakeholders and the Global Forum Secretariat to have the required legislation prepared for consideration of the Parliament.

Trinidad and Tobago's Phase 1 Peer Review

The Global Forum ensures that the high standards for the exchange of information are met through a comprehensive and rigorous country peer review process. The peer review process is undertaken in two phases. Phase 1 is a review of each jurisdiction's legal and regulatory framework for transparency and the exchange of information for tax purposes and Phase 2 involves a survey of the effectiveness of exchange of information in practice.

At the end of the Phase 1 Peer Review in 2011, the Global Forum identified several deficiencies in Trinidad and Tobago's legal and regulatory system that hinders the country from effectively exchanging information in accordance with the international standard on the exchange of information on request (EOIR) for tax purposes. Trinidad and Tobago was deemed **"non-compliant"** and the Global Forum has identified the following as the main elements of a multi-pronged strategy to enable Trinidad and Tobago to advance to the Phase II Review:

(i) Amend Trinidad and Tobago's Income Tax legislation;

(ii) Expand and update Trinidad and Tobago's Treaty Network

(iii) Become a signatory to the Multilateral Convention on Mutual Administrative Assistance in Tax Matters.

1. Amend Trinidad and Tobago's Income Tax legislation

The Global Forum requires that the competent authority should have the power to obtain and provide information that is the subject of a request under an exchange of information agreement from any person within the territorial jurisdiction who is in possession or control of such information. Trinidad and Tobago is unable to effectively comply with this stipulation as:

(a) Trinidad and Tobago's Income Tax Act limits the powers of the Inland Revenue Division to access banking information. Section 117(6) of the Income Tax Act provides that such power is limited to determining any objection to an assessment of tax and can only occur after the notification of the tax payer.

(b) Inland Revenue Division's information gathering power is limited to the execution and administration of Trinidad and Tobago's tax laws – Domestic Tax Interest.

The Income Tax Amendment Bill 2018 which was laid in Parliament was intended to amend and address the deficiencies identified at (i) and (ii) above. The proposed amendments were not accepted and the Income Tax Amendment Bill 2019 was re-introduced in Parliament with the proposed amendments.

2. Expand and update Trinidad and Tobago's Treaty Network

The Global Forum requires a minimum of twelve (12) Double Taxation Treaties be signed by all members. Included in Global Forum's recommendations, is the requirement that Trinidad and Tobago improve the effectiveness of its exchange of information by bringing its existing double taxation agreements that do not meet the international standard for the exchange of information for tax purposes, up to date and enter into new agreements that are compliant with the standard.

At present, Trinidad and Tobago has bilateral tax treaties with sixteen (16) jurisdictions and is also party to the Multilateral Caribbean Community (CARICOM) Income Tax Treaty, which is signed by eleven (11) of the fifteen (15) CARICOM members. In addition to the established Double Taxation Treaties, Trinidad and Tobago has one (1) signed Tax Information Exchange Agreement (TIEA) with the United States (signed on the 11th January 1989, entered into force on 9th February 1990). Only the TIEA with the USA meets the standard for the effective exchange of bank information since the new Tax Information Exchange Act 2016 (US FATCA) was updated to reflect international best practice.

Whilst FATCA compliance is critical for the continued interaction of our banks and other financial institutions with their counterparts in the U.S and uninterrupted trade and investment with the U.S., this TIEA Act was bilateral in scope and does not aid significantly in meeting Global Forum requirements. As such the TIEA 2018 Bill, seeks to provide for the implementation of current and future agreements between Trinidad and Tobago and other States to allow for the exchange of information for the purposes of taxation, and for related purposes. More importantly, this TIEA Bill facilitates the exchange of information in accordance with the current international standard for the exchange of information for tax purposes as it represents a viable alternative to developing countries like Trinidad and Tobago to preserve our taxing rights while taking advantage of the exchange of information to assist in increased tax compliance and limit tax evasion.

Further, Cabinet has recently agreed to update the Exchange of Information Articles of **all** the tax treaties negotiated between Trinidad and Tobago and other treaty partners. This would enable the Exchange of Information Articles in the existing tax treaties to be updated by Protocol to meet the international standard. The protocol documents are currently with the office of the Solicitor General for comments .Following this, our treaty partners will be contacted to initiate the updating process.

3. Become a signatory to the Convention on Mutual Administrative Assistance in Tax Matters (the Convention)

Trinidad and Tobago, as part of its commitment to implementing the CRS, and becoming Global Forum compliant, committed to become party to the Convention. The Convention is a multilateral mechanism that provides the legal authority for all possible forms of administrative co-operation between states in the assessment and collection of taxes, in particular with a view to combating tax avoidance and evasion. This co-operation ranges from exchange of information, including automatic exchanges, and simultaneous tax examinations of other jurisdictions to the recovery of foreign tax claims, with all signatories.

Trinidad and Tobago, by becoming party to the Convention, would meet and surpass the minimum number of twelve (12) legal instruments required to expand its treaty network. It would also allow for the exchange of information according to the CRS in the shortest possible timeframe. Currently there are 129 jurisdictions participating in the Convention. Any new signatory, can automatically exchange information with all parties. The Mutual Administrative Assistance in Tax Matters Bill 2018 is a crucial prerequisite for signing on to and implementing the Convention. The main benefit, is that Trinidad and Tobago will meet the 2016 Terms of Reference.

In December 2016, Cabinet agreed that Trinidad and Tobago request the Global Forum to become party to the Convention. In January 2017, Trinidad and Tobago applied to become a signatory to the Convention but **was not allowed to do so**. The Coordinating Body of the Global Forum identified two (2) reasons for not accepting our request and advised that they both be resolved before any further consideration to our application is given. These are Section 4 of the Income Tax Act which appear to permit disclosure of taxpayer information to any person authorized by the President even for non-tax purposes and Section 32 of the Proceeds of Crime Act (POCA) where a court may order the disclosure of information exchanged under a treaty for certain non-tax criminal law enforcement purposes. Both these concerns were addressed in the drafting of the Income Tax Amendment Bill 2019.

Trinidad and Tobago's Global Forum Compliance Update

2016 Terms of Reference requirements re Beneficial Ownership

In Trinidad and Tobago's legislation, companies incorporated external to Trinidad and Tobago but concomitantly having their central management and control in our country, were not required to provide information identifying their owners as a part of registration requirements. This runs counter to due diligence requirements. Further, foreign companies were not required to keep a share register in Trinidad and Tobago.

With the new Companies Amendment Act 2019, these requirements were addressed to meet the beneficial ownership elements of the 2016 Terms of Reference.

Trinidad and Tobago's Phase 11 Peer Review

Trinidad and Tobago is currently undergoing its Phase 2 Peer Review which was launched in June 2018. The review is done through the following steps:

- completion of the country questionnaire which is reviewed and commented on by members
- onsite visit by assessors and preparation of draft assessment report
- jurisdiction appear before the Peer Review Group for finalization of country assessment report
- report presented at Global Forum Plenary meeting for acceptance by all members.

In August 2018, Trinidad and Tobago completed and submitted its questionnaire and subsequently received and responded to comments by our peers. The Global Forum then appointed an assessment team which was scheduled to conduct its onsite visit to Trinidad at latest date April, 2019 (the dates were changed to facilitate TT). However, the assessors indicated that the onsite would not be relevant if Trinidad and Tobago did not have the **requisite enacted legislation**. The focus of their visit would have been to examine the legislative changes required to implement the tax standards and transparency as it relates to the EOIR and AEOI.

In June 2019, the Global Forum reported that Trinidad and Tobago is the only member country that is deemed to be "non-compliant" with the international standards of tax transparency and exchange of information from its membership listing of 154 countries.

Summary of status as at June 2019, Trinidad and Tobago:

Completed

- Companies Amendment Act 2019 has addressed the Global Forum requirements as it relates to beneficial ownership;
- Drafted legislation to meet the two international standards (EOIR and AEOI) and to allow Trinidad and Tobago to sign on to the Convention;
- Drafted amendments to the Income Tax Act to address other Global Forum concerns;
- Prepared draft protocols to include the exchange of information article in our existing tax treaties to be agreed to by our treaty partners;
- Started developing administrative procedures and processes and considering the information technology (IT) infrastructure that will be put in place once the legislation is enacted.

To be addressed

- The deficiencies outlined in the Phase 1 Report;
- Our commitment to implement the AEOI; and
- Getting acceptance to sign and implement the Convention.

It should be noted that the items to be addressed require the enacting of the legislation before the Parliament. Also, note that the legislation by itself does not guarantee full compliance with the international standards, since the Phase 2 Peer Review will consider the effectiveness of exchange of information in practice, similar to what obtains with FATF under AML/CFT reviews. When the legislation is enacted, Trinidad and Tobago will be required to put the administrative and IT infrastructure in place. Also, only when these systems are operational for a period time can they be reviewed and effectiveness determined. Having the legislative framework is the first and major step in moving Trinidad and Tobago from its current non-compliant rating to compliant.

APPENDIX 1

Summary of Findings of Trinidad and Tobago's Global Forum Phase 1 Report: Legal and Regulatory Framework

Determination	Factors underlying recommendations	Recommendations
Jurisdictions should ensure that ownership and identity information for all relevant entities and arrangements is available to their competent authorities. *(ToR A.1)*		
The element is in place, but certain aspects of the legal implementation of the element need improvement.	Companies incorporated outside of Trinidad and Tobago but having their central management and control in Trinidad and Tobago are not required to provide information identifying their owners as a part of registration requirements and foreign companies are not required to compulsorily keep a share register in Trinidad and Tobago. Therefore, the availability of information that identifies the owners of such companies will generally depend on the law of the jurisdiction in which the company is incorporated and so may not be available in all cases.	In such cases, Trinidad and Tobago should ensure that ownership and identity information should be available.
	There is no specific requirement that information concerning the settlor, trustees and beneficiaries of trusts be maintained.	An obligation should be established in Trinidad and Tobago to maintain information on the settlors, trustees and beneficiaries of their trusts.
Jurisdictions should ensure that reliable accounting records are kept for all relevant entities and arrangements. *(ToR A.2)*		
The element is in place		
Banking information should be available for all account-holders. *(ToR A.3)*		
The element is in place		

Determination	**Factors underlying recommendations**	**Recommendations**
Competent authorities should have the power to obtain and provide information that is the subject of a request under an exchange of information arrangement from any person within their territorial jurisdiction who is in possession or control of such information (irrespective of any legal obligation on such person to maintain the secrecy of the information). *(Tor B.1)*		
The element is not in place,	There is provision in Trinidad and Tobago law to grant tax authorities the power to obtain information for its exchange of information partners in cases where it is not required for its own tax purposes. However, this requires the issuance of a Presidential Order in order to have effect. Such an Order has only been made in the case of 1 of Trinidad and Tobago's 24 exchange of information agreements that are in force.	Trinidad and Tobago should ensure that such an Order is made with respect to the remaining exchange of information agreements that are in force.
The rights and safeguards (*e.g.* notification, appeal rights) that apply to persons in the requested jurisdiction should be compatible with effective exchange of information. *(ToR B.2)*		
The element is in place, but certain aspects of the legal implementation of the element need improvement.	There are no exceptions to prior notification procedures for accessing bank account information. To require in all cases that the taxpayer be first approached, and thus notified, may unduly prevent or delay the effective exchange of information in urgent cases.	It is recommended that certain exceptions from prior notification be permitted (*e.g.* in cases in which the information requested is of a very urgent nature or the notification is likely to undermine the chance of the success of the investigation conducted by the requesting jurisdiction).
Banking information should be available for all account-holders. *(ToR A.3)*		
The element is in place		

Determination	Factors underlying recommendations	Recommendations
Exchange of information mechanisms should allow for effective exchange of information. (ToR C.1)		
The element is not in place,	There is provision in Trinidad and Tobago law to grant tax authorities the power to obtain information for its exchange of information partners in cases where it is not required for its own tax purposes. However, this requires the issuance of a Presidential Order in order to have effect. Such an Order has only been made in the case of 1 of Trinidad and Tobago's 24 exchange of information agreements that are in force.	Trinidad and Tobago should ensure that such an Order is made with respect to the remaining exchange of information agreements that are in force.
	Some DTCs limit exchange of information *(i)* to information for carrying out the provisions of the Convention, or *(ii)* to information concerning a resident of one of the Contracting States, or *(iii)* by failing to provide for exchange of bank information.	Trinidad and Tobago should revise its existing treaties which do not currently meet the standard.
The jurisdictions' network of information exchange mechanisms should cover all relevant partners. *(ToR C.2)*		
The element is not in place	Trinidad and Tobago has only one agreement that appears to provide for effective exchange of information.	Trinidad and Tobago should bring its existing agreements that do not meet the standard up to the standard and enter into agreements with all relevant exchange of information partners. Trinidad and Tobago should also be prepared to enter into

		new arrangements that provide for effective exchange of information.
The jurisdictions' mechanisms for exchange of information should have adequate provisions to ensure the confidentiality of information received. *(ToR C.3)*		
The element is in place		
The exchange of information mechanisms should respect the rights and safeguards of taxpayers and third parties. (ToR C.4.)		
The element is in place		
The jurisdiction should provide information under its network of agreements in a timely manner. *(ToR C.5)*		
The assessment team is not in a position to evaluate whether this element is in place, as it involves issues of practice that are dealt with in the Phase 2 review.		

APPENDIX V

LIST

OF

RECOMMENDED

AMENDMENTS

THE MUTUAL ADMINISTRATIVE ASSISTANCE IN TAX MATTERS BILL, 2018

List of amendments to be moved in the House of Representatives by the Minister of Finance at the Committee Stage of the Mutual Administrative Assistance in Tax Matters Bill, 2018.

NOTICE is hereby given that the Honourable Minister of Finance will move in the House of Representatives the following amendments at the Committee Stage of the Mutual Administrative Assistance in Tax Matters Bill, 2018.

First Column Clause	**Second Column Extent of Amendment**
4(1)	A. In the definition of – (a) "active NFE" in- (i) paragraph (c), delete the- (A) words "central bank" and replace with the words "Central Bank"; and (B) words "listed in this paragraph"; (ii) paragraph (h), delete the word "leagues" and replace with the word "league"; (b) "broad participation retirement fund" in paragraph – (i) in subparagraph (c)(iii), delete the word "Funds" and replace with the word "Fund"; and (ii) in subparagraph (c)(iv) insert after the word "thousand" the words "United States"; (c) "central bank" by- (i) deleting the words "central bank" and replace with the words "Central Bank"; and (ii) delete the word "separated" and replace with the word "separate"; (d) "Common Reporting Standard" by deleting the word "2015" and replace with the word "2014"; (e) "Common Reporting Standard Due Diligence Requirements" by inserting after the word "standard" in the second place it occurs, the words "referred to in Schedule 1"; (f) "excluded account" in - (i) paragraph (a)(v)(B) by deleting the words "of to the"; and

	(ii) in paragraph (f)(ii) by- (A) inserting after the word "beginning" the word "on"; adn (B) deleting the words "of the equivalent"; (g) "narrow participating retirement fund" by deleting the words "excluded account" and replace with the words ""excluded account""; (h) "national" by deleting the words "Trinidad and Tobago" wherever they occur and replace with the words "a State Party to the Convention"; (i) "pension fund of a governmental entity" by deleting the words "central bank" wherever they occur and substituting the words "Central Bank"; (j) "participating reportable jurisdiction financial institution" by- (i) deleting the word "participating" wherever it occurs; (ii) inserting after the words "(a)" the word "any"; and (iii) placing the definition in the appropriate alphabetical sequence; B. Insert after the definition "financial institution" the following new definition: "Governmental Entity" means- (a) the government of a jurisdiction; (b) any political subdivision of a jurisdiction which includes a state, province, county or municipality; (c) any wholly owned agency or instrumentality or a jurisdiction or of any one or more of the foregoing;"; and C. Delete the definitions of "participating jurisdiction" and "tax claim";
4(2), (3) and (4)	A. Delete the word "account" " and replace with the words " institution" an entity holds financial assets for the account of others as a substantial portion of its business where,"; B. Insert after the words "(b)," the words "of that definition"; and C. Insert after subclause (3) the following new subclauses: "(4) For the purposes of the definition of "financial asset"- (a) "a security" includes a share of stock in a corporation, a partnership or beneficial ownership interest in a widely held or publicly traded partnership or trust, note, bond, debenture or other evidence of indebtedness; (b) "swap" includes interest rate swaps, currency swaps, basis swaps, interest rate caps, interest rate floors, commodity swaps, equity swaps, equity index swaps and similar agreements; and

	(c) "interest" includes a futures or forward contract or option. (5) For the purposes of the definition of "Governmental Entity"- (a) an "integral part" of a jurisdiction means any person, organisation, agency, bureau, fund, instrumentality, or other body, however designated, that constitutes a governing authority if a jurisdiction where the net earnings of the governing authority is credited to its own account or to other accounts of the jurisdiction with no portion inuring to the benefit of any private person but does not include any individual who is a sovereign official, or administrator acting in a private or personal capacity; (b) a "controlled entity" means an entity that is separate in form from the jurisdiction or that otherwise constitutes a separate juridical entity, provided that- (i) the entity is wholly owned and controlled by one or more Governmental Entity directly or through one or more controlled entities; (ii) the entity's net earnings are credited to its own account or to the accounts of one or more Government Entities, with no portion or is income inuring to the benefit of any private person; and (iii) the entity's assets vest in one or more Governmental Entities upon dissolution; income does not inure to the benefit of private persons if such persons are the intended beneficiaries of a governmental programme, and the programme activities are performed for the general public with respect to the common welfare or relate to the administration of some phase of government, however, income is considered to inure to the benefit of private persons if the income is derived from the use of a governmental entity to conduct a commercial business, such as a commercial banking business that provides financial services to a private person. D. Renumber subclause "(4)" as subclause "(6)" and in subclause (6) as renumbered- (a) delete the words "active NFE" and replace with the words "Active NFE; and (b) insert after the words "4(1)(d)" the words "to (g) of the definition of "Active NFE"; E. Renumber subclause "(5)" as subclause "(7)" and in subclause (7)(a) as renumbered delete the word "a" and substitute the words "the".
7	A. Renumber clause "7" as clause "7(1)"' B. Insert after clause 7(1) as renumbered the following new subclause:

	Schedule 6 — "(2) A Bilateral or multilateral Agreements with other competent authorities referred to in subsection (1) and set out in Schedule 6 may be adjusted having regard to the arrangements made between the parties.".
8	Insert after the words "authorities," the words "of an applicant state, information that is foreseeably relevant for the administration or enforcement".
9	A. In subclause (2) delete all the words after the words "person from" and replace with the words "the competent authority of an applicant Party, provide information that is foreseeably relevant to that competent authority."; B. In subclause (4) delete the words "making the request for assistance"; C. In subclause (5) delete all the words after the word "sharing" and replace with the words "and consents to such sharing"; D. In subclause (8) – (i) insert after the words "in respect of"; and (ii) delete the words "competent authority" and replace with the word "Board; E. in subclause (9) (ii), delete the words "competent authority" and replace with the word "Board"; F. in subclause (12 by inserting after the word "received" the words "by the Board".
10(1)	A. Insert after the word "receipt" the words "from a competent authority of an applicant State,"; and B. Delete the words "transactions from a competent authority of an applicant State," and replace with the word "transactions," .
11	A. In subclause (1) delete the words "the countries of the reportable jurisdiction" and replace with the words "reportable jurisdiction"; B. In subclause (2) delete the word "participating"; and C. Delete subclauses (3), (4) and (5) and renumber subclause "(6)" as subclause "(3)".
12(3)	A. Delete the words "a reportable" and replace with the words "every reportable"; and B. Insert after subclause (6) the following subclauses: "(7) For the purpose of the exchange of information under this section- (a) the amount and characterisation of payments with respect to a reportable account may be determined in accordance with the principles of the tax laws of Trinidad and Tobago; (b) the information reported shall identify the currency in which each amount is denominated; and (c) , notwithstanding section 11(3)(a), the TIN is not required to be reported if-

	(i) a TIN is not issued by the relevant reportable jurisdiction; or (ii) the domestic law of the relevant reportable jurisdiction does not require the collection of the TIN issued by such reportable jurisdiction. (8) Notwithstanding section 11(3)(a)- (a) with respect to each reportable account that is a pre-existing account, the TIN or date of birth is not required to be reported if such TIN or date of birth is not in the records of the reporting financial institution and is not otherwise required under any written law to be collected by the reporting financial institution; and (b) the place of birth is not required to be reported unless the reporting financial institution is otherwise required to obtain and report it under any written law and it is available in the electronically searchable data maintained by the reporting financial institution. (9) Notwithstanding subsection (8)(a), a reporting financial institution shall use reasonable efforts to obtain the TIN and date of birth with respect to a pre-existing account by the end of the second calendar year following the year in which such accounts were identified as reportable accounts.”.
15(1)	Delete all the words after the word “offence” and replace with the words: “ and is liable- (a) on summary conviction to a fine of three hundred thousand dollars and imprisonment for one year; and (b) on conviction on indictment to a fine of six hundred thousand dollars and to imprisonment for two years.”.
16(1)	A. In subsection (1), delete the words “subsection (1)” and replace with the words this subsection”; B. In subsection (3) by inserting after the words “(2)” the word “,”; and C. In subsection (5) by inserting after the word “dollars” the words “and for every day the error remains uncorrected, to a further fine of ten thousand dollars
17	Insert after the words “complying with” the words “this Act and”.
19	Insert after the word “obligation” the words “required under Schedule I”.
22(2)	Insert after the word “3” the word “,”;
25	Delete the word “6” wherever it occurs and replace with the word “7”.
Schedule 1	A. In Section I: General Reporting Requirements- (a) in Item A,-

	(i) delete the word "F" the word "E"; (ii) in paragraph 1, delete the word "TIN" wherever it occurs and replace with the word "TIN(s)"; (iii) in paragraph 1 delete the word "entity" and replace with the word "Entity"; (iv) in paragraph 5(b), by deleting the word "property" and replace with the words "financial assets"; and (v) in Items C by delete the word "TIN" wherever it occurs and replace with the word "TIN(s)"; (b) inserting after Item E the following new paragraph: "F. Notwithstanding paragraph A, the information to be reported with respect to 2018 is the information described in such paragraph, except for gross proceeds described in subparagraph A(5)(b)."; B. In Section II: General Due Diligence Requirements in paragraph D, delete the word "are" and replace with the words "to be"; C. In Section III: Due Diligence for Pre-existing Individual Accounts in- (a) Item C(5)(c) delete the words "electronic search" and replace with the words "enhanced review of High Value Accounts described above"; (b) Item D delete the words "completed by 31st December, 2018" and replace with the words- "completed in relation to, - (a) high value accounts, by 31st December, 2019; and (b) lower value accounts, by 31st December, 2018. D. In Section V: Due Diligence for Pre-existing Entity Accounts in- (a) Item A insert after the words "until the" the word "aggregate"; (b) Item E in - (i) in the chapeau by deleting the word "New" and substituting the word "Pre-existing" (ii) in paragraph 1 by deleting the words "the date to be prescribed" and replace with the words "30th June, 2017"; and (iii) paragraph 2 by inserting after the words "with an" and the words "which the" the word "aggregate"; E. In Section VI: Due Diligence for New Entity Accounts delete the word "entity" wherever it occurs and replace with the word "Entity"; F. In Section VII: Special Due Diligence Rules- (a) delete the word "entity" wherever it occurs and replace with the word "Entity"; (b) in Item 4 by deleting the word "U.S." and replace with the word "US"; G. In Section VIII: Defined Terms- (a) delete the word "entity" wherever it occurs and replace with the word "Entity"; and (b) in Item B, the definition of Non-Reporting Financial Institution in-

	(i) paragraph 1(e) delete the words "established under the laws of a Reportable Jurisdiction"; (ii) paragraph 4 delete the words "a bank" wherever it occurs and replace with the words "an institution"; (iii) paragraph 5(ii) and (iii) delete the words "[" and "(a)]" wherever they occur and replace with the words "(" and "(a))" respectively; (iv) paragraph 5(iv) insert after the word "thousand" the words "United States"; (v) paragraph 6(c) delete the word the words "[" and "(a)]" and replace with the words "(" and "(a)"; (vi) paragraph 8(b) insert after the word "thousand" wherever it occurs, the words "United States"; (c) in Item C in the definition of Financial Account - (i) in paragraph 8(b)(i) delete all the words after the word "contract"; (ii) in paragraph 8(b)(iii) delete the words "Subject to the application of sub-paragraph C(8)(a),"; (iii) in paragraph 14 insert after the word "million" the words "United States"; (iv) in paragraph 17(a)(v)- (A) in subparagraph (A), delete the words "$50,000" and replace with the words ""fifty thousand United States dollars"; and (B) in subparagraph (b) delete the words "$1,000,000" and replace with the words "one million United States dollars"; (v) in paragraph 17(b)(iv) insert after the word "thousand" the words "United States"; (vi) in paragraph 17(f)(ii) insert after the word "thousand" the words "United States"; (d) in Item D in the definition of Reportable Account in paragraph 6 delete the words "settlor, the trustee, the protector" and replace with the words "settlor(s), the trustee9s), the protector(s)"
Schedule 4	Insert in the appropriate alphabetical sequence the following countries: (a) Antigua and Barbuda; (b) Cook Islands; (c) Dominica; (d) Ecuador; (e) El Salvador; (f) Former Yugoslav Republic of Macedonia; (g) Grenada; (h) Guatemala; (i) Jamaica,

	(j) Kuwait; (k) Lebanon ; (l) Liberia; (m) Mauritania; (n) Morocco; (o) Paraguay; (p) Peru; (q) Philippines; (r) Quatar; (s) Serbia; (t) United Arab Emirates; and (u) Vanuatu.
Schedule 5	A. In the list entitled "Jurisdictions undertaking first exchanges by 2017 (53)"- (a) delete the words "(53)" and replace with the words "(49)"; (b) delete the names of the following countries "Barbados", "Curacao" and "Niue"; and B. In the list entitled "Jurisdictions undertaking first exchanges by 2018 (47)"- (a) delete the words "(47)" and replace with the words "(51)"; (b) insert in the appropriate alphabetical sequence the following countries: (i) Azerbaijan***; (ii) Barbados; (iii) Curacao; (iv) Greenland; (v) Kuwait; (vi) Niue; and (vii) Pakistan***; (c) delete the word "Ghana". C. Insert after the list entitled "Jurisdictions undertaking first exchanges by 2018 (47)" the following new list: **"Jurisdictions Undertaking First Exchanges by 2019/2020 (8)** Ghana***, Kuwait**** and Nigeria*** (2019); Albania***, Kazakhstan, Maldives***, Oman and Peru*** (2020)."; and D. Insert after new list entitled "Jurisdictions Undertaking First Exchanges by 2019/2020 (8)" the following words: " ***Developing countries that do not host a financial centre were not asked to commit to a specific date but did so voluntarily. **** Kuwait originally expected to exchange information in 2018, but has since postponed its date of first exchange to 2019.".

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<td>New Schedule 6 inserted</td>
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Insert after Schedule 5 the following new Schedule 6:
<h2>“SCHEDULE 6</h2>
<h3>MODEL COMPETENT AUTHORITY AGREEMENTS</h3>
(Section 7(2))
“DECLARATION
I, , on behalf of the Competent Authority of, declare that it hereby agrees to comply with the provisions of the Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information hereafter referred to as the “Agreement” and attached to this Declaration.
By means of the present Declaration, the Competent Authority of is to be considered a signatory of the Agreement as from [day] [month] [year]. The Agreement will come into effect in respect of the Competent Authority of in accordance with Section 7 thereof.
The Annex F notification referred to in Section 3(3) of the Agreement is deposited herewith.
Signed in [location] on [day] [month] [year]
<h2>MULTILATERAL COMPETENT AUTHORITY AGREEMENT ON AUTOMATIC EXCHANGE OF FINANCIAL ACCOUNT INFORMATION</h2>
Whereas, the jurisdictions of the signatories to the Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information (the “Agreement”) are Parties of, or territories covered by, the Convention on Mutual Administrative Assistance in Tax Matters or the Convention on Mutual Administrative Assistance in Tax Matters as amended by the Protocol amending the Convention on Mutual Administrative Assistance in Tax Matters (the “Convention”) or have signed or expressed their intention to sign the Convention and acknowledge that the Convention must be in force and in effect in relation to them before the first exchange of financial account information takes place;
Whereas, the jurisdictions intend to improve international tax compliance by further building on their relationship with respect to mutual assistance in tax matters;
Whereas, the Common Reporting Standard was developed by the OECD, with G20 countries, to tackle tax avoidance and evasion and improve tax compliance;
Whereas, a country that has signed or expressed its intention to sign the Convention will only become a Jurisdiction as defined in Section 1 of this Agreement once it has become a Party to the Convention;
Whereas, the laws of the respective Jurisdictions require or are expected to require financial institutions to report information regarding certain accounts and follow related due diligence procedures, consistent with the scope of exchange
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	contemplated by Section 2 of this Agreement and the reporting and due diligence procedures set out in the Common Reporting Standard; Whereas, it is expected that the laws of the Jurisdictions would be amended from time to time to reflect updates to the Common Reporting Standard and once such changes are enacted by a Jurisdiction the definition of Common Reporting Standard would be deemed to refer to the updated version in respect of that Jurisdiction; Whereas, Chapter III of the Convention authorises the exchange of information for tax purposes, including the exchange of information on an automatic basis, and allows the competent authorities of the Jurisdictions to agree the scope and modalities of such automatic exchanges; Whereas, Article 6 of the Convention provides that two or more Parties can mutually agree to exchange information automatically, the exchange of the information will be on a bilateral basis between the Competent Authorities; Whereas, the Jurisdictions have, or are expected to have, in place by the time the first exchange takes place (i) appropriate safeguards to ensure that the information received pursuant to this Agreement remains confidential and is used solely for the purposes set out in the Convention, and (ii) the infrastructure for an effective exchange relationship (including established processes for ensuring timely, accurate, and confidential information exchanges, effective and reliable communications, and capabilities to promptly resolve questions and concerns about exchanges or requests for exchanges and to administer the provisions of Section 4 of this Agreement); Whereas, the Competent Authorities of the jurisdictions intend to conclude an agreement to improve international tax compliance based on automatic exchange pursuant to the Convention, without prejudice to national legislative procedures (if any), respecting EU law (if applicable), and subject to the confidentiality and other protections provided for in the Convention, including the provisions limiting the use of the information exchanged thereunder; Now, therefore, the Competent Authorities have agreed as follows: ***SECTION 1*** **Definitions** 1. For the purposes of this Agreement, the following terms have the following meanings: a) the term **“Jurisdiction”** means a country or a territory in respect of which the Convention is in force and is in effect, either through signature and ratification in accordance with Article 28, or through territorial extension in accordance with Article 29, and which is a signatory to this Agreement; b) the term **“Competent Authority”** means, for each respective Jurisdiction, the persons and authorities listed in Annex B of the Convention; c) the term **“Jurisdiction Financial Institution”** means, for each respective Jurisdiction, (i) any Financial Institution that is resident in the Jurisdiction, but excludes any branch of that Financial Institution that is located outside the Jurisdiction, and (ii) any branch of a Financial Institution that is not resident in the Jurisdiction, if that branch is located in the Jurisdiction;

	d) the term **"Reporting Financial Institution"** means any Jurisdiction Financial Institution that is not a Non-Reporting Financial Institution; e) the term **"Reportable Account"** means a Financial Account that is maintained by a Reporting Financial Institution and that, pursuant to due diligence procedures consistent with the Common Reporting Standard, has been identified as an account that is held by one or more persons that are Reportable Persons with respect to another Jurisdiction or by a Passive Non-Financial Entity with one or more Controlling Persons that are Reportable Persons with respect to another Jurisdiction, f) the term **"Common Reporting Standard"** means the standard for automatic exchange of financial account information in tax matters (which includes the Commentaries), developed by the OECD, with G20 countries; g) the term **"Co-ordinating Body Secretariat"** means the OECD Secretariat that, pursuant to paragraph 3 of Article 24 of the Convention, provides support to the co-ordinating body that is composed of representatives of the competent authorities of the Parties to the Convention; h) the term "**Agreement in effect**" means, in respect of any two Competent Authorities, that both Competent Authorities have indicated their intention to automatically exchange information with each other and have satisfied the other conditions set out in subparagraph 2.1. of Section 7. The Competent Authorities for which this Agreement is in effect are listed in Annex E. 2. Any capitalised term not otherwise defined in this Agreement will have the meaning that it has at that time under the law of the Jurisdiction applying the Agreement, such meaning being consistent with the meaning set forth in the Common Reporting Standard. Any term not otherwise defined in this Agreement or in the Common Reporting Standard will, unless the context otherwise requires or the Competent Authorities agree to a common meaning (as permitted by domestic law), have the meaning that it has at that time under the law of the Jurisdiction applying this Agreement, any meaning under the applicable tax laws of that Jurisdiction prevailing over a meaning given to the term under other laws of that Jurisdiction. ***SECTION 2*** **Exchange of Information with Respect to Reportable Accounts** 1.1. Pursuant to the provisions of Articles 6 and 22 of the Convention and subject to the applicable reporting and due diligence rules consistent with the Common Reporting Standard, each Competent Authority will annually exchange with the other Competent Authorities, with respect to which it has this Agreement in effect, on an automatic basis the information obtained pursuant to such rules and specified in paragraph 2. 1.2. Notwithstanding the previous paragraph, the Competent Authorities of the Jurisdictions listed in Annex A will send, but not receive, the information specified in paragraph 2. Competent Authorities of Jurisdictions not listed in Annex A will always receive the information specified in paragraph 2. Competent Authorities will not send such information to Competent Authorities of the Jurisdictions listed in Annex A.

	2. The information to be exchanged is, with respect to each Reportable Account of another Jurisdiction: a) the name, address, TIN(s) and date and place of birth (in the case of an individual) of each Reportable Person that is an Account Holder of the account and, in the case of any Entity that is an Account Holder and that, after application of due diligence procedures consistent with the Common Reporting Standard, is identified as having one or more Controlling Persons that is a Reportable Person, the name, address, and TIN(s) of the Entity and the name, address, TIN(s) and date and place of birth of each Reportable Person; b) the account number (or functional equivalent in the absence of an account number); c) the name and identifying number (if any) of the Reporting Financial Institution; d) the account balance or value (including, in the case of a Cash Value Insurance Contract or Annuity Contract, the Cash Value or surrender value) as of the end of the relevant calendar year or other appropriate reporting period or, if the account was closed during such year or period, the closure of the account; e) in the case of any Custodial Account: (1) the total gross amount of interest, the total gross amount of dividends, and the total gross amount of other income generated with respect to the assets held in the account, in each case paid or credited to the account (or with respect to the account) during the calendar year or other appropriate reporting period; and (2) the total gross proceeds from the sale or redemption of Financial Assets paid or credited to the account during the calendar year or other appropriate reporting period with respect to which the Reporting Financial Institution acted as a custodian, broker, nominee, or otherwise as an agent for the Account Holder; f) in the case of any Depository Account, the total gross amount of interest paid or credited to the account during the calendar year or other appropriate reporting period; and g) in the case of any account not described in subparagraph 2(e) or (f), the total gross amount paid or credited to the Account Holder with respect to the account during the calendar year or other appropriate reporting period with respect to which the Reporting Financial Institution is the obligor or debtor, including the aggregate amount of any redemption payments made to the Account Holder during the calendar year or other appropriate reporting period. ***SECTION 3*** **Time and Manner of Exchange of Information** 1. For the purposes of the exchange of information in Section 2, the amount and characterisation of payments made with respect to a Reportable Account may be determined in accordance with the principles of the tax laws of the Jurisdiction exchanging the information. 2. For the purposes of the exchange of information in Section 2, the information exchanged will identify the currency in which each relevant amount is denominated.

	3. With respect to paragraph 2 of Section 2, and subject to the notification procedure set out in Section 7, including the dates specified therein, information is to be exchanged commencing from the years specified in Annex F within nine months after the end of the calendar year to which the information relates. Notwithstanding the foregoing sentence, information is only required to be exchanged with respect to a calendar year if both Competent Authorities have this Agreement in effect and their respective Jurisdictions have in effect legislation that requires reporting with respect to such calendar year that is consistent with the scope of exchange provided for in Section 2 and the reporting and due diligence procedures contained in the Common Reporting Standard. 4. [deleted] 5. The Competent Authorities will automatically exchange the information described in Section 2 in the common reporting standard schema in Extensible Markup Language. 6. The Competent Authorities will work towards and agree on one or more methods for data transmission including encryption standards with a view to maximising standardisation and minimising complexities and costs and will specify those in Annex B. ***SECTION 4*** **Collaboration on Compliance and Enforcement** A Competent Authority will notify the other Competent Authority when the first-mentioned Competent Authority has reason to believe that an error may have led to incorrect or incomplete information reporting or there is non-compliance by a Reporting Financial Institution with the applicable reporting requirements and due diligence procedures consistent with the Common Reporting Standard. The notified Competent Authority will take all appropriate measures available under its domestic law to address the errors or non-compliance described in the notice. ***SECTION 5*** **Confidentiality and Data Safeguards** 1. All information exchanged is subject to the confidentiality rules and other safeguards provided for in the Convention, including the provisions limiting the use of the information exchanged and, to the extent needed to ensure the necessary level of protection of personal data, in accordance with the safeguards which may be specified by the supplying Competent Authority as required under its domestic law and listed in Annex C. 2. A Competent Authority will notify the Co-ordinating Body Secretariat immediately regarding any breach of confidentiality or failure of safeguards and any sanctions and remedial actions consequently imposed. The Co-ordinating Body Secretariat will notify all Competent Authorities with respect to which this is an Agreement in effect with the first mentioned Competent Authority. ***SECTION 6*** **Consultations and Amendments** 1. If any difficulties in the implementation or interpretation of this Agreement arise, a Competent Authority may request consultations with one or more of the Competent Authorities to develop appropriate measures to ensure that this Agreement is fulfilled. The Competent Authority that requested the consultations shall ensure, as appropriate, that the Co-ordinating Body Secretariat is notified of any measures that were developed and the Co-ordinating Body Secretariat will

	notify all Competent Authorities, even those that did not participate in the consultations, of any measures that were developed. 2. This Agreement may be amended by consensus by written agreement of all of the Competent Authorities that have the Agreement in effect. Unless otherwise agreed upon, such an amendment is effective on the first day of the month following the expiration of a period of one month after the date of the last signature of such written agreement. ***SECTION 7*** **Term of Agreement** 1. A Competent Authority must provide, at the time of signature of this Agreement or as soon as possible after its Jurisdiction has the necessary laws in place to implement the Common Reporting Standard, a notification to the Co-ordinating Body Secretariat: a) that its Jurisdiction has the necessary laws in place to implement the Common Reporting Standard and specifying the relevant effective dates with respect to Preexisting Accounts, New Accounts, and the application or completion of the reporting and due diligence procedures; b) confirming whether the Jurisdiction is to be listed in Annex A; c) specifying one or more methods for data transmission including encryption (Annex B); d) specifying safeguards, if any, for the protection of personal data (Annex C); e) that it has in place adequate measures to ensure the required confidentiality and data safeguards standards are met and attaching the completed confidentiality and data safeguard questionnaire, to be included in Annex D; and f) a list of the Jurisdictions of the Competent Authorities with respect to which it intends to have this Agreement in effect, following national legislative procedures (if any). Competent Authorities must notify the Co-ordinating Body Secretariat, promptly, of any subsequent change to be made to the above-mentioned Annexes. 2.1. This Agreement will come into effect between two Competent Authorities on the later of the following dates: (i) the date on which the second of the two Competent Authorities has provided notification to the Co-ordinating Body Secretariat under paragraph 1, including listing the other Competent Authority's Jurisdiction pursuant to subparagraph 1(f), and, if applicable, (ii) the date on which the Convention has entered into force and is in effect for both Jurisdictions. 2.2. The Co-ordinating Body Secretariat will maintain a list that will be published on the OECD website of the Competent Authorities that have signed the Agreement and between which Competent Authorities this is an Agreement in effect (Annex E). 2.3. The Co-ordinating Body Secretariat will publish on the OECD website the information provided by Competent Authorities pursuant to subparagraphs 1(a) and (b). The information provided pursuant to subparagraphs 1(c) through (f) will be made available to other signatories upon request in writing to the Co-ordinating Body Secretariat.

	3. A Competent Authority may suspend the exchange of information under this Agreement by giving notice in writing to another Competent Authority that it has determined that there is or has been significant non-compliance by the second-mentioned Competent Authority with this Agreement. Such suspension will have immediate effect. For the purposes of this paragraph, significant non-compliance includes, but is not limited to, non-compliance with the confidentiality and data safeguard provisions of this Agreement and the Convention, a failure by the Competent Authority to provide timely or adequate information as required under this Agreement or defining the status of Entities or accounts as Non-Reporting Financial Institutions and Excluded Accounts in a manner that frustrates the purposes of the Common Reporting Standard. 4. A Competent Authority may terminate its participation in this Agreement, or with respect to a particular Competent Authority, by giving notice of termination in writing to the Co-ordinating Body Secretariat. Such termination will become effective on the first day of the month following the expiration of a period of 12 months after the date of the notice of termination. In the event of termination, all information previously received under this Agreement will remain confidential and subject to the terms of the Convention. ***SECTION 8*** **Co-ordinating Body Secretariat** 1. Unless otherwise provided for in the Agreement, the Co-ordinating Body Secretariat will notify all Competent Authorities of any notifications that it has received under this Agreement and will provide a notice to all signatories of the Agreement when a new Competent Authority signs the Agreement. 2. All signatories to the Agreement will share equally, on an annual basis, the costs for the administration of the Agreement by the Co-ordinating Body Secretariat. Notwithstanding the previous sentence, qualifying countries will be exempt from sharing the costs in accordance with Article X of the Rules of Procedure of the Co-ordinating Body of the Convention. Done in English and French, both texts being equally authentic. ***ANNEX A:*** ***LIST OF NON-RECIPROCAL JURISDICTIONS*** *[To be completed]* ***ANNEX B:*** ***TRANSMISSION METHODS*** *[To be completed]* ***ANNEX C:*** ***SPECIFIED DATA SAFEGUARDS*** *[To be completed]* ***ANNEX D:*** ***CONFIDENTIALITY QUESTIONNAIRE*** *[To be completed]*

ANNEX E:
COMPETENT AUTHORITIES FOR WHICH THIS IS AN AGREEMENT IN EFFECT
[To be completed]

ANNEX F:
INTENDED EXCHANGE DATES

Accounts	**Intended to be defined as**	**Intended dates to exchange information by**		
New Accounts	A Financial Account maintained by a Reporting Financial Institution opened on or after [day] [month] [year].	September [year]		
		Individual High-Value Accounts	**Individual Low-Value Accounts**	**Entity Accounts**
Pre-existing Accounts	A Financial Account maintained by a Reporting Financial Institution as of [day] [month] [year].	September [year]	September [year]	September [year]

Renumber Schedule 6 as Schedule 7	A. Renumber Schedule 6 as Schedule 7; and B. In the amendment to the Income Tax Act, Chap. 75:01 in paragraph (B) - (a) in subparagraph (b) delete the word "2018" and replace with the word "2019"; and (b) in subparagraph (c)- (i) insert after the words "sharing of" the word "information"; and (ii) delete the word "2018" and replace with the word "2019"; C. In the amendment to the Central Bank Act, Chap. 79:02 delete the word "2018" and replace with the word "2019"; D. In the amendment to the Financial Institutions Act, Chap. 79:09 delete the word "2018" wherever it occurs and replace with the word "2019"; E. In the amendment to the Securities Act, Chap. 83:02 delete the word "2018" wherever it occurs and replace with the word "2019"; and

	F. In the amendment to the Central Bank Act, Chap. 84:01 delete the word "2018" wherever it occurs and replace with the word "2019".

MINISTER OF FINANCE

THE TAX INFORMATION EXCHANGE AGREEMENTS ACT, 2018

List of amendments to be moved in the House of Representatives by the Minister of Finance at the Committee Stage of the Tax Information Exchange Agreements Bill, 2018.

NOTICE is hereby given that the Honourable Minister of Finance will move in the House of Representatives the following amendments at the Committee Stage of the Tax Information Exchange Agreements Bill, 2018.

First Column **Clause**	**Second Column** **Extent of Amendment**
4(2)	Insert after the word "exchange" the word "agreement".
5	Renumber clause 5 as clause 5(1) and insert after clause 5(1) as renumbered the following new subclause: " (2) An Order under subsection (1) shall be laid in both House of Parliament.".
6	Insert after subclause (2) the following new Subclause: "(3) For the purposes of subsection (2) such general directions does not include any directions relative to the personal information of any specific person, within the possession of the Board."
7	A. Delete Subclause (1) and replace with the following: " 7.(1) The Board has, for the purposes of giving effect to a declared agreement, all the powers that it would have if it were acting generally for- (a) the purposes of; or (b) any particular purpose specified in, any written law that confers powers on the Board. (2) Subject to subsection (1), the power under that subsection is exercisable notwithstanding that the circumstances necessary under that written law for the exercise of the power may not have arisen. (3) For the purposes of subsections (1) and (2) the provisions of the written law, shall apply to, and in relation to, the exercise of any

	such power for the purposes of giving effect to a declared agreement as if the power were exercised for the purposes of that written law. B. Renumber subclause (2) as subclause (4) and in subclause (4)(a) as renumbered insert after the word "this" the words "Act".
New clause 11	Insert after clause 10 the following new clause: "Notification of affected person 7. (1) Where the Board provides information to a competent authority of another State under any declared agreement, the Board shall within one year of such provision, notify the persons in respect of whom the information relates that personal information relating to that person which is required to be reported under this Act and under a declared agreement has been forwarded to the competent authority of that State. (2) A Notification under subsection (1) shall be in the form prescribed by the Minister by Order.".

MINISTER OF FINANCE

INCOME TAX (AMENDMENT) ACT, 2019

List of Amendments to be moved in the House of Representatives by the Honourable Minister of Finance at the Committee Stage of the Income Tax (Amendment) Act, 2019.

NOTICE is hereby given that the Honourable Minister of Finance will move in the House of Representatives the following amendment at the Income Tax (Amendment) Act, 2019:

First Column **Clause**	**Second Column** **Extent of Amendments**
5	Delete paragraphs (b) and (c) and renumber accordingly.

MINISTER OF FINANCE

APPENDIX VI

CONSOLIDATED VERSIONS

OF

THE BILLS

WITH AMENDMENTS

JSC, MOF and OECD amendments included in bold

A BILL

AN ACT to implement the Multilateral Convention on Mutual Administrative Assistance in Tax Matters which would make provision for the implementation of agreements between Trinidad and Tobago and other States to provide for the exchange of information for the purposes of taxation, and matters incidental thereto

Preamble

WHEREAS the development of international movement of persons, capital, goods and services has increased the possibilities of tax avoidance and evasion and therefore requires increasing co-operation among tax authorities:

And whereas a new cooperative environment has emerged and that has caused the development of a multilateral instrument known as "the Multilateral Convention on Mutual Administrative Assistance in Tax Matters" (herein after referred to as "the Convention") to allow the widest number of States to obtain the benefits of the new co-operative environment and at the same time implement the highest international standards of co-operation in the tax field:

And whereas the Convention provides for the sharing of personal information of identifiable individuals without first obtaining their consent for such sharing:

And whereas the sharing of personal information of identifiable individuals without first obtaining their consent for such sharing amounts to a breach of that person's right to his family and private life as guaranteed by section 4 of the Republican Constitution:

And whereas the Republican Constitution by section 5 provides that no law may abrogate, abridge or infringe or authorize the abrogation, abridgement or infringement of any of the rights contained in section 4 of the Republican Constitution:

And whereas section 13 requires any Act which seeks to abrogate, abridge or infringe or authorize the abrogation, abridgement or infringement may have effect even though inconsistent with the Constitution if the Bill relative to the Act expressly states that it is inconsistent with sections 4 and 5 of the Constitution and is passed by both

Houses of Parliament with a vote of not less than three-fifths of all of the members of Parliament:

And whereas it is necessary and expedient that the provisions of the Act shall have effect even though inconsistent with sections 4 and 5 of the Constitution:

Enactment

ENACTED by the Parliament of Trinidad and Tobago as follows:

PART I

PELIMINARY

Short title

1. This Act may be cited as the Mutual Administrative Assistance in Tax Matters Bill, 2018.

Commencement

2. This Act shall come into operation on such date as is fixed by the President by Proclamation.

Act inconsistent with Constitution

3. This Act shall have effect even though it is inconsistent with sections 4 and 5 of the Constitution.

Interpretation

4. (1) In this Act-

"account holder" means-

(e) a person listed or identified as the holder of a financial account by the financial institution that maintains the account;

(f) where a person, other than a financial institution, holds a financial account for the benefit or account of another person as agent, custodian, nominee, signatory, investment advisor, or intermediary, is not treated as holding the account for purposes of the Common Reporting Standard and such other person is treated as holding the account;

(g) in the case of a cash value insurance contract or an annuity contract, any person entitled to access the cash value or change the beneficiary of the contract, but if no person can access the cash value or change the beneficiary then, any person named as the owner in the contract and any person with a vested entitlement to the payment under the terms of the contract; or

(h) each person entitled to receive payment upon the maturity of a cash value insurance contract or an annuity contract;

"active NFE" means any NFE where-

(i) less than fifty per cent of the gross income of the NFE for the preceding calendar year or other appropriate reporting period is passive income and less than fifty per cent of the assets held by the NFE during the preceding calendar year or other appropriate reporting period are assets that produce or are held for the production of passive income;

(j) the stock of the NFE traded on an established securities market or the NFE is a related entity of an entity, the stock of which is regularly traded on an established securities market;

(k) the NFE is a governmental entity, an international organisation, a **C**entral **B**ank[IE1], or an entity wholly owned by one or more of the foregoing ~~listed in this paragraph~~[IE2];

(l) substantially all of the activities of the NFE consists of–

(iii) holding, in whole or in part, the outstanding stock of; or

(iv) providing financing and services to,

one or more subsidiaries that engage in a trade or business other than a business of a financial institution, except that an entity does not qualify for this status if the entity functions, or holds itself out, as an investment fund, such as a private equity fund, venture capital fund, leveraged buyout fund, or any investment vehicle whose purpose is to acquire or fund companies and then hold interests in those companies as capital assets for investment purposes;

(m) the NFE is not yet operating a business and has no prior operating history, but is investing capital into assets with the intent to operate a business other than that of a financial institution, provided that the NFE does not qualify for this exception after the date that is twenty-four months after the date of the initial organisation of the NFE;

(n) the NFE was not a financial institution in the past five years, and is in the process of liquidating its assets or is reorganising with the intent to continue or recommence operations in a business other than that of a financial institution;

(o) the NFE primarily engages in financing and hedging transactions with, or for, related entities that are not financial institutions, and does not provide financing or hedging services to any entity that is not a related entity, provided that the group of any such related entities is primarily engaged in a business other than that of a financial institution; or

(p) the NFE-

(i) is established and operated in its jurisdiction of residence exclusively for religious, charitable, scientific, artistic, cultural, athletic or educational purposes or is established and operated in its jurisdiction of residence and is a professional organisation, business league, chamber of commerce, labour organisation, agricultural or horticultural organisation, civic league~~s~~[IE3] or an organisation operated exclusively for the promotion of social welfare;

(ii) is exempt from income tax in its jurisdiction of residence;

(iii) has no shareholders or members who have a proprietary or beneficial interest in its income or assets;

(iv) the applicable laws of the jurisdiction of residence of the NFE or the formation documents of the NFE do not permit any income or assets of the NFE to be distributed to, or applied for the benefit of, a private person or non-charitable entity other than pursuant to the conduct of the charitable activities of the NFE, or as payment of reasonable compensation for services rendered, or as payment representing the fair market value of the property which the NFE has purchased; and

Chap. 75:01

(v) the applicable laws of the jurisdiction of residence of the NFE or the formation documents of the NFE require that, upon the liquidation or dissolution of the NFE, all of its assets be distributed to a governmental entity or other non-profit organisation, or escheat to the government of the jurisdiction of residence of the NFE or any political subdivision thereof;

"annuity contract" means a contract under which the issuer agrees to make payments for a period of time determined in whole or in part by reference to the life expectancy of one or more individuals and includes a contract considered to be an annuity contract in accordance with the law, regulation or practice of the jurisdiction in which the contract was issued and under which the issuer agrees to make payments for a term of years;

"applicant State" means any Party applying for administrative assistance in tax matters under this Act;

"Board" means the Board of Inland Revenue established by section 3 of the Income Tax Act;

"broad participation retirement fund" means a fund established to provide retirement, disability, or death benefits, or any combination thereof, to beneficiaries that are current or former employees, or persons designated by such employees, of one or more employers in consideration for services rendered, provided that the fund-

(g) does not have a single beneficiary with a right to more than five per cent of the assets of the fund;

(h) is subject to government regulation and provides information reporting to the tax authorities; and

(i) satisfies at least one of the following requirements:

(i) the fund is generally, exempt from tax on investment income, or taxation of such income is deferred or taxed at a reduced rate, due to its status as a retirement or pension plan;

(ii) the fund receives at least fifty per cent of its total contributions, other than transfers of assets from other Board Retirement Funds, Narrow Retirement Funds or Pension Funds of a Government Entity, International Organisation or Central Bank or from retirement and pension accounts under paragraph (a) of the definition of "Excluded Account;

(iii) distributions or withdrawals from the fund are allowed only upon the occurrence of specified events related to retirement, disability, or death, except rollover distributions to other retirement funds described in paragraphs (a) to (c), Narrow Participation Retirement Funds[IE4] or pension Funds of a Government entity, International Organisation or Central Bank or retirement and pension accounts as described in paragraph (a) of the definition of "Excluded Account", or penalties apply to distributions or withdrawals made before such specified events; or

(iv) contributions, other than certain permitted make-up contributions, by employees to the fund are limited by reference to earned income of the employee or may not exceed the equivalent of fifty thousand **United States** dollars annually, applying the rules set forth in the Common Reporting Standard Due Diligence Rules set forth in Section VII of Schedule 1 in respect of Special Due Diligence Rules for account aggregation and currency translation;

"cash value" means the greater of –

Schedule 1

(h) the amount that the policyholder is entitled to receive upon surrender or termination of the contract, determined without reduction for any currency charge or policy loan; or

(i) the amount the policyholder can borrow under or with regard to the contract,

but shall not include an amount payable under an insurance contract-

(j) solely by reason by death of an individual insured under a life insurance contract;

(k) as a personal injury or sickness benefit or other benefit providing indemnification of an economic loss incurred upon the occurrence of the event insured against;

(l) as a refund of a previously paid premium, less cost of insurance charges whether or not actually imposed, under an insurance contract, other than an investment-linked life insurance or annuity contract, due to cancellation or termination of the contract, decrease in risk exposure during the effective period of the contract, or arising from the correction of a posting or similar error with regard to the premium for the contract;

(m) as a policyholder dividend, other than a termination dividend, provided that the dividend relates to an insurance contract under which the only benefits payable are described in paragraph (d); or

(n) as a return of an advance premium or premium deposit for an insurance contract for which the premium is payable at least annually if the amount of the advance premium or premium deposit does not exceed the next annual premium that will be payable under the contract;

“cash value insurance contract” means an insurance contract, other than an indemnity reinsurance contract between two insurance companies, that has a cash value;

“CB Secretariat” means the Organisation of Economic Co-operation and Development Secretariat that pursuant to Article 24(3) of the Convention, provides support to the co-ordinating body that is composed of representatives of the competent authorities of the Parties to the Convention;

“**C**entral **B**ank[IE5]” means an institution that is by law or government sanction, the principal authority, other than the government of the jurisdiction itself, issuing instruments intended to circulate as currency and such institution may include an instrumentality that is separated[IE6] from the government for the jurisdiction whether or not owned in whole or in part by the jurisdiction;

"Common Reporting Standard" means the standard for automatic exchange of financial account information in tax matters including commentaries thereon approved on 15th July, ~~2015~~ **2014** by the Organisation of Economic Co-operation and Development;

"Common Reporting Standard Due Diligence Requirements" means the due diligence requirements of the Common Reporting Standard **referred to in Schedule 1**;

"competent authority" means the persons and authorities listed in Schedule 2 and in relation to Trinidad and Tobago, means the Board;

"controlling person" means the natural persons who exercise control over an entity and in the case of a trust, means the settlor, the trustees, the protector, the beneficiaries or class of beneficiaries, and any other natural person exercising ultimate effective control over the trust, and in the case of a legal arrangement other than a trust, such term means persons in equivalent or similar positions and as defined in accordance with the Financial Action Task Force Recommendations of 2012;

Schedule 2

"Convention" means the Multilateral Convention on Mutual Administrative Assistance in Tax Matters which provides for the exchange of information as set out in Schedule 3;

"custodial account" means an account~~,~~ other than an insurance contract or annuity contract, that holds one or more financial assets for the benefit of another person;

"custodial institution" means any entity that holds, as a substantial portion of its business, financial assets for the account of others;

"depository account" includes any commercial, chequing, savings, time or thrift account, or an account that is evidenced by a certificate of deposit, thrift certificate, investment certificate, certificate of indebtedness or other similar instrument maintained by a financial institution in the ordinary course of a banking or similar business and also includes an amount held by an insurance company pursuant to a guaranteed investment contract or similar agreement to pay or credit interest thereon;

Schedule 3

"depository institution" means any entity that accepts deposits in the ordinary course of a banking or similar business;

"entity" means a legal person or legal arrangement such as a corporation, partnership, trust or foundation;

"excluded account" means any of the following accounts:

(h) a retirement or pension account that satisfies the following requirements:

(vi) the account is subject to regulation as a personal retirement account or is part of a registered or regulated retirement or pension plan for the provision of retirement or pension benefits, including disability or death benefits;

(vii) the account is tax-favoured, that is to say, that contributions to the account that would otherwise be subject to tax are deductible or excluded from the gross income of the account holder or taxed at a reduced rate, or taxation of investment income from the account is deferred or taxed at a reduced rate;

(viii) information reporting is required to the tax authorities with respect to the account;

(ix) withdrawals are conditioned on reaching a specified retirement age, disability, or death or penalties apply to withdrawals made before such specified events; and

(x) either-

(C) annual contributions are limited to the equivalent of fifty thousand United States dollars or less; or

(D) there is a maximum lifetime contribution limit to the account ~~of to the~~ equivalent of one million United States dollars or less,

in each case applying the Common Reporting Standard Due Diligence Requirements set forth in Section VII of Schedule 1;

(i) an account -

(v) that is subject to regulation as an investment vehicle for purposes other than for retirement and is regularly traded on an established securities market, or the account is subject to regulation as a savings vehicle for purposes other than for retirement;

(vi) that is tax-favoured, such as contributions to the account that would otherwise be subject to tax are deductible or excluded from the gross income of the account holder or taxed at a reduced rate, or taxation of investment income from the account deferred or taxed at a reduced rate;

(vii) where withdrawals are conditioned on meeting specific criteria related to the purpose of the investment or savings account such as the provision of educational or medical benefits, or penalties apply to withdrawals made before such criteria are met; and

(viii) annual contributions are limited to the equivalent of fifty thousand United States dollars or less, applying the rules set out in paragraph C of the Common Reporting Standard Due Diligence Requirements set out in Section VII of Schedule 1;

(j) a life insurance contract with a coverage period that will end before the insured individual attains ninety years of age, provided that the contract satisfies the following requirements:

(v) periodic premiums, which do not decrease over time, are payable at least annually during the period the contract is in existence or until the insured attains ninety years of age, whichever is shorter;

(vi) the contract has no contract value that any person can access by withdrawal, loan, or otherwise, without terminating the contract;

(vii) the amount, other than a death benefit, payable upon cancellation or termination of the contract cannot exceed the aggregate premiums paid for the contract, less the sum of mortality, morbidity and expense charges, whether or not actually imposed, for the period or periods of the existence of the contract and any amounts paid prior to the cancellation or termination of the contract; and

(viii) the contract is not held by a transferee for value;

(k) an account that is held solely by an estate if the documentation for such account includes a copy of-

(i) the death certificate of the deceased; and

(ii) a grant of probate or letters of administration in respect of the estate of the deceased;

(l) an account established in connection with-

(v) a court order or judgement;

(vi) a sale, exchange, or lease of real or personal property, provided that-

(F) the account is funded solely with a down payment, earnest money, deposit in an amount appropriate to secure an obligation directly related to the transaction or a similar payment, or is funded with a financial asset that is deposited in the account in connection with the sale, exchange, or lease of the property;

(G) the account is established and used solely to secure the obligation of the purchaser to pay the purchase price for the property, the seller to pay any contingent liability, or the lessor or lessee to pay for any damages relating to leased property as agreed under the lease;

(H) the assets of the account, including the income earned thereon, will be paid or otherwise distributed for the benefit of the purchaser, seller, lessor or lessee, including to satisfy the obligation of the person, when the property is sold, exchanged or surrendered or the lease terminates;

(I) the account is not a margin or similar account established in connection with a sale or exchange of a financial asset; and

(J) the account is not associated with an account described in paragraph (f);

(vii) an obligation of a financial institution servicing a loan secured by real property to set aside a portion of a payment solely to facilitate the payment of taxes or insurance related to the real property at a later time; or

(viii) an obligation of a financial institution solely to facilitate the payment of taxes at a later time; and

(m) a depository account-

(iii) where the account exists solely because a customer makes a payment in excess of a balance due with respect to a credit card or other revolving credit facility and the overpayment is not immediately returned to the customer; and

(iv) beginning **on**[IE7] or before a date to be prescribed, where the financial institution implements policies and procedures either to prevent a customer from making an overpayment in excess ~~of the equivalent~~[IE8] of fifty thousand United States dollars or to ensure that any customer overpayment in excess of the equivalent of fifty thousand United States dollars is refunded to the customer within sixty days, in each case applying the Special Due Diligence requirements set out in the Common Reporting Standard Due Diligence Requirements in Section VII, Part C of Schedule 1 for currency translation and a customer overpayment includes credit balance resulting from merchandise returns but does not refer to credit balances to the extent of disputed charges;

(n) any other account that presents a low risk of being used to evade tax, as set out in an order prescribed by the Minister;

"exempt collective investment vehicle" means an investment entity that is regulated as a collective investment vehicle, provided that all of the interests in the collective investment vehicle are held by or through individuals or Entities that are not reportable persons, except a Passive NFE with controlling persons who are reportable persons however an investment entity that is regulated as a collective investment vehicle does not fail to qualify as an exempt collective investment vehicle, solely because the collective investment vehicle has issued physical shares in bearer form, provided that-

(a) the collective investment vehicle has not issued, and does not issue, any physical shares in bearer form after a date to be prescribed;

(b) the collective investment vehicle retires all such shares upon surrender;

(c) the collective investment vehicle performs the due diligence procedures set forth in Schedule 1 and reports any information required to be reported with respect to any such shares when such shares are presented for redemption or other payment; and

(d) the collective investment vehicle has in place policies and procedures to ensure that such shares are redeemed or immobilised as soon as possible, and in any event prior to a date to be prescribed.

"financial account" means an account that is maintained by a financial institution which is not an excluded account and includes a depository account, a custodial account and-

(d) in the case of an investment entity, any equity or debt interest in the financial institution but does not include any equity or debt interest in an entity that is an investment entity solely because it-

(iv) renders investment advice to, and acts on behalf of; or

(v) manages portfolios for and acts on behalf of a customer for the purpose of investing, managing, or administering financial assets deposited in the name of the customer with a financial institution other than such entity;

(e) in the case of financial institutions not described in paragraph (a), any equity or debt interest in the financial institution, if the class of interests was established with a purpose of avoiding reporting in accordance with section 12(3); and

(f) any cash value insurance contract and any annuity contract issued or maintained by a financial institution, other than a non-investment-linked, non-transferable immediate life annuity that is issued to an individual and monetises a pension or disability benefit provided under an account that is an excluded account;

"financial institution" means a custodial institution, depository institution, an investment entity or a specified insurance company;

"Governmental Entity" means-

(d) the government of a jurisdiction;

(e) any[IE9] **political subdivision of a jurisdiction which includes a state, province, county or municipality;**

(f) any wholly owned agency or instrumentality or a jurisdiction or of any one or more of the foregoing;

"information" means facts, statements or records in any form whatsoever;

"information gathering measures" means laws or administrative procedures that enable the Board to obtain and provide the requested information;

"international organisation" means any international organisation or wholly owned agency or instrumentality thereof and includes any intergovernmental organisation and supranational organisation-

(d) that is comprised primarily of governments;

(e) that has in effect a headquarters or substantially similar agreement with the jurisdiction; and

(f) the income of which does not inure to the benefit of private persons;

"insurance contract" means a contract, other than an annuity contract, under which the issuer agrees to pay an amount upon the occurrence of a specified contingency involving mortality, morbidity, accident, liability or property risk;

"investment entity" means an entity-

(c) that primarily conducts as a business one or more of the following activities or operations for, or on behalf of a customer:

(i) trading in foreign exchange, exchange, interest rate and index instruments, transferable securities or commodities futures trading or money market instruments, such as cheques, bills, certificates of deposits, derivatives;

(ii) individual and collective portfolio management; or

(vi) otherwise investing, administering or managing financial assets or money on behalf of other persons; or

(d) the gross income of which is primarily attributable to investing, reinvesting, or trading in financial assets, if the entity is managed by another entity that is a depository institution, a custodial institution, a specified insurance company or an investment entity under paragraph (a), but does not include an entity that is an active NFE;

"Minister" means the Minister to whom responsibility for finance is assigned;

"narrow participating retirement fund" means a fund established to provide retirement, disability, or death benefits to beneficiaries that are current or former employees, or persons designated by such employees, of one or more employers in consideration for services rendered, provided that-

(a) the fund has fewer than fifty participants;

(b) the fund is sponsored by one or more employers that are not investment entities or passive NFEs;

(c) the employee and employer contributions to the fund, other than transfers of assets from retirement and pension accounts described in paragraph (a) of the definition of "excluded account" [IE10]are limited by reference to earned income and compensation of the employee, respectively;

(d) participants that are not residents of the jurisdiction in which the fund is established are not entitled to more than twenty per cent of the assets of the fund; and

(e) the fund is subject to government regulation and provides information reporting to the tax authorities;

"national" means any individual possessing citizenship of ~~Trinidad and Tobago~~ **a State Party to the Convention** and any legal person, partnership or association deriving its status as such from any written laws in force in ~~Trinidad and Tobago~~ **a State Party to the Convention**;

"new account" means a financial account maintained by a reporting financial institution opened on or after a date to be prescribed;

"new entity account" means a New Account held by one or more Entities;

"new individual account" means a new account held by one or more individuals;

"NFE" means an entity that is not a financial institution;

"non-reporting financial institution" means any financial institution that is-

(a) a Governmental entity, International Organisation or Central Bank, other than with respect to a payment that is derived from an obligation held in connection with a commercial financial activity of a type engaged in by a specified insurance company, custodial institution, or depository institution;

(b) a broad participation retirement fund; a narrow participation retirement fund; a pension fund of a Governmental entity, International Organisation or Central Bank[IE11]~~;~~**,** or a qualified credit card issuer;

(c) any other entity that presents a low risk of being used to evade tax, has substantially similar characteristics to any of the entities described in paragraphs (a) and (b), and is defined in domestic law as a non-reporting financial institution, provided that the status of such entity as a non-reporting financial institution does not frustrate the purposes of the Common Reporting Standard;

(d) an exempt collective investment vehicle; or

(e) a trust to the extent that the trustee of the trust is a reporting financial institution and reports all information required to be reported under this Act with respect to all reportable accounts of the trust;

"Party" means a State party to the Convention as listed in Schedule 4;

~~"participating jurisdiction" means a jurisdiction listed in Schedule 5;~~

"passive NFE" means any-

(c) NFE that is not an active NFE; or

(d) an investment entity described in paragraph (b) of the definition of "investment entity" that is not a participating jurisdiction financial institution;

"pension fund of a governmental entity, international organisation or **C**entral **B**ank[IE12]" means a fund established by a governmental entity, international organisation or **C**entral[IE13] **B**ank to provide retirement, disability, or death benefits to beneficiaries or participants that are current or former employees, or persons designated by such employees, or that are not current or former employees, if the benefits provided to such beneficiaries or participants are in consideration of personal services performed for the governmental entity, international organisation or **C**entral[IE14] **B**ank;

"pre-existing account" means a financial account maintained by a reporting financial institution as of 30th June, 2017;

"related entity of an entity" means if either entity controls the other entity, or the two entities are under common control including direct or indirect ownership of more than fifty per cent of the vote and value in an entity;

"reportable account" means an account held by one or more reportable persons or by a passive NFE with one or more controlling persons that is a reportable person, provided it has been identified as such pursuant to the Common Reporting Standard Due Diligence Requirements described in Schedule 1;

"reportable jurisdiction" for the purpose of applying-

(c) the due diligence requirements described in Sections II to VII of Schedule 1, any jurisdiction other than the United States of America or Trinidad and Tobago; or
(d) the reporting requirements described in Sections I and II of Schedule 1, any jurisdiction which is listed in Schedule ~~2~~ 5;

"reportable person" means a reportable jurisdiction person who is not -

(g) a corporation, the stock of which is regularly traded on one or more established securities market;
(h) any corporation that is a related entity of a corporation described in paragraph (a);
(i) a Government entity;
(j) an International Organisation;
(k) a Central Bank; or
(l) a financial institution;

"reportable jurisdiction person" means an individual or entity that is resident in a reportable jurisdiction under the tax laws of such jurisdiction, or an estate of a decedent that was resident of a reportable jurisdiction and where an entity such as a partnership, limited liability partnership or similar legal arrangement has no residence for tax purposes it shall be treated as resident in the jurisdiction in which its place of effective management is situated;

"~~participating~~ **reportable** jurisdiction financial institution" means –

Schedule 4

(c) any[IE15] financial institution that is resident in a ~~participating~~ jurisdiction but excludes any branch of that financial institution that is located outside such ~~participating~~ jurisdiction; and

~~Schedule 5~~

(d) any branch of a financial institution that is not resident in a ~~participating~~ jurisdiction, if that branch is located in such ~~participating~~ jurisdiction;

"reporting financial institution" means any Trinidad and Tobago financial institution that is not a non-reporting financial institution;

"requested State" means any Party requested to provide administrative assistance in tax matters under this Act;

"specified insurance company" means an entity that is an insurance company, or the holding company of an insurance company, that issues or is obligated to make payments with respect to a cash value insurance contract or an annuity contract;

"tax" means any tax to which the Convention and the Tax Information Exchange Agreements (United States of America) Act, 2017 applies;

"TIN" means taxpayer identification number or the functional equivalent in the absence of a taxpayer identification number;

~~"tax claim" means any amount~~[IE16] ~~of tax, as well as interest thereon, related administrative fines and costs incidental to recovery, which are owed and not yet paid;~~ and

"Trinidad and Tobago financial institution" means-

(c) a financial institution that is resident in Trinidad and Tobago, but excludes any branch of that financial institution that is located outside of Trinidad and Tobago; and

(d) any branch of a financial institution, if that is not resident in Trinidad and Tobago.

(2) For the purposes of the definition of "custodial ~~account~~[IE17] ~~– a substantial portion of a business of an entity is where~~ **institution**" **an entity**

Schedule 5

holds financial assets for the account of others as a substantial portion of its business where, the gross income of the entity attributable to the holding of financial assets and related financial services equals or exceeds twenty per cent of the gross income of the entity during the shorter of –

(c) the three-year period that ends on 31st December or the final day of a non-calendar year accounting period**,** prior to the year in which the determination is being made; or

(d) the period during which the entity has been in existence;

(3) For the purposes of the definition "excluded account" a financial account that otherwise satisfies the requirement set out in paragraph (a)(v) or (b)(iv) of that definition will not fail to satisfy such requirements because such financial account may receive assets or funds transferred from one or more financial account that meet the requirements of paragraph (a) or (b), **of that definition**[IE18] or from one or more retirement or pension funds that meet the requirements of a broad participation retirement fund, narrow participation retirement fund or pension fund of a governmental entity, international organisation or Central Bank.

(4) For the purposes of the definition of "financial asset"-

(a) "a security" includes a share of stock in a corporation, a partnership or beneficial ownership interest in a widely held or publicly traded partnership or trust, note, bond, debenture or other evidence of indebtedness;

(b) "swap" includes interest rate swaps, currency swaps, basis swaps, interest rate caps, interest rate floors, commodity swaps, equity swaps, equity index swaps and similar agreements; and

(c) "interest" includes a futures or forward contract or option.

(5) For the purposes of the definition of "Governmental Entity"-

(a) an "integral part" of a jurisdiction means any person, organisation, agency, bureau, fund, instrumentality, or other body, however designated, that constitutes a governing authority if a jurisdiction where the net earnings of the governing authority is credited to its own account or to other accounts of the jurisdiction with no portion inuring to the benefit of any private person but does not include any individual who is a sovereign official, or administrator acting in a private or personal capacity;

(b) a "controlled entity" means an entity that is separate in form from the jurisdiction or that otherwise constitutes a separate juridical entity, provided that-

(i) the entity is wholly owned and controlled by one or more Governmental Entity directly or through one or more controlled entities;

(ii) the entity's net earnings are credited to its own account or to the accounts of one or more Government Entities, with no portion or is income inuring to the benefit of any private person; and

(iii) the entity's assets vest in one or more Governmental Entities upon dissolution;

(e) income does not inure to the benefit of private persons if such persons are the intended beneficiaries of a governmental programme, and the programme activities are performed for the general public with respect to the common welfare or relate to the administration of some phase of government, however, income is considered to inure to the benefit of private persons if the income is derived from the use of a governmental entity to conduct a commercial business, such as a commercial banking business that provides financial services to a private person.[IE19]

~~(4~~[IE20]~~)~~(6) For the purposes of the definition of "investment entity" an entity is treated as primarily conducting as a business of one or more of the activities described in paragraph (a) of that definition or the gross income of an entity is primarily attributable to investing, reinvesting or trading in financial assets for the purposes of paragraph (b) of ~~the~~ **that** definition[IE21], if the gross income of the entity attributable to the relevant activities equals or exceeds fifty per cent of the gross income of the entity during the shorter of the three-year period ending on the 31st December of the year preceding the year in which the determination is made or the period during which the entity has been in existence, however the term investment entity does not include an entity that is an ~~A~~active[IE22] NFE because it meets any of the criteria in subparagraphs 4(1)(d) **to (g) of the definition of "active NFE**[IE23]**".**

(~~5~~)(7[IE24]) For the purposes of applying-

(a) ~~a~~ **the**[IE25] due diligence requirements described in Section II to VII of Schedule I, the definition of "reportable jurisdiction" means any jurisdiction other than the United States of America and Trinidad and Tobago; and

(b) the reporting requirements described in Section I of Schedule I and Section II, the definition "reportable jurisdiction" means any jurisdiction which is listed in Schedule 2.

Board of Inland Revenue the competent authority for Trinidad and Tobago

5. For the purposes of the implementing this Act in respect of Trinidad and Tobago, the Board shall be the competent authority for Trinidad and Tobago.

Application of Act

6. This Act shall apply to any identical or substantially similar taxes imposed in a Party after 1st January, 2017.

Competent Authority Agreements

7. (1) The Board shall enter into bilateral or multilateral Agreements with other competent authorities -

(c) for the establishment of procedures for the exchange of information and service of documents under this Act; and

(d) to set out rules and procedures as may be necessary for the collaboration on compliance with, and enforcement of matters arising under this Act.

Schedule 6

(2) A Bilateral[IE26] **or multilateral Agreements with other competent authorities referred to in subsection (1) and set out in Schedule 6 may be adjusted having regard to the arrangements made between the parties.**

PART II

FORMS OF ASSISTANCE

General

Exchange of information

8. (1) The Board shall exchange, with other competent authorities, **of an applicant state,** information that is foreseeably relevant for the administration **or enforcement** [IE27]of the domestic law of the Party concerning taxes covered by this Act either upon request, automatically, spontaneously or simultaneously.

(2) Nothing in this Act authorises the Board to-

(a) carry out measures at variance with any written law of Trinidad and Tobago or administrative practice of the Board or the laws or administrative practices of an applicant State;

(b) carry out measures which would be contrary to public policy;

(c) supply information which is not obtainable under any written law or under the administrative practices of the Board or under the laws or administrative practices of an applicant State;

(d) supply information which 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;

(e) provide administrative assistance if and insofar as it considers the taxation in the applicant State to be contrary to generally accepted taxation principles or to the provisions of a convention for the avoidance of double taxation or of any other convention which Trinidad and Tobago has concluded with the applicant State;

(f) provide administrative assistance for the purpose of administering or enforcing a provision of the tax law of the applicant State, or any requirement connected therewith, which discriminates against a national of Trinidad and Tobago as compared with a national of the applicant State in the same circumstances; and

(g) provide administrative assistance if the applicant State has not pursued all reasonable measures available under its laws or administrative practices, except where recourse to such measures would give rise to disproportionate difficulty.

(3) Subsection (2) shall not be construed as to authorise the Board to decline to supply information solely because information is held by a bank, other financial institution, nominee or person acting in an agency or fiduciary capacity or because it relates to ownership interests in a person.

Disclosure under this Act

9. (1) Nothing in-

Chap. 79:09

Chap. 83:02

(d) section 55 of the Financial Institutions Act;

(e) section 14 of the Securities Act; or

(f) any other law that restricts the sharing of personal information,

prevents the disclosure of information by the Board or a financial institution where that disclosure is for the assessment, collection or recovery of, the enforcement or prosecution in respect of, or the determination of appeals in relation to taxes or the oversight of the foregoing, and in accordance with and for the purpose of giving effect to the Convention.

(2) The Board shall, on receipt of a request for information concerning persons from **the competent authority of an applicant** ~~a~~ Party, provide the information ~~so requested~~ **that is foreseeably relevant** to ~~the~~ **that** competent authority. ~~of the Requesting Party~~[IE28]

(3) The Board shall forward to the Party any other information relevant to a request for assistance that comes to its knowledge.

(4) Where information in the possession of the Board is not sufficient to enable it to comply with a request under subsection (1), the Board shall take all relevant information gathering measures to provide the **Requesting** Party ~~making the request for assistance~~, with[IE29] the requested information.

(5) The Board shall disclose information received under this Act to other agencies for non-taxation purposes where the country supplying the information has laws allowing for such sharing and ~~with the~~ consents **to such sharing.** ~~from the country supplying the information~~ [IE30]

(6) Notwithstanding sections 6, 38 and 40 of the Data Protection Act, a financial institution may, for the purpose of this Act, process

Chap. 22:04

information collected by it in the normal course of business where the account holder of a reportable account is a reportable person.

(7) Notwithstanding sections 6, 30 and 31 of the Data Protection Act, the Board shall for the purposes of this Act, receive information on a reportable person in the possession of a financial institution in respect of reportable accounts.

(8) Where the Board receives information under subsection (4) in respect of **a**[IE31] reportable account it shall keep such information confidential and unless the ~~competent authority~~ **Board**[IE32] is permitted to disclose that information under this Act, it shall not disclose that information without the consent of the person to whom that information relates.

(9) Notwithstanding section 46 of the Data Protection Act, information received by the Board under this Part in respect of a reportable account shall be disclosed to the ~~competent authority~~ [IE33]**Board** even if the individual to whom the information relates has not consented to the disclosing of his information or the jurisdiction does not have comparable safeguards as required by the Data Protection Act.

(10) Notwithstanding sections 6, 41 and 69 of the Data Protection Act, a financial institution may forward to the Board information relative to an account holder in respect of a reportable account held by a financial institution for the purposes of this Act without the consent of the account holder.

(11) Notwithstanding any other written law, where the Board receives information for the purposes of this Act, it shall not share that information with any person unless so permitted under this Act.

(12) Where information has been obtained or received **by the Board** [IE34]under this Act, a person who uses or discloses the information other

than for the purposes for which it was obtained by the Board or received under this Act commits an offence and is liable-

(a) on summary conviction to a fine of one hundred thousand dollars and to imprisonment for three years; or

(b) on conviction on indictment to a fine of one hundred and fifty thousand dollars and to imprisonment for a term of five years.

Exchange of information upon request

Exchange of information upon request

10. (1) The Board shall, on receipt **from a competent authority of an applicant State**, of a request for information concerning persons or transactions ~~from a competent authority of an applicant State,~~ [IE35]provide information that is foreseeably relevant so requested to that competent authority.

(2) The Board shall forward to an applicant State any other information relevant to a request for information that comes to its knowledge.

(3) Where information in the possession of the Board is not sufficient to enable it to comply with a request under subsection (1), the Board shall take all relevant information gathering measures to provide the competent authority of the applicant State with the requested information.

(4) Where the competent authority of an applicant State requests information, the Board shall provide the information in the form and manner that the competent authority of the applicant State requested the information be provided.

(5) Where a request for information is made by the Board to a competent authority in a requested State, the request shall indicate where appropriate-

(a) the authority or agency which initiated the request made by the Board;

(b) the name, address or other particulars assisting in the information of the person in respect of whom the request is made;

(c) in the case of a request for information, the form in which the Board wishes the information to be supplied in order to meet its needs;

(d) in the case of a request for service of documents, the nature and the subject of the document to be served; and

(e) whether it is in conformity with any written law and administrative practices of the Board and whether it is justified in light of the requirements of section 8(2)(g).

(6) Where a request under this section is complied with, the Board shall inform the applicant State of the action taken and of the result of the assistance as soon as possible.

(7) Where a request is made for information by an applicant State, the Board shall use its information gathering measures to obtain the requested information, even though the information is not required for tax purposes in Trinidad and Tobago.

(8) Where a request is made for assistance by an applicant State and the Board declines to give such assistance, it shall inform the applicant State of that decision and the reasons for the refusal as soon as possible.

Automatic Exchange of Information

Automatic exchange of information

11. (1) The Board shall annually automatically exchange with the competent authorities of ~~the countries of~~ ~~the~~ reportable jurisdictions[IE36] the information set out in subsection (3).

(2) The information required to be exchanged with a ~~participating~~[IE37] reportable jurisdiction is as follows:

(a) in the case of an individual of each reportable person that is an account holder of the account, the name, address, jurisdiction of residence TIN, date and place of birth;

(b) in the case of an entity that is an account holder and that, after the application of due diligence procedures consistent with Schedule 1, is identified as having one or more controlling persons that is a reportable person, the name, address and TIN of the entity and the name, address, jurisdiction of residence, TIN and date and place of birth of each reportable person;

(c) the account number or functional equivalent in the absence of an account number;

(d) the name and identifying number, if any, of the reporting financial institution;

(e) the account balance or value, including the cash value insurance contract or annuity contract, the cash value or surrender value as of the end of the relevant calendar year or other appropriate reporting period or, if the account was closed during such year or period, the closure of the account;

(f) in the case of a custodial account-

(i) the total gross amount of interest, the total gross amount of dividends and the total gross amount of other income generated with respect to the assets held in the account, in each case paid or credited to the account, or with respect to the account, during the calendar year or other appropriate reporting period; and

(ii) the total gross proceeds from the sale or redemption of financial assets paid or credited to the account during the calendar year or other appropriate reporting period with respect to which the reporting financial institution acted as custodian, broker, nominee or otherwise as an agent for the account holder;

(g) in the case of a depository account, the total gross amount of interest paid or credited to the account during the calendar year or other appropriate reporting period; and

(h) in the case of any account not described in paragraph (f) or (g), the total gross amount paid or credited to the account holder with respect to the account during the calendar year or other appropriate reporting period with respect to which the reporting financial institution is the obligor or debtor, including the aggregate amount of any redemption payments made to the account holder during the calendar year or other appropriate reporting period.

~~(3) For the purpose of the exchange of information under this section-~~

~~(a) the amount and characterisation of payments with respect to a reportable account may be determined in accordance with the principles of the tax laws of Trinidad and Tobago;~~

~~(b) the information reported and exchanged shall identify the currency in which each amount is denominated; and~~

~~(c) , notwithstanding subsection (3)(a), the TIN is not required to be reported if-~~

~~(iii) a TIN is not issued by the relevant reportable jurisdiction; or~~

~~(iv) the domestic law of the relevant reportable jurisdiction does not require the collection of the TIN issued by such reportable jurisdiction.~~

~~(4) Notwithstanding subsection (3)(a)-~~

~~(a) with respect to each reportable account that is a pre-existing account, the TIN or date of birth is not required to be reported if such TIN or date of birth is not in the records of the reporting financial institution and is not otherwise required under any written law to be collected by the reporting financial institution; and~~

~~(b) the place of birth is not required to be reported unless the reporting financial institution is otherwise required to obtain and report it under any written law and it is available in the electronically searchable data maintained by the reporting financial institution.~~

~~(5) Notwithstanding subsection (5)(a), a reporting financial institution shall use reasonable efforts to obtain the TIN and date of birth with respect to a pre-existing account by the end of the second calendar year following the year in which such accounts were identified as reportable accounts.~~[IE38]

(~~6~~)(3[IE39]) Information under this section shall be exchanged with respect to the year 2017 and all subsequent years within nine months after the end of the calendar year to which the information relates.

Requirements of reporting financial institutions

12. (1) A reporting financial institution shall comply with the due diligence requirements, set out in sections II to VII and the due diligence requirements set out in Schedule 1.

(2) A reporting financial institution shall establish, maintain and document the procedures set out in Schedule I that are designed to identify reportable accounts maintained by the institution.

(3) For the purposes of this section a reporting financial institution shall report on, or before 31st May of the year following the calendar year to which the information set out in subsection 11(3) relates in respect of ~~a~~ **every**[IE40] reportable account maintained by the institution.

(4) A reporting financial institution shall notify an account holder that information relating to that person has been reported to the Board as required and will be exchanged with the competent authority of an applicant State in accordance with this Act.

(5) A Notification under subsection (4) shall be made by 31st January in the calendar year following the first year in which the account held by the person became a reportable.

(6) A Notification under subsection (4) shall be in the form prescribed by the Minister by Order.

(7) For the purpose of the exchange of information under this section-

(a) the amount and characterisation of payments with respect to a reportable account may be determined in accordance with the principles of the tax laws of Trinidad and Tobago;
(b) the information reported ~~and exchanged~~ shall identify the currency in which each amount is denominated; and
(c) , notwithstanding section 11(3)(a), the TIN is not required to be reported if-

(iii) a TIN is not issued by the relevant reportable jurisdiction; or
(iv) the domestic law of the relevant reportable jurisdiction does not require the collection of the TIN issued by such reportable jurisdiction.

(8) Notwithstanding section 11(3)(a)-

(a) with respect to each reportable account that is a pre-existing account, the TIN or date of birth is not required to be reported if such TIN or date of birth is not in the records of the reporting financial institution and is not otherwise required under any written law to be collected by the reporting financial institution; and
(b) the place of birth is not required to be reported unless the reporting financial institution is otherwise required to obtain and report it under any written law and it is available in the electronically searchable data maintained by the reporting financial institution.

(9) Notwithstanding subsection (8)(a), a reporting financial institution shall use reasonable efforts to obtain the TIN and date of birth with respect to a pre-existing account by the end of the second calendar year following the year in which such accounts were identified as reportable accounts.[IE41]

Spontaneous Exchange of Information

Spontaneous exchange of information

14. (1) The Board shall, without prior request, forward to an applicant State information of which the Board has knowledge in the following circumstances:

(f) the Board has reasonable grounds to suspect that there may be a loss in tax in the Party;
(g) a person liable to tax obtains a reduction in or an exemption from tax in Trinidad and Tobago which would give rise to an increase in tax or to liability to tax in the Party;
(h) business dealings between a person liable to tax in Trinidad and Tobago and a person liable to tax in the Party are conducted through one or more countries in such a way that a saving in tax may result in Trinidad and Tobago or the Party or in both;
(i) the Board has grounds to suspect that a saving of tax may result from artificial transfers of profits within groups of enterprises; or
(j) information forwarded to the Board by the Party has enabled information to be obtained which may be relevant in assessing liability to tax in the Party.

(2) The Board shall take such measures and implement such procedures as are necessary to ensure that information under subsection (1) is made available for transmission to another Party to which the subsection applies.

Simultaneous Examination of Information

Simultaneous tax examinations

14. (1) The Board may, upon request, consult with another Party for the purpose of determining cases and procedures for simultaneous tax examinations.

(2) For the purpose of subsection (1), "simultaneous tax examination" means an arrangement where two or more parties examine simultaneously, each in its own territory, the tax affairs of a person or persons in which they have a common or related interest, with a view to exchanging any relevant information which they so obtain.

PART III

COMPLIANCE AND ENFORCEMENT

Effective enforcement

16. (1) A person who enters into any arrangement or engages in any practice, the main purpose of which can be reasonably be considered to be to avoid a requirement imposed under this Act or regulations made hereunder, commits an offence and is liable-

(a) on summary conviction to a fine of ~~one hundred and fifty~~ **three hundred** thousand dollars and imprisonment for ~~twenty years~~ **one year; and**

(b) **on conviction on indictment to a fine of six hundred thousand dollars and to imprisonment for two years**.

(2) If a person enters into any arrangement or engages in any practice, the main purpose of which can be reasonably be considered to be to avoid a requirement imposed under this Act or regulations made hereunder, he shall be subject to the requirement as if the person had not entered into the arrangement or engaged in the practice.

Collaboration on compliance on enforcement

16.(1) Where the Board receives notification from a competent authority of a Party that an error may have led to incorrect or incomplete information reporting or there is non-compliance by a reporting financial institution with the applicable reporting requirements and due diligence procedures consistent with the Common Reporting Standard Due Diligence Requirements set out in Schedule 1, the Board shall take all appropriate measures to address the errors or non-compliance described in the notification under **this**[IE42] subsection ~~(1)~~.

(2) Where the Board receives a notification under subsection (1), it shall determine whether the error or non-compliance is to be corrected by the Board or a financial institution.

(3) Where the Board determines under subsection (2)**,**[IE43] that the error is to be corrected by the financial institution it shall, for the purpose of subsection (1), request the financial institution correct the errors contained in the information.

(4) Where the Board determines under subsection (2) that the non-compliance is to be corrected by the financial institution, the Board shall require the financial institution to be compliant as soon as possible.

(5) Where a financial institution fails to comply with subsection (3) or subsection (4), the financial institution is liable to a penalty of one hundred thousand dollars **and for every day the error remains uncorrected to a further fine of ten thousand dollars**.

(6) A penalty under subsection (5) shall be payable to the Comptroller of Accounts.

(7) A penalty under this section does not preclude any other penalty that the regulatory authority of the financial institution may impose under its applicable written law.

(8) A financial institution may appeal against a penalty under this section to the Tax Appeal Board.

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(9) For the purposes of this section, "Tax Appeal Board" means the Tax Appeal Board established under section 3 of the Tax Appeal Board Act.

Requirement to keep records

17. A reporting financial institution shall keep records of the steps undertaken and any records obtained or created for the purpose of complying with **this Act and** [IE44]the Common Reporting Standard Due Diligence Requirements required under Schedule 1 for a period of not less than five years after the end of the period within which the reporting financial institution is required to report the information required to be reported under Schedule 1.

Board to inform on breach of confidentiality

18. The Board shall notify the CB Secretariat immediately regarding any breach of confidentiality or failure of safeguards and any sanctions and remedial actions consequently imposed.

Use of service providers

19. (1) A reporting financial institution may use service providers such as data providers, financial advisers or insurance agents to fulfil their reporting and due diligence obligations **required under Schedule 1**[IE45].

(2) A reporting financial institution may use documentation collected by service providers under subsection (1) subject to conditions that may be prescribed in Regulations made under this Act.

(3) Notwithstanding subsection (1) or (2), a reporting financial institution shall be ultimately responsible for the reporting and due diligence requirements under this Act.

PART IV

MISCELLANEOUS

Immunity from suit

20. The Board or any person acting under its authority or direction, who discloses confidential information in compliance with this Act, shall not be taken as having committed an offence under the provisions of any written law relating to confidentiality by reason only of that disclosure.

Annual Report

21. The Minister shall cause to be laid in Parliament an annual report on the operations of the Board in relation to this Act.

Minister to amend Schedules

22. (1) The Minister may by Order amend Schedules 2 and 5 to add to, or remove the name of a country or competent authority.

(2) The Minister may by Order, where the parties to the Convention modify the Convention, amend the Convention or its annexes contained in Schedule 3,[IE46] to reflect that modification.

(3) The Minister may by Order amend Schedules 1 and 4.

(4) An Order under subsection (2) shall be subject to negative resolution of Parliament.

Minister to prescribe dates

23. Where any provision of this Act requires a date to be prescribed, the Minister may, by Order, prescribe such date.

Regulations

24. (1) The Minister may make regulations for the purpose of giving effect to anything required to be done under this Act.

(2) Regulations made under subsection (1) shall be subject to negative resolution of Parliament.

Consequential amendments Schedule ~~6~~ **7**

25. The Acts listed in the First Column of the Table set out in Schedule ~~6~~ **7**[IE47] are amended to the extent set out in the Second Column of the Table.

SCHEDULE 1

(Sections 4, 9, 13, 17, 18 and 22)

COMMON REPORTING STANDARD AND DUE DILIGENCE REQUIREMENTS

Section I: General Reporting Requirements

A. Subject to paragraphs C through ~~F~~ **E**[IE48], each Reporting Financial Institution must report the following information with respect to each Reportable Account of such Reporting Financial Institution:

1. the name, address, jurisdiction(s) of residence, ~~TIN~~ **TIN(s)** and date and place of birth (in the case of an individual) of each Reportable Person that is an Account Holder of the account and, in the case of any entity that is an Account Holder and that, after application of the due diligence procedures consistent with Sections V, VI and VII, is identified as having one or more Controlling Persons that is a Reportable Person, the name, address, jurisdiction(s) of residence and ~~TIN~~ **TIN(s)** of the entity and the name, address, jurisdiction(s) of residence, ~~TIN~~ **TIN(s)** and date and place of birth of each Reportable Person;

2. the account number (or functional equivalent in the absence of an account number);

3. the name and identifying number (if any) of the Reporting Financial Institution;

4. the account balance or value (including, in the case of a Cash Value Insurance Contract or Annuity Contract, the Cash Value or surrender value) as of the end of the relevant calendar year or other appropriate reporting period or, if the account was closed during such year or period, the closure of the account;

5. in the case of any Custodial Account:

(a) the total gross amount of interest, the total gross amount of dividends, and the total gross amount of other income generated with respect to the assets held in the account, in each case paid or credited to the account (or with respect to the account) during the calendar year or other appropriate reporting period; and

(b) the total gross proceeds from the sale or redemption of ~~property~~ **financial assets** paid or credited to the account during the calendar year or other appropriate reporting period with respect to which the Reporting Financial Institution acted as a custodian, broker, nominee, or otherwise as an agent for the Account Holder;

6. in the case of any Depository Account, the total gross amount of interest paid or credited to the account during the calendar year or other appropriate reporting period; and

7. in the case of any account not described in subparagraph A(5) or (6), the total gross amount paid or credited to the Account Holder with respect to the account during the calendar year or other appropriate reporting period with respect to which the Reporting Financial Institution is the obligor or debtor, including the aggregate amount of any redemption payments made to the Account Holder during the calendar year or other appropriate reporting period.

B. The information reported must identify the currency in which each amount is denominated.

C. Notwithstanding subparagraph A(1), with respect to each Reportable Account that is a Pre-existing Account, the ~~TIN~~ **TIN(s)** or date of birth is not required to be reported if such ~~TIN~~ **TIN(s)** or date of birth is not in the records of the Reporting Financial Institution and is not otherwise required to be collected by such Reporting Financial Institution under domestic law. However, a Reporting Financial Institution is required to use reasonable efforts to obtain the ~~TIN~~ **TIN(s)** and date of birth with respect to Pre-existing Accounts by the end of the second calendar year following the year in which such Accounts were identified as Reportable Accounts.

D. Notwithstanding subparagraph A(1), the ~~TIN~~ **TIN(s)** is not required to be reported if: (i) a ~~TIN~~ **TIN(s)** is not issued by the relevant Reportable Jurisdiction; or (ii) the domestic law of the relevant Reportable Jurisdiction does not require the collection of the ~~TIN~~ **TIN(s)** issued by such Reportable Jurisdiction.

E. Notwithstanding subparagraph A(1), the place of birth is not required to be reported unless the Reporting Financial Institution is otherwise required to obtain and report it under domestic law and it is available in the electronically searchable data maintained by the Reporting Financial Institution.

F. Notwithstanding paragraph A, the information to be reported with respect to 2018 is the information described in such paragraph, except for gross proceeds described in subparagraph A(5)(b).

Section II: General Due Diligence Requirements

A. An account is treated as a Reportable Account beginning as of the date it is identified as such pursuant to the due diligence procedures in Sections II through VII and, unless otherwise provided, information with respect to a Reportable Account must be reported annually in the calendar year following the year to which the information relates.

B. The balance or value of an account is determined as of the last day of the calendar year or other appropriate reporting period.

C. Where a balance or value threshold is to be determined as of the last day of a calendar year, the relevant balance or value must be determined as of the last day of the reporting period that ends with, or within that calendar year.

D. Reporting Financial Institutions may apply the due diligence procedures for New Accounts to Pre-existing Accounts, and the due diligence procedures for High Value Accounts to Lower Value Accounts. Where a Jurisdiction allows New Account due diligence procedures are used for Pre-existing Accounts, the rules otherwise applicable to Pre-existing Accounts continue to apply.

Section III: Due Diligence for Pre-existing Individual Accounts

The following procedures apply for purposes of identifying Reportable Accounts among Pre-existing Individual Accounts:

A. **Accounts Not Required to be Reviewed, Identified, or Reported**. A Pre-existing Individual Account that is a Cash Value Insurance Contract or an Annuity Contract is not required to be reviewed, identified or reported, provided the Reporting Financial Institution is effectively prevented by law from selling such Contract to residents of a Reportable Jurisdiction.

B. **Lower Value Accounts**. The following procedures apply with respect to Lower Value Accounts:

1. Residence Address. If the Reporting Financial Institution has in its records a current residence address for the individual Account Holder based on Documentary Evidence, the Reporting Financial Institution may treat the individual Account Holder as being a resident for tax purposes of the jurisdiction in which the address is located for purposes of determining whether such individual Account Holder is a Reportable Person.

2. Electronic Record Search. If the Reporting Financial Institution does not rely on a current residence address for the individual Account Holder based on Documentary Evidence as set forth in subparagraph B(1), the Reporting Financial Institution must review electronically searchable data maintained by the Reporting Financial Institution for any of the following indicia and apply subparagraphs B(3) through (6):

(a) Identification of the Account Holder as a resident of a Reportable Jurisdiction;

(b) Current mailing or residence address (including a post office box) in a Reportable Jurisdiction;

(c) One or more telephone numbers in a Reportable Jurisdiction and no telephone number in the jurisdiction of the Reporting Financial Institution;

(d) Standing instructions (other than with respect to a Depository Account) to transfer funds to an account maintained in a Reportable Jurisdiction;

(e) Currently effective power of attorney or signatory authority granted to a person with an address in a Reportable Jurisdiction; or

(f) A "hold mail" instruction or "in-care-of" address in a Reportable Jurisdiction if the Reporting Financial Institution does not have any other address on file for the Account Holder.

3. If none of the indicia listed in subparagraph B(2) are discovered in the electronic search, then no further action is required until there is a change in circumstances that results in one or more indicia being associated with the account, or the account becomes a High Value Account.

4. If any of the indicia listed in subparagraph B(2)(a) through (e) are discovered in the electronic search, or if there is a change in circumstances that results in one or more indicia being associated with the account, then the Reporting Financial Institution must treat the Account Holder as a resident for tax purposes of each Reportable Jurisdiction for which an indicium is identified, unless it elects to apply subparagraph (6) and one of the exceptions in such subparagraph applies with respect to that account.

5. If a "hold mail" instruction or "in-care-of" address is discovered in the electronic search and no other address and none of the other indicia listed in subparagraph B(2)(a) through (e) are identified for the Account Holder, the Reporting Financial Institution must, in the order most appropriate to the circumstances, apply the paper record search described in subparagraph C(2), or seek to obtain from the Account Holder a self-certification or Documentary Evidence to establish the residence(s) for tax purposes of such Account Holder. If the paper search fails to establish an indicium and the attempt to obtain the self-certification or Documentary Evidence is not successful, the Reporting Financial Institution must report the account as an undocumented account.

6. Notwithstanding a finding of indicia under subparagraph B(2), a Reporting Financial Institution is not required to treat an Account Holder as a resident of a Reportable Jurisdiction if-

(a) The Account Holder information contains a current mailing or residence address in the Reportable Jurisdiction, one or more telephone numbers in the Reportable Jurisdiction (and no telephone number in the jurisdiction of the Reporting Financial Institution) or standing instructions (with respect to Financial Accounts other than Depository Accounts) to transfer funds to an account maintained in a Reportable Jurisdiction, the Reporting Financial Institution obtains, or has previously reviewed and maintains a record of:

(i) A self-certification from the Account Holder of the jurisdiction(s) of residence of such Account Holder that does not include such Reportable Jurisdiction; and

(ii) Documentary Evidence establishing the Account Holder's non-reportable status;

(b) The Account Holder information contains a currently effective power of attorney or signatory authority granted to a person with an address in the Reportable Jurisdiction, the Reporting Financial Institution obtains, or has previously reviewed and maintains a record of:

(i) A self-certification from the Account Holder of the jurisdiction(s) of residence of such Account Holder that does not include such Reportable Jurisdiction; or

(ii) Documentary Evidence establishing the Account Holder's non-reportable status.

C. **Enhanced Review Procedures for High Value Accounts.** The following enhanced review procedures apply with respect to High Value Accounts:

1. Electronic Record Search. With respect to High Value Accounts, the Reporting Financial Institution must review electronically searchable data maintained by the Reporting Financial Institution for any of the indicia described in subparagraph B(2).

2. Paper Record Search. If the Reporting Financial Institution's electronically searchable databases include fields for, and capture all of the information described in, subparagraph C(3), then a further paper record search is not required. If the electronic databases do not capture all of this information, then with respect to a High Value Account, the Reporting Financial Institution must also review the current customer master file and, to the extent not contained in the current customer master file, the following documents associated with the account and obtained by the Reporting Financial Institution within the last five years for any of the indicia described in subparagraph B(2)~~.~~ :

(a) the most recent Documentary Evidence collected with respect to the account;

(b) the most recent account opening contract or documentation;

(c) the most recent documentation obtained by the Reporting Financial Institution pursuant to AML/KYC Procedures or for other regulatory purposes;

(d) any power of attorney or signature authority forms currently in effect; and

(e) any standing instructions (other than with respect to a Depository Account) to transfer funds currently in effect.

3. Exception To The Extent Databases Contain Sufficient Information. A Reporting Financial Institution is not required to perform the paper record search described in subparagraph C(2) to the extent the Reporting Financial Institution's electronically searchable information includes the following:

(a) The Account Holder's residence status;

(b) The Account Holder's residence address and mailing address currently on file with the Reporting Financial Institution;

(c) The Account Holder's telephone number(s) currently on file, if any, with the Reporting Financial Institution;

(d) In the case of Financial Accounts other than Depository Accounts, whether there are standing instructions to transfer funds in the account to another account (including an account at another branch of the Reporting Financial Institution or another Financial Institution);

(e) Whether there is a current "in-care-of" address or "hold mail" instruction for the Account Holder; and

(f) Whether there is any power of attorney or signatory authority for the account.

4. Relationship Manager Inquiry for Actual Knowledge. In addition to the electronic and paper record searches described above, the Reporting Financial Institution must treat as a Reportable Account any High Value Account assigned to a relationship manager (including any Financial Accounts aggregated with that High Value Account) if the relationship manager has actual knowledge that the Account Holder is a Reportable Person.

5. Effect of Finding Indicia.

(a) If none of the indicia listed in subparagraph B(2) are discovered in the enhanced review of High Value Accounts described above, and the account is not identified as held by a Reportable Person in subparagraph C(4), then further action is not required until there is a change in circumstances that results in one or more indicia being associated with the account.

(b) If any of the indicia listed in subparagraph B(2)(a) through (e) are discovered in the enhanced review of High Value Accounts described above, or if there is a subsequent change in circumstances that results in one or more indicia being associated with the account, then the Reporting Financial Institution must treat the account as a Reportable Account with respect to each Reportable Jurisdiction for which an indicium is identified unless it elects to apply subparagraph B(6) of this Section and one of the exceptions in such subparagraph applies with respect to that account.

(c) If a "hold mail" instruction or "in-care-of" address is discovered in the ~~electronic search~~ **enhanced review of High Value Accounts described above** and no other address and none of the other indicia listed in subparagraph B(2)(a) through (e) are identified for the Account Holder, the Reporting Financial Institution must obtain from such Account Holder a self-certification or Documentary Evidence to establish the residence(s) for tax purposes of the Account Holder. If the Reporting Financial Institution cannot obtain such self-certification or Documentary Evidence, it must report the account as an undocumented account.

6. If a Pre-existing Individual Account is not a High Value Account as of the date to be prescribed, but becomes a High Value Account as of the further date to be prescribed or any other subsequent calendar year, the Reporting Financial Institution must complete the enhanced review procedures described in paragraph C with respect to such account within the calendar year following the year in which the account becomes a High Value Account. If based on this review

such account is identified as a Reportable Account, the Reporting Financial Institution must report the required information about such account with respect to the year in which it is identified as a Reportable Account and subsequent years on an annual basis, unless the Account Holder ceases to be a Reportable Person.

7. Once a Reporting Financial Institution applies the enhanced review procedures described in paragraph C to a High Value Account, the Reporting Financial Institution is not required to re-apply such procedures, other than the relationship manager inquiry described in subparagraph C(4), to the same High Value Account in any subsequent year unless the account is undocumented where the Reporting Financial Institution should re-apply them annually until such account ceases to be undocumented.

8. If there is a change of circumstances with respect to a High Value Account that results in one or more indicia described in subparagraph B(2) being associated with the account, then the Reporting Financial Institution must treat the account as a Reportable Account with respect to each Reportable Jurisdiction for which an indicium is identified unless it elects to apply subparagraph B(6) and one of the exceptions in such subparagraph applies with respect to that account.

9. A Reporting Financial Institution must implement procedures to ensure that a relationship manager identifies any change in circumstances of an account. For example, if a relationship manager is notified that the Account Holder has a new mailing address in a Reportable Jurisdiction, the Reporting Financial Institution is required to treat the new address as a change in circumstances and, if it elects to apply subparagraph B(6), is required to obtain the appropriate documentation from the Account Holder.

D. Review of Pre-existing Individual Accounts must be ~~completed by 31st December, 2018.~~ **completed in relation to** -

(a) high value accounts by 31st December, 2019; and

(b) lower value accounts by December 31st, 2018.

E. Any Pre-existing Individual Account that has been identified as a Reportable Account under this section must be treated as a Reportable Account in all subsequent years, unless the Account Holder ceases to be a Reportable Person.

Section IV: Due Diligence for New Individual Accounts

The following procedures apply for purposes of identifying Reportable Accounts among New Individual Accounts:

A. With respect to New Individual Accounts, upon account opening, the Reporting Financial institution must obtain a self-certification, which may be part of the account opening documentation, that allows the Reporting Financial Institution to determine the Account Holder's residence(s) for tax purposes and confirm the reasonableness of such self-certification based on the information obtained by the Reporting Financial Institution in connection with the opening of the account, including any documentation collected pursuant to AML/KYC Procedures.

B. If the self-certification establishes that the Account Holder is resident for tax purposes in a Reportable Jurisdiction, the Reporting Financial Institution must treat the account as a Reportable Account and the self-certification must also include the Account Holder's TIN with respect to such Reportable Jurisdiction (subject to paragraph D of Section I) and date of birth.

C. If there is a change of circumstances with respect to a New Individual Account that causes the Reporting Financial Institution to know, or have reason to know, that the original self-certification is incorrect or unreliable, the Reporting Financial Institution cannot rely on the original self-certification and must obtain a valid self-certification that establishes the residence(s) for tax purposes of the Account Holder.

Section V: Due Diligence for Pre-existing Entity Accounts

The following procedures apply for purposes of identifying Reportable Accounts among Pre-existing Entity Accounts:

A. **Entity Accounts Not Required to Be Reviewed, Identified or Reported**. Unless the Reporting Financial Institution elects otherwise, either with respect to all Pre-existing Entity Accounts or, separately, with respect to any clearly identified group of such accounts, a Pre-existing Entity account with an account balance or value that does not exceed two hundred and fifty thousand United States dollars as of 30th June, 2017 is not required to be reviewed, identified, or reported as a Reportable Account until the **aggregate** account balance or value exceeds two hundred and fifty thousand United States dollars as of the last day of any subsequent calendar year.

B. **Entity Accounts Subject to Review.** A Pre-existing Entity Account that has an account balance or value that exceeds two hundred and fifty thousand United States dollars as of 30th June, 2017, and a Pre-existing Entity Account that does not exceed two hundred and fifty thousand United States dollars as of 30th June, 2017 but the account balance or value of which exceeds two hundred and fifty thousand United States dollars as of the last day of any subsequent calendar year, must be reviewed in accordance with the procedures set forth in paragraph D.

C. **Entity Accounts With Respect to Which Reporting Is Required.** With respect to Pre-existing Entity Accounts described in paragraph B, only accounts that are held by one or more Entities that are Reportable Persons, or by Passive NFEs with one or more Controlling Persons who are Reportable Persons, shall be treated as Reportable Accounts.

D. **Review Procedures for Identifying Entity Accounts With Respect to Which Reporting Is Required**. For Pre-existing Entity Accounts described in paragraph B, a Reporting Financial

Institution must apply the following review procedures to determine whether the account is held by one or more Reportable Persons, or by Passive NFEs with one or more Controlling Persons who are Reportable Persons:

1. Determine Whether the entity Is a Reportable Person.

(a) Review information maintained for regulatory or customer relationship purposes (including information collected pursuant to AML/KYC Procedures) to determine whether the information indicates that the Account Holder is resident in a Reportable Jurisdiction. For this purpose, information indicating that the Account Holder is resident in a Reportable Jurisdiction includes a place of incorporation or organisation, or an address in a Reportable Jurisdiction.

(b) If the information indicates that the Account Holder is resident in a Reportable Jurisdiction, the Reporting Financial Institution must treat the account as a Reportable Account unless it obtains a self-certification from the Account Holder, or reasonably determines based on information in its possession or that is publicly available, that the Account Holder is not a Reportable Person.

2. Determine Whether the entity is a Passive NFE with One or More Controlling Persons

Who Are Reportable Persons. With respect to an Account Holder of a Pre-existing Entity Account (including an entity that is a Reportable Person), the Reporting Financial Institution must determine whether the Account Holder is a Passive NFE with one or more Controlling Persons who are Reportable Persons. If any of the Controlling Persons of a Passive NFE is a Reportable Person, then the account must be treated as a Reportable Account. In making these determinations the Reporting Financial Institution must follow the guidance in subparagraphs D(2)(a) through (c) in the order most appropriate under the circumstances -

(a) Determining whether the Account Holder is a Passive NFE. For purposes of determining whether the Account Holder is a Passive NFE, the Reporting Financial Institution must obtain a self-certification from the Account Holder to establish its status, unless it has information in its possession or that is publicly available, based on which it can reasonably determine that the Account Holder is an Active NFE or a Financial Institution other than an Investment Entity described in subparagraph A(6)(b) of Section VIII that is not a Participating Jurisdiction Financial Institution.

(b) Determining the Controlling Persons of an Account Holder. For the purposes of determining the Controlling Persons of an Account Holder, a Reporting Financial Institution may rely on information collected and maintained pursuant to AML/KYC Procedures.

(c) Determining whether a Controlling Person of a Passive NFE is a Reportable Person. For the purposes of determining whether a Controlling Person of a Passive NFE is a Reportable Person, a Reporting Financial Institution may rely on:

(i) information collected and maintained pursuant to AML/KYC Procedures in the case of a Pre-existing Entity Account held by one or more NFEs with an account balance that does not exceed **US**$1,000,000; or

(ii) a self-certification from the Account Holder or such Controlling Person of the jurisdiction(s) in which the Controlling Person is resident for tax purposes.

E. Timing of Review and Additional Procedures Applicable to Pre-existing Entity Accounts -

1. Review of Pre-existing Entity Accounts with an account balance or value that exceeds two hundred and fifty thousand United States dollars as of ~~the date to be prescribed~~ **30th June, 2017** must be completed by 31st December 2017.

2. Review of Pre-existing Entity Accounts with an **aggregate** account balance or value that does not exceed two hundred and fifty thousand United States dollars as of 30th June, 2017, but exceeds two hundred and fifty thousand United States dollars as of 31st December of a subsequent year, must be completed within the calendar year following the year in which the account balance or value exceeds two hundred and fifty thousand United States dollars.

3. If there is a change of circumstances with respect to a Pre-existing Entity Account that causes the Reporting Financial Institution to know, or have reason to know, that the self-certification or other documentation associated with an account is incorrect or unreliable, the Reporting Financial Institution must re-determine the status of the account in accordance with the procedures set forth in paragraph D.

Section VI: Due Diligence for New Entity Accounts

The following procedures apply for purposes of identifying Reportable Accounts among New Entity Accounts:

A. Review Procedures for Identifying Entity Accounts With Respect to Which Reporting Is Required. For New Entity Accounts, a Reporting Financial Institution must apply the following review procedures to determine whether the account is held by one or more Reportable Persons, or by Passive NFEs with one or more Controlling Persons who are Reportable Persons:

1. Determine Whether the entity Is a Reportable Person.

(a) Obtain a self-certification, which may be part of the account opening documentation that allows the Reporting Financial Institution to determine the Account Holder's residence(s) for tax purposes and confirm the reasonableness of such self-certification based on the information obtained by the Reporting Financial Institution in connection with the opening of the account, including any documentation collected pursuant to AML/KYC Procedures. If the entity certifies that it has no residence for tax purposes, the Reporting Financial Institution may rely on the address of the principal office of the entity to determine the residence of the Account Holder.

(b) If the self-certification indicates that the Account Holder is resident in a Reportable Jurisdiction, the Reporting Financial Institution must treat the account as a Reportable Account unless it reasonably determines based on information in its possession or that is publicly available, that the Account Holder is not a Reportable Person with respect to such Reportable Jurisdiction.

2. Determine Whether the entity is a Passive NFE with One or More Controlling Persons Who Are Reportable Persons. With respect to an Account Holder of a New Entity Account (including an entity that is a Reportable Person), the Reporting Financial Institution must determine whether the Account Holder is a Passive NFE with one or more Controlling Persons who are Reportable Persons. If any of the Controlling Persons of a Passive NFE is a Reportable Person, then the account must be treated as a Reportable Account. In making these determinations the Reporting Financial Institution must follow the guidance in subparagraphs A(2)(a) through (c) in the order most appropriate under the circumstances:

(a) Determining whether the Account Holder is a Passive NFE. For purposes of determining whether the Account Holder is a Passive NFE, the Reporting Financial Institution must rely on a self-certification from the Account Holder to establish its status, unless it has information in its possession or that is publicly available, based on which it can reasonably determine that the Account Holder is an Active NFE or a Financial Institution other than an Investment Entity described in subparagraph A(6)(b) of Section VIII that is not a Participating Jurisdiction Financial Institution.

(b) Determining the Controlling Persons of an Account Holder. For purposes of determining the Controlling Persons of an Account Holder, a Reporting Financial Institution may rely on information collected and maintained pursuant to AML/KYC Procedures.

(c) Determining whether a Controlling Person of a Passive NFE is a Reportable Person. For purposes of determining whether a Controlling Person of a Passive NFE is a Reportable Person, a Reporting Financial Institution may rely on a self-certification from the Account Holder or such Controlling Person.

Section VII: Special Due Diligence Rules

The following additional rules apply in implementing the due diligence procedures described above:

A. Reliance on Self-Certifications and Documentary Evidence. A Reporting Financial Institution may not rely on a self-certification or Documentary Evidence if the Reporting Financial Institution knows or has reason to know that the self-certification or Documentary Evidence is incorrect or unreliable.

B. Alternative Procedures for Financial Accounts Held by Individual Beneficiaries of a Cash Value Insurance Contract or an Annuity Contract. A Reporting Financial Institution may presume that an individual beneficiary (other than the owner) of a Cash Value Insurance Contract or an Annuity Contract receiving a death benefit is not a Reportable Person and may treat such Financial Account as other than a Reportable Account unless the Reporting Financial Institution has actual knowledge, or reason to know, that the beneficiary is a Reportable Person. A Reporting Financial Institution has reason to know that a beneficiary of a Cash Value Insurance Contract or an Annuity Contract is a Reportable Person if the information collected by the Reporting Financial Institution and associated with the beneficiary contains indicia as described in paragraph B of Section III. If a Reporting Financial Institution has actual knowledge, or reason to know, that the beneficiary is a Reportable Person, the Reporting Financial Institution must follow the procedures in paragraph B of Section III.

C. Account Balance Aggregation and Currency Rules.

1. Aggregation of Individual Accounts. For purposes of determining the aggregate balance or value of Financial Accounts held by an individual, a Reporting Financial Institution is required to aggregate all Financial Accounts maintained by the Reporting Financial Institution, or by a related entity, but only to the extent that the Reporting Financial Institution's computerized systems link the Financial Accounts by reference to a data element such as client number or TIN, and allow account balances or values to be aggregated. Each holder of a jointly held Financial Account shall be attributed the entire balance or value of the jointly held Financial Account for purposes of applying the aggregation requirements described in this subparagraph.

2. Aggregation of Entity Accounts. For purposes of determining the aggregate balance or value of Financial Accounts held by an entity, a Reporting Financial Institution is required to take into account all Financial Accounts that are maintained by the Reporting Financial Institution, or by a Related Entity, but only to the extent that the Reporting Financial Institution's computerized systems link the Financial Accounts by reference to a data element such as client number or TIN, and allow account balances or values to be aggregated. Each holder of a jointly held Financial Account shall be attributed the entire balance or value of the jointly held Financial Account for purposes of applying the aggregation requirements described in this subparagraph.

3. Special Aggregation Rule Applicable to Relationship Managers. For purposes of determining the aggregate balance or value of Financial Accounts held by a person to determine whether a Financial Account is a High Value Account, a Reporting Financial Institution is also required, in the case of any Financial Accounts that a relationship manager knows, or has reason to know, are directly or indirectly owned, controlled, or established (other than in a fiduciary capacity) by the same person, to aggregate all such accounts.

4. Amounts Read to Include Equivalent in Other Currencies. All dollar amounts are in U.S. dollars and shall be read to include equivalent amounts in other currencies, as determined by domestic law.

Section VIII: Defined Terms

The following terms have the meanings set forth below:

A. Reporting Financial Institution

1. The term "Reporting Financial Institution" means any Participating Jurisdiction Financial Institution that is not a Non-Reporting Financial Institution;

2. The term "Participating Jurisdiction Financial Institution" means-

(i) any Financial Institution that is resident in a Participating Jurisdiction, but excludes any branch of that Financial Institution that is located outside such Participating Jurisdiction; and
(ii) any branch of a Financial Institution that is not resident in a Participating Jurisdiction, if that branch is located in such Participating Jurisdiction;

3. The term "Financial Institution" means a Custodial Institution, a Depository Institution, an Investment Entity, or a Specified Insurance Company;

4. The term "Custodial Institution" means any entity that holds, as a substantial portion of its business, Financial Assets for the account of others. An entity holds Financial Assets for the account of others as a substantial portion of its business if the entity's gross income attributable to the holding of Financial Assets and related financial services equals or exceeds twenty per cent of the entity's gross income during the shorter of:

(i) the three-year period that ends on 31st December (or the final day of a non-calendar year accounting period) prior to the year in which the determination is being made; or
(ii) the period during which the entity has been in existence;

5. The term "Depository Institution" means any entity that accepts deposits in the ordinary course of a banking or similar business;

6. The term "Investment Entity" means any entity:

(a) that primarily conducts as a business one or more of the following activities or operations for or on behalf of a customer:

(i) trading in money market instruments (cheques, bills, certificates of deposit, derivatives, etc.); foreign exchange; exchange, interest rate and index instruments; transferable securities; or commodity futures trading;
(ii) individual and collective portfolio management; or

(iii) otherwise investing, administering, or managing Financial Assets or money on behalf of other persons; or

(b) the gross income of which is primarily attributable to investing, reinvesting, or trading in Financial Assets, if the entity is managed by another entity that is a Depository Institution, a Custodial Institution, a Specified Insurance Company, or an Investment Entity described in subparagraph A(6)(a). An entity is treated as primarily conducting as a business one or more of the activities described in subparagraph A(6)(a), or an entity's gross income is primarily attributable to investing, reinvesting, or trading in Financial Assets for purposes of subparagraph A(6)(b), if the entity's gross income attributable to the relevant activities equals or exceeds fifty per cent of the entity's gross income during the shorter of:

(i) the three-year period ending on 31st December of the year preceding the year in which the determination is made; or

(ii) the period during which the entity has been in existence. The term "Investment Entity" does not include an entity that is an Active NFE because it meets any of the criteria in subparagraphs D(9)(d) through (g). This paragraph shall be interpreted in a manner consistent with similar language set forth in the definition of "financial institution" in the Financial Action Task Force Recommendations;

7. The term "Financial Asset" includes a security (for example, a share of stock in a corporation; partnership or beneficial ownership interest in a widely held or publicly traded partnership or trust; note, bond, debenture, or other evidence of indebtedness), partnership interest, commodity, swap (for example, interest rate swaps, currency swaps, basis swaps, interest rate caps, interest rate floors, commodity swaps, equity swaps, equity index swaps, and similar agreements), Insurance Contract or Annuity Contract, or any interest (including a futures or forward contract or option) in a security, partnership interest, commodity, swap, Insurance Contract, or Annuity Contract. The term "Financial Asset" does not include a non-debt, direct interest in real property;

8. The term "Specified Insurance Company" means any entity that is an insurance company (or the holding company of an insurance company) that issues, or is obligated to make payments with respect to, a Cash Value Insurance Contract or an Annuity Contract;

B. Non-Reporting Financial Institution

1. The term "Non-Reporting Financial Institution" means any Financial Institution that is:

(a) a Governmental Entity, International Organization or Central Bank, other than with respect to a payment that is derived from an obligation held in connection with a commercial financial activity of a type engaged in by a Specified Insurance Company, Custodial Institution, or Depository Institution;

(b) a Broad Participation Retirement Fund; a Narrow Participation Retirement Fund; a Pension Fund of a Governmental Entity, International Organization or Central Bank; or a Qualified Credit Card Issuer;

(c) any other entity that presents a low risk of being used to evade tax, has substantially similar characteristics to any of the Entities described in subparagraphs B(1)(a) and (b), and is defined in domestic law as a Non-Reporting Financial Institution, provided that the status of such entity as a Non-Reporting Financial Institution does not frustrate the purposes of the Common Reporting Standard;

(d) an Exempt Collective Investment Vehicle; or

(e) a trust ~~established under the laws of a Reportable Jurisdiction~~ to the extent that the trustee of the trust is a Reporting Financial Institution and reports all information required to be reported pursuant to section I with respect to all Reportable Accounts of the trust.

2. The term "Governmental Entity" means the government of a jurisdiction, any political subdivision of a jurisdiction (which, for the avoidance of doubt, includes a state, province, county, or municipality), or any wholly owned agency or instrumentality of a jurisdiction or of any one or more of the foregoing (each, a "Governmental Entity"). This category is comprised of the integral parts, controlled entities, and political subdivisions of a jurisdiction-

(a) An "integral part" of a jurisdiction means any person, organization, agency, bureau, fund, instrumentality, or other body, however designated, that constitutes a governing authority of a jurisdiction. The net earnings of the governing authority must be credited to its own account or to other accounts of the jurisdiction, with no portion inuring to the benefit of any private person. An integral part does not include any individual who is a sovereign, official, or administrator acting in a private or personal capacity;

(b) A controlled entity means an entity that is separate in form from the jurisdiction or that otherwise constitutes a separate juridical entity, provided that:

(i) The entity is wholly owned and controlled by one or more Governmental Entities directly or through one or more controlled entities;

(ii) The entity's net earnings are credited to its own account or to the accounts of one or more Governmental Entities, with no portion of its income inuring to the benefit of any private person; and

(iii) The entity's assets vest in one or more Governmental Entities upon dissolution;

(c) Income does not inure to the benefit of private persons if such persons are the intended beneficiaries of a governmental program, and the program activities are performed for the general public with respect to the common welfare or relate to the administration of some phase of government. Notwithstanding the foregoing, however, income is considered to inure to the benefit of private persons if the income is derived from the use of a governmental entity to conduct a commercial business, such as a commercial banking business, that provides financial services to private persons;

3. The term "International Organization" means any international organization or wholly owned agency or instrumentality thereof. This category includes any intergovernmental organization (including a supranational organization) –

(i) that is comprised primarily of governments;

(ii) that has in effect a headquarters or substantially similar agreement with the jurisdiction; and

(iii) the income of which does not inure to the benefit of private persons;

4. The term "Central Bank" means ~~a bank~~ **an institution** that is by law or government sanction the principal authority, other than the government of the jurisdiction itself, issuing instruments intended to circulate as currency. Such ~~a bank~~ **an institution** may include an instrumentality that is separate from the government of the jurisdiction, whether or not owned in whole or in part by the jurisdiction;

5. The term "Broad Participation Retirement Fund" means a fund established to provide retirement, disability, or death benefits, or any combination thereof, to beneficiaries that are current or former employees (or persons designated by such employees) of one or more employers in consideration for services rendered, provided that the fund:

(a) Does not have a single beneficiary with a right to more than five per cent of the fund's assets;
(b) Is subject to government regulation and provides information reporting to the tax authorities; and
(c) Satisfies at least one of the following requirements:
(i) The fund is generally exempt from tax on investment income, or taxation of such income is deferred or taxed at a reduced rate, due to its status as a retirement or pension plan;
(ii) The fund receives at least fifty per cent of its total contributions [other than transfers of assets from other plans described in subparagraphs B(5) through (7) or from retirement and pension accounts described in subparagraph C(17)(a)~~]~~**,** from the sponsoring employers;
(iii) Distributions or withdrawals from the fund are allowed only upon the occurrence of specified events related to retirement, disability, or death [except rollover distributions to other retirement funds described in subparagraphs B(5) through (7) or retirement and pension accounts described in subparagraph C(17)(a)~~]~~, or penalties apply to distributions or withdrawals made before such specified events; or
(iv) Contributions (other than certain permitted make-up contributions) by employees to the fund are limited by reference to earned income of the employee or may not exceed fifty thousand dollars annually, applying the rules set forth in paragraph C of Section VII for account aggregation and currency translation;

6. The term "Narrow Participation Retirement Fund" means a fund established to provide retirement, disability, or death benefits to beneficiaries that are current or former employees (or persons designated by such employees) of one or more employers in consideration for services rendered, provided that:

(a) The fund has fewer than fifty participants;
(b) The fund is sponsored by one or more employers that are not Investment Entities or Passive NFEs;

(c) The employee and employer contributions to the fund [other than transfers of assets from retirement and pension accounts described in subparagraph C(17)(a)] are limited by reference to earned income and compensation of the employee, respectively;
(d) Participants that are not residents of the jurisdiction in which the fund is established are not entitled to more than twenty per cent of the fund's assets; and
(e) The fund is subject to government regulation and provides information reporting to the tax authorities;

7. The term "Pension Fund of a Governmental Entity, International Organization or Central Bank" means a fund established by a Governmental Entity, International Organization or Central Bank to provide retirement, disability, or death benefits to beneficiaries or participants that are current or former employees (or persons designated by such employees), or that are not current or former employees, if the benefits provided to such beneficiaries or participants are in consideration of personal services performed for the Governmental Entity, International Organization or Central Bank;

8. The term "Qualified Credit Card Issuer" means a Financial Institution satisfying the following requirements:

(a) The Financial Institution is a Financial Institution solely because it is an issuer of credit cards that accepts deposits only when a customer makes a payment in excess of a balance due with respect to the card and the overpayment is not immediately returned to the customer; and

(b) Beginning on or before the date to be prescribed, the Financial Institution implements policies and procedures either to prevent a customer from making an overpayment in excess of fifty thousand dollars, or to ensure that any customer overpayment in excess of fifty thousand dollars is refunded to the customer within sixty days, in each case applying the rules set forth in paragraph C of Section VII for account aggregation and currency translation. For this purpose, a customer overpayment does not refer to credit balances to the extent of disputed charges but does include credit balances resulting from merchandise returns;

9. The term "Exempt Collective Investment Vehicle" means an Investment Entity that is regulated as a collective investment vehicle, provided that all of the interests in the collective investment vehicle are held by or through one or more Entities described in subparagraph B(1), or individuals or Entities that are not Reportable Persons. An Investment Entity that is regulated as a collective investment vehicle does not fail to qualify under subparagraph B(9) as an Exempt Collective Investment Vehicle, solely because the collective investment vehicle has issued physical shares in bearer form, provided that:

(a) The collective investment vehicle has not issued, and does not issue, any physical shares in bearer form after the date to be prescribed;

(b) The collective investment vehicle retires all such shares upon surrender;

(c) The collective investment vehicle performs the due diligence procedures set forth in Sections II through VII and reports any information required to be reported with respect to any such shares when such shares are presented for redemption or other payment; and

(d) The collective investment vehicle has in place policies and procedures to ensure that such shares are redeemed or immobilized as soon as possible, and in any event prior to the date to be prescribed.

C. Financial Account

1. The term "Financial Account" means an account maintained by a Financial Institution, and includes a Depository Account, a Custodial Account and:

(a) in the case of an Investment Entity other than an Investment Entity that is a Financial Institution solely because it manages an Investment Entity described in subparagraph A(6)(b), any equity or debt interest in the Financial Institution;

(b) in the case of a Financial Institution not described in subparagraph C(1)(a), any equity or debt interest in the Financial Institution, if the class of interests was established with a purpose of avoiding reporting in accordance with Section I; and

(c) any Cash Value Insurance Contract and any Annuity Contract issued or maintained by a Financial Institution, other than a non-investment-linked, non-transferable immediate life annuity that is issued to an individual and monetizes a pension or disability benefit provided under an account that is an Excluded Account. The term "Financial Account" does not include any account that is an Excluded Account;

2. The term "Depository Account" includes any commercial, checking, savings, time, or thrift account, or an account that is evidenced by a certificate of deposit, thrift certificate, investment certificate, certificate of indebtedness, or other similar instrument maintained by a Financial Institution in the ordinary course of a banking or similar business. A Depository Account also includes an amount held by an insurance company pursuant to a guaranteed investment contract or similar agreement to pay or credit interest thereon;

3. The term "Custodial Account" means an account (other than an Insurance Contract or Annuity Contract) that holds one or more Financial Assets for the benefit of another person;

4. The term "Equity Interest" means, in the case of a partnership that is a Financial Institution, either a capital or profits interest in the partnership. In the case of a trust that is a Financial Institution, an Equity Interest is considered to be held by any person treated as a settlor or

beneficiary of all or a portion of the trust, or any other natural person exercising ultimate effective control over the trust. A Reportable Person will be treated as being a beneficiary of a trust if such Reportable Person has the right to receive directly or indirectly (for example, through a nominee) a mandatory distribution or may receive, directly or indirectly, a discretionary distribution from the trust;

5. The term "Insurance Contract" means a contract (other than an Annuity Contract) under which the issuer agrees to pay an amount upon the occurrence of a specified contingency involving mortality, morbidity, accident, liability, or property risk;

6. The term "Annuity Contract" means a contract under which the issuer agrees to make payments for a period of time determined in whole or in part by reference to the life expectancy of one or more individuals. The term also includes a contract that is considered to be an Annuity Contract in accordance with the law, regulation, or practice of the jurisdiction in which the contract was issued, and under which the issuer agrees to make payments for a term of years;

7. The term "Cash Value Insurance Contract" means an Insurance contract (other than an indemnity reinsurance contract between two insurance companies) that has a Cash Value;

8. The term "Cash Value" means the greater of-

(i) the amount that the policyholder is entitled to receive upon surrender or termination of the contract (determined without reduction for any surrender charge or policy loan); and

(ii) the amount the policyholder can borrow under or with regard to the contract. Notwithstanding the foregoing, the term "Cash Value" does not include an amount payable under an Insurance Contract:

(a) Solely by reason of the death of an individual insured under a life insurance contract including a refund of a previously paid premium provided such refund is a Limited Risk Refund as the term is understood in the Commentary;

(b) As a personal injury or sickness benefit or other benefit providing indemnification of an economic loss incurred upon the occurrence of the event insured against;

(c) Subject to the application of subparagraph C(8)(a), as a refund of a previously paid premium (less cost of insurance charges whether or not actually imposed) under an Insurance Contract (other than a life insurance contract or an Annuity Contract) due to cancellation or termination of the contract, decrease in risk exposure during the effective period of the contract, or arising from the correction of a posting or similar error with regard to the premium for the contract;

(d) As a policyholder dividend (other than a termination dividend) provided that the dividend relates to an Insurance Contract under which the only benefits payable are described in subparagraph C(8)(b); or

(e) As a return of an advance premium or premium deposit for an Insurance Contract for which the premium is payable at least annually if the amount of the advance premium or premium deposit does not exceed the next annual premium that will be payable under the contract;

9. The term "Pre-existing Account" means a Financial Account maintained by a Reporting Financial Institution as of 30th June, 2017;

10. The term "New Account" means a Financial Account maintained by a Reporting Financial Institution opened on, or after 1st July, 2017;

11. The term "Pre-existing Individual Account" means a Pre-existing Account held by one or more individuals;

12. The term "New Individual Account" means a New Account held by one or more individuals;

13. The term "Pre-existing Entity Account" means a Pre-existing Account held by one or more Entities;

14. The term "Lower Value Account" means a Pre-existing Individual Account with a balance or value as of, the date to be prescribed, that does not exceed one million dollars;

15. The term "High Value Account" means a Pre-existing Individual Account with a balance or value that exceeds one million dollars as of the date to be prescribed or the prescribed date of any subsequent year;

16. The term "New Entity Account" means a New Account held by one or more Entities;

17. The term "Excluded Account" means any of the following accounts:

(a) A retirement or pension account that satisfies the following requirements:
(i) The account is subject to regulation as a personal retirement account or is part of a registered or regulated retirement or pension plan for the provision of retirement or pension benefits (including disability or death benefits);
(ii) The account is tax-favoured (i.e., contributions to the account that would otherwise be subject to tax are deductible or excluded from the gross income of the account holder or taxed at a reduced rate, or taxation of investment income from the account is deferred or taxed at a reduced rate);
(iii) Information reporting is required to the tax authorities with respect to the account;
(iv) Withdrawals are conditioned on reaching a specified retirement age, disability, or death, or penalties apply to withdrawals made before such specified events; and
(v) Either-
(i) annual contributions are limited to $50,000 or less; or
(ii) there is a maximum lifetime contribution limit to the account of $1,000,000 or less, in each case applying the rules set forth in paragraph C of Section VII for account aggregation and currency translation. A Financial Account that otherwise satisfies the requirements of this subparagraph will not fail to satisfy such requirements solely because such Financial Account may receive assets or funds transferred from one or more Financial Accounts that meet the requirements of subparagraph C(17)(a) or (b) or from one or more retirement or pension funds that meet the requirements of any of subparagraphs B(5) through (7);

(b) An account that satisfies the following requirements:

(i) The account is subject to regulation as an investment vehicle for purposes other than for retirement and is regularly traded on an established securities market, or the account is subject to regulation as a savings vehicle for purposes other than for retirement;

(ii) The account is tax-favoured (i.e., contributions to the account that would otherwise be subject to tax are deductible or excluded from the gross income of the account holder or taxed at a reduced rate, or taxation of investment income from the account is deferred or taxed at a reduced rate);

(iii) Withdrawals are conditioned on meeting specific criteria related to the purpose of the investment or savings account (for example, the provision of educational or medical benefits), or penalties apply to withdrawals made before such criteria are met; and

(v) Annual contributions are limited to fifty thousand dollars or less, applying the rules set forth in paragraph C of Section VII for account aggregation and currency translation. A Financial Account that otherwise satisfies the requirements of this subparagraph will not fail to satisfy such requirements solely because such Financial Account may receive assets or funds transferred from one or more Financial Accounts that meet the requirements of subparagraph C(17)(a) or (b) or from one or more retirement or pension funds that meet the requirements of any of subparagraphs B(5) through (7);

(c) A life insurance contract with a coverage period that will end before the insured individual attains age ninety, provided that the contract satisfies the following requirements:

(i) Periodic premiums, which do not decrease over time, are payable at least annually during the period the contract is in existence or until the insured attains age ninety, whichever is shorter;

(ii) The contract has no contract value that any person can access (by withdrawal, loan, or otherwise) without terminating the contract;

(iii) The amount (other than a death benefit) payable upon cancellation or termination of the contract cannot exceed the aggregate premiums paid for the contract, less the sum of mortality, morbidity, and expense charges (whether or not actually imposed) for the period or periods of the contract's existence and any amounts paid prior to the cancellation or termination of the contract; and

(j) The contract is not held by a transferee for value;

(d) An account that is held solely by an estate if the documentation for such account includes a copy of the deceased's will or death certificate;

(e) An account established in connection with any of the following:

(i) A court order or judgment;

(ii) A sale, exchange, or lease of real or personal property, provided that the account satisfies the following requirements:

(i) The account is funded solely with a down payment, earnest money, deposit in an amount appropriate to secure an obligation directly related to the transaction, or a similar payment, or is funded with a Financial Asset that is deposited in the account in connection with the sale, exchange, or lease of the property;

(ii) The account is established and used solely to secure the obligation of the purchaser to pay the purchase price for the property, the seller to pay any contingent liability, or the lessor or lessee to pay for any damages relating to the leased property as agreed under the lease;

(iii) The assets of the account, including the income earned thereon, will be paid or otherwise distributed for the benefit of the purchaser, seller, lessor, or lessee (including to satisfy such person's obligation) when the property is sold, exchanged, or surrendered, or the lease terminates;
(iv) The account is not a margin or similar account established in connection with a sale or exchange of a Financial Asset; and
(v) The account is not associated with an account described in subparagraph C(17)(f);
(iii) An obligation of a Financial Institution servicing a loan secured by real property to set aside a portion of a payment solely to facilitate the payment of taxes or insurance related to the real property at a later time; and
(iv) An obligation of a Financial Institution solely to facilitate the payment of taxes at a later time;
(f) A Depository Account that satisfies the following requirements:
(i) The account exists solely because a customer makes a payment in excess of a balance due with respect to a credit card or other revolving credit facility and the overpayment is not immediately returned to the customer; and
(ii) Beginning on or before the date to be prescribed, the Financial Institution implements policies and procedures either to prevent a customer from making an overpayment in excess of fifty thousand dollars, or to ensure that any customer overpayment in excess of fifty thousand dollars is refunded to the customer within sixty days, in each case applying the rules set forth in paragraph C of Section VII for currency translation. For this purpose, a customer overpayment does not refer to credit balances to the extent of disputed charges but does include credit balances resulting from merchandise returns;
(g) any other account that presents a low risk of being used to evade tax, has substantially similar characteristics to any of the accounts described in subparagraphs C(17)(a) through (f), and is defined in domestic law as an Excluded Account, provided that the status of such account as an Excluded Account does not frustrate the purposes of the Common Reporting Standard;
D. Reportable Account

1. The term "Reportable Account" means an account held by one or more Reportable Persons or by a Passive NFE with one or more Controlling Persons that is a Reportable Person, provided it has been identified as such pursuant to the due diligence procedures described in Sections II through VII;

2. The term "Reportable Person" means a Reportable Jurisdiction Person other than:

(i) a corporation, the stock of which is regularly traded on one or more established securities markets;
(ii) any corporation that is a Related Entity of a corporation described in clause (i);
(iii) a Governmental Entity;
(iv) an International Organization;
(v) a Central Bank; or
(vi) a Financial Institution;

3. The term "Reportable Jurisdiction Person" means an individual or Entity that is resident in a Reportable Jurisdiction under the tax laws of such jurisdiction, or an estate of a decedent that was a resident of a Reportable Jurisdiction. For this purpose, an Entity such as a partnership,

limited liability partnership or similar legal arrangement that has no residence for tax purposes shall be treated as resident in the jurisdiction in which its place of effective management is situated;

4. The term "Reportable Jurisdiction" means a jurisdiction: (i) with which an agreement is in place pursuant to which there is an obligation in place to provide the information specified in Section I; and (ii) which is identified in a published list;

5. The term "Participating Jurisdiction" means a jurisdiction: (i) with which an agreement is in place pursuant to which it will provide the information specified in Section I; and (ii) which is identified in a published list;

6. The term "Controlling Persons" means the natural persons who exercise control over an Entity. In the case of a trust, such term means the settlor, the trustees, the protector (if any), the beneficiaries or class of beneficiaries, and any other natural person exercising ultimate effective control over the trust, and in the case of a legal arrangement other than a trust, such term means persons in equivalent or similar positions. The term "Controlling Persons" must be interpreted in a manner consistent with the Financial Action Task Force Recommendations;

7. The term "NFE" means any Entity that is not a Financial Institution;

8. The term "Passive NFE" means any: (i) NFE that is not an Active NFE; or (ii) an Investment Entity described in subparagraph A(6)(b) that is not a Participating Jurisdiction Financial Institution;

9. The term "Active NFE" means any NFE that meets any of the following criteria:

(a) Less than fifty per cent of the NFE's gross income for the preceding calendar year or other appropriate reporting period is passive income and less than fifty per cent of the assets held by the NFE during the preceding calendar year or other appropriate reporting period are assets that produce or are held for the production of passive income;
(b) The stock of the NFE is regularly traded on an established securities market or the NFE is a related entity of an entity the stock of which is regularly traded on an established securities market;
(c) The NFE is a Governmental Entity, an International Organization, a Central Bank, or an Entity wholly owned by one or more of the foregoing;
(d) Substantially all of the activities of the NFE consist of holding (in whole or in part) the outstanding stock of, or providing financing and services to, one or more subsidiaries that engage in trades or businesses other than the business of a Financial Institution, except that an NFE does not qualify for this status if the NFE functions (or holds itself out) as an investment fund, such as a private equity fund, venture capital fund, leveraged buyout fund, or any investment vehicle whose purpose is to acquire or fund companies and then hold interests in those companies as capital assets for investment purposes;
(e) The NFE is not yet operating a business and has no prior operating history, but is investing capital into assets with the intent to operate a business other than that of a Financial Institution, provided that the NFE does not qualify for this exception after the date that is twenty- five months after the date of the initial organization of the NFE;

(f) The NFE was not a Financial Institution in the past five years, and is in the process of liquidating its assets or is reorganizing with the intent to continue or recommence operations in a business other than that of a Financial Institution;

(g) The NFE primarily engages in financing and hedging transactions with, or for, Related Entities that are not Financial Institutions, and does not provide financing or hedging services to any Entity that is not a Related Entity, provided that the group of any such Related Entities is primarily engaged in a business other than that of a Financial Institution; or

(h) The NFE meets all of the following requirements:

(i) It is established and operated in its jurisdiction of residence exclusively for religious, charitable, scientific, artistic, cultural, athletic, or educational purposes; or it is established and operated in its jurisdiction of residence and it is a professional organization, business league, chamber of commerce, labour organization, agricultural or horticultural organization, civic league or an organization operated exclusively for the promotion of social welfare;

(ii) It is exempt from income tax in its jurisdiction of residence;

(iii) It has no shareholders or members who have a proprietary or beneficial interest in its income or assets;

(iv) The applicable laws of the NFE's jurisdiction of residence or the NFE's formation documents do not permit any income or assets of the NFE to be distributed to, or applied for the benefit of, a private person or non-charitable Entity other than pursuant to the conduct of the NFE's charitable activities, or as payment of reasonable compensation for services rendered, or as payment representing the fair market value of property which the NFE has purchased; and

(v) The applicable laws of the NFE's jurisdiction of residence or the NFE's formation documents require that, upon the NFE's liquidation or dissolution, all of its assets be distributed to a Governmental Entity or other non-profit organization, or escheat to the government of the NFE's jurisdiction of residence or any political subdivision thereof;

E. Miscellaneous

1. The term "Account Holder" means the person listed or identified as the holder of a Financial Account by the Financial Institution that maintains the account. A person, other than a Financial Institution, holding a Financial Account for the benefit or account of another person as agent, custodian, nominee, signatory, investment advisor, or intermediary, is not treated as holding the account for purposes of this Annex, and such other person is treated as holding the account. In the case of a Cash Value Insurance Contract or an Annuity Contract, the Account Holder is any person entitled to access the Cash Value or change the beneficiary of the contract. If no person can access the Cash Value or change the beneficiary, the Account Holder is any person named as the owner in the contract and any person with a vested entitlement to payment under the terms of the contract. Upon the maturity of a Cash Value Insurance Contract or an Annuity Contract, each person entitled to receive a payment under the contract is treated as an Account Holder;

2. The term "AML/KYC Procedures" means the customer due diligence procedures of a Reporting Financial Institution pursuant to the anti-money laundering or similar requirements to which such Reporting Financial Institution is subject;

3. The term "Entity" means a legal person or a legal arrangement, such as a corporation, partnership, trust, or foundation;

4. An Entity is a "Related Entity" of another Entity if either Entity controls the other Entity, or the two Entities are under common control. For this purpose "control" includes direct or indirect ownership of more than fifty per cent of the vote and value in an Entity;

5. The term "TIN" means Taxpayer Identification Number (or functional equivalent in the absence of a Taxpayer Identification Number);

6. The term "Documentary Evidence" includes any of the following:

(a) A certificate of residence issued by an authorized government body (for example, a government or agency thereof, or a municipality) of the jurisdiction in which the payee claims to be a resident;

(b) With respect to an individual, any valid identification issued by an authorized government body (for example, a government or agency thereof, or a municipality), that includes the individual's name and is typically used for identification purposes;

(c) With respect to an Entity, any official documentation issued by an authorized government body (for example, a government or agency thereof, or a municipality) that includes the name of the Entity and either the address of its principal office in the jurisdiction in which it claims to be a resident or the jurisdiction in which the Entity was incorporated or organized;

(d) Any audited financial statement, third-party credit report, bankruptcy filing, or securities regulator's report.

SCHEDULE 2

(Sections 4 and 22)

COMPETENT AUTHORITIES AND COUNTRIES	
ALBANIA	Ministry of Finance: General Tax Directory.
ANDORRA	The Minister of Finance or his authorised representative.
ARGENTINA	The Federal Administration of Public Revenue.
AUSTRALIA	The Commissioner of Taxation or an authorised representative of the Commissioner.
AUSTRIA	In relation to the Republic of Austria, the term “competent authority” means the Federal Minister for Finance or his authorised representative.
AZERBAIJAN	• Ministry of taxes; • State Customs Committee; • Ministry of Labour and Social Protection of Population; • Ministry of Finance.
BARBADOS	The Barbados Revenue Authority.
BELGIUM	The Minister for Finance or an authorised representative.
BELIZE	The Financial Secretary in the Ministry of Finance.
BRAZIL	The Secretary of the Federal Revenue of Brazil.
BULGARIA	The Minister of Finance, the Executive Director of the National Revenue Agency or their authorised representative.
CAMEROON	The Minister of Finance or his representative.
CANADA	The Minister of National Revenue or the Minister’s authorised representative.

COMPETENT AUTHORITIES AND COUNTRIES	
CHILE	The Minister of Finance, the Commissioner of the Chilean Internal Revenue Service, and their authorised representatives.
CHINA	The State Administration of Taxation or its authorised representative.
COLOMBIA	The competent authority for the Republic of Colombia is the Director General of the National Tax and Customs Administration (*Director General de la Dirección de Impuestos y Aduanas Nationales – DIAN*) or his authorised representative.
COSTA RICA	The Director of the Tax Administration (*Director General de Tributación*).
CROATIA	The Ministry of Finance or its authorised representative.
CYPRUS	The Minister of Finance or his authorised representative.
CZECH REPUBLIC	• The Minister of Finance or his authorised representative; • The Czech Social Security Administration in relation to compulsory social security contributions and a contribution to the state employment policy; • The Center for International Reimbursements in relation to compulsory public health insurance contributions.
DENMARK (except for Greenland)	The Minister for Taxation or his authorised representative. Greenland - The Local Government or its authorised representative.
ESTONIA	The Tax and Customs Board.
FINLAND	The National Board of Taxes.
FRANCE	1. For the contributions referred to in Chapter VI of Title III of Book I of the Social Security Code and in Chapter II of Ordinance No. 96-50 of 24 January 1996 on the social debt repayment: • concerning those recovered by social security bodies: as appropriate, the Chairman of the Administrative Council of the Central Agency for Social Security Bodies (*Agence centrale des organismes de sécurité sociale – ACOSS*) or the Chairman of the Administrative Council of the Agricultural Social Insurance Mutual Benefit Fund (*Caisse centrale de mutualité sociale agricole – CCMSA*);

COMPETENT AUTHORITIES AND COUNTRIES	
	• concerning those recovered by the Treasury: the Minister responsible for the Budget or his authorised representative; 2. For all the other taxes referred to in Annex A: the Minister responsible for the Budget or his authorised representative.
GEORGIA	The Ministry of Finance or its authorised representative.
GERMANY	1. For taxes and related ancillary tax payments, with the exception of the taxes and ancillary tax payments listed in paragraph 3 below: The Federal Ministry of Finance or the authority (the Federal Central Tax Office) to which it has delegated its powers; 2. For all social security contributions: The Federal Ministry of Labour and Social Affairs; 3. For: • Import VAT and related ancillary tax payments in accordance with Article 2, paragraph 1.b.iii.C; • Spirits duty, energy duty, tobacco duty and related ancillary tax payments in accordance with Article 2, paragraph 1.b.iii.D, Aviation tax and related ancillary tax payments in accordance with Article 2, paragraph 1.b.iii.G; The Customs Criminological Office, to which the Federal Ministry of Finance has delegated its powers. 4. For the service of documents in accordance with Article 17 which relate to taxes and ancillary tax payments listed in paragraph 3 above: The Federal Office for Customs Enforcement (at the Hanover main customs office), to which the Federal Ministry of Finance has delegated its powers.
GHANA	The Commissioner-General of the Ghana Revenue Authority or an authorized representative. Address: Commissioner-General Ghana Revenue Authority GP 2202 Accra, Ghana.
GREECE	The Minister of Economy and Finance or his authorised representative. For Exchange of Information on Value added taxes: Ministry of Finance, General Secretariat of Taxation and Customs, General Directorate of Tax Audits and Public Revenues, Directorate of Tax Audits, Section B' – CLOEL.

COMPETENT AUTHORITIES AND COUNTRIES	
HUNGARY	The Minister responsible for tax policy or his authorised representative.
ICELAND	The Minister of Finance and Economic Affairs or the Minister's authorised representative.
INDIA	The Minister of Finance or his authorised representatives, i.e., the Joint Secretary, Foreign Tax and Tax Research Division-I and the Joint Secretary, Foreign Tax and Tax Research Division-II, Department of Revenue, Ministry of Finance.
INDONESIA	The Minister of Finance of Indonesia or an authorised representative of the Minister.
IRELAND	The Revenue Commissioners or their authorised representative.
ISRAEL	The Minister of Finance or his authorised representative.
ITALY	The Ministry of Economy and Finance – Tax Policy Department.
JAPAN	The Minister of Finance or his authorised representative.
KAZAKHSTAN	The Minister of Finance or his authorised representative.
KOREA	The Minister of Strategy and Finances or his authorized representative.
LATVIA	The Ministry of Finance or its authorised representative.
LIECHTENSTEIN	The Fiscal Authority.
LITHUANIA	The Ministry of Finance or the State Tax Inspectorate under the Ministry of Finance
LUXEMBOURG	The Minister of Finance or his authorised representative.
MALAYSIA	The Minister of Finance or his authorised representative.
MALTA	The Minister responsible for finance or his authorised representative.

COMPETENT AUTHORITIES AND COUNTRIES	
MARSHALL ISLANDS	The Secretary of Finance or his authorised representative.
MAURITIUS	The Minister to whom the responsibility for the subject of finance is assigned or his authorised representative.
MEXICO	• Ministry of Finance; • Tax Administration Service.
REPUBLIC OF MOLDOVA	The Ministry of Finance or its authorised representatives.
MONACO	The Government Adviser - Minister of Finance and Economy or his authorised representative.
NAURU	The Minister of Finance or his authorised representative.
NETHERLANDS	• For tax purposes: the Minister of Finance or his authorised representative; • For Social security purposes: the State Secretary for Social Affairs and Employment or his authorised representative. *Curaçao* The Minister of Finance or his authorised representative. *Sint Maarten* The Minister of Finance or his authorised representative. Caribbean part of the Netherlands (the islands of Bonaire, Sint Eustatius and Saba) The Minister of Finance or his authorised representative. *Aruba* The Minister of Finance or his authorised representative.
NEW ZEALAND	The Commissioner of Inland Revenue or an authorised representative of the Commissioner.
NIGERIA	The Minister of Finance or an authorised representative of the Minister.
NIUE	

COMPETENT AUTHORITIES AND COUNTRIES	
	The Financial Secretary, Department of Finance and Planning or an authorised representative of the Financial Secretary.
NORWAY	The Minister of Finance and Customs or his authorised representative.
PAKISTAN	The “Chairman Federal Board of Revenue” or its authorised representative.
POLAND	For the Republic of Poland, the term “competent authority” means the Minister of Finance or his authorized representative.
PORTUGAL	Portugal declares that the term “competent authorities”, included in Annex B, means the Minister of Finance, the Director General of the Tax and Customs Authority or their authorised representatives.
ROMANIA	The Minister of Public Finance or his authorised representative.
RUSSIAN FEDERATION	The Federal Tax Service and its authorised representatives; . The Federal Bailiff Service and its authorised representatives.
SAINT LUCIA	The Minister for Finance or his authorised representative.
SAINT VINCENT AND THE GRENADINES	The Inland Revenue Department or an authorised representative which may be designated by the Minister with responsibility for Finance.
SAMOA	The Minister for Revenue or his authorised representative.
SAN MARINO	The Ministry of Finance and Budget and Central Liaison Office - CLO.
SAUDI ARABIA	The Ministry of Finance represented by the Minister of Finance or his authorised representative.
SENEGAL	The Minister of Economy, Finance and Planning or the Director General of Taxes and Domains.
SEYCHELLES	The Minister of Finance or an authorised representative of the Minister of Finance.

COMPETENT AUTHORITIES AND COUNTRIES	
SINGAPORE	The Minister of Finance or his authorised representative.
SLOVAK REPUBLIC	The Ministry of Finance or its authorised representative.
SLOVENIA	The Ministry of Finance of the Republic of Slovenia or its authorised representative.
SOUTH AFRICA	The Commissioner for the South Africa Revenue Service or an authorised representative of the Commissioner.
SPAIN	The Minister of Economy and Finance, or the authorised representative thereof, and within the sphere of their powers, the Minister of Employment and Immigration or the Minister that, in the future, may replace him, regardless of the fact that, in practice, such functions may be carried out by the General Treasury of the Social Security.
ST. CHRISTOPHER AND NEVIS	The Financial Secretary or the Financial Secretary's authorised representative.
SWEDEN	The Minister of Finance or the National Tax Board.
SWITZERLAND	The Head of the Federal Department of Finance or his authorised representative.
TUNISIA	The Minister in charge of Finance or his authorised representatives.
TURKEY	The Minister of Finance or his authorised representative.
UGANDA	The Commissioner General of the Uganda Revenue Authority or an authorised representative of the Commissioner General.
UKRAINE	• The State Tax Administration of Ukraine; • The State Customs Service of Ukraine; • The Pension Fund of Ukraine.

COMPETENT AUTHORITIES AND COUNTRIES	
UNITED KINGDOM	For the United Kingdom of Great Britain and Northern Ireland: The Commissioners for Her Majesty's Revenue and Customs or their authorised representative. *For Anguilla:* The Permanent Secretary for Finance or his authorised representative. *For Bermuda:* The Minister of Finance or its authorised representative. *For the British Virgin Islands:* The International Tax Authority - Ministry of Finance. *For the Cayman Islands:* The Tax Information Authority or its authorised representative. *For Gibraltar:* The Commissioner of Income Tax of the Government of Gibraltar. *For Bailiwick of Jersey:* The Treasury and Resources Minister or his authorised representative. *For the Isle of Man:* The Assessor of Income Tax or his or her delegate. *For the Bailiwick of Guernsey:* The Director of Income Tax or his delegate. *For Montserrat:* The Comptroller of Inland Revenue or their authorised representative. *For the Turks and Caicos Islands:* The Permanent Secretary for the Ministry of Finance, Investment and Trade or their authorised representative.
UNITED STATES OF AMERICA	For the United States, the term "competent authority" means the Secretary of the Treasury or his designee.
URUGUAY	The Minister of Economy and Finance or his authorised representative.

SCHEDULE 3

(Sections 4 and 21)

CONVENTION ON MUTUAL ADMINISTRATIVE ASSISTANCE IN TAX MATTERS

Text amended by the provisions of the Protocol amending the Convention on Mutual Administrative Assistance in Tax Matters, which entered into force on 1st June 2011.

Preamble

The member States of the Council of Europe and the member countries of the Organisation for Economic Co-operation and Development (OECD), signatories of this Convention;

Considering that the development of international movement of persons, capital, goods and services – although highly beneficial in itself – has increased the possibilities of tax avoidance and evasion and therefore requires increasing co-operation among tax authorities;

Welcoming the various efforts made in recent years to combat tax avoidance and tax evasion on an international level, whether bilaterally or multilaterally;

Considering that a co-ordinated effort between States is necessary in order to foster all forms of administrative assistance in matters concerning taxes of any kind whilst at the same time ensuring adequate protection of the rights of taxpayers;

Recognising that international co-operation can play an important part in facilitating the proper determination of tax liabilities and in helping the taxpayer to secure his rights;

Considering that fundamental principles entitling every person to have his rights and obligations determined in accordance with a proper legal procedure should be recognised as applying to tax matters in all States and that States should endeavour to protect the legitimate interests of taxpayers, including appropriate protection against discrimination and double taxation;

Convinced therefore that States should carry out measures or supply information, having regard to the necessity of protecting the confidentiality of information, and taking account of international instruments for the protection of privacy and flows of personal data;

Considering that a new co-operative environment has emerged and that it is desirable that a multilateral instrument is made available to allow the widest number of States to obtain the benefits of the new co-operative environment and at the same time implement the highest international standards of co-operation in the tax field;

Desiring to conclude a convention on mutual administrative assistance in tax matters,

Have agreed as follows:

Chapter I – Scope of the Convention

Article 1 – Object of the Convention and persons covered

1. The Parties shall, subject to the provisions of Chapter IV, provide administrative assistance to each other in tax matters. Such assistance may involve, where appropriate, measures taken by judicial bodies.

2. Such administrative assistance shall comprise:
   (a) exchange of information, including simultaneous tax examinations and participation in tax examinations abroad;
   (b) assistance in recovery, including measures of conservancy; and
   (c) service of documents.

3. A Party shall provide administrative assistance whether the person affected is a resident or national of a Party or of any other State.

Article 2 – Taxes covered

1. This Convention shall apply:
   (a) to the following taxes:
      (i) taxes on income or profits;
      (ii) taxes on capital gains which are imposed separately from the tax on income or profits;
      (iii) taxes on net wealth,

imposed on behalf of a Party; and
   (b) to the following taxes:
      (i) taxes on income, profits, capital gains or net wealth which are imposed on behalf of political subdivisions or local authorities of a Party;
      (ii) compulsory social security contributions payable to general government or to social security institutions established under public law; and
      (iii) taxes in other categories, except customs duties, imposed on behalf of a Party, namely:

(A) estate, inheritance or gift taxes;
(B) taxes on immovable property;
(C) general consumption taxes, such as value added or sales taxes;
(D) specific taxes on goods and services such as excise taxes;
(E) taxes on the use or ownership of motor vehicles;
(F) taxes on the use or ownership of movable property other than motor vehicles;
(G) any other taxes;
(iv) taxes in categories referred to in subparagraph (iii) above which are imposed on behalf of political subdivisions or local authorities of a Party.

2. The existing taxes to which the Convention shall apply are listed in Annex A in the categories referred to in paragraph 1.

3. The Parties shall notify the Secretary General of the Council of Europe or the Secretary General of OECD (hereinafter referred to as the “Depositaries”) of any change to be made to Annex A as a result of a modification of the list mentioned in paragraph 2. Such change shall take effect on the first day of the month following the expiration of a period of three months after the date of receipt of such notification by the Depositary.

4. The Convention shall also apply, as from their adoption, to any identical or substantially similar taxes which are imposed in a Contracting State after the entry into force of the Convention in respect of that Party in addition to, or in place of, the existing taxes listed in Annex A and, in that event, the Party concerned shall notify one of the Depositaries of the adoption of the tax in question.

Chapter II – General definitions

Article 3 – Definitions

1. For the purposes of this Convention, unless the context otherwise requires:
   - (a) the terms "applicant State" and "requested State" mean respectively, any Party applying for administrative assistance in tax matters and any Party requested to provide such assistance;
   - (b) the term "tax" means any tax or social security contribution to which the Convention applies pursuant to Article 2;
   - (c) the term "tax claim" means any amount of tax, as well as interest thereon, related administrative fines and costs incidental to recovery, which are owed and not yet paid;
   - (d) the term "competent authority" means the persons and authorities listed in Annex B;
   - (e) the term "nationals" in relation to a Party means:
     - (i) all individuals possessing the nationality of that Party,; and
     - (ii) all legal persons, partnerships, associations and other entities deriving their status as such from the laws in force in that Party.

For each Party that has made a declaration for that purpose, the terms used above will be understood as defined in Annex C.

2. As regards the application of the Convention by a Party, any term not defined therein shall, unless the context otherwise requires, have the meaning which it has under the law of that Party concerning the taxes covered by the Convention.

3. The Parties shall notify one of the Depositaries of any change to be made to Annexes B and C. Such change shall take effect on the first day of the month following the expiration of a period of three months after the date of receipt of such notification by the Depositary in question.

Chapter III – Forms of assistance

Section I – Exchange of information

Article 4 – General provision

1. The Parties shall exchange any information, in particular as provided in this section, that is foreseeably relevant for the administration or enforcement of their domestic laws concerning the taxes covered by this Convention.

2. Deleted.

3. Any Party may, by a declaration addressed to one of the Depositaries, indicate that, according to its internal legislation, its authorities may inform its resident or national before transmitting information concerning him, in conformity with Articles 5 and 7.

Article 5 – Exchange of information on request

1. At the request of the applicant State, the requested State shall provide the applicant State with any information referred to in Article 4 which concerns particular persons or transactions.

2. If the information available in the tax files of the requested State is not sufficient to enable it to comply with the request for information, that State shall take all relevant measures to provide the applicant State with the information requested.

Article 6 – Automatic exchange of information

With respect to categories of cases and in accordance with procedures which they shall determine by mutual agreement, two or more Parties shall automatically exchange the information referred to in Article 4.

Article 7 – Spontaneous exchange of information

1. A Party shall, without prior request, forward to another Party information of which it has knowledge in the following circumstances:

(a) the first-mentioned Party has grounds for supposing that there may be a loss of tax in the other Party;
(b) a person liable to tax obtains a reduction in, or an exemption from tax in the first-mentioned Party which would give rise to an increase in tax or to liability to tax in the other Party;
(c) business dealings between a person liable to tax in a Party and a person liable to tax in another Party are conducted through one or more countries in such a way that a saving in tax may result in one or the other Party or in both;
(d) a Party has grounds for supposing that a saving of tax may result from artificial transfers of profits within groups of enterprises;
(e) information forwarded to the first-mentioned Party by the other Party has enabled information to be obtained which may be relevant in assessing liability to tax in the latter Party.

2. Each Party shall take such measures and implement such procedures as are necessary to ensure that information described in paragraph 1 will be made available for transmission to another Party.

Article 8 – Simultaneous tax examinations

1. At the request of one of them, two or more Parties shall consult together for the purposes of determining cases and procedures for simultaneous tax examinations. Each Party involved shall decide whether or not it wishes to participate in a particular simultaneous tax examination.

2. For the purposes of this Convention, “a simultaneous tax examination” means an arrangement between two or more Parties to examine simultaneously, each in its own territory, the tax affairs of a person or persons in which they have a common or related interest, with a view to exchanging any relevant information which they so obtain.

Article 9 – Tax examinations abroad

1. At the request of the competent authority of the applicant State, the competent authority of the requested State may allow representatives of the competent authority of the applicant State to be present at the appropriate part of a tax examination in the requested State.

2. If the request is acceded to, the competent authority of the requested State shall, as soon as possible, notify the competent authority of the applicant State about the time and place of the examination, the authority or official designated to carry out the examination and the procedures and conditions required by the requested State for the conduct of the examination. All decisions with respect to the conduct of the tax examination shall be made by the requested State.

3. A Party may inform one of the Depositaries of its intention not to accept, as a general rule, such requests as are referred to in paragraph 1. Such a declaration may be made or withdrawn at any time.

Article 10 – Conflicting information

If a Party receives from another Party information about a person's tax affairs which appears to it to conflict with information in its possession, it shall so advise the Party which has provided the information.

Section II - Assistance in recovery

Article 11 – Recovery of tax claims

1. At the request of the applicant State, the requested State shall, subject to the provisions of Articles 14 and 15, take the necessary steps to recover tax claims of the first-mentioned State as if they were its own tax claims.

2. The provision of paragraph 1 shall apply only to tax claims which form the subject of an instrument permitting their enforcement in the applicant State and, unless otherwise agreed between the Parties concerned, which are not contested.

However, where the claim is against a person who is not a resident of the applicant State, paragraph 1 shall only apply, unless otherwise agreed between the Parties concerned, where the claim may no longer be contested.

3. The obligation to provide assistance in the recovery of tax claims concerning a deceased person or his estate, is limited to the value of the estate or of the property acquired by each beneficiary of the estate, according to whether the claim is to be recovered from the estate or from the beneficiaries thereof.

Article 12 – Measures of conservancy

At the request of the applicant State, the requested State shall, with a view to the recovery of an amount of tax, take measures of conservancy even if the claim is contested or is not yet the subject of an instrument permitting enforcement.

Article 13 – Documents accompanying the request

1. The request for administrative assistance under this section shall be accompanied by -
    (a) a declaration that the tax claim concerns a tax covered by the Convention and, in the case of recovery that, subject to paragraph 2 of Article 11, the tax claim is not or may not be contested;
    (b) an official copy of the instrument permitting enforcement in the applicant State; and
    (c) any other document required for recovery or measures of conservancy.

2. The instrument permitting enforcement in the applicant State shall, where appropriate and in accordance with the provisions in force in the requested State, be accepted, recognised, supplemented or replaced as soon as possible after the date of the receipt of the request for assistance, by an instrument permitting enforcement in the latter State.

Article 14 – Time limits

1. Questions concerning any period beyond which a tax claim cannot be enforced shall be governed by the law of the applicant State. The request for assistance shall give particulars concerning that period.

2. Acts of recovery carried out by the requested State in pursuance of a request for assistance, which, according to the laws of that State, would have the effect of suspending or interrupting the period mentioned in paragraph 1, shall also have this effect under the laws of the applicant State. The requested State shall inform the applicant State about such acts.

3. In any case, the requested State is not obliged to comply with a request for assistance which is submitted after a period of fifteen years from the date of the original instrument permitting enforcement.

Article 15 – Priority

The tax claim in the recovery of which assistance is provided shall not have in the requested State any priority specially accorded to the tax claims of that State even if the recovery procedure used is the one applicable to its own tax claims.

Article 16 – Deferral of payment

The requested State may allow deferral of payment or payment by instalments if its laws or administrative practice permit it to do so in similar circumstances, but shall first inform the applicant State.

Section III – Service of documents

Article 17 – Service of documents

1. At the request of the applicant State, the requested State shall serve upon the addressee documents, including those relating to judicial decisions, which emanate from the applicant State and which relate to a tax covered by this Convention -

2. The requested State shall effect service of documents:

(a) by a method prescribed by its domestic laws for the service of documents of a substantially similar nature;
(b) to the extent possible, by a particular method requested by the applicant State or the closest to such method available under its own laws.

3. A Party may effect service of documents directly through the post on a person within the territory of another Party.

4. Nothing in the Convention shall be construed as invalidating any service of documents by a Party in accordance with its laws.

5. When a document is served in accordance with this article, it need not be accompanied by a translation. However, where it is satisfied that the addressee cannot understand the language of the document, the requested State shall arrange to have it translated into, or a summary drafted in, its or one of its official languages. Alternatively, it may ask the applicant State to have the document either translated into, or accompanied by a summary in one of the official languages of the requested State, the Council of Europe or the OECD.

Chapter IV – Provisions relating to all forms of assistance

Article 18 – Information to be provided by the applicant State

1. A request for assistance shall indicate where appropriate:
   (a) the authority or agency which initiated the request made by the competent authority;
   (b) the name, address, or any other particulars assisting in the identification of the person in respect of whom the request is made;
   (c) in the case of a request for information, the form in which the applicant State wishes the information to be supplied in order to meet its needs;
   (d) in the case of a request for assistance in recovery or measures of conservancy, the nature of the tax claim, the components of the tax claim and the assets from which the tax claim may be recovered;
   (e) in the case of a request for service of documents, the nature and the subject of the document to be served;
   (f) whether it is in conformity with the law and administrative practice of the applicant State and whether it is justified in the light of the requirements of Article 21.2.g.

2. As soon as any other information relevant to the request for assistance comes to its knowledge, the applicant State shall forward it to the requested State.

Article 19 – Deleted

Article 20 – Response to the request for assistance

1. If the request for assistance is complied with, the requested State shall inform the applicant State of the action taken and of the result of the assistance as soon as possible.

2. If the request is declined, the requested State shall inform the applicant State of that decision and the reason for it as soon as possible.

3. If, with respect to a request for information, the applicant State has specified the form in which it wishes the information to be supplied and the requested State is in a position to do so, the requested State shall supply it in the form requested.

Article 21 – Protection of persons and limits to the obligation to provide assistance

1. Nothing in this Convention shall affect the rights and safeguards secured to persons by the laws or administrative practice of the requested State.

2. Except in the case of Article 14, the provisions of this Convention shall not be construed so as to impose on the requested State the obligation:

(a) to carry out measures at variance with its own laws or administrative practice or the laws or administrative practice of the applicant State;
(b) to carry out measures which would be contrary to public policy (*ordre public*);
(c) to supply information which is not obtainable under its own laws or its administrative practice or under the laws of the applicant State or its administrative practice;
(d) to supply information which 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 (*ordre public*);
(e) to provide administrative assistance if and insofar as it considers the taxation in the applicant State to be contrary to generally accepted taxation principles or to the provisions of a convention for the avoidance of double taxation, or of any other convention which the requested State has concluded with the applicant State;
(f) to provide administrative assistance for the purpose of administering or enforcing a provision of the tax law of the applicant State, or any requirement connected therewith, which discriminates against a national of the requested State as compared with a national of the applicant State in the same circumstances;
(g) to provide administrative assistance if the applicant State has not pursued all reasonable measures available under its laws or administrative practice, except where recourse to such measures would give rise to disproportionate difficulty;
(h) to provide assistance in recovery in those cases where the administrative burden for that State is clearly disproportionate to the benefit to be derived by the applicant State.

3. If information is requested by the applicant State in accordance with this Convention, the requested State shall use its information gathering measures to obtain the requested information, even though the requested State may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations contained in this Convention, but in no case shall such limitations, including in particular those of paragraphs 1 and 2, be construed to permit a requested State to decline to supply information solely because it has no domestic interest in such information.

4. In no case shall the provisions of this Convention, including in particular those of paragraphs 1 and 2, be construed to permit a requested State 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.

Article 22 – Secrecy

1. Any information obtained by a Party under this Convention shall be treated as secret and protected in the same manner as information obtained under the domestic law of that Party and, to the extent needed to ensure the necessary level of protection of personal data in accordance with the safeguards which may be specified by the supplying Party as required under its domestic law.

2. Such information shall in any case be disclosed only to persons or authorities (including courts and administrative or supervisory bodies) concerned with the assessment, collection or recovery of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, taxes of that Party, or the oversight of the above. Only the persons or authorities mentioned above may use the information and then only for such purposes. They may, notwithstanding the provisions of paragraph 1, disclose it in public court proceedings or in judicial decisions relating to such taxes.

3. If a Party has made a reservation provided for in subparagraph(a) of paragraph 1 of Article 30, any other Party obtaining information from that Party shall not use it for the purpose of a tax in a category subject to the reservation. Similarly, the Party making such a reservation shall not use information obtained under this Convention for the purpose of a tax in a category subject to the reservation.

4. Notwithstanding the provisions of paragraphs 1, 2 and 3, information received by a Party may be used for other purposes when such information may be used for such other purposes under the laws of the supplying Party and the competent authority of that Party authorises such use. Information provided by a Party to another Party may be transmitted by the latter to a third Party, subject to prior authorisation by the competent authority of the first-mentioned Party.

Article 23 – Proceedings

1. Proceedings relating to measures taken under this Convention by the requested State shall be brought only before the appropriate body of that State.

2. Proceedings relating to measures taken under this Convention by the applicant State, in particular those which, in the field of recovery, concern the existence or the amount of the tax claim or the instrument permitting its enforcement, shall be brought only before the appropriate body of that State. If such proceedings are brought, the applicant State shall inform the requested State which shall suspend the procedure pending the decision of the body in question. However, the requested State shall, if asked by the applicant State, take measures of conservancy to safeguard recovery. The requested State can also be informed of such proceedings by any interested person. Upon receipt of such information, the requested State shall consult on the matter, if necessary, with the applicant State.

3. As soon as a final decision in the proceedings has been given, the requested State or the applicant State, as the case may be, shall notify the other State of the decision and the implications which it has for the request for assistance.

Chapter V – Special provisions

Article 24 – Implementation of the Convention

1. The Parties shall communicate with each other for the implementation of this Convention through their respective competent authorities. The competent authorities may communicate directly for this purpose and may authorise subordinate authorities to act on their behalf. The competent authorities of two or more Parties may mutually agree on the mode of application of the Convention among themselves.

2. Where the requested State considers that the application of this Convention in a particular case would have serious and undesirable consequences, the competent authorities of the requested State and of the applicant State shall consult each other and endeavour to resolve the situation by mutual agreement.

3. A co-ordinating body composed of representatives of the competent authorities of the Parties shall monitor the implementation and development of this Convention under the aegis of the OECD. To that end, the co-ordinating body shall recommend any action likely to further the general aims of the Convention. In particular it shall act as a forum for the study of new methods and procedures to increase international co-operation in tax matters and, where appropriate, it may recommend revisions or amendments to the Convention. States which have signed but not yet ratified, accepted or approved the Convention are entitled to be represented at the meetings of the co-ordinating body as observers.

4. A Party may ask the co-ordinating body to furnish opinions on the interpretation of the provisions of the Convention.

5. Where difficulties or doubts arise between two or more Parties regarding the implementation or interpretation of the Convention, the competent authorities of those Parties shall endeavour to resolve the matter by mutual agreement. The agreement shall be communicated to the co-ordinating body.

6. The Secretary General of OECD shall inform the Parties, and the Signatory States which have not yet ratified, accepted or approved the Convention, of opinions furnished by the co-ordinating body according to the provisions of paragraph 4 above and of mutual agreements reached under paragraph 5 above.

Article 25 – Language

Requests for assistance and answers thereto shall be drawn up in one of the official languages of the OECD and of the Council of Europe or in any other language agreed bilaterally between the Contracting States concerned.

Article 26 – Costs

Unless otherwise agreed bilaterally by the Parties concerned:

(a) ordinary costs incurred in providing assistance shall be borne by the requested State;

(b) extraordinary costs incurred in providing assistance shall be borne by the applicant State.

Chapter VI – Final provisions

Article 27 – Other international agreements or arrangements

1. The possibilities of assistance provided by this Convention do not limit, nor are they limited by, those contained in existing or future international agreements or other arrangements between the Parties concerned or other instruments which relate to co-operation in tax matters.

2. Notwithstanding paragraph 1, those Parties which are member States of the European Union can apply, in their mutual relations, the possibilities of assistance provided for by the Convention in so far as they allow a wider co-operation than the possibilities offered by the applicable European Union rules.

Article 28 – Signature and entry into force of the Convention

1. This Convention shall be open for signature by the member States of the Council of Europe and the member countries of OECD. It is subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with one of the Depositaries.

2. This Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date on which five States have expressed their consent to be bound by the Convention in accordance with the provisions of paragraph 1.

3. In respect of any member State of the Council of Europe or any member country of OECD which subsequently expresses its consent to be bound by it, the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of the deposit of the instrument of ratification, acceptance or approval.

4. Any member State of the Council of Europe or any member country of OECD which becomes a Party to the Convention after the entry into force of the Protocol amending this Convention, opened for signature on 27th May 2010 (the "2010 Protocol"), shall be a Party to the Convention as amended by that Protocol, unless they express a different intention in a written communication to one of the Depositaries.

5. After the entry into force of the 2010 Protocol, any State which is not a member of the Council of Europe or of the OECD may request to be invited to sign and ratify this Convention as amended by the 2010 Protocol. Any request to this effect shall be addressed to one of the Depositaries, who shall transmit it to the Parties. The Depositary shall also inform the Committee of Ministers of the Council of Europe and the OECD Council. The decision to invite States which so request to become Party to this Convention shall be taken by consensus by the Parties to the Convention through the co-ordinating body. In respect of any State ratifying the Convention as

amended by the 2010 Protocol in accordance with this paragraph, this Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of deposit of the instrument of ratification with one of the Depositaries.

6. The provisions of this Convention, as amended by the 2010 Protocol, shall have effect for administrative assistance related to taxable periods beginning on, or after 1 January of the year following the one in which the Convention, as amended by the 2010 Protocol, entered into force in respect of a Party, or where there is no taxable period, for administrative assistance related to charges to tax arising on, or after 1 January of the year following the one in which the Convention, as amended by the 2010 Protocol, entered into force in respect of a Party. Any two or more Parties may mutually agree that the Convention, as amended by the 2010 Protocol, shall have effect for administrative assistance related to earlier taxable periods or charges to tax.

7. Notwithstanding paragraph 6, for tax matters involving intentional conduct which is liable to prosecution under the criminal laws of the applicant Party, the provisions of this Convention, as amended by the 2010 Protocol, shall have effect from the date of entry into force in respect of a Party in relation to earlier taxable periods or charges to tax.

Article 29 – Territorial application of the Convention

1. Each State may, at the time of signature, or when depositing its instrument of ratification, acceptance or approval, specify the territory or territories to which this Convention shall apply.

2. Any State may, at any later date, by a declaration addressed to one of the Depositaries, extend the application of this Convention to any other territory specified in the declaration. In respect of such territory, the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of receipt of such declaration by the Depositary.

3. Any declaration made under either of the two preceding paragraphs may, in respect of any territory specified in such declaration, be withdrawn by a notification addressed to one of the Depositaries. The withdrawal shall become effective on the first day of the month following the expiration of a period of three months after the date of receipt of such notification by the Depositary.

Article 30 – Reservations

1. Any State may, at the time of signature or when depositing its instrument of ratification, acceptance or approval or at any later date, declare that it reserves the right:

(a) not to provide any form of assistance in relation to the taxes of other Parties in any of the categories listed in subparagraph (b) of paragraph 1 of Article 2, provided that it has not included any domestic tax in that category under Annex A of the Convention;

(b) not to provide assistance in the recovery of any tax claim, or in the recovery of an administrative fine for all taxes or only for taxes in one or more of the categories listed in paragraph 1 of Article 2;

(c) not to provide assistance in respect of any tax claim, which is in existence at the date of entry into force of the Convention in respect of that State or, where a reservation has previously been made under subparagraph (a) or (b) above, at the date of withdrawal of such a reservation in relation to taxes in the category in question;

(d) not to provide assistance in the service of documents for all taxes or only for taxes in one or more of the categories listed in paragraph 1 of Article 2;

(e) not to permit the service of documents through the post as provided for in paragraph 3 of Article 17;

(f) to apply paragraph 7 of Article 28 exclusively for administrative assistance related to taxable periods beginning on, or after 1 January of the third year preceding the one in which the Convention, as amended by the 2010 Protocol, entered into force in respect of a Party, or where there is no taxable period of for administrative assistance related to charges to tax arising on, or after 1 January of the third year preceding the one in which the Convention, as amended by the 2010 Protocol, entered into force in respect of a Party.

2. No other reservation may be made.

3. After the entry into force of the Convention in respect of a Party, that Party may make one or more of the reservations listed in paragraph 1 which it did not make at the time of ratification, acceptance or approval. Such reservations shall enter into force on the first day of the month following the expiration of a period of three months after the date of receipt of the reservation by one of the Depositaries.

4. Any Party which has made a reservation under paragraphs 1 and 3 may wholly or partly withdraw it by means of a notification addressed to one of the Depositaries. The withdrawal shall take effect on the date of receipt of such notification by the Depositary in question.

5. A Party which has made a reservation in respect of a provision of this Convention may not require the application of that provision by any other Party; it may, however, if its reservation is partial, require the application of that provision insofar as it has itself accepted it.

Article 31 – Denunciation

1. Any Party may, at any time, denounce this Convention by means of a notification addressed to one of the Depositaries.

2. Such denunciation shall become effective on the first day of the month following the expiration of a period of three months after the date of receipt of the notification by the Depositary.

3. Any Party which denounces the Convention shall remain bound by the provisions of Article 22 for as long as it retains in its possession any documents or information obtained under the Convention.

Article 32 – Depositaries and their functions

1. The Depositary with whom an act, notification or communication has been accomplished, shall notify the member States of the Council of Europe and the member countries of OECD and any Party to this Convention of:

(a) any signature;
(b) the deposit of any instrument of ratification, acceptance or approval;
(c) any date of entry into force of this Convention in accordance with the provisions of Articles 28 and 29;
(d) any declaration made in pursuance of the provisions of paragraph 3 of Article 4 or paragraph 3 of Article 9 and the withdrawal of any such declaration;
(e) any reservation made in pursuance of the provisions of Article 30 and the withdrawal of any reservation effected in pursuance of the provisions of paragraph 4 of Article 30;
(f) any notification received in pursuance of the provisions of paragraph 3 or 4 of Article 2, paragraph 3 of Article 3, Article 29 or paragraph 1 of Article 31;
(g) any other act, notification or communication relating to this Convention.

2. The Depositary receiving a communication or making a notification in pursuance of the provisions of paragraph 1 shall inform immediately the other Depositary thereof.

In witness whereof the undersigned, being duly authorised thereto, have signed the Convention. Established by the Depositaries the 1st day of June 2011 pursuant to Article X.4 of the Protocol amending the Convention on Mutual Administrative Assistance in Tax Matters, in English and French, both texts being equally authentic, in two copies of which one shall be deposited in the archives of each Depositary. The Depositaries shall transmit a certified copy to each Party to the Convention as amended by the Protocol and to each State entitled to become a party.

Annex A - Taxes to which the Convention would apply (*)

STATES

From A to F

Albania – Andorra – Argentina – Australia – Austria – Azerbaijan – Barbados – Belgium – Belize – Brazil – Bulgaria – Cameroon – Canada – Chile – China – Colombia – Costa Rica – Croatia – Cyprus – Czech Republic – Denmark – Estonia – Finland – France

From G to L

Georgia – Germany – Ghana – Greece – Hungary – Iceland – India – Indonesia –Ireland – Israel – Italy – Japan – Kazakhstan – Korea – Latvia – Liechtenstein – Lithuania – Luxembourg

From M to R

Malaysia – Malta – Marshall Islands – Mauritius – Mexico – Republic of Moldova – Monaco – Nauru – Netherlands – New Zealand – Nigeria – Niue – Norway – Pakistan – Panama – Poland – Portugal –Romania – Russian Federation

From S to Z

Saint Lucia – Saint Vincent and the Grenadines – Samoa – San Marino – Saudi Arabia – Senegal – Seychelles – Singapore – Slovak Republic – Slovenia – South Africa – Spain – St. Christopher and Nevis – Sweden – Switzerland – Tunisia – Turkey – Uganda – Ukraine – United Kingdom – United States of America – Uruguay

ALBANIA

Article 2, paragraph 1.a.i: Personal Income Tax (Tatimi mbi te Ardhurat Personale).
Article 2, paragraph 1.a.ii: Corporate Income Tax (Tatim Fitimi).
Article 2, paragraph 1.b.i: Local Tax on Small Business (Taska Vendore mbi Biznesin e Vogel).
Article 2, paragraph 1.b.ii: Social Security Contributions (Kontributet e Sigurimeve Shoqerore).
Article 2, paragraph 1.b.iii.C: Value Added Tax (Tatimi mbi Vleren e Shtuar).
Article 2, paragraph 1.b.iii.D: Excise Duties (Akciza).
Article 2, paragraph 1.b.iii.E: Annual Tax on used motor vehicles (Taska vjetore e mjeteve të përdorura).
Article 2, paragraph 1.b.iii.G: Local Tax on Real Estate (Tatimet mbi Pasurine e Paluajtshme).

ANDORRA

Article 2, paragraph 1.a.i - Taxes on income or profits:
. Corporation tax;
. Tax on income of individuals;
. Income tax of economic activities;
. Income tax on income of non-residents in Andorra.
Article 2, paragraph 1.a.ii - Taxes on capital gains which are imposed separately from the tax on income or profits:
. Tax on capital gain on real estate capital transfer.
Article 2, paragraph 1.a.iii - Taxes on net wealth:
. None

ARGENTINA

Article 2, paragraph 1.a.i: Income Tax.
Article 2, paragraph 1.b.ii: Contributions to Social Security.

Article 2, paragraph 1.b.iii.A: Tax on Personal Property.
Article 2, paragraph 1.b.iii.C: Value Added Tax.
Article 2, paragraph 1.b.iii.D:
. Tax on Liquid Fuels;
. Domestic Tax, Law 24764;
. Tax on Insurance and other Assets, Law 3764.
Article 2, paragraph 1.b.iii.G:
. Presumptive Income Tax;

. Real Property Transfer Tax;

. Tax on the Debits and Credits originated from Financial Transactions, Law 25413;

. Simplified Regime for Taxpayers (Monotributo).

AUSTRALIA

For Australia, the Convention shall apply to taxes of every kind and description imposed under the federal laws of Australia administered by the Commissioner of Taxation which correspond to the taxes in the categories referred to in paragraphs 1(a) and (b)(ii) and (iii) of Article 2 of the Convention.

AUSTRIA

Article 2, paragraph 1.a.i:

. Income tax (Einkommensteuer);

. Corporation tax (Körperschaftsteuer).

Article 2, paragraph 1b.iii.C: Value-added tax (Umsatzsteuer).

AZERBAIJAN

Article 2, paragraph 1.a.i:

. Income tax from individuals;

. Profit tax from legal persons (with the exception of entities and enterprises that are the property of municipalities);

. Tax withheld at the source of payment on income of non-residents;

. Tax withheld from the net profit of a permanent establishment.

Article 2, paragraph 1.b.i: Profit tax from entities and enterprises that are the property of municipalities.

Article 2, paragraph 1.b.ii: Payments to the State Social Protection Fund.

Article 2, paragraph 1.b.iii.A: Property tax from legal persons.

Article 2, paragraph 1.b.iii.B: Land tax from legal persons.

Article 2, paragraph 1.b.iii.C: Value added tax.

Article 2, paragraph 1.b.iii.D: Excise tax.

Article 2, paragraph 1.b.iii.E: Road tax.

Article 2, paragraph 1.b.iii.G:

. Mining tax;

. Tax under simplified system;

. Duties withheld according to the “Law of state duties”.

Article 2, paragraph 1.b.iv:

. Land tax from individuals;

. Property tax from individuals;

. Mining tax on the exploitation of constructions materials produced in certain regions.

BARBADOS
Article 2, paragraph 1.a.i: Income tax.
Article 2, paragraph 1.a.ii: Corporation tax.

BELGIUM
Article 2, paragraph 1.a.i:
. Personal tax;
. Corporation tax;
. Tax on legal persons;
. Tax on non-residents;
. Withholding tax on income from movable assets (tax on capital incomes), income tax reduced at source;
. Special surcharge on tax on non-residents.
Article 2, paragraph 1.b.i:
. Special surcharge on personal tax;
. Withholding tax on income from immovable assets (property tax) and surcharge.
Article 2, paragraph 1.b.iii.A: Registration duties on gifts *inter vivos*.
Article 2, paragraph 1.b.iii.C: Value added tax.
Article 2, paragraph 1.b.iii.D:
. Excise duties;
. Special excise duties;
. Annual tax on insurance policies;
. Annual tax on profit sharing.
Article 2, paragraph 1.b.iv.A: Death duties and duties on transfers following death.

BELIZE
Article 2, paragraph 1.a.i:
. Income Tax (including surtax or surcharge);
. Business Tax.
Article 2, paragraph 1.b.iii.C: General Sales Tax.

BRAZIL
Article 2, paragraph 1.a.i: Income Tax and Social Contribution on Net Profits.
Article 2, paragraph 1.b.ii: Contribution for the Program for Social Integration and Social Contribution for the Financing of Social Security.
Article 2, paragraph 1.b.iii.D: Tax on Industrialized Products.
Article 2, paragraph 1.b.iii.G: any other taxes administered by the Secretariat of the Federal Revenue of Brazil.

BULGARIA

Article 2, paragraph 1.a.i:

. Personal Income Tax;

. Corporate Income Tax.

Article 2, paragraph 1.a.ii: --

Article 2, paragraph 1.a.iiI: --

Article 2, paragraph 1.b.i: --

Article 2, paragraph 1.b.ii: · Compulsory social security contributions payable to general government or to social security institutions established under public law.

Article 2, paragraph 1.b.iii.A: --

Article 2, paragraph 1.b.iii.B: --

Article 2, paragraph 1.b.iii.C: Value added tax.

Article 2, paragraph 1.b.iii.D: --

Article 2, paragraph 1.b.iii.E: --

Article 2, paragraph 1.b.iii.F: --

Article 2, paragraph 1.b.iii.G: --

CAMEROON

Article 2, paragraph 1.a.i:

. Personal income Tax;

. Corporate income tax;

. Special tax on income.

Article 2, paragraph 1.a.ii: Taxes on capital gains which are imposed separately from the tax on income or profits.

Article 2, paragraph 1.b.iii.C: Value-added tax.

Article 2, paragraph 1.b.iii.D: Excise tax.

CANADA

Article 2, paragraph 1.a: Taxes on income or profits, including capital gains that are added to income at a rate determined under the following Act, and taxes on net wealth that are imposed on behalf of Canada under the Income Tax Act (Canada).

Article 2, paragraph 1.b.iii.C: Value Added Tax imposed on behalf of Canada under Part IX of the Excise Tax Act (Canada).

Article 2, paragraph 1.b.iii.D: Taxes imposed on behalf of Canada under Parts I and III of the Excise Tax Act (Canada) and the Excise Act, 2001 (Canada).

CHILE

Article 2, paragraph 1.a.i: Tax included in the income tax.

Article 2, paragraph 1.a.ii: Sales and Services Tax Act.

Article 2, paragraph 1.a.iii: Estate, inheritance or gift taxes.

CHINA

Article 2, paragraph 1.a.i:

. Enterprise Income Tax.

. Individual Income Tax.

Article 2, paragraph 1.b.iii.B:

. Urban and Township Land Use Tax.

. House Property Tax.

. Land Appreciation Tax.

Article 2, paragraph 1.b.iii.C:

. Value Added Tax.

. Business Tax.

Article 2, paragraph 1.b.iii.D:

. Excise Tax.

. Tobacco Tax.

Article 2, paragraph 1.b.iii.E:

. Vehicle Purchase Tax.

. Vehicle and Vessel Tax.

Article 2, paragraph 1.b.iii.G:

. Resource Tax

. City Maintenance and Construction Tax.

. Tax on the Use of Arable Land.

. Stamp Duty.

. Deed Tax.

COLOMBIA

Article 2, paragraph 1.a.i:

. Income tax and its complementary taxes;

. Pro equity income tax – CREE.

Article 2, paragraph 1.a.ii: Income tax and its complementary taxes.

Article 2, paragraph 1.a.iii: Tax on capital.

Article 2, paragraph 1.b.i : Not applicable.

Article 2, paragraph 1.b.ii: Not applicable.

Article 2, paragraph 1.b.iii.A: Income tax and complementary taxes.

Article 2, paragraph 1.b.iii.B: not applicable.

Article 2, paragraph 1.b.iii.C: Value added tax - VAT.

Article 2, paragraph 1.b.iii.D: National consumption tax.

Article 2, paragraph 1.b.iii.E: Value Added Tax (Impuesto general sobre las ventas).

Article 2, paragraph 1.b.iii.F: not applicable.

Article 2, paragraph 1.b.iii.G: not applicable.

COSTA RICA
Article 2, paragraph 1.a.i: Income Tax (Impuesto sobre la renta).
Article 2, paragraph 1.b.ii: Contributions made to the Costa Rican Social Security (Contribuciones a la caja Costarricense del Seguro Social).
Article 2, paragraph 1.b.iii.B: Real estate tax (Impuesto a la propriedad de bienes inmuebles).
Article 2, paragraph 1.b.iii.C: Value Added Tax (Impuesto general sobre las ventas).
Article 2, paragraph 1.b.iii.D: Vehicles, ships and aircraft tax (Impuesto a la propriedad de vehículos, embarcaciones y aeronaves).

CROATIA
Article 2, paragraph 1.a.i:
. Tax on income (porez na dohodak);
. Tax on profits (porez na dobit).
Article 2, paragraph 1.b.iii.C: Value-added Tax (porez na dodanu vrijednost).
Article 2, paragraph 1.b.iii.G: Real estate transaction tax (porez na promet nekretnina).

CYPRUS
Article 2, paragraph 1.a.i:
. Income tax;
. Corporate income tax;
. Special contribution for the defence of the Republic.
Article 2, paragraph 1.a.ii: Capital gains tax.
Article 2, paragraph 1.b.iii.B: Tax on Immovable Property.
Article 2, paragraph 1.b.iii.C: Value-Added Tax.

CZECH REPUBLIC
Article 2, paragraph 1.a.i:
. Personal income tax;
. Corporate income tax;
. Levy on lotteries and other similar games.
Article 2, paragraph 1.b.ii:
. Public health insurance and social security insurance and a contribution to the state employment policy.
Article 2, paragraph 1.b.iii.B:
. Real estate tax;
. Tax on acquisition of real estate.
Article 2, paragraph 1.b.iii.C: Value-added Tax.
Article 2, paragraph 1.b.iii.D:
. Excise duty on mineral oils, on ethyl alcohol, on beer, on wine and intermediate products and on tobacco products;

. Tax on natural gas and some other gases;
. Tax on solid fuels;
. Tax on electricity.
Article 2, paragraph 1.b.iii.E: Road tax.

DENMARK
Danish taxes
Article 2, paragraph 1.a.i: Income taxes to the State (indkomstskatter til staten).
Article 2, paragraph 1.a.ii: --
Article 2, paragraph 1.a.iii: Capital tax to the State (formueskat til staten) – repealed as of 1 January 1997, enforceable and collectible until 1 January 2002 (in cases of fraud until 1 January 2017).
Article 2, paragraph 1.b.i:
. Income tax to the municipalities (kommunal indkomstskat);
. Income tax to the county municipalities (amtskommunal indkomstskat);
. Tax on immovable property (ejendomsskat);
. Tax on assessed value of immovable property (ejendomsværdiskat);
. Church tax (kirkeskat).
Article 2, paragraph 1.b.ii:
. Labour market contribution (arbejdsmarkedsbidrag);
. Special pension contribution (særligt pensionsbidrag).
Article 2, paragraph 1.b.iii.A: Tax on inheritance and gifts (afgift af dødsboer og gaver).
Article 2, paragraph 1.b.iii.B: --
Article 2, paragraph 1.b.iii.C: Value added tax (merværdiafgift).
Article 2, paragraph 1.b.iii.D: Excise duties imposed by the State (forbrugsafgifter, som pålægges af staten).
Article 2, paragraph 1.b.iii.E:
. Registration tax on motor vehicles (registreringsafgift af motorkøretøjer);
. Weight tax on motor vehicles and other taxes on the ownership or use of motor vehicles (vægtafgift af motorkøretøjer og andre afgifter på oje eller brug af motorkøretøjer).
Article 2, paragraph 1.b.iii.F: Tax on insurances for yachts (afgift af lystfartøsforsikringer).
Article 2, paragraph 1.b.iii.G:
. Payroll tax (lømsumsafgift);
. Taxes on betting, on casinos and on lottery prizes (afgift af totalisatorspil, spillekasinoer og gevinster ved lotterispil);
. Tax on registration of rights in real property, etc. (afgift af tinglysning og registrering af cjer- og pantrettigheder);
. Stamp duty (stempelafgift).

Article 2, paragraph 1.b.iv:
. Service charge on business property (dækningsafgift af forretningsejendom);
. Property release tax (frigørelsesafgift).

Greenlandic taxes
Article 2, paragraph 1.a.i:
. Income tax to the Greelandic home rule Government (landsskat, særlig landsskat);
. Dividend tax (udbytteskat);
. Company tax (selskabsskat).
Article 2, paragraph 1.b.i:
. Municipal tax (kommuneskat);
. Common municipal tax (fælleskommunal skat);
. Dividend tax (udbytteskat);
. Company tax (selskabsskat).
Article 2, paragraph 1.b.ii: Employer's contributions to vocational training (arbejdsgivernes erhvervsuddannelsesbidrag).
Article 2, paragraph 1.b.iii.A: Tax on inheritance and gifts (afgift af arv og gave).
Article 2, paragraph 1.b.iii.C: Import duty (indførselsafgift).
Article 2, paragraph 1.b.iii.D:
. Tax on gambling machines (afgift af automatspil);
. Harbour duty (havneafgift);
. Tax on sea transport of goods to, from and within Greenland (afgift på søtransport af gods til, fra og I Grønland);
. Tax on shrimps (afgift på rejer).
Article 2, paragraph 1.b.iii.E: Tax on motor vehicles (afgift af motorkøretøjer).
Article 2, paragraph 1.b.iii.G:
. Tax on lottery (lotteriafgift);
. Stamp duty (stempelafgift).

Faroese taxes
Article 2, paragraph 1.a.i:
. Income taxes to the Faroese home rule Government (landsskattur);
. Royalty taxes (skattur av nýtslugjaldi);
. Taxes levied under the Hydrocarbon Tax Act (skattur eftier kolvetnisskattalógini);
. Taxes levied under the Tonnage Tax Act (skattur eftir tonnsaskattalógini).
Article 2, paragraph 1.a.ii: Taxes levied under the Act on Taxation of Capital Gains (kapitalvinningsskattur).
Article 2, paragraph 1.b.i:
. Income taxes to the municipalities (komunuskattur);

. Church tax (kirkjuskattur).
Article 2, paragraph 1.b.ii:
. Labour market contribution (ALS-gjald);
. Special pension contribution (arbeiðsmarknareftirlønargjald).
Article 2, paragraph 1.b.iii.C: Value added tax (meirvirðisgjald
Article 2, paragraph 1.b.iii.D: Import and excise duties (tollur).
Article 2, paragraph 1.b.iii.E:
. Registration tax on motor vehicles (skrásetingargjald);
. Weight tax on motor vehicles and other taxes on the ownership or use of motor vehicles (veggjald).
Article 2, paragraph 1.b.iii.G: Tax on registration of rights in real property (tinglýsingargjald).

ESTONIA
Article 2, paragraph 1.a.i: Income tax;
Article 2, paragraph 1.b.ii:
. Social tax;
. Unemployment insurance premium;
. Contribution to mandatory funded pension.
Article 2, paragraph 1.b.iii.B: Land tax.
Article 2, paragraph 1.b.iii.C: Value-added tax.
Article 2, paragraph 1.b.iii.D: Excise duties.
Article 2, paragraph 1.b.iii.E: Heavy goods vehicles tax.
Article 2, paragraph 1.b.iii.G: Gambling tax.

FINLAND
Article 2, paragraph 1.a.i:
. State income taxes (valtion tuloverot; de statliga inkomstskatterna);
. Corporate income tax (yhteisöjen tulovero; inkomstskatten för samfund);
. Tax withheld at source from non-residents' income (rajoitetusti verovelvollisen lähdevero; källskatten för begränsat skattskyldig);
. Tax withheld at source from interest (korkotulon lähdevero; källskatten på ränteinkomst);
. Withholding tax for foreign employees (ulkomailta tulevan palkansaajan lähdevero; källskatt för löntagare från utlandet).
Article 2, paragraph 1.a.ii: --
Article 2, paragraph 1.a.iii: State capital tax (valtion varallisuusvero; den statliga förmögenhetsskatten)
Article 2, paragraph 1.b.i:
Communal tax (kunnallisvero; kommunalskatten);

Church tax (kirkollisvero; kyrkoskatten);
Forestry duty (metsänhoitomaksu; skogsvårdsavgiften).
Article 2, paragraph 1.b.ii:
. National pension insurance contribution (vakuutetun kansaneläkevakuutusmaksu; försäkrads folkpensionsförsäkringspremie);
. Health insurance contribution (vakuutetun sairausvakuutusmaksu; försäkrads sjukförsäkringspremie);
. Employer's social security contribution (työnantajan sosiaaliturvamaksu; arbetsgivares socialskyddsavgift).
Article 2, paragraph 1.b.iii.A: Inheritance tax and Gift tax (perintövero ja lahjavero; arvsskatten och gåvoskatten)
Article 2, paragraph 1.b.iii.B: --
Article 2, paragraph 1.b.iii.C: Value added tax (arvonlisävero; mervärdesskatten)
Article 2, paragraph 1.b.iii.D:
. Excise duty on tobacco (tupakkavero; tobaksaccisen);
. Excise duty on soft drinks (virvoitusjuomavero; läskedrycksaccisen);
. Excise duty on liquid fuels (nestemäisten polttoaineiden valmistevero; accisen på flytande bränslen);
. Excise duty on electricity and certain energy sources (sähkön ja eräiden polttoaineiden valmistevero; accis på elström och vissa bränslen);
. Excise duty on alcohol and alcoholic beverages (alkoholi- ja alkoholijuomavero; accisen på alkohol och alkoholdrycker);
. Tax on certain insurance premiums (eräistä vakuutusmaksuista suoritettava vero; skatten på vissa försäkringspremier);
. Oil waste duty (öljyjätemaksu; oljeavfallsavgiften);
. Motor-car tax (autovero; bilskatten).
Article 2, paragraph 1.b.iii.E:
. Tax on specific motor vehicles (moottoriajoneuvovero; motorfordonsskatten);
. Fuel fee (polttoainemaksu; bränsleavgift);
. Vehicle tax (ajoneuvovero; fordonsskatt).
Article 2, paragraph 1.b.iii.F: --
Article 2, paragraph 1.b.iii.G:
. Stamp duty (leimavero; stämpelskatten);
. Oil damage duty (öljysuojamaksu, oljeskyddsavgiften);
. Transfer tax (varallisuudensiirtovero; överlåtelseskatt);
. Tax on lottery prizes (arpajaisvero; lotteriskatt);
. Tax on waste (jätevero; avfallsskatt).
Article 2, paragraph 1.b.iv: Municipal tax on real property (kiinteistövero; fastighetsskatten).

FRANCE

Article 2, paragraph 1.a.i:
. Income tax;
. General social contribution;
. Social debt repayment contribution;
. Corporation tax;
. Withholding tax on income from movable assets;
. Annual flat-rate tax on companies;
. Corporation tax contribution;
. Payroll taxes and contributions.
Article 2, paragraph 1.a.ii: Not applicable.
Article 2, paragraph 1.a.iii:
. Solidarity wealth tax;
. Tax on the market value of immovables held in France by legal persons.
Article 2, paragraph 1.b.i: Not applicable.
Article 2, paragraph 1.b.ii: Not applicable.
Article 2, paragraph 1.b.iii.A: Duties on the free transfer of assets.
Article 2, paragraph 1.b.iii.B: Not applicable.
Article 2, paragraph 1.b.iii.C: Value-added tax and similar taxes.
Article 2, paragraph 1.b.iii.D: Indirect contributions.
Article 2, paragraph 1.b.iii.E: Taxes on company cars.
Article 2, paragraph 1.b.iii.F: Various taxes provided for under the General Tax Code and paid to the Government.
Article 2, paragraph 1.b.iii.G:
. Stamp duties;
. Registration fees and cadastral taxes paid to the Government;
. Stock exchange transaction tax;
. Tax on the income from accumulation or capital bonds;
. Tax on sums paid by insurance and similar bodies and tax on insurance contracts.
Article 2, paragraph 1.b.iv:
. Built-up properties tax and land tax;
. Occupancy tax;
. Business tax;
. Land motor-vehicle excise duty;
. Stamp duty on registration certificates for land motor-vehicles;
. Stamp duty and cadastral tax on transfers for consideration of immovable property not intended for use as dwellings;
. Surcharge on registration fees and cadastral taxes payable on transfers of immovable property;
. Departmental mining concession taxes;
. Local infrastructure tax;

. Special infrastructure tax of the Ile-de-France region and its supplementary tax;
. Tax on driving licences;
. Communal tax assimilated to direct local taxes;
. Indirect taxes for local communities and various bodies.

GEORGIA
Article 2, paragraph 1.a.i:
. Income tax;
. Profit tax.
Article 2, paragraph 1.a.ii: --
Article 2, paragraph 1.a.iii: --
Article 2, paragraph 1.b.i: --
Article 2, paragraph 1.b.ii: --
Article 2, paragraph 1.b.iii.A: --
Article 2, paragraph 1.b.iii.B: Property tax.
Article 2, paragraph 1.b.iii.C: Value-added tax.
Article 2, paragraph 1.b.iii.D: Excise tax.
Article 2, paragraph 1.b.iii.E: --
Article 2, paragraph 1.b.iii.F: --
Article 2, paragraph 1.b.iii.G: --
Article 2, paragraph 1.b.iv: --

GERMANY
Preliminary note: Taxes imposed on behalf of the Länder have been classified as taxes imposed on behalf of a Contracting State.
Article 2, paragraph 1.a.i:
. Income tax [including wages tax (Lohnsteuer), withholding tax on income from capital (Kapitalertragsteuer), interest income deduction (Zinsabschlag), withholding tax for construction work (Steuerabzug bei Bauleistungen), and special forms of levying income tax in accordance with section 50a of the Income Tax Act].
. Corporation tax (Körperschaftsteuer).
. Solidarity surcharge (Solidaritätszuschlag).
. Ancillary tax payments.
Article 2, paragraph 1.a.ii: --
Article 2, paragraph 1.a.iii:
. Net worth tax (Vermögensteuer).
. Ancillary tax payments.
Article 2, paragraph 1.b.i:
. Trade tax (Gewerbsteuer).
. Ancillary tax payments.

Article 2, paragraph 1.b.ii:
Contribution to statutory health, long-term care, accident and pension insurance, including pension insurance for farmers and employment promotion.
Article 2, paragraph 1.b.iii.A:
. Inheritance tax (Erbschaftsteuer).
. Gift tax (Schenkungsteuer).
. Substitute inheritance tax (Ersatzerbschaftsteuer).
. Ancillary tax payments.
Article 2, paragraph 1.b.iii.B:
. Real property tax (Grundsteuer).
. Real property tax transfer (Grunderwerbsteuer).
. Ancillary tax payments.
Article 2, paragraph 1.b.iii.C:
. Import VAT (Einfuhrumsatzsteuer).
. Value added tax (Umsatzsteuer).
. Ancillary tax payments.
Article 2, paragraph 1.b.iii.D:
. Spirits duty (Branntweinsteuer).
. Energy duty (Energiesteuer).
. Tobacco duty (Tabaksteuer).
. Ancillary tax payments.
Article 2, paragraph 1.b.iii.E: --
Article 2, paragraph 1.b.iii.F: --
Article 2, paragraph 1.b.iii.G:
. Aviation tax (Luftverkehrsteuer).
. Betting and lottery tax (Rennwett- und Lotteriesteuer).
. Taxes on insurance premiums.
. Ancillary tax payments.
Article 2, paragraph 1.b.iv:
. Real property tax (Grundsteuer).
. Ancillary tax payments.

GHANA

Article 2, paragraph 1.a.i:
. Income tax;
. Petroleum income tax;
. Mineral royalties;
. Withholding tax on interest;
. Withholding tax on dividend;

. Withholding tax on goods and services.
Article 2, paragraph 1.a.ii: Capital gains tax.
Article 2, paragraph 1.b.iii.A: Gift tax.
Article 2, paragraph 1.b.iii.C: Value-added tax.
Article 2, paragraph 1.b.iii.D: Excise tax.

GREECE
Article 2, paragraph 1.a.i:
. Personal income tax;
. Income tax on partnerships;
. Corporate Income tax;
. Withholding tax on dividends, royalties and interests.
Article 2, paragraph 1.a.ii: Tax on profit from the sale of shares.
Article 2, paragraph 1.a.iii: Not applicable.
Article 2, paragraph 1.b.i: Not applicable.
Article 2, paragraph 1.b.ii: Compulsory social security contributions payable to general government or to social security institutions, established under public law (υποχρεωτικές εισφορές κοινωνικής ασφάλισης των ασφαλιστικών φορέων).
Article 2, paragraph 1.b.iii.A: Tax on inheritance gifts and parental provision (φόρος κληρονομιών, δωρεών και γονικών παροχών).
Article 2, paragraph 1.b.iii.B:
. Tax on real estate (φόρος ακίνητης περιουσίας) and
. Special tax on real estate (ειδικός φόρος επί των ακινήτων).
Article 2, paragraph 1.b.iii.C:
.Value-added tax (Φόρος Προστιθέμενης Αξίας #150; ΦΠΑ);
. Tax on luxury goods (ειδικός φόρος πολυτελείας).
Article 2, paragraph 1.b.iii.D:
. Special consumption taxes on goods and services such as excise duties (ειδικοί φόροι κατανάλωσης αγαθών και υπηρεσιών όπως οι ειδικοί φόροι κατανάλωσης);
. Duty on mobile subscription services and on card mobile phone services (τέλος κινητής τηλεφωνίας και τέλος καρτοκινητής τηλεφωνίας);
. Insurance tax (φόρος ασφαλίοτρων);
. Tax on casino entrance tickets (φόρος επί των εισιτηρίων εισόδου στα καζίνο);
. Special tax on television advertisements (ειδικός φόρος επί των διαφημίσεων που προβάλλονται από την τηλεόραση).
Article 2, paragraph 1.b.iii.E:
. Road tax on motor vehicles (τέλη κυκλοφορίας αυτοκινήτων οχημάτων) (vignette);
. Registration tax on vehicles (τέλος ταξινόμησης αυτοκινήτων οχημάτων);
. Luxury tax on cars (φόρος πολυτελείας αυτοκινήτων οχημάτων);
. Lump sum tax on the registration of public and private use lorries (εφάπαξ εισφορά στα

φορτηγά ιδιωτικής και δημόσιας χρήσης που μπαίνουν σε κυκλοφορία).
Article 2, paragraph 1.b.iii.F:
. Luxury tax on other vehicles, e.g., pleasure boats (φόρος πολυτελείας σκαφών αναψυχής κλπ);
. Special tax on private pleasure boats (ειδικός φόρος ιδιωτικών πλοίων αναψυχής).
Article 2, paragraph 1.b.iii.G:
. Real estate transfer tax (φόρος μεταβίβασης ακινήτων);
. Stamp duties (φορολογία χαρτοσήμου);
. Indirect taxes on raising of capital (φόρος συγκέντρωσης κεφαλαίων);
. Levy on the tickets of spectacles (εισφορά επί των εισιτηρίων των θεαμάτων);
. Tax on playcard game tables in cafes (τέλη διενέργειας παιγνίων με παιγνιόχαρτα);
. Special tax on bulldozers, cranes, etc. (τέλη μηχανημάτων έργων).
Article 2, paragraph 1.b.iv: Municipality tax assessed on real estate transfer (φόρος υπέρ δήμων και κοινοτήτων υπολογιζόμενος επί του φόρου μεταβιβασης ακινήτων).

HUNGARY
Article 2, paragraph 1.a.i:
. Personal income tax;
. Corporate income tax.
Article 2, paragraph 1.b.i:
. Land parcel tax;
. Building tax;
. Local business tax.
Article 2, paragraph 1.b.ii: Social contribution tax and contributions (pension contribution, health insurance contribution, labour market contribution).
Article 2, paragraph 1.b.iii.A: Duties (inheritance tax, duty on gifts, duty on onerous transfer of property).
Article 2, paragraph 1.b.iii.C: Value added tax.
Article 2, paragraph 1.b.iii.D: Excise duties.
Article 2, paragraph 1.b.iv: Motor vehicle tax.

ICELAND
Article 2, paragraph 1.a.i:
. Income tax to the state (tekjuskattar ríkissjóðs);
. Special tax on petroleum income (sérstakur skattur á kolvetnisvinnslu).
Article 2, paragraph 1.a.ii: --
Article 2, paragraph 1.a.iii: Net wealth tax (auðlegðarskattur).
Article 2, paragraph 1.b.i: Income tax to the municipalities (útsvar til sveitarfélaganna).
Article 2, paragraph 1.b.ii:
. Social security tax (tryggingagjald);

. Contribution to the construction fund for the elderly (gjald í framkvæmdasjóð aldraðra).
Article 2, paragraph 1.b.iii.A: Inheritance tax (erfðafjárskattur).
Article 2, paragraph 1.b.iii.B: --
Article 2, paragraph 1.b.iii.C: Value added tax (virðisaukaskattur).
Article 2, paragraph 1.b.iii.D: Excise duties on: (vörugjöld):
. Carbondioxide charge on mineral oils and petrol (kolefnisgjald);
. National broadcasting charge (útvarpsgjald).
Article 2, paragraph 1.b.iii.E:
. Annual tax on motor vehicles (bifreiðagjald);
. Special charge on heavy vehicles (kílómetragjald).
Article 2, paragraph 1.b.iii.F: Market charge (markaðsgjald).
Article 2, paragraph 1.b.iii.G:
. Stamp duty (stimpilgjald);
. Charge on ship (skipagjöld);
. Lighthouse charge (vitagjald).
Article 2, paragraph 1.b.iv:
. Municipal property tax (fasteignagjöld);
. Planning charge (skipulagsgjald).
The Convention will continue to apply to taxes which have been repealed as long as the taxes remain enforceable and collectible, for taxes prior to the repeal until the statute of limitation has elapsed.

INDIA

For India, the Convention shall apply to taxes of every kind and description which fall within the categories set out in Article 2.1a and 2.1.b, whether such taxes are imposed by the Central Government or the Governments of political sub-divisions or local authorities and irrespective of the manner in which they are levied.

INDONESIA

Article 2, paragraph 1.a.i: Income Tax (including capital gains and net wealth that are subject to Income Tax at a rate determined under the Indonesian tax laws).
Article 2, paragraph 1.b.iii.B: Land and Building Tax (plantation, forestry and mining sectors).
Article 2, paragraph 1.b.iii.C: Value Added Tax and Sales Tax on Luxury Goods.

IRELAND

Article 2, paragraph 1.a.i:
. Income tax (including the universal social charge);
. Corporation tax,
Article 2, paragraph 1.a.ii: Capital gains tax

Article 2, paragraph 1.b.iii.A: Capital acquisitions tax,
Article 2, paragraph 1.b.iii.B: Local property tax
Article 2, paragraph 1.b.iii.C: Value added tax,
Article 2, paragraph 1.b.iii.D: Excise duties
Article 2, paragraph 1.b.iii.G: Stamp duties.

ISRAEL
Article 2, paragraph 1.a.i:
. the income tax and company tax (including tax on capital gains);
. the tax imposed on gains from the alienation of property according to the Real Estate Taxation Law;
. tax imposed under the Petroleum Profits Taxation law.

ITALY
Article 2, paragraph 1.a.i:
. Personal Income Tax (Imposta sul reddito delle persone fisiche – IRPEF);
. Corporate Income Tax (Imposta sul reddito delle società – IRES and the former Imposta sul reddito delle persone giuridiche – IRPEG).
Article 2, paragraph 1.a.ii: Substitute Income Taxes, irrespective of their denimination.
Article 2, paragraph 1.b.i: Regional Tax on Productive Activities (Imposta regionale sulle attività produttive – IRAP).
Article 2, paragraph 1.b.iii.C: Value Added Tax (Imposta sul valore aggiunto – IVA).
Article 2, paragraph 1.b.iii.G:
. Registration Tax (Imposta di registro);
. Mortgage and Cadastral Taxes (Imposte ipotecaria e catastale);
. Financial Transaction Tax (Imposta sulle Transazioni Finanziarie);
. Wealth tax on real estate located abroad (Imposta sul valore degli immobili situati all’estero);
. Wealth tax on financial assets held abroad (Imposta sul valore delle attività finanziarie detenute all'estero).
Article 2, paragraph 1.b.iv: Local Property Tax (Imposta municipale propria – IMU).

JAPAN
Article 2, paragraph 1.a.i:
. Income tax;
. Corporation tax;
. Special income tax for reconstruction;
. Special corporation tax for reconstruction;
. Local corporation tax.
Article 2, paragraph 1.b.iii.A:

. Inheritance tax;
. Gift tax.
Article 2, paragraph 1.b.iii.B: Land value tax.
Article 2, paragraph 1.b.iii.C: Consumption tax.
Article 2, paragraph 1.b.iii.D:
. Liquor tax;
. Tobacco tax;
. Special tobacco tax;
. Gasoline tax;
. Local gasoline tax;
. Liquefied petroleum gas tax;
. Aviation fuel tax;
. Petroleum and coal tax.
Article 2, paragraph 1.b.iii.E: Motor vehicle tonnage tax.
Article 2, paragraph 1.b.iii.G:
. Registration and license tax;
. Promotion of power-resources development tax;
. Stamp tax;
. Local special corporation surtax.

KAZAKHSTAN
Article 2, paragraph 1.a.i:
. Corporate Income tax;
. Personal income tax;
. Social tax.
Article 2, paragraph 1.b.ii:
. Social contributions;
. Mandatory pension contributions;
. Mandatory professional contributions.
Article 2, paragraph 1.b.iii.A: Property tax.
Article 2, paragraph 1.b.iii.B: Land tax.
Article 2, paragraph 1.b.iii.C: Value-added tax.
Article 2, paragraph 1.b.iii.D: Excise duty.
Article 2, paragraph 1.b.iii.E: Tax on transport vehicles.
Article 2, paragraph 1.b.iii.G:
. Export rent tax;
. Tax on gambling business;
. Special payments and taxes for subsurface users;
. Other obligatory payments to the budget.

KOREA
Article 2, paragraph 1.a.i:
. Income tax;
. Corporation tax;
. Special tax for rural development.
Article 2, paragraph1.b.iii.A:
. Inheritance tax;
. Gift tax.
Article 2, paragraph1.b.iii.B: Comprehensive real estate holding tax.
Article 2, paragraph1.b.iii.C: Value added tax.
Article 2, paragraph1.b.iii.D:
. Individual consumption tax;
. Liquor tax.

LATVIA
Article 2, paragraph 1.a.i:
. Income tax;
. Corporation tax.
Article 2, paragraph 1.b.iii.B: Tax on Immovable Property.
Article 2, paragraph 1.b.iii.C: Value-Added Tax.
Article 2, paragraph 1.b.iii.D: Excise taxes.

LIECHTENSTEIN
Article 2, paragraph 1.a.i:
. Personal Income Tax (Erwerbssteuer);
. Corporate Income Tax (Ertragssteuer).
Article 2, paragraph 1.a.ii: Real Estate Capital Gains Tax (Grundstücksgewinnsteuer).
Article 2, paragraph 1.a.iii: Wealth Tax (Vermögenssteuer).

LITHUANIA
For Lithuania, the Convention shall apply to taxes in all categories referred to in paragraphs 1(a) and 1(b) of Article 2.

LUXEMBOURG
Article 2, paragraph 1.a.i:
. Tax on personal income;
. Tax on communities income;
. Wealth tax;
. Municipal business tax.

Article 2, paragraph 1.a.ii: --
Article 2, paragraph 1.a.iii: --

MALAYSIA
Article 2, paragraph 1.a.i:
. Income Tax;
. Petroleum income tax.
Article 2, paragraph 1.a.ii: Real property gain tax.

MALTA
Article 2, paragraph 1.a.i: Tax imposed under the Income Tax Act.
Article 2, paragraph 1.a.ii: Not applicable.
Article 2, paragraph 1.a.iii: Not applicable.
Article 2, paragraph 1.b.i: Not applicable.
Article 2, paragraph 1.b.ii: Not applicable.
Article 2, paragraph 1.b.iii.A: Not applicable.
Article 2, paragraph 1.b.iii.B: Not applicable.
Article 2, paragraph 1.b.iii.C: Tax imposed under the Value Added Tax Act.
Article 2, paragraph 1.b.iii.D: Not applicable.
Article 2, paragraph 1.b.iiii.E: Not applicable.
Article 2, paragraph 1.b.iii.F: Not applicable.
Article 2, paragraph 1.b.iii.G: Not applicable.
Article 2, paragraph 1.b.iv: Not applicable.

MARSHALL ISLANDS
Article 2, paragraph 1.a.i: Taxes imposed under the Income Tax Act 1989.
Article 2, paragraph 1.b.ii: Taxes imposed under the Social Security Act of 1990.
Article 2, paragraph 1.b.iii.B: Tax on land lease payments.
Article 2, paragraph 1.b.iii.G: Hotel and Resort Tax.

MAURITIUS
Article 2, paragraph 1.a.i: Taxes on income or profits.
Article 2, paragraph 1.b.iii.C: General consumption taxes, such as value added or sales taxes.
Article 2, paragraph 1.b.iii.D: Specific taxes on goods and services such as excise taxes.
Article 2, paragraph 1.b.iii.G: Any other taxes.

MEXICO
Article 2, paragraph 1.a.i: Income Tax and Flat Rate Corporate Tax.
Article 2, paragraph 1.b.iii.C: Value Added Tax.

Article 2, paragraph 1.B.II.d: Special Tax on Production and Services.

REPUBLIC OF MOLDOVA

Article 2, paragraph 1.a.i: Taxes on income of individuals and legal entities.
Article 2, paragraph 1.b.ii: Social security contributions.
Article 2, paragraph 1.b.iii.B: Taxes on immovable property.
Article 2, paragraph 1.b.iii.C: Value-added taxes.
Article 2, paragraph 1.b.iii.D: Excise taxes.
Article 2, paragraph 1.b.iii.E: Taxes on the use of motor vehicles.
Article 2, paragraph 1.b.iv:
. Taxes on natural resources;
. Local taxes.

MONACO

Article 2, paragraph 1.a.i:
. Tax on profits of industrial and commercial incomes of individuals;
. Corporate profits tax.

NAURU

Article 2, paragraph 1.a.i:
. Employment and Services Tax;
. Business Tax (Including: Business Profit Tax, Small Business Tax, Non Resident Tax and International Transportation Business Tax).
Article 2, paragraph 1.b.iii.D: Telecommunication Services Tax.
Article 2, paragraph 1.b.iii.E: Motor Vehicle Tax.
Article 2, paragraph 1.b.iii.G:
. Fisheries Tax;
. Nauru Phosphate Royalty Levy/Tax;
. Civil Aviation Fees/Tax.

NETHERLANDS

For the European part of the Netherlands
Article 2, paragraph 1.a.i:
. Income Tax (Inkomstenbelasting);
. Salaries Tax (Loonbelasting);
. Corporation Tax (Vennootschapsbelasting);
. Dividend Tax (Dividendbelasting).
Article 2, paragraph 1.b.ii: Social security contributions (Premies sociale verzekering).
Article 2, paragraph 1.b.iii.A: Inheritance, Transfer or Gift Tax (erfbelasting, schenkbelasting).

Article 2, paragraph 1.b.iii.C: Value added tax (Omzetbelasting).
For the Caribbean part of the Netherlands (the islands of Bonaire, Sint Eustatius and Saba)
Article 2, paragraph 1.a.i:
. Income Tax (Inkomstenbelasting);
. Salaries Tax (Loonbelasting);
. Corporation Tax (Winstbelasting).

For Aruba
Article 2, paragraph 1.a.i:
. Income Tax (Inkomstenbelasting);
. Salaries Tax (Loonbelasting);
. Corporation Tax (Winstbelasting);
. Dividend tax (Dividendbelasting).

For Curaçao
Article 2, paragraph 1.a.i:
. Income Tax (Inkomstenbelasting);
. Salaries Tax (Loonbelasting);
. Corporation Tax (Winstbelasting);
. Dividend tax (Dividendbelasting).
Article 2, paragraph 1.b.iii.A: Inheritance tax (Successiebelasting).
Article 2, paragraph 1.b.iii.B: Land tax (Grondbelasting).
Article 2, paragraph 1.b.iii.C: Value added tax (Omzetbelasting)
Article 2, paragraph 1.b.iii.D: Excise duties (Accijnzen):
. special import duty on petrol (bijzonder invoerrecht op benzine);
. excise duty on beer (accijns op bier);
. excise duty on cigarettes (accijns op sigaretten);
. excise duty on spirits (accijns op gedistilleerd).
Article 2, paragraph 1.b.ii.E: Motor vehicles tax (Motorrijtuigenbelasting)

For Sint Maarten
Article 2, paragraph 1(a)(i):
. Income Tax (Inkomstenbelasting);
. Wage tax (Loonbelasting);
. Profit tax (Winstbelasting);
. Savings tax (Spaarvermogensheffing).
Article 2, paragraph 1.b.iii.A: Inheritance tax (Successiebelasting).
Article 2, paragraph 1.b.iii.B: Transfer tax (Overdrachtsbelasting).
Article 2, paragraph 1.b.iii.C: Turnover tax (Belasting op bedrijfsomzetten).
Article 2, paragraph 1.b.iii.E: Motor vehicles tax (Motorrijtuigenbelasting).

NEW ZEALAND

Taxes of every kind and description imposed under the laws of New Zealand administered by the Commissioner of Inland Revenue, which correspond to the taxes in the categories referred to in paragraphs 1(a) and (b)(iii) A, C, D, G of Article 2 of the Convention.

NIGERIA

Article 2, paragraph 1.a.i:
. Personal Income Tax;
. Company Income Tax;
. Petroleum Profit Tax.
Article 2, paragraph 1.a.i: Capital Gains Tax.
Article 2, paragraph 1.b.iii.C: Value Added Tax.
Article 2, paragraph 1.b.iii.D: Excise Duty.
Article 2, paragraph 1.b.iii.G:
. Tertiary Education Tax;
. National Information Technology Development Levy.

NIUE

Article 2, paragraph 1.a.i: Taxes on income or profits.
Article 2, paragraph 1.a.ii: Taxes on capital gains which are imposed separately from the tax on income or profits.
Article 2, paragraph 1.a.iii: Taxes on net wealth.
Article 2, paragraph 1.b.iii: Taxes in other categories, except customs duties, imposed on behalf of a Party, namely:
A: Estate, inheritance or gift taxes.
C: General consumption taxes, such as value-added or sales taxes.
D: Specific taxes on goods and services such as excise taxes.
G: Any other taxes.

NORWAY

Article 2, paragraph 1.a.i:
. National tax on income (inntektsskatt til staten);
. National dues on remuneration to non-resident artists (avgift til staten av honorarer som tilfaller kunstnere bosatt i utlandet).
Article 2, paragraph 1.a.ii: National tax on capital gains from the alienation of shares (skatt til staten av gevinst ved avhendelse av aksjer).
Article 2, paragraph 1.a.iii: National tax on capital (formuesskatt til staten).
Article 2, paragraph 1.b.i:
. County municipal tax on income (inntektsskat til fylkeskommunen);

. Municipal tax on income (inntektsskat til kommunen);
. Municipal tax on capital (formuesskatt til kommunen);
. National contributions to the Tax Equalisation Fund (fellesskatt til Skattefordelingsfondet).
Article 2, paragraph 1.b.ii: Contributions to the National Insurance Scheme (folketrygdavgift).
Article 2, paragraph 1.b.iii.A: Tax on inheritance and certain gifts (avgift på arv og visse gaver).
Article 2, paragraph 1.b.iii.B: --
Article 2, paragraph 1.b.iii.C:
. Value added tax (merverdiavgift);
. Investment tax (investeringsavgift).
Article 2, paragraph 1.b.iii.D: Taxes and excises on:
. alcoholic beverages (brennevin og vin m.v.);
. alcohol in imported essences (alkohol i essenser som innføres);
. beer (øl);
. tobacco (tobakksvarer);
. petrol (bensin);
. petroleum (mineralolje);
. lubricants (smøreolje);
. marine engines (båtmotorer);
. electric power (elektrisk kraft);
. chocolates and sweets (sjokolade);
. sugar (sukker);
. non-alcoholic beverages (alkoholfrie drikkevarer);
. air-charter travel (charterreiser med fly);
. cosmetic toiletries (kosmetiske toalettmidler);
. equipment for recording and reproduction of sound and pictures, etc. (utstyr for opptak og gjengivelse av lyd og bilde m.v.);
. unrecorded audiotapes as well as recorded and unrecorded videotapes (uinnspilte lydkassettbånd og innspilte og uinnspilte videokassettbånd);
. radio and television equipment (radio og televisjonsmateriell);
. non-returnable bottles (engangsflasker);
. batteries hazardous to the environment (miljøskadelige batterier).
Article 2, paragraph 1.b.iii.E:
. Annual tax on motor vehicles (årsavgift på motorvogner);
. Tax on motor vehicles, etc. (engangsavgift på motorvogner m.v.);
. Mileage tax on the use of diesel-powered vehicles (kilometeravgift);
. Reregistration tax (omregistreringsavgift);
. Tax on assembled motor vehicles (oppbyggingsavgift).
Article 2, paragraph 1.b.iii.F:

. Tax on the registration of caravans (avgift på førstegangs registrering av campingtilhengere);
. Annual tax on caravans (årsavgift på campingtilhengere).
Article 2, paragraph 1.b.iii.G:
. Tax on documents transferring title to real property (avgift på dokument som overfører hjemmel til fast eiendom);
. Tax on the transfer of ownership rights and rights of use to real property, etc., abroad (avgift på overføring av eiendomsrett og bruksrett til fast eiendom m.v. i utlandet).
Article 2, paragraph 1.b.iv: Municipal tax on real property (eiendomsskatt til kommunen).

PAKISTAN
Article 2, paragraph 1.a.i: Income Tax.
Article 2, paragraph 1.b.iii.C: Sales Tax.
Article 2, paragraph 1.b.iii.D: Federal Excise Duty.

PANAMA
Article 2, paragraph 1.a.i: Taxes on income of profits (provided in the Tax Code, Book IV, Title I, and the applicable decrees and regulations).
Article 2, paragraph 1.a.ii: Taxes on capital gains which are imposed separately from the tax on income or profits (provided in the Tax Code, Book IV, Title I, and the applicable decrees and regulations).

POLAND
For the Republic of Poland, the Convention shall apply to the taxes referred to in sub-paragraphs (a)(i)-(iii) and (b)(ii)-(iii) of paragraph 1 of Article 2.

PORTUGAL
Article 2, paragraph 1.a.i:
. Personal income tax;
. Corporate income tax;
. State surtax on corporate income tax.
Article 2, paragraph 1.b.i: Local surtax on corporate income tax.
Article 2, paragraph 1b.iii.A: Stamp duty on gratuitous transfers.
Article 2, paragraph 1b.iii.B:
. Municipal tax on real property;
. Municipal tax on real estate transfer.
Article 2, paragraph 1b.iii.C: Value added tax.
Article 2, paragraph 1b.iii.D: Excise taxes.
Article 2, paragraph 1b.iii.E: Tax on the ownership of motor vehicles.

ROMANIA

Article 2, paragraph 1.a.i: Taxes on income or profits.

Article 2, paragraph 1.b.ii: Compulsory social security contributions provided by the Fiscal Code, respectively:

. contributions to the national social security health fund;

. contributions to the unemployment social security budget;

. contributions to the State social security budget.

Article 2, paragraph 1.b.iii.C: Value-Added Tax.

Article 2, paragraph 1.b.iii.D: Excise duties.

RUSSIAN FEDERATION

Article 2, paragraph 1.a.i:

. Tax on income of individuals;

. Tax on profits of organisations.

Article 2, paragraph 1.b.iii.B: Tax on the property of organisations.

Article 2, paragraph 1.b.iii.C: Value-added tax.

Article 2, paragraph 1.b.iii.D: Excise tax.

Article 2, paragraph 1.b.iii.E: Transport tax.

Article 2, paragraph 1.b.iii.G: Any other taxes:

. water tax;

. mineral resource extraction tax;

. special tax regimes: taxation system for agricultural producers (uniform agricultural tax), simplified taxation system, taxation system in the form of uniform tax on the imputed income for individual kinds of activity, licence-based system of taxation;

. tax on gambling.

Article 2, paragraph 1.b.iv: Land tax, Tax on the property of individuals.

SAINT VINCENT AND THE GRENADINES

Article 2, paragraph 1.a.i: Income Tax.

Article 2, paragraph 1.a.ii: Corporate Tax.

SAINT LUCIA

Article 2, paragraph 1.a.i:

. Income Tax or

. Withholding Tax.

Article 2, paragraph 1.b.iii.B:

. Land and House Tax;

. Stamp Duty.

Article 2, paragraph 1.b.iii.C: Value Added Tax.

SAMOA
Article 2, paragraph 1.a.i: Taxes on income or profits.
Article 2, paragraph 1.a.ii: Taxes on capital gains.
Article 2, paragraph 1.a.iii: Taxes on net wealth.
Article 2, paragraph 1.b. iii A: Estate, inheritance or gift tax.

SAN MARINO
Article 2, paragraph 1.a.i: General income tax:
(i) on individuals;
(ii) on bodies corporate and proprietorships;
[even if collected through a withholding tax].
Article 2, paragraph 1.a.ii: None.
Article 2, paragraph 1.a.iii: None.

SAUDI ARABIA
Article 2, paragraph 1.a.i:
. The income tax including the natural gas investment tax.
. The Zakat.

SENEGAL
Article 2, paragraph 1.a.i:
. Corporation tax;
. Minimum flat rate Corporation tax.
. Tax on income of individuals;
Article 2, paragraph 1.a.ii: Taxes on capital gains which are imposed separately from the tax on income or profits.
Article 2, paragraph 1.b.iii.D:
. Value-added tax;
. Tax on financial activities.
Article 2, paragraph 1.b.iii.E: Excise taxes.
Article 2, paragraph 1.b.iii.G: Flat rate contribution borne by employers.

SEYCHELLES
Article 2, paragraph 1.a.i:
. Business tax;
. Income and non-monetary benefits tax;
. Petroleum income tax.

SINGAPORE
Article 2, paragraph 1.a.i: Income Tax.

SLOVAK REPUBLIC
Article 2, paragraph 1.a.i:
. Tax on income of individuals;
. Tax on income of legal persons.
Article 2, paragraph 1.b.iii.C: Value added tax.
Article 2, paragraph 1.b.iii.D: Excise tax.
Article 2, paragraph 1.b.iii.E: Motor vehicle tax.

SLOVENIA
Article 2, paragraph 1.a.i:
. Taxes on income of individuals (davek od dohodkov fizičnih oseb – dohodnina);
. Taxes on income of legal persons (davek od dohodkov pravnih oseb).
Article 2, paragraph 1.b.iii.A: Inheritance and Gift tax (davek na dediščine in darila).
Article 2, paragraph 1.b.iii.C: Value-added tax (davek na dodano vrednost).
Article 2, paragraph 1.b.iii.D: Excise duties (trošarine).
Article 2, paragraph 1.b.iii.G: Real estate transaction tax (davek od prometa nepremičnin).

SOUTH AFRICA
Article 2, paragraph 1.a.i:
. Income tax;
. Withholding tax on royalties;
. Tax on foreign entertainers and sportspersons;
. Turnover tax on micro businesses;
. Dividend tax;
. Withholding tax on interest, effective date 1 March 2015.
Article 2, paragraph 1.a.ii: Capital gains.
Article 2, paragraph 1.b.iii.A:
. Estate duty;
. Donations tax.
Article 2, paragraph 1.b.iii.B: Transfer duty.
Article 2, paragraph 1.b.iii.C: Value Added Tax.
Article 2, paragraph 1.b.iii.D: Excise tax.
Article 2, paragraph 1.b.iii.G: Securities transfer taxes.

SPAIN
Article 2, paragraph 1.a.i:
Taxes on income or profits, or taxes on capital gains which are imposed separately from the tax on income or profits, and taxes on net wealth, imposed on behalf of the member States :
. Personal Income Tax;

. Non-Residents Income Tax;
. Corporate tax;
. Wealth Tax.
Article 2, paragraph 1.b.i:
Any of the above which are imposed on behalf of political subdivisions or local authorities of a Signatory State:
. Tax on the Increase in the Value of Urban Land;
. Tax on Economic Activities.
Article 2, paragraph 1.b.ii:
Payments and other Social Security resources paid to the Government or to the Social Security Institutions established by law.
Article 2, paragraph 1.b.iii:
Taxes in other categories, except customs duties, imposed on behalf of a signatory State, namely:
A.: Inheritance and Gift Tax.
B.: Tax on Immovable Property.
C.:
. Value-Added Taxes;
. General Indirect Tax for the Canary Islands;
. Tax on Imports and Deliveries of Goods in the Canary Islands;
. Tax on Production, Services and Imports in the cities of Ceuta and Melilla.
D.:
. Tax on the Retail Sales of Certain Hydrocarbons;
. Insurance Premium Tax;
. Beer Tax;
. Tax on Wine and Fermented Beverages;
. Tax on Intermediate Products;
. Tax on Alcohol and Derived Beverages;
. Hydrocarbon Tax;
. Tobacco Products Tax;
. Electricity Tax;
. Special Tax on Certain Means of Transport.
E.: Tax on Motor Vehicles.
F.: Tax on Capital Transfers and Documented Legal Acts.
Article 2, paragraph 1.b.iv:
Any of the above which are imposed on behalf of political subdivisions or local authorities:
. Special Tax of the Autonomous Community of the Canary Islands on Petroleum-based Fuels;
. Tax on Construction, Installations and Works.

ST. CHRISTOPHER AND NEVIS

Article 2, paragraph 1.a.i: Income Tax.

Article 2, paragraph 1.b.i: Income Tax.

SWEDEN

Article 2, paragraph 1.a.i:
. Act (1970:624) on withholding tax on dividends;
. Act (1990:659) on special payroll tax;
. Act (1991:586) on special income tax and non-residents;
. Act (1991:591) on special income tax on non-resident artists and athletes;
. Act (1991:687) on special payroll tax on pension costs;
. Income Tax Act (1999:1229).
Article 2, paragraph 1.a.ii: Act (1990:661) on yield tax on pension funds.
Article 2, paragraph 1.a.iii: Wealth Tax Act (1997:323).
Article 2, paragraph 1.b.i:
. Funeral Act (1990:1144);
. Act (1999:291) on fees to registered religious communities.
Article 2, paragraph 1.b.ii:
. Act (1994:1920) on general payroll fee;
. Act (1994:1744) on general pension contribution, Social Security Contribution Act (2000:980).
Article 2, paragraph 1.b.iii.A: Act (1941:416) on inheritance tax and on gift tax.
Article 2, paragraph 1.b.iii.B:
. Real Estate Tax Act (1984:1052);
. Act (1984:404) on land register stamp duties.
Article 2, paragraph 1.b.iii.C: Value added tax act (1994:200).
Article 2, paragraph 1.b.iii.D:
. Act (1972:266) on tax on advertisements and advertising;
. Act (1972:820) on tax on gambling;
. Vehicle Scrapping Act (1975:343);
. Act (1984:409) on tax on fertilizer;
. Act (1984:410) on tax on pesticides;
. Act (1990:613) on an environmental charge on emissions of nitrogen oxides in energy production;
. Act (1990:1427) on premium tax on group life insurance;
. Lottery Tax Act (1991:1482);
. Act (1991:1483) on prize savings' tax;
. Tobacco Excise Duty Act (1994:1563);
. Alcohol Excise Duty Act (1994:1564);
. Act (1994:1776) on excise duty on energy;
. Act (1995:1667) on natural gravel tax;
. Act (1998:506) on monitoring of transportations, etc., of alcohol merchandise, tobacco merchandise and mineral oil products subject to excise duties, Waste Tax Act (1999:673);

. Act (2000:466) on tax on thermal capacity in nuclear power reactors.
Article 2, paragraph 1.b.iii.E:
. Act (1976:339) on tax on cars for sale;
. Vehicle Tax Act (1988:327);
. Act (1997:1137) on road user charges for certain heavy vehicles.
Article 2, paragraph 1.b.iii.G:
. Act (1972:435) on overburden charge and
. Act (2014:52) on road infrastructures charges, as regards charges levied on public roads.

SWITZERLAND
Article 2, paragraph 1.a.i: Federal taxes on income (overall income, earned income from work, income from capital, industrial and commercial profits, capital gains and other income).
Article 2, paragraph 2.b.i:
. Cantonal and communal taxes on income (overall income, earned income from work, income from capital, industrial and commercial profits, capital gains and other income);
. Cantonal and communal taxes on wealth (total property, movable and immovable property, business assets, capital and reserves, and other elements of wealth).

TUNISIA
Article 2, paragraph 1.a.i:
. Personal income tax;
. Corporation tax.
Article 2, paragraph 1.a.ii: Tax on capital gains of:
. transfer of buildings and building lands and social rights within real estate companies;
. transfer and retrocession of shares, partnership shares and fund shares and transfer and retrocession of rights on the related titles.
Article 2, paragraph 1.b.ii: Social security contributions payable to general government or to social security institutions established under public law.
Article 2, paragraph 1.b.iii.A: Taxes on registration of inheritance or gift.
Article 2, paragraph 1.b.iii.B: Tax on immovable property.
Article 2, paragraph 1.b.iii.C:
. Value added tax;
. Consumption tax;
. Registration and stamp duties returning to the State budget other than those referred to in paragraph 1.b.iii.A.
Article 2, paragraph 1.b.iii.D:
. Single tax on insurance;
. Taxes on turnover for the benefit of special treasury funds;
. Road tax;
. Stamp duties;

. Compensation charges;
. Visit tax;
. Administrative formalities tax;
. Telecommunications tax.
Article 2, paragraph 1.b.iv:
. Taxes on buildings;
. Taxes on building lands;
. Taxes on industrial, commercial or professional buildings;
. Hotel tax;
. Entertainment tax;
. other taxes and duties for the benefit of local collectivities as provided by the Code of Local Taxation promulgated by Law No. 97-11 of 3 February 1997.

TURKEY
Article 2, paragraph 1.a.i:
. Income tax;
. Corporation tax;
Article 2, paragraph 1.a.ii: --
Article 2, paragraph 1.a.iii: --
Article 2, paragraph 1.b.i: --
Article 2, paragraph 1.b.ii: --
Article 2, paragraph 1.b.iii.A: --
Article 2, paragraph 1.b.iii.B: --
Article 2, paragraph 1.b.iii.C: Value-added tax.
Article 2, paragraph 1.b.iii.D: --
Article 2, paragraph 1.b.iii.E: --
Article 2, paragraph 1.b.iii.F: --
Article 2, paragraph 1.b.iii.G: --
Article 2, paragraph 1.b.iv: --

UGANDA
Article 2, paragraph 1.a.i:
. Income Tax;
. Withholding tax on royalties;
. Tax on foreign entertainers and sports persons;
. Turnover tax on Small and Medium Enterprises;
. Gaming and sports betting taxes;
. Withholding taxes on dividends;
. Withholding tax on interest.
Article 2, paragraph 1.a.ii: Capital gains.

Article 2, paragraph 1.b.iii.B:

. Stamp duty;

. Taxes in immovable property including Rental Tax.

Article 2, paragraph 1.b.iii.C: Value-added tax.

Article 2, paragraph 1.b.iii.D: Excise tax.

UKRAINE

Article 2, paragraph 1.a.i:

. Tax on profits of enterprises;

. Tax on income of naturals.

Article 2, paragraph 1.b.ii: Compulsory social security contribution.

Article 2, paragraph 1.b.iii.B: Land fee.

Article 2, paragraph 1.b.iii.C: Value-added tax.

Article 2, paragraph 1.b.iii.D:

. Excise tax;

. Duty on the development of viticulture, gardening and hop-growing.

Article 2, paragraph 1.b.iii.E: Tax on the ownership of motor vehicles and other self-propelled machines and mechanisms.

Article 2, paragraph 1.b.iv:

. Single tax;

. Fixed agricultural tax;

. State customs;

. Rental payment;

. Duty for the special use of natural resources.

UNITED KINGDOM

The Convention shall apply to those taxes in Article 2, paragraph 1, which fall within:

For the United Kingdom of Great Britain and Northern Ireland.

(a) any of paragraphs (i) to (iii) of subparagraph (a); or

(b) paragraph (iii) of subparagraph (b).

For Anguilla-

. paragraphs (iii)(B), (iii)(C) or (iii)(D) of subparagraph (b).

For Bermuda-

. no applicable taxes.

For the British Virgin Islands-

. paragraph (ii) or (iii)(B) of subparagraph (b).

For the Cayman Islands-
(a) any of paragraphs (i) to (iii) of subparagraph (a); or
(b) paragraph (iii) of subparagraph (b).

For the Bailiwick of Guernsey-
. paragraph- (a)(i) and (a)(ii).

For Gibraltar
. paragraph (a)(i).

For the Isle of Man-
. paragraph (1)(a)(i): Income Tax.

For the Bailiwick of Jersey-
. paragraph (a)(i): Taxes on income or profits;
. paragraph (a)(ii): Taxes on capital gains which are imposed separately from the tax on income or profits;
. paragraph (a)(iii): Taxes on net wealth.

For Montserrat-
(a) paragraphs (i) and (iii) of subparagraph (a); or
(b) paragraph (iii) of subparagraph (b).

For the Turks and Caicos Islands-
. paragraph (iii) of subparagraph (b).

UNITED STATES OF AMERICA
For the United States, this Convention shall apply to taxes imposed under Title 26 of the United States Code (the Internal Revenue Code of 1986), as amended, which correspond to the taxes in the categories referred to in paragraph 1.A and 1.B II and III of Article 2 of the Convention.

URUGUAY
Article 2, paragraph 1.a.i:
. Tax on business income (Impuesto a las Rentas de las Actividades Económicas - IRAE);
. Personal income tax (Impuesto a las Rentas de las Personas Físicas - IRPF);
. Non-residents income tax (Impuesto a las Rentas de los No Residentes - IRNR);
. Tax for social security assistance (Impuesto de Asistencia a la Seguridad Social - IASS).
Article 2, paragraph 1.a.iii: Capital tax (Impuesto al Patrimonio - IP).
Article 2, paragraph 1.b.iii.C: Value Added Tax - VAT (Impuesto al Valor Agregado - IVA).
Article 2, paragraph 1.b.iii.D: Excise Tax (Impuesto Específico Interno - IMESI).

Annex B

Competent authorities (*)

States

From A to F

Albania – Andorra – Argentina – Australia – Austria – Azerbaijan – Barbados – Belgium – Belize – Brazil – Bulgaria – Cameroon – Canada – Chile – China – Colombia – Costa Rica – Croatia – Cyprus – Czech Republic – Denmark – Estonia – Finland – France

From G to L

Georgia – Germany – Ghana – Greece – Hungary – Iceland – India – Indonesia – Ireland – Israel – Italy – Japan – Kazakhstan – Korea – Latvia – Liechtenstein – Lithuania – Luxembourg

From M to R

Malaysia – Malta – Marshall Islands – Mauritius – Mexico – Republic of Moldova – Monaco – Nauru – Netherlands – New Zealand – Nigeria – Niue – Norway – Pakistan – Panama –Poland – Portugal – Romania – Russian Federation

From S to Z

Saint Lucia – Saint Vincent and the Grenadines – Samoa – San Marino – Saudi Arabia – Senegal – Seychelles – Singapore – Slovak Republic –Slovenia – South Africa – Spain – St. Christopher and Nevis – Sweden – Switzerland – Tunisia – Turkey – Uganda – Ukraine – United Kingdom – United States of America – Uruguay

ALBANIA

Ministry of Finance: General Tax Directory.

ANDORRA

The Minister of Finance or his authorised representative.

ARGENTINA

The Federal Administration of Public Revenue.

AUSTRALIA

The Commissioner of Taxation or an authorised representative of the Commissioner.

AUSTRIA

In relation to the Republic of Austria, the term “competent authority” means the Federal Minister for Finance or his authorised representative.

AZERBAIJAN

. Ministry of taxes;

. State Customs Committee;

. Ministry of Labour and Social Protection of Population;

. Ministry of Finance.

BARBADOS

The Barbados Revenue Authority.

BELGIUM

The Minister for Finance or an authorised representative.

BELIZE

The Financial Secretary in the Ministry of Finance.

BRAZIL

The Secretary of the Federal Revenue of Brazil.

BULGARIA

The Minister of Finance, the Executive Director of the National Revenue Agency or their authorised representative.

CAMEROON

The Minister of Finance or his representative.

CANADA

The Minister of National Revenue or the Minister’s authorised representative.

CHILE

The Minister of Finance, the Commissioner of the Chilean Internal Revenue Service, and their authorised representatives.

CHINA

The State Administration of Taxation or its authorised representative.

COLOMBIA

The competent authority for the Republic of Colombia is the Director General of the National Tax and Customs Administration (Director General de la Dirección de Impuestos y Aduanas Nationales – DIAN) or his authorised representative.

COSTA RICA

The Director of the Tax Administration (Director General de Tributación).

CROATIA

The Ministry of Finance or its authorised representative.

CYPRUS

The Minister of Finance or his authorised representative.

CZECH REPUBLIC

. The Minister of Finance or his authorised representative;

. The Czech Social Security Administration in relation to compulsory social security contributions and a contribution to the state employment policy;

. The Center for International Reimbursements in relation to compulsory public health insurance contributions.

DENMARK

(except for Greenland)

The Minister for Taxation or his authorised representative.

GREENLAND

The Local Government or its authorised representative.

ESTONIA

The Tax and Customs Board.

FINLAND

The National Board of Taxes.

FRANCE

1. For the contributions referred to in Chapter VI of Title III of Book I of the Social Security Code and in Chapter II of Ordinance No. 96-50 of 24 January 1996 on the social debt repayment:

. concerning those recovered by social security bodies: as appropriate, the Chairman of the Administrative Council of the Central Agency for Social Security Bodies (Agence centrale des organismes de sécurité sociale – ACOSS) or the Chairman of the Administrative Council of the Agricultural Social Insurance Mutual Benefit Fund (Caisse centrale de mutualité sociale agricole – CCMSA);

. concerning those recovered by the Treasury: the Minister responsible for the Budget or his authorised representative;

2. For all the other taxes referred to in Annex A: the Minister responsible for the Budget or his authorised representative.

GEORGIA

The Ministry of Finance or its authorised representative.

GERMANY

1. For taxes and related ancillary tax payments, with the exception of the taxes and ancillary tax payments listed in paragraph 3 below:
The Federal Ministry of Finance or the authority (the Federal Central Tax Office) to which it has delegated its powers;

2. For all social security contributions:
The Federal Ministry of Labour and Social Affairs;

3. For:
. Import VAT and related ancillary tax payments in accordance with Article 2, paragraph 1.b.iii.C;

. Spirits duty, energy duty, tobacco duty and related ancillary tax payments in accordance with Article 2, paragraph 1.b.iii.D;
. Aviation tax and related ancillary tax payments in accordance with Article 2, paragraph 1.b.iii.G, The Customs Criminological Office, to which the Federal Ministry of Finance has delegated its powers.
4. For the service of documents in accordance with Article 17 which relate to taxes and ancillary tax payments listed in paragraph 3 above-
The Federal Office for Customs Enforcement (at the Hanover main customs office), to which the Federal Ministry of Finance has delegated its powers.

GHANA

The Commissioner-General of the Ghana Revenue Authority or an authorized representative.
Address:
Commissioner-General
Ghana Revenue Authority
GP 2202 Accra, Ghana.

GREECE

The Minister of Economy and Finance or his authorised representative.

For Exchange of Information on Value added taxes: Ministry of Finance, General Secretariat of Taxation and Customs, General Directorate of Tax Audits and Public Revenues, Directorate of Tax Audits, Section B' – CLOEL.

HUNGARY

The Minister responsible for tax policy or his authorised representative.

ICELAND

The Minister of Finance and Economic Affairs or the Minister's authorised representative.

INDIA

The Minister of Finance or his authorised representatives, i.e., the Joint Secretary, Foreign Tax and Tax Research Division-I and the Joint Secretary, Foreign Tax and Tax Research Division-II, Department of Revenue, Ministry of Finance.

INDONESIA

The Minister of Finance of Indonesia or an authorised representative of the Minister.

IRELAND

The Revenue Commissioners or their authorised representative.

ISRAEL

The Minister of Finance or his authorised representative.

ITALY

The Ministry of Economy and Finance – Tax Policy Department.

JAPAN

The Minister of Finance or his authorised representative.

KAZAKHSTAN

The Minister of Finance or his authorised representative.

KOREA

The Minister of Strategy and Finances or his authorized representative.

LATVIA

The Ministry of Finance or its authorised representative.

LIECHTENSTEIN 1

The Fiscal Authority.

LITHUANIA

The Ministry of Finance or the State Tax Inspectorate under the Ministry of Finance.

LUXEMBOURG

The Minister of Finance or his authorised representative.

MALAYSIA

The Minister of Finance or his authorised representative.

MALTA

The Minister responsible for finance or his authorised representative.

MARSHALL ISLANDS

The Secretary of Finance or his authorised representative.

MAURITIUS

The Minister to whom the responsibility for the subject of finance is assigned or his authorised representative.

MEXICO

. Ministry of Finance;
. Tax Administration Service.

REPUBLIC OF MOLDOVA

The Ministry of Finance or its authorised representatives.

MONACO

The Government Adviser - Minister of Finance and Economy or his authorised representative.

NAURU

The Minister of Finance or his authorised representative.

NETHERLANDS

. For tax purposes: the Minister of Finance or his authorised representative;
. For Social security purposes: the State Secretary for Social Affairs and Employment or his authorised representative.

Curaçao-

The Minister of Finance or his authorised representative.

Sint Maarten-

The Minister of Finance or his authorised representative.

Caribbean part of the Netherlands (the islands of Bonaire, Sint Eustatius and Saba)-

The Minister of Finance or his authorised representative.

Aruba-

The Minister of Finance or his authorised representative.

NEW ZEALAND

The Commissioner of Inland Revenue or an authorised representative of the Commissioner.

NIGERIA

The Minister of Finance or an authorised representative of the Minister.

NIUE

The Financial Secretary, Department of Finance and Planning or an authorised representative of the Financial Secretary.

NORWAY

The Minister of Finance and Customs or his authorised representative.

PAKISTAN

The “Chairman, Federal Board of Revenue” or its authorised representative.

PANAMA

The Ministry of Economy and Finances or its authorised representative.

POLAND

For the Republic of Poland, the term “competent authority”' means the Minister of Finance or his authorized representative.

PORTUGAL

Portugal declares that the term “competent authorities”, included in Annex B, means the Minister of Finance, the Director General of the Tax and Customs Authority or their authorised representatives.

ROMANIA

The Minister of Public Finance or his authorised representative.

RUSSIAN FEDERATION

. The Federal Tax Service and its authorised representatives;

. The Federal Bailiff Service and its authorised representatives.

SAINT LUCIA

The Minister for Finance or his authorised representative.

SAINT VINCENT AND THE GRENADINES

The Inland Revenue Department or an authorised representative which may be designated by the Minister with responsibility for Finance.

SAMOA

The Minister for Revenue or his authorised representative.

SAN MARINO

The Ministry of Finance and Budget and Central Liaison Office - CLO.

SAUDI ARABIA

The Ministry of Finance represented by the Minister of Finance or his authorised representative.

SENEGAL

The Minister of Economy, Finance and Planning or the Director General of Taxes and Domains.

SEYCHELLES

The Minister of Finance or an authorised representative of the Minister of Finance.

SINGAPORE

The Minister of Finance or his authorised representative.

SLOVAK REPUBLIC

The Ministry of Finance or its authorised representative.

SLOVENIA

The Ministry of Finance of the Republic of Slovenia or its authorised representative.

SOUTH AFRICA

The Commissioner for the South Africa Revenue Service or an authorised representative of the Commissioner.

SPAIN

The Minister of Economy and Finance, or the authorised representative thereof, and within the sphere of their powers, the Minister of Employment and Immigration or the Minister that, in the future, may replace him, regardless of the fact that, in practice, such functions may be carried out by the General Treasury of the Social Security.

ST. CHRISTOPHER AND NEVIS

The Financial Secretary or the Financial Secretary's authorised representative.

SWEDEN

The Minister of Finance or the National Tax Board.

SWITZERLAND

The Head of the Federal Department of Finance or his authorised representative.

TUNISIA

The Minister in charge of Finance or his authorised representatives.

TURKEY

The Minister of Finance or his authorised representative.

UGANDA

The Commissioner General of the Uganda Revenue Authority or an authorised representative of the Commissioner General.

UKRAINE

. The State Tax Administration of Ukraine;

. The State Customs Service of Ukraine;

. The Pension Fund of Ukraine.

UNITED KINGDOM

For the United Kingdom of Great Britain and Northern Ireland:

The Commissioners for Her Majesty's Revenue and Customs or their authorised representative.

For Anguilla:

The Permanent Secretary for Finance or his authorised representative.

For Bermuda:

The Minister of Finance or his authorised representative.

For the British Virgin Islands:

The International Tax Authority - Ministry of Finance.

For the Cayman Islands:

The Tax Information Authority or its authorised representative.

For Gibraltar:

The Commissioner of Income Tax of the Government of Gibraltar.

For Bailiwick of Jersey:

The Treasury and Resources Minister or his authorised representative.

For the Isle of Man:

The Assessor of Income Tax or his or her delegate.

For the Bailiwick of Guernsey:

The Director of Income Tax or his delegate.

For Montserrat:

The Comptroller of Inland Revenue or his authorised representative.

For the Turks and Caicos Islands:

The Permanent Secretary for the Ministry of Finance, Investment and Trade or their authorised representative.

UNITED STATES OF AMERICA

For the United States, the term "competent authority" means the Secretary of the Treasury or his designee.

URUGUAY

The Minister of Economy and Finance or his authorised representative.

Annex C

Definition of the word "national" for the purpose of the Convention (*)

States

From A to F

Australia – Azerbaijan – Barbados – Belgium – Belize – Cameroon – Chile – Cyprus

From G to L

Georgia – Germany – Greece – Ireland – Kazakhstan – Korea – Liechtenstein – Lithuania

From M to R

Malaysia – Mauritius – Mexico – Netherlands – New Zealand – Nigeria – Niue – Pakistan – Panama – Romania

From S to Z

Saint Lucia – Saint Vincent and the Grenadines – Senegal – Seychelles – Singapore – Slovak Republic –South Africa – Spain – Tunisia – Turkey – Uganda – United Kingdom – Uruguay.

AUSTRALIA

In relation to Australia, the term "national" means any individual possessing the citizenship of Australia; and any legal person, company, partnership or association deriving its status as such from the laws in force in Australia.

AZERBAIJAN

. All individuals possessing the nationality of the Republic of Azerbaijan;
. All legal persons (including partnership and joint venture), companies, associations and other organisations deriving their status as such from the legislation of the Republic of Azerbaijan.

BARBADOS

For the purposes of Article 3, paragraph 1.e, of the Convention, the term "national" in relation to Barbados means any individual possessing the nationality or citizenship of Barbados; and any legal person, partnership or association deriving its status as such from the laws in force in Barbados.

BELGIUM

None.

BELIZE

In relation to Belize, the term "national" means any individual possessing the citizenship of Belize.

CAMEROON

All individuals of Cameroonian nationality and all legal persons, partnership or capital companies, associations and other entities planned and constituted under the laws in force in Cameroon.

CHILE

The Republic of Chile, according to Article 3, paragraph 1.e, of the Convention, declares that the term "national" means any individual possessing the Chilean nationality; and any legal person or association organised under the laws in force in the Republic of Chile.

CYPRUS

(i) Any individual possessing the citizenship of Cyprus;

(ii) Any legal person, partnership or association deriving its status as such from the laws in force in the Republic of Cyprus.

GEORGIA

. Any individual possessing the citizenship of Georgia;

. Any legal person or partnership or association deriving its status as such from the laws in force in Georgia.

GERMANY

. All Germans within the meaning of the Basic Law for the Federal Republic of Germany; and

. All legal persons, partnerships and other associations deriving their status as such from the laws in force in the Federal Republic of Germany.

GREECE

None provided.

IRELAND

The term "nationals" in relation to Ireland, shall be understood as any individuals possessing the citizenship of Ireland, and any legal person, partnership, association or other entity deriving its status as such from the laws in force in Ireland.

KAZAKHSTAN

. All individuals possessing the nationality of the Republic of Kazakhstan;

. All legal persons, partnerships or association deriving its status as such from the laws in force in the Republic of Kazakhstan.

KOREA

1. Any individual possessing the nationality of the Republic of Korea.

2. Any legal person, partnership or association deriving its status as such from the laws in force in the Republic of Korea.

LIECHTENSTEIN

(i) Any individual possessing the nationality or citizenship of Liechtenstein; and

(ii) Any person other than an individual deriving its status as such from the laws in force in Liechtenstein.

LITHUANIA

For Lithuania, the term "national" means all individuals possessing the citizenship of the Republic of Lithuania, and all legal persons, partnerships, associations or other entities deriving their status as such from the laws in force in the Republic of Lithuania.

MALAYSIA

(i) Any individual possessing the nationality or citizenship of Malaysia;

(ii) Any legal person, partnership or, association and any other entity deriving its status as such from the laws in force in Malaysia.

MAURITIUS

(i) All individuals possessing the citizenship of the Republic of Mauritius; and

(ii) All legal persons, partnerships, associations and other entities deriving their status as such from the laws in force in the Republic of Mauritius.

MEXICO

(i) Any individual of Mexican nationality; and

(ii) Any legal entity, company or association that derives its status as such from the current legislation in Mexico.

NETHERLANDS

For the European part of the Netherlands, the Caribbean part of the Netherlands (the islands of Bonaire, Sint Eustatius and Saba), Aruba, Curaçao and Sint Maarten -

1. All individuals possessing the Dutch nationality;
2. All legal persons, companies and associations deriving their status as such from the laws in force in the European part of the Netherlands, the Caribbean part of the Netherlands (the islands of Bonaire, Sint Eustatius and Saba), Aruba, Curaçao and Sint Maarten.

NEW ZEALAND

Any individual possessing the nationality or citizenship of New Zealand and any legal person, partnership or association deriving its status as such from the laws in force in New Zealand.

NIGERIA

Any individuals possessing the nationality of the Federal Republic of Nigeria and any legal person, partnership, association, or other entity deriving its status as such from the laws in force in the Federal Republic of Nigeria.

NIUE

Any individual belonging to the aboriginal race of Niue or possessing permanent resident status in Niue and any legal person, partnership or associations deriving its status as such from the laws in force in Niue.

PAKISTAN

(i) Any individual possessing the nationality of Pakistan;

(ii) Any legal person, partnership, association or other entity deriving their status as such from the laws in force in Pakistan.

PANAMA

The term "national" means any physical person possessing the Panamanian nationality and any legal person, partnership or association organised under the laws in force in Panama.

ROMANIA

1. All individuals possessing Romanian citizenship;

2. All legal persons, partnerships, associations and other entities set up according to the laws in force in Romania.

SAINT LUCIA

The term "national" means any individual possessing the citizenship of Saint Lucia, and any legal person, company, partnership or association deriving its status as such from the laws in force in Saint Lucia.

SAINT VINCENT AND THE GRENADINES

The term "nationals" means any individual possessing the nationality or citizenship of Saint Vincent and the Grenadines and any legal person, partnership, association or other organisation deriving their status as such from the laws in force in Saint Vincent and the Grenadines.

SENEGAL

All individuals of Senegalese nationality and all legal persons, partnerships or capital companies, associations and other entities provided for and constituted in accordance with the laws in force in Senegal.

SEYCHELLES

(i) Any individuals possessing the nationality or citizenship of Seychelles;

(ii) Any legal person, partnership or association deriving its status as such from the laws in force in Seychelles.

SINGAPORE

. Any individuals possessing the citizenship of Singapore, and

. Any legal person, partnership, association and other organisation deriving their status as such from the legislation of Singapore.

SLOVAK REPUBLIC

(i) Any individual possessing the nationality or citizenship of the Slovak Republic;

(ii) Any legal person, association and other entities deriving its status as such from the laws in force in the Slovak Republic.

SOUTH AFRICA

Any individual possessing the nationality or citizenship of South Africa and any legal person, partnership, association, or other entity deriving its status as such from the laws in force in South Africa.

SPAIN

1. All individuals of Spanish nationality.

2. All legal persons, partnerships or associations and other institutions set up in accordance with current Spanish legislation.

TUNISIA

. Any individuals possessing the Tunisian nationality, and

. Any legal person, partnership, association and other organisation deriving their status as such from the legislation of Tunisia.

TURKEY

All individuals possessing Turkish nationality in accordance with the Turkish Nationality Code, and all legal persons, partnership or association deriving their status as such from the laws in force in Turkey.

UGANDA

Any individual possessing the nationality or citizenship of Uganda and any legal person, partnership or other entity deriving its status as such from the laws in force in Uganda.

UNITED KINGDOM

In relation to the United Kingdom, the term “national” means any British citizen, or any British subject not possessing the citizenship of any other Commonwealth country or territory, provided he has the right of abode in the United Kingdom; and any legal person, partnership, association or other entity deriving its status as such from the laws in force in the United Kingdom.

In relation to Anguilla, the term "national" means any person regarded as belonging to Anguilla under section 80 of the Anguilla Constitution, as amended by the Anguilla Constitution (Amendment) Order 1990 S.I. 1990/587.

In relation to Bermuda, the term "national" means any individual possessing Bermudian Status as defined in accordance with paragraph 102(3) of Schedule 1 to the Bermuda Constitution Order S.I. 1968/182, and any legal person, partnership, company, trust, estate, association or other entity created under the laws in force in Bermuda.

In relation to the British Virgin Islands, the term "national" means any person who belongs to the British Virgin Islands within the meaning of section 2(2) of the Virgin Islands Constitution Order 2007 S.I.2007/1678 and any legal person, partnership, association or other entity deriving its status as such from the laws in force in the British Virgin Islands.

In relation to the Cayman Islands, the term "national" means any person who possesses Caymanian status under the repealed Immigration Law (2003 Revision) or any earlier law providing for the same or similar rights, and includes any person who acquires the status under Part III of the Immigration Law (2012 Revision).

In relation to Gibraltar, the term "national" means a Gibraltarian within the meaning of the Gibraltarian Status Act 1962 and any legal person, partnership or association deriving its status as such from the laws in force in Gibraltar.

In relation to the Isle of Man , the term "national" means any individual who has a right of abode in the Isle of Man and possesses British citizenship and any legal person, partnership or association deriving its status as such under the laws of the Isle of Man.

In relation to the Bailiwick of Guernsey , the term "national" means any individual who has a place of abode in the Bailiwick of Guernsey and possesses British citizenship and any legal person, partnership or association deriving its status as such from the laws in force in the

Bailiwick of Guernsey.

In relation to the Bailiwick of Jersey, the term "national" means any citizen of the Bailiwick of Jersey and any legal person, partnership or association deriving its status as such from the laws in force in the Bailiwick of Jersey.

In relation to Montserrat, the term "national" means a person defined as Montserratian under section 107(2) of the Montserrat Constitution Order 2010 S.I. 2010/2474.

In relation to the Turks and Caicos Islands, the term "national" means a person defined as a Turks and Caicos Islander under section 132 of the Turks and Caicos Islands Constitution Order 2011 S.I. 2011/1861.

URUGUAY

In relation to the Oriental Republic of Uruguay, the term "national" means any individual possessing Uruguayan nationality or citizenship and any legal person, association or other entity deriving its status as such from the laws in force in Uruguay.

SCHEDULE 4

(Section 4 and 20)

STATE PARTIES TO THE MULTI-LATERAL CONVENTION

Albania – Andorra – **Antigua and Barbuda -** Argentina – Australia – Austria – Azerbaijan – Barbados – Belgium– Belize – Brazil – Bulgaria – Cameroon – Canada – Chile – China – **Cook Islands -** Colombia – Costa Rica – Croatia – Cyprus – Czech Republic – Denmark – **Dominica** – **Ecuador – El Salvador -** Estonia – Finland – **Former Yugoslav Republic of Macedonia -** France Georgia – Germany –Ghana – Greece – **Grenada** – **Guatemala -** Hungary – Iceland – India – Indonesia-Ireland – Israel – Italy – **Jamaica -** Japan – Kazakhstan – Korea – **Kuwait -** Latvia – **Lebanon – Liberia -** Liechtenstein –Lithuania – Luxembourg-Malaysia – Malta – Marshall Islands – Mauritius – Mexico – Republic of Moldova –Monaco – **Mauritania** – **Morocco -** Nauru – Netherlands – New Zealand – Nigeria – Niue – Norway – Pakistan – **Paraguay -** Panama – **Peru – Philippines -** Poland – Portugal – **Quatar -** Romania – Russian Federation - Saint Lucia – Saint Vincent and the Grenadines – Samoa – San Marino – Saudi Arabia – Senegal – **Serbia -** Seychelles – Singapore – Slovak Republic –Slovenia – South Africa – Spain –St. Christopher and Nevis – Sweden – Switzerland – Tunisia – Turkey – Uganda –Ukraine – **United Arab Emirates -** United Kingdom – United States of America – Uruguay - **Vanuatu**.

SCHEDULE 5

(Sections 12, 19 and 21)

JURISDICTIONS UNDERTAKING FIRST EXCHANGES BY 2017 ~~(53)~~ (49)

Anguilla, Argentina, ~~Barbados~~[IE49]~~,~~ Belgium, Bermuda, British Virgin Islands, Bulgaria, Cayman Islands, Colombia, Croatia, ~~Curaçao~~, Cyprus, Czech Republic, Denmark, Estonia, Faroe Islands, Finland, France, Germany, Gibraltar, Greece, Greenland, Guernsey, Hungary, Iceland, India, Ireland, Isle of Man, Italy, Jersey, Korea, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Mexico, Montserrat, Netherlands, ~~Niue~~, Norway, Poland, Portugal, Romania, San Marino, Seychelles, Slovak Republic, Slovenia, South Africa, Spain, Sweden, Turks and Caicos Islands, United Kingdom.

JURISDICTIONS UNDERTAKING FIRST EXCHANGES BY 2018 ~~(47)~~(51)

Andorra, Antigua and Barbuda, Aruba, Australia, Austria, **Azerbaijan**[IE50]*****,** The Bahamas, Bahrain, **Barbados,** Belize, Brazil, Brunei Darussalam, Canada, Chile, China, Cook Islands, Costa Rica, **Curacao,** Dominica, ~~Ghana~~, **Greenland,** Grenada, Hong Kong (China), Indonesia, Israel, Japan, **Kuwait,** Lebanon, Marshall Islands, Macao (China), Malaysia, Mauritius, Monaco, Nauru, New Zealand, **Niue, Pakistan***,** Panama, Qatar, Russia, Saint Kitts and Nevis, Samoa, Saint Lucia, Saint Vincent and the Grenadines, Saudi Arabia, Singapore, Sint Maarten, Switzerland, Trinidad and Tobago, Turkey, United Arab Emirates, Uruguay **and**~~,~~ Vanuatu.

The United States has indicated that it is undertaking automatic information exchanges pursuant to FATCA from 2015 and has entered into intergovernmental agreements (IGAs) with other jurisdictions to do so. The Model 1A IGAs entered into by the United States acknowledge the need for the United States to achieve equivalent levels of reciprocal automatic information exchange with partner jurisdictions. They also include a political commitment to pursue the adoption of regulations and to advocate and support relevant legislation to achieve such equivalent levels of reciprocal automatic exchange.

Jurisdictions Undertaking First Exchanges by 2019/2020 (8)

Ghana*, Kuwait**** and Nigeria*** (2019); Albania***, Kazakhstan, Maldives***, Oman and Peru*** (2020).**[IE51]

***Developing countries that do not host a financial centre were not asked to commit to a specific date but did so voluntarily.

**** Kuwait originally expected to exchange information in 2018, but has since postponed its date of first exchange to 2019.

SCHEDULE 6

MODEL COMPETENT AUTHORITY AGREEMENTS

(Section 7(2))

“DECLARATION

I, , on behalf of the Competent Authority of, declare that it hereby agrees to comply with the provisions of the *Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information* hereafter referred to as the “Agreement” and attached to this Declaration.

By means of the present Declaration, the Competent Authority of is to be considered a signatory of the Agreement as from [day] [month] [year]. The Agreement will come into effect in respect of the Competent Authority of in accordance with Section 7 thereof.

The Annex F notification referred to in Section 3(3) of the Agreement is deposited herewith.

Signed in [location] on [day] [month] [year]

MULTILATERAL COMPETENT AUTHORITY AGREEMENT ON AUTOMATIC EXCHANGE OF FINANCIAL ACCOUNT INFORMATION

Whereas, the jurisdictions of the signatories to the Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information (the “Agreement”) are Parties of, or territories covered by, the Convention on Mutual Administrative Assistance in Tax Matters or the Convention on Mutual Administrative Assistance in Tax Matters as amended by the Protocol amending the Convention on Mutual Administrative Assistance in Tax Matters (the “Convention”) or have signed or expressed their intention to sign the Convention and acknowledge that the Convention must be in force and in effect in relation to them before the first exchange of financial account information takes place;

Whereas, the jurisdictions intend to improve international tax compliance by further building on their relationship with respect to mutual assistance in tax matters;

Whereas, the Common Reporting Standard was developed by the OECD, with G20 countries, to tackle tax avoidance and evasion and improve tax compliance;

Whereas, a country that has signed or expressed its intention to sign the Convention will only become a Jurisdiction as defined in Section 1 of this Agreement once it has become a Party to the Convention;

Whereas, the laws of the respective Jurisdictions require or are expected to require financial institutions to report information regarding certain accounts and follow related due diligence procedures, consistent with the scope of exchange contemplated by Section 2 of this Agreement and the reporting and due diligence procedures set out in the Common Reporting Standard;

Whereas, it is expected that the laws of the Jurisdictions would be amended from time to time to reflect updates to the Common Reporting Standard and once such changes are enacted by a Jurisdiction the definition of Common Reporting Standard would be deemed to refer to the updated version in respect of that Jurisdiction;

Whereas, Chapter III of the Convention authorises the exchange of information for tax purposes, including the exchange of information on an automatic basis, and allows the competent authorities of the Jurisdictions to agree the scope and modalities of such automatic exchanges;
Whereas, Article 6 of the Convention provides that two or more Parties can mutually agree to exchange information automatically, the exchange of the information will be on a bilateral basis between the Competent Authorities;

Whereas, the Jurisdictions have, or are expected to have, in place by the time the first exchange takes place (i) appropriate safeguards to ensure that the information received pursuant to this Agreement remains confidential and is used solely for the purposes set out in the Convention, and (ii) the infrastructure for an effective exchange relationship (including established processes for ensuring timely, accurate, and confidential information exchanges, effective and reliable communications, and capabilities to promptly resolve questions and concerns about exchanges or requests for exchanges and to administer the provisions of Section 4 of this Agreement);
Whereas, the Competent Authorities of the jurisdictions intend to conclude an agreement to improve international tax compliance based on automatic exchange pursuant to the Convention, without prejudice to national legislative procedures (if any), respecting EU law (if applicable), and subject to the confidentiality and other protections provided for in the Convention, including the provisions limiting the use of the information exchanged thereunder;
Now, therefore, the Competent Authorities have agreed as follows:

SECTION 1
Definitions

1. For the purposes of this Agreement, the following terms have the following meanings:
a) the term **"Jurisdiction"** means a country or a territory in respect of which the Convention is in force and is in effect, either through signature and ratification in accordance with Article 28, or through territorial extension in accordance with Article 29, and which is a signatory to this Agreement;

b) the term **"Competent Authority"** means, for each respective Jurisdiction, the persons and authorities listed in Annex B of the Convention;

c) the term **"Jurisdiction Financial Institution"** means, for each respective Jurisdiction, (i) any Financial Institution that is resident in the Jurisdiction, but excludes any branch of that Financial Institution that is located outside the Jurisdiction, and (ii) any branch of a Financial Institution that is not resident in the Jurisdiction, if that branch is located in the Jurisdiction;

d) the term **"Reporting Financial Institution"** means any Jurisdiction Financial Institution that is not a Non-Reporting Financial Institution;

e) the term **"Reportable Account"** means a Financial Account that is maintained by a Reporting Financial Institution and that, pursuant to due diligence procedures consistent with the Common Reporting Standard, has been identified as an account that is held by one or more persons that are Reportable Persons with respect to another Jurisdiction or by a Passive Non-Financial Entity with one or more Controlling Persons that are Reportable Persons with respect to another Jurisdiction,

f) the term **"Common Reporting Standard"** means the standard for automatic exchange of financial account information in tax matters (which includes the Commentaries), developed by the OECD, with G20 countries;

g) the term **"Co-ordinating Body Secretariat"** means the OECD Secretariat that, pursuant to paragraph 3 of Article 24 of the Convention, provides support to the co-ordinating body that is composed of representatives of the competent authorities of the Parties to the Convention;

h) the term "**Agreement in effect**" means, in respect of any two Competent Authorities, that both Competent Authorities have indicated their intention to automatically exchange information with each other and have satisfied the other conditions set out in subparagraph 2.1. of Section 7. The Competent Authorities for which this Agreement is in effect are listed in Annex E.

2. Any capitalised term not otherwise defined in this Agreement will have the meaning that it has at that time under the law of the Jurisdiction applying the Agreement, such meaning being consistent with the meaning set forth in the Common Reporting Standard. Any term not otherwise defined in this Agreement or in the Common Reporting Standard will, unless the context otherwise requires or the Competent Authorities agree to a common meaning (as permitted by domestic law), have the meaning that it has at that time under the law of the Jurisdiction applying this Agreement, any meaning under the applicable tax laws of that Jurisdiction prevailing over a meaning given to the term under other laws of that Jurisdiction.

SECTION 2

Exchange of Information with Respect to Reportable Accounts

1.1. Pursuant to the provisions of Articles 6 and 22 of the Convention and subject to the applicable reporting and due diligence rules consistent with the Common Reporting Standard, each Competent Authority will annually exchange with the other Competent Authorities, with respect to which it has this Agreement in effect, on an automatic basis the information obtained pursuant to such rules and specified in paragraph 2.

1.2. Notwithstanding the previous paragraph, the Competent Authorities of the Jurisdictions listed in Annex A will send, but not receive, the information specified in paragraph 2. Competent Authorities of Jurisdictions not listed in Annex A will always receive the information specified in paragraph 2. Competent Authorities will not send such information to Competent Authorities of the Jurisdictions listed in Annex A.

2. The information to be exchanged is, with respect to each Reportable Account of another Jurisdiction:

a) the name, address, TIN(s) and date and place of birth (in the case of an individual) of each Reportable Person that is an Account Holder of the account and, in the case of any Entity that is an Account Holder and that, after application of due diligence procedures consistent with the Common Reporting Standard, is identified as having one or more Controlling Persons that is a Reportable Person, the name, address, and TIN(s) of the Entity and the name, address, TIN(s) and date and place of birth of each Reportable Person;

b) the account number (or functional equivalent in the absence of an account number);

c) the name and identifying number (if any) of the Reporting Financial Institution;

d) the account balance or value (including, in the case of a Cash Value Insurance Contract or Annuity Contract, the Cash Value or surrender value) as of the end of the relevant calendar year or other appropriate reporting period or, if the account was closed during such year or period, the closure of the account;

e) in the case of any Custodial Account:

(1) the total gross amount of interest, the total gross amount of dividends, and the total gross amount of other income generated with respect to the assets held in the account, in each case paid or credited to the account (or with respect to the account) during the calendar year or other appropriate reporting period; and

(2) the total gross proceeds from the sale or redemption of Financial Assets paid or credited to the account during the calendar year or other appropriate reporting period with respect to which the Reporting Financial Institution acted as a custodian, broker, nominee, or otherwise as an agent for the Account Holder;

f) in the case of any Depository Account, the total gross amount of interest paid or credited to the account during the calendar year or other appropriate reporting period; and

g) in the case of any account not described in subparagraph 2(e) or (f), the total gross amount paid or credited to the Account Holder with respect to the account during the calendar year or other appropriate reporting period with respect to which the Reporting Financial Institution is the obligor or debtor, including the aggregate amount of any redemption payments made to the Account Holder during the calendar year or other appropriate reporting period.

SECTION 3

Time and Manner of Exchange of Information

1. For the purposes of the exchange of information in Section 2, the amount and characterisation of payments made with respect to a Reportable Account may be determined in accordance with the principles of the tax laws of the Jurisdiction exchanging the information.
2. For the purposes of the exchange of information in Section 2, the information exchanged will identify the currency in which each relevant amount is denominated.
3. With respect to paragraph 2 of Section 2, and subject to the notification procedure set out in Section 7, including the dates specified therein, information is to be exchanged commencing from the years specified in Annex F within nine months after the end of the calendar year to which the information relates. Notwithstanding the foregoing sentence, information is only required to be exchanged with respect to a calendar year if both Competent Authorities have this Agreement in effect and their respective Jurisdictions have in effect legislation that requires reporting with respect to such calendar year that is consistent with the scope of exchange provided for in Section 2 and the reporting and due diligence procedures contained in the Common Reporting Standard.

4. [deleted]
5. The Competent Authorities will automatically exchange the information described in Section 2 in the common reporting standard schema in Extensible Markup Language.
6. The Competent Authorities will work towards and agree on one or more methods for data transmission including encryption standards with a view to maximising standardisation and minimising complexities and costs and will specify those in Annex B.

SECTION 4

Collaboration on Compliance and Enforcement

A Competent Authority will notify the other Competent Authority when the first-mentioned Competent Authority has reason to believe that an error may have led to incorrect or incomplete information reporting or there is non-compliance by a Reporting Financial Institution with the applicable reporting requirements and due diligence procedures consistent with the Common

Reporting Standard. The notified Competent Authority will take all appropriate measures available under its domestic law to address the errors or non-compliance described in the notice.

SECTION 5

Confidentiality and Data Safeguards

1. All information exchanged is subject to the confidentiality rules and other safeguards provided for in the Convention, including the provisions limiting the use of the information exchanged and, to the extent needed to ensure the necessary level of protection of personal data, in accordance with the safeguards which may be specified by the supplying Competent Authority as required under its domestic law and listed in Annex C.
2. A Competent Authority will notify the Co-ordinating Body Secretariat immediately regarding any breach of confidentiality or failure of safeguards and any sanctions and remedial actions consequently imposed. The Co-ordinating Body Secretariat will notify all Competent Authorities with respect to which this is an Agreement in effect with the first mentioned Competent Authority.

SECTION 6

Consultations and Amendments

1. If any difficulties in the implementation or interpretation of this Agreement arise, a Competent Authority may request consultations with one or more of the Competent Authorities to develop appropriate measures to ensure that this Agreement is fulfilled. The Competent Authority that requested the consultations shall ensure, as appropriate, that the Co-ordinating Body Secretariat is notified of any measures that were developed and the Co-ordinating Body Secretariat will notify all Competent Authorities, even those that did not participate in the consultations, of any measures that were developed.
2. This Agreement may be amended by consensus by written agreement of all of the Competent Authorities that have the Agreement in effect. Unless otherwise agreed upon, such an amendment is effective on the first day of the month following the expiration of a period of one month after the date of the last signature of such written agreement.

SECTION 7

Term of Agreement

1. A Competent Authority must provide, at the time of signature of this Agreement or as soon as possible after its Jurisdiction has the necessary laws in place to implement the Common Reporting Standard, a notification to the Co-ordinating Body Secretariat:

a) that its Jurisdiction has the necessary laws in place to implement the Common Reporting Standard and specifying the relevant effective dates with respect to Preexisting Accounts, New Accounts, and the application or completion of the reporting and due diligence procedures;

b) confirming whether the Jurisdiction is to be listed in Annex A;

c) specifying one or more methods for data transmission including encryption (Annex B);

d) specifying safeguards, if any, for the protection of personal data (Annex C);

e) that it has in place adequate measures to ensure the required confidentiality and data safeguards standards are met and attaching the completed confidentiality and data safeguard questionnaire, to be included in Annex D; and

f) a list of the Jurisdictions of the Competent Authorities with respect to which it intends to have this Agreement in effect, following national legislative procedures (if any).

Competent Authorities must notify the Co-ordinating Body Secretariat, promptly, of any subsequent change to be made to the above-mentioned Annexes.

2.1. This Agreement will come into effect between two Competent Authorities on the later of the following dates: (i) the date on which the second of the two Competent Authorities has provided notification to the Co-ordinating Body Secretariat under paragraph 1, including listing the other Competent Authority's Jurisdiction pursuant to subparagraph 1(f), and, if applicable, (ii) the date on which the Convention has entered into force and is in effect for both Jurisdictions.

2.2. The Co-ordinating Body Secretariat will maintain a list that will be published on the OECD website of the Competent Authorities that have signed the Agreement and between which Competent Authorities this is an Agreement in effect (Annex E).

2.3. The Co-ordinating Body Secretariat will publish on the OECD website the information provided by Competent Authorities pursuant to subparagraphs 1(a) and (b). The information provided pursuant to subparagraphs 1(c) through (f) will be made available to other signatories upon request in writing to the Co-ordinating Body Secretariat.

3. A Competent Authority may suspend the exchange of information under this Agreement by giving notice in writing to another Competent Authority that it has determined that there is or has been significant non-compliance by the second-mentioned Competent Authority with this Agreement. Such suspension will have immediate effect. For the purposes of this paragraph, significant non-compliance includes, but is not limited to, non-compliance with the confidentiality and data safeguard provisions of this Agreement and the Convention, a failure by the Competent Authority to provide timely or adequate information as required under this Agreement or defining the status of Entities or accounts as Non-Reporting Financial Institutions and Excluded Accounts in a manner that frustrates the purposes of the Common Reporting Standard.

4. A Competent Authority may terminate its participation in this Agreement, or with respect to a particular Competent Authority, by giving notice of termination in writing to the Co-ordinating Body Secretariat. Such termination will become effective on the first day of the month following the expiration of a period of 12 months after the date of the notice of termination. In the event of termination, all information previously received under this Agreement will remain confidential and subject to the terms of the Convention.

SECTION 8

Co-ordinating Body Secretariat

1. Unless otherwise provided for in the Agreement, the Co-ordinating Body Secretariat will notify all Competent Authorities of any notifications that it has received under this Agreement and will provide a notice to all signatories of the Agreement when a new Competent Authority signs the Agreement.

2. All signatories to the Agreement will share equally, on an annual basis, the costs for the administration of the Agreement by the Co-ordinating Body Secretariat. Notwithstanding the previous sentence, qualifying countries will be exempt from sharing the costs in accordance with Article X of the Rules of Procedure of the Co-ordinating Body of the Convention.

Done in English and French, both texts being equally authentic.

ANNEX A:
LIST OF NON-RECIPROCAL JURISDICTIONS

[To be completed]

ANNEX B:
TRANSMISSION METHODS
[To be completed]

ANNEX C:
SPECIFIED DATA SAFEGUARDS
[To be completed]

ANNEX D:
CONFIDENTIALITY QUESTIONNAIRE
[To be completed]

ANNEX E:
COMPETENT AUTHORITIES FOR WHICH THIS IS AN AGREEMENT IN EFFECT
[To be completed]

ANNEX F:
INTENDED EXCHANGE DATES

Accounts	**Intended to be defined as**	**Intended dates to exchange information by**		
New Accounts	A Financial Account maintained by a Reporting Financial Institution opened on or after [day] [month] [year].	September [year]		
		Individual High-Value Accounts	**Individual Low-Value Accounts**	**Entity Accounts**
Preexisting Accounts	A Financial Account maintained by a Reporting Financial Institution as of [day] [month] [year].	September [year]	September [year]	September [year]

.".

SCHEDULE ~~6~~ 7[IE52]

(Section 24)

CONSEQUENTIAL AMENDMENTS

Short title of Act	Nature of Amendment
Income Tax Act, Chap. 75:01	**A.** In section 4(2) delete paragraph (a); and **B.** In section 117A- (a) by renumbering subsection (1) as section 117(1); (b) in section 117(1) as renumbered, by inserting after the word "2016" the words ", Mutual Administrative Assistance in Tax Matters Act, 201~~8~~**9**"; and (c) by inserting after subsection 117(1) as renumbered, the following new subsection: " (2) The exception provided for under section 117(1) for persons engaged in confidential professional relationships shall not apply to the sharing of **information** required under the Tax Information Exchange Agreements (United States of America Act, 2018, the Mutual Administrative Assistance in Tax Matters Act, ~~2018~~ **2019**.".
The Central Bank Act, Chap. 79:02	In section 2, in the definition of "declared agreement" by deleting the words "and the 2016 IGA as defined in section 9 of the Tax Information Exchange Agreements (United States of America) Act, 2016" and substituting the words ", the 2016 IGA as defined in section 9 of the Tax Information Exchange Agreements (United States of America) Act, 2016 and the Convention on Mutual Administrative Assistance in Tax Matters as defined in the Mutual Administrative Assistance in Tax Matters Act, ~~2018~~ **2019**." .
The Financial Institutions Act, Chap. 79:09	A. In section 2, in the definition of "declared agreement" by deleting the words "and the 2016 IGA as defined in section 9 of the Tax Information Exchange Agreements (United States of America) Act, 2016" and substituting the words ", the 2016 IGA as defined in section 9 of the Tax Information Exchange Agreements (United States of America) Act, 2016 and the Convention on Mutual Administrative Assistance in Tax Matters as defined in the Administrative Assistance in Tax Matters Act, ~~2018~~ **2019**.";

Short title of Act	Nature of Amendment
	B. In section 8(2A) and (2B), by inserting after the word "2016" wherever it occurs, the words "Mutual Administrative Assistance in Tax Matters Act, ~~2018~~ **2019**"; and C. In section 86(1A)(c), insert after the words "officer," the words "other employee or agent,".
The Securities Act, Chap. 83:02	A. In section 4, in the definition of "declared agreement" by deleting the words "and the 2016 IGA as defined in section 9 of the Tax Information Exchange Agreements (United States of America) Act, 2016" and substituting the words ", the 2016 IGA as defined in section 9 of the Tax Information Exchange Agreements (United States of America) Act, 2016 and the Convention on Mutual Administrative Assistance in Tax Matters as defined in the Mutual Administrative Assistance in Tax Matters Act, ~~2018~~ **2019**" . B. In section 7, insert after subsection (1) the following new subsection: " (1A) Guidelines issued under subsection (1)(ja) in respect of the Convention on Mutual Administrative Assistance in Tax Matters as defined in the Mutual Administrative Assistance in Tax Matters Act, 2018 shall be in respect of the procedures for sending and receiving information required to be sent or received under the Mutual Administrative Assistance in Tax Matters Act, ~~2018~~ **2019**.".
The Insurance Act, Chap. 84:01	A. In section 6A(2) and (3), insert after the word "2016" wherever it occurs, the words "Mutual Administrative Assistance in Tax Matters Act, ~~2018~~ **2019**"; and B. In section 215- (a) in subsection (1), by inserting after the word "agreement" the words "or the Mutual Administrative Assistance in Tax Matters Act, ~~2018~~ **2019**"; and (b) in subsection 215(3), by inserting after the word "agreement" the words "or the Mutual Administrative Assistance in Tax Matters Act, ~~2018~~ **2019**".

Passed in the House of Representatives this day of , 201~~8~~**9**.

Clerk of the House

IT IS HEREBY CERTIFIED that this Act is one the Bill for which has been passed by the House of Representatives and at the final vote thereon in the House has been supported by the votes of not less than three-fifths of all the members of the House, that is to say, by the votes of members of the House.

Clerk of the House

I confirm the above.

Speaker

Passed in the Senate this day of , 201~~8~~**9**.

Clerk of the Senate

IT IS HEREBY CERTIFIED that this Act is one the Bill for which has been passed by the Senate and at the final vote thereon in the Senate has been supported by the votes of not less than three-fifths of all the members of the Senate, that is to say, by the votes of Senators.

Clerk of the Senate

I confirm the above.

President of the Senate

THE TAX INFORMATION EXCHANGE AGREEMENTS ACT, 2018

ARRANGEMENT OF CLAUSES

Clause

A BILL

AN ACT to make provision for the implementation of agreements between Trinidad and Tobago and other States providing for the exchange of information for the purposes of taxation, and for related purposes.

Preamble

WHEREAS it is enacted by section 13(1) of the Constitution that an Act of Parliament to which that section applies may expressly declare that it shall have effect even though inconsistent with sections 4 and 5 of the Constitution and, if any Act does so declare, it shall have effect accordingly:

And whereas it is provided in section 13(2) of the Constitution that an Act of Parliament to which that section applies is one the Bill for which has been passed by both Houses of Parliament and at the final vote thereon in each House has been supported by the votes of not less than three-fifths of all the members of that House:

And whereas it is necessary and expedient that the provisions of this Act shall have effect even though inconsistent with sections 4 and 5 of the Constitution:

Enactment

ENACTED by the Parliament of Trinidad and Tobago as follows:

Short title.

1. This Act may be cited as the Tax Information Exchange Agreements Act, 2018.

Act inconsistent with Constitution.

2. This Act shall effect even though inconsistent with sections 4 and 5 of the Constitution.

Interpretation.

3. In this Act -

"competent authority", in relation to a tax information exchange agreement means in the case of -

(a) Trinidad and Tobago, the Board as the Minister's authorised representative; and

(b) another State, has the meaning ascribed in the tax information exchange agreement;

"contracting states", in relation to tax information exchange agreement, means Trinidad and Tobago and the other State on behalf of which the tax information exchange agreement is entered into;

"declared agreement" means a tax information exchange agreement that has, under section 4, been declared by the President to be a declared agreement for the purposes of this Act;

"Minister" means the Minister to whom the responsibility for finance is assigned;

"tax information exchange agreement" has the meaning assigned to it by section 4;

"the Board" means the Board of Inland Revenue established by section 4 of the Income Tax Act.

Chap. 75:01

Tax information exchange agreements.

4. (1) For the purpose of this Act, a tax information exchange agreement is an agreement whereby the Government of Trinidad and Tobago and the Government of another State undertake that those States will, through their competent authorities, provide each other, upon request, with any financial and other information and supporting documentation accessible to the competent authority of the State to which the request is made that is required by the competent authority of the requesting State for the purposes of administering or enforcing a law relating to taxation of a kind specified in the agreement.

(2) An agreement is not precluded from being a tax information exchange agreement for the purposes of this Act by reason that it –

(a) includes provision for matters necessary for, or incidental to, the matters referred to in subsection (1);

(b) provides for a contracting State to obtain and transmit to the other contracting State any information that it considers may assist that other State to administer or enforce a law referred to in subsection (1); or

(c) provides for the implementation of programmes or measures to facilitate or improve the administration and enforcement of the laws referred to in subsection (1).

Declaration of agreement.

5. (1) The President may, by Order, declare a tax information exchange agreement specified in the Order to be a declared agreement for the purposes of this Act.

(2) An Order under subsection (1) shall be laid in both House of Parliament.

Implementation of agreement.

6. (1) The competent authority has the function of ensuring that effect is given to every declared agreement.

(2) The Minister may give general directions to the Board as to the performance by it of its functions under this Act, and the Board shall comply with any direction so given.

(3) For the purposes of subsection (2) such general directions does not include any directions relative to the personal information of any specific person, within the possession of the Board.

Powers of Board.

7. (1) ~~The Board has, for the purposes of giving effect to a declared agreement, all the powers that it would have if it were acting generally for the purposes of, or for any particular purpose specified in, any written law that confers powers on the Board and any such power is exercisable notwithstanding that the circumstances, if any, necessary under that written law for the exercise of the power may not have arisen and, subject to this subsection, the provisions of that written law, shall apply to, and in relation to, the exercise of any such power were exercised for the purposes of that written law.~~

8. (1) The Board has, for the purposes of giving effect to a declared agreement, all the powers that it would have if it were acting generally for-

(c) the purposes of; or

(d) any particular purpose specified in,

any written law that confers powers on the Board.

(2) Subject to subsection (1), the power under that subsection is exercisable notwithstanding that the circumstances necessary under that written law for the exercise of the power may not have arisen.

(3) For the purposes of subsections (1) and (2) the provisions of the written law, shall apply to, and in relation to, the exercise of any such power for the purposes of giving effect to a declared agreement as if the power were exercised for the purposes of that written law.

(~~2~~) (4) The Board may, in accordance with a declared agreement –

(a) provide any information obtained by it under this Act or any other written law; and

(b) request and receive any information required by it for the purposes of any written law.

Secrecy
Chap. 75:01.

9. Nothing in section 4 of the Income Tax Act, or any other law to a like effect, prevents the disclosure of information where that disclosure is in accordance with, and for the purpose of giving effect to, a declared agreement.

Exemption from
Chap. 22:04.

10. (1) Notwithstanding sections 6, 38 and 40 of the Data Protection Act, the Board may, for the purposes of this Act, process information collected by it under this Act.

(2) Notwithstanding sections 6, 30 and 31 of the Data Protection Act, the Board shall for the purposes of this Act, receive information on an individual.

(3) Notwithstanding section 46 of the Data Protection Act, information received by the Board under this Act shall be disclosed under an agreement even if the individual to whom the information relates does not consent to the disclosing of his information or the jurisdiction does not have comparable safeguards as required by the Data Protection Act.

(4) Notwithstanding any other written law, where the Board receives information for the purposes of this Act, it shall not share that information with any person unless so permitted under this Act.

Penalty for unauthorized disclosure.

11. Where information has been obtained or received under this Act, a person who uses or discloses the information other than for the purposes for which it is obtained or received commits an offence and is liable –

(a) on summary conviction to a fine of one hundred thousand dollars and to imprisonment for a term of three years; and

(b) on conviction on indictment to a fine of ~~one~~ two hundred and fifty thousand dollars and to imprisonment for a term of five years.

Notification of affected person

12. (1) Where the Board provides information to a competent authority of another State under any declared agreement, the Board shall within one year of such provision, notify the persons in respect of whom the information relates that personal information relating to that person which is required to be reported under this Act and under a declared agreement has been forwarded to the competent authority of that State.

(2) A Notification under subsection (1) shall be in the form prescribed by the Minister by Order.

Passed in the House of Representatives this day of , 2018.

Clerk of the House

I confirm the above

Speaker

IT IS HEREBY CERTIFIED that this Act is one the Bill for which has been passed in the House of Representatives and at the final vote thereon in the House has been supported by the votes of not less than three-fifths of all the members of the House, that is to say by the votes of members of the House.

Clerk of the House

Passed in the Senate this day of , 2018.

Clerk of the Senate

I confirm the above

Speaker

IT IS HEREBY CERTIFIED that this Act is one the Bill for which has been passed in the Senate and at the final vote thereon in the Senate has been supported by the votes of not less than three-fifths of all the members of the Senate, that is to say by the votes of members of the Senate.

Clerk of the Senate

INCOME TAX (AMENDMENT) BILL, 2019

A BILL

An Act to amend the Income Tax Act, Chap. 75:01

Preamble

WHEREAS it is enacted by section 13(1) of the Constitution that an Act of Parliament to which that section applies may expressly declare that it shall have effect even though inconsistent with sections 4 and 5 of the Constitution and, if any Act does so declare, it shall have effect accordingly:

And whereas it is provided in section 13(2) of the Constitution that an Act of Parliament to which that section applies is one the Bill for which has been passed by both Houses of Parliament and at the final vote thereon in each House has been supported by the votes of not less than three-fifths of all the members of that House:

And whereas it is necessary and expedient that the provisions of this Act shall have effect even though inconsistent with sections 4 and 5 of the Constitution:

Enactment

ENACTED by the Parliament of Trinidad and Tobago as follows:

Short title

1. This Act may be cited as the Income Tax (Amendment) Act, 2019.

Act inconsistent with Constitution

2. This Act shall have effect even though inconsistent with sections 4 and 5 of the Constitution.

Interpretation Chap. 75:01

3. In this Act, "the Act" means the Income Tax Act.

New section 4D inserted

4. The Act is amended by inserting after section 4C, the following new section:

" Providing information to a foreign tax administration

4D. Notwithstanding sections 4(1) and (2), the Board shall provide taxpayer information that is foreseeably relevant to the administration and enforcement of the domestic laws of another jurisdiction with which there is an arrangement for double taxation relief or exchange of information in relation to taxes.

Section 93 amended

5. The Act is amended in section 93(1)-

(a) in paragraph (a) –
   (i) by inserting after the words "that country," the words "for the receipt and sharing of information relative to such arrangements,"; and
   (ii) by deleting the words "; or" and substituting the word ";";

(b) ~~by inserting after the words "that country," the words "for the receipt and sharing of information relative to such arrangements,"; and~~

(c) ~~in paragraph (a) by deleting the words "; or" and substituting the word ";";~~

(d) in paragraph (b) by deleting the word "." and substituting the words "; or"; and

(e) by inserting after paragraph (b), the following new paragraph:

" (c) they provide for the collection, sharing and receipt of information by the Board where required under any arrangement with another Government of any country specified in the Order under this section.".

Section 93A inserted

6. The Act is amended by inserting after section 93 the following new section:

"Exemption from Chap. 22:04

93A. (1) Notwithstanding sections 6, 38 and 40 of the Data Protection Act, the Board may, for the purposes of section 93, process information collected by it under this Act.

(2) Notwithstanding sections 6, 30 and 31 of the Data Protection Act, the Board shall for the purposes of section 93, receive information on an individual, entity or legal arrangement.

(3) Notwithstanding section 46 of the Data Protection Act, information received by the Board under section 93 shall be disclosed under an agreement even if the individual, entity or legal arrangement to whom the information relates does not consent to the disclosing of his information or the jurisdiction does not have comparable safeguards as required by the Data Protection Act.

(4) Notwithstanding any other written law, where the Board receives information for the purposes of section 93, it shall not share that information with any person unless so permitted under this Act.

(5) Where information has been obtained or received under section 93, a person who uses or discloses the information other than for the purposes for which it is obtained or received commits an offence and is liable –

(a) on summary conviction to a fine of three hundred thousand dollars and to imprisonment for a term of three years; and

(b) on conviction on indictment to a fine of five hundred thousand dollars and to imprisonment for a term of five years.”.

Section 117 amended

7. Section 117(1) of the Act is amended by inserting after the words “this Act”, the words “or any other written law over which the Board has oversight,”.

Section 117A amended

8. Section 117A of the Act is amended in subsection (1), by deleting all the words after the words “and other” and substituting the words “, other enactments for similar purposes and double taxation agreements.”.

Passed in the House of Representatives this day of , 2019.

Clerk of the House

I confirm the above

Speaker

IT IS HEREBY CERTIFIED that this Act is one the Bill for which has been passed in the House of Representatives and at the final vote thereon in the House has been supported by the votes of not less than three-fifths of all the members of the House, that is to say by the votes of members of the House.

Clerk of the House

Passed in the Senate this day of , 2019.

Clerk of the Senate

I confirm the above

Speaker

IT IS HEREBY CERTIFIED that this Act is one the Bill for which has been passed in the Senate and at the final vote thereon in the Senate has been supported by the votes of not less than three-fifths of all the members of the Senate, that is to say by the votes of members of the Senate.

Clerk of the Senate