



CENTRAL BANK OF  
TRINIDAD & TOBAGO

# Guideline on the Implementation of Declared Tax Agreements

*The purpose of this Guideline is to provide guidance to financial institutions on the implementation of, and on-going compliance with, the reporting requirements under the Tax Information Exchange Agreement Act, 2017 (as amended) and the Mutual Administrative Assistance in Tax Matters Act, 2020 (as amended)*

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## 1. ABBREVIATIONS AND ACRONYMS

<b>BIR</b>	Board of Inland Revenue
<b>CRS</b>	Common Reporting Standard
<b>EOI</b>	Exchange of Information
<b>EOIR</b>	Exchange of Information on Request
<b>FATCA</b>	Foreign Account Tax Compliance Act
<b>FFI</b>	Foreign Financial Institution
<b>FI</b>	Financial Institution
<b>FIA</b>	Financial Institutions Act, Chap 79:09 (as amended)
<b>IA</b>	Insurance Act, Chap 84:01 (as amended)
<b>IGA</b>	Inter-Governmental Agreement
<b>IRS</b>	Internal Revenue Service (of the United States)
<b>MAATMA</b>	Mutual Administrative Assistance in Tax Matters Act 7 of 2020 (as amended)
<b>NFE</b>	Non-Financial Entity
<b>NRFI</b>	Non-Reporting Financial Institution
<b>OECD</b>	Organisation for Economic Co-operation and Development
<b>RFI</b>	Reporting Financial Institution
<b>RO</b>	Responsible Officer(s)
<b>TIEAA 2017</b>	Tax Information Exchange Agreements (United States of America) Act 4 of 2017 (as amended)
<b>TIEAA 2020</b>	Tax Information Exchange Agreements Act 5 of 2020 (as amended)
<b>U.S.</b>	United States of America

## 2. GLOSSARY OF TERMS

**“Account Holder”** means:

- a) the person listed or identified as the holder of a financial account by the Financial Institution (FI) that maintains the account, but does not include a person holding a financial account for the benefit or account of another person as agent, custodian, nominee, signatory, investment advisor or intermediary; or
- b) 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. If no person can access the cash value or change the beneficiary of the contract then, any person named as the owner in the contract and each person with a vested entitlement to payment under the terms of the contract; or
- c) each person entitled to receive payment upon the maturity of a cash value insurance contract or an annuity contract;

**“Common Reporting Standard” or “CRS”** means the standard for automatic exchange of financial account information in tax matters (which includes the commentaries), developed by the OECD;

**“Competent Authority”** means, for each respective Jurisdiction, the persons and authorities listed in Annex B of the Convention and Schedule 2 of the MAATMA. The Competent Authority for Trinidad and Tobago is the BIR;

**“Controlling Person”** has the meaning ascribed to it in Section 9(1) of the TIEAA 2017 and section 4 of the MAATMA;

**“Custodial Institution”** means any entity that holds, as a substantial portion of its business, financial assets for the account of others;

**“Declared Agreement”** has the meaning ascribed to it as defined in Section 3 of the TIEAA 2020 and the Convention on Mutual Administrative Assistance in Tax Matters as defined in the MAATMA;

- “Depository Institution”** means any entity that accepts deposits in the ordinary course of banking or similar business;
- “Excluded Account”** has the meaning ascribed to it in Section 4 of the MAATMA;
- “Financial Account”** means an account maintained by a Financial Institution as defined in Section 9 of the TIEAA 2017 and Section 4 of the MAATMA;
- “Financial Group”** has the meaning ascribed to it in the FIA and the IA;
- “Financial Institution”** means for the purpose of this Guideline, a custodial institution, an investment entity, a depository institution licensed under the FIA or a specified insurance company registered under the IA;
- “High Value Account”** means a Pre-existing Individual Account with a balance or value that exceeds one million U.S. dollars as of December 31, 2024;
- “Investment Entity”** has the meaning ascribed to in Section 9(1) of the TIEAA 2017 and Section 4(1) of the MAATMA;
- “Low Value Account”** means a Pre-existing Individual Account with a balance or value that does not exceed one million U.S. dollars as of **December 31, 2024**;
- “New Account”** means a financial account maintained by a Reporting Financial Institution opened on, or after **January 1, 2025**;
- “NFE”** means an entity that is not a FI (Section 9 of the TIEAA 2017 and Section 4 of the MAATMA);
- “Nil Report”** means the information return to be submitted to the BIR, which provides that the Reporting Financial Institution maintains no reportable accounts in respect of a given Reporting year;
- “Non-Participating Financial Institution”** means any non-participating financial institution or a financial institution deemed to be a non-participating institution under Schedule 2 of the TIEAA 2017;
- “Non-Reporting Financial Institution”** means any Trinidad and Tobago FI as described in Schedule 2 of the TIEAA 2017 and in Section 4 of the MAATMA, as a NRFI, or that otherwise qualifies as a deemed-compliant FI or an exempt beneficial owner under relevant U.S. Treasury Regulations in effect on the date of signature of the Declared Agreement;

**“Passive NFE”** has the meaning ascribed to it in Section 4 of the MAATMA;

**“Pre-existing Account”** means a financial account maintained by a Reporting Financial Institution as of **December 31, 2024**;

**“Reporting Financial Institution”** means any Trinidad and Tobago Financial Institution that does not meet the definition of a NRFI;

**“Reportable Account”** means an account held by:

- a) One or more reportable persons; or
- b) by a Passive NFE with one or more controlling persons, that is a reportable person, who have been identified as such through application of the due diligence measures described in Schedule 4 of the TIEAA 2017 and Schedule 1, Sections II through VII of the MAATMA;

**“Reportable Persons”** means persons who are account holders or controlling persons of reportable accounts;

**“Reportable Jurisdiction”** has the meaning ascribed to it in Section 4 of the MAATMA;

**“Responsible Officer”** means a manager of official employed locally at a managerial level in a FI or financial group, and designated by the FI or financial group to perform the functions and duties set out under Section 13 of this Guideline;

**“Self-Certification”** means a certification by the Account Holder that provides the Account Holder’s status and any other information that may be reasonably requested by the RFI to fulfil its reporting and due diligence obligations, such as whether the Account Holder is resident for tax purposes in a Reportable Jurisdiction.

**“Specified Insurers”** means an insurance company registered under the IA that issues or is obligated to make payments with respect to, a Cash Value Insurance Contract or an Annuity Contract;

**“Undocumented Accounts”** has the meaning ascribed to it in Section III of Schedule 1 of the MAATMA.

### 3. BACKGROUND

- 3.1 In 2014, the OECD developed the Standard for Automatic Exchange of Financial Account Information in Tax Matters (“Standard”). The Standard builds on the intergovernmental approach adopted by many jurisdictions, including Trinidad and Tobago, for implementation of the FATCA enacted by the United States of America (U.S.). FATCA is intended to detect U.S. taxpayers who use accounts with foreign Financial Institutions (“FFIs”) to conceal income and assets from the U.S Internal Revenue Service (“IRS”). The Standard, like FATCA, aims to increase tax transparency and combat tax evasion, globally.
- 3.2 A central part of the Standard is the Common Reporting Standards (“CRS”), which contain the detailed reporting obligations for Financial Institutions (“FIs”). The reporting pertains to the financial accounts of natural persons and entities held in FIs in another jurisdiction, to that in which they are tax resident.
- 3.3 Both the CRS and the FATCA set out the financial account information to be exchanged; the FI that is obligated to report; the different types of accounts and taxpayers covered; and the due diligence procedures to be followed by an FI.
- 3.4 The obligations under the FATCA and the Standard have been operationalized *inter alia* through the following pieces of legislation:
  - a) The TIEAA 2017 which provides for the implementation of an IGA with the U.S. for the annual automatic reporting and exchange of information, on U.S. reportable accounts held by U.S. persons in FIs in Trinidad and Tobago;
  - b) The TIEAA 2020 which provides for the implementation of IGAs between Trinidad and Tobago and other States for the exchange of information for tax purposes; and
  - c) The MAATMA which establishes the operational framework for the implementation of the Multilateral Convention on Mutual Administrative Assistance in Tax Matters (“the Convention”), to facilitate the exchange of information for tax purposes between Trinidad and Tobago and other States.
- 3.5 For Trinidad and Tobago, the BIR established by Section 3 of the Income Tax Act, Chap.15:01, is the Competent Authority for tax matters. Therefore, it is the BIR which will receive the required information from a RFI and transmit that information to the IRS and the competent authorities listed in Schedule 2 of the MAATMA.



## 4. INTRODUCTION

- 4.1 In accordance with Section 36(dd) of the Central Bank Act, Chap. 79:02 (as amended), the Central Bank of Trinidad and Tobago (“Central Bank” / “Bank”) is responsible for the supervision of a financial institution that is licensed under the FIA (“licensees”) and insurance companies (“insurers”) registered under the IA, on the implementation of declared agreements. Section 10(1)(e) of the FIA and Section 278A(1) of the IA, empowers the Central Bank to issue guidelines to licensees and insurers that are RFIs, for the implementation of a compliance framework to meet the due diligence and reporting obligations set out in the TIEAA 2017 and Schedule 1 of the MAATMA.
- 4.2 The Securities Act, Chap. 83:02 empowers the Trinidad and Tobago Securities and Exchange Commission (“TTSEC”) to issue similar guidelines to its regulated entities. Given that some of the Central Bank’s licensees and insurers are also regulated by the TTSEC, the Central Bank and the TTSEC (“the Regulators”) will collaborate with each other as relevant, and with the BIR, to ensure the financial institutions’ compliance with reporting obligations in respect of declared agreements.

## 5. PURPOSE OF THE GUIDELINE

- 5.1 The purpose of this Guideline is to assist a licensee or insurer that is a RFI under the TIEAA 2017 and the MAATMA, with guidance on the establishment of an appropriate compliance framework to meet the due diligence and reporting obligations for the FATCA and the CRS. **This Guideline replaces the Central Bank’s *Guideline on the Implementation of the Tax Information Exchange Agreements (United States of America) Act, 2017 (revised March 4, 2020)*.**
- 5.2 Where references to terms in FATCA have broadly similar equivalents for CRS purposes, the CRS term is used in this Guideline. For instance, the CRS terms “Financial Institution”, “Information”, “Reportable Account”, “Non-Reporting Financial Institution” respectively encompass the FATCA terms of “Foreign Financial Institution”, “Sensitive Personal Information”, “U.S. Reportable Account”, “deemed-compliant FFI”.
- 5.3 The responsibilities of the Central Bank in respect of this Guideline are to:
- a) review a RFI’s compliance with this Guideline through on-site examinations and off-site surveillance;



- b) take regulatory action against a RFI and individuals<sup>1</sup> for failure to comply with this Guideline; and
  - c) share information with the BIR and the TTSEC as required for the purpose of giving effect to the TIEAA 2017 and the MAATMA.
- 5.4 This Guideline is not intended to replicate the obligations of the TIEAA 2017 and the MAATMA, or the FATCA and the CRS. Certain issues may not be covered in this Guideline in circumstances where the TIEAA2017 and the MAATMA are considered to be sufficiently clear. For the issues that are covered, this Guideline should not be considered exhaustive.
- 5.5 Further, this Guideline does not replace the responsibility of a RFI to seek independent professional advice to understand its obligations in respect of the TIEAA 2017 and the MAATMA. Where a RFI requires further clarification in respect of its reporting obligations, this may be sought from the BIR.

## 6. APPLICATION AND SCOPE

- 6.1 This Guideline applies to all relevant FIs under the FIA or IA as defined in Section 2. An FI should be aware that its overseas branches and subsidiaries may be subject to the laws of the respective jurisdiction as it pertains to the exchange of tax information and therefore, will not be subject to this Guideline. However, it is expected that an FI will ensure that its overseas branches and subsidiaries comply with the relevant laws and regulations in the respective jurisdictions.

## 7. CLASSIFICATION AND REGISTRATION REQUIREMENTS

- 7.1 Each licensee and insurer is required to conduct an assessment in the format shown in Appendix I of this Guideline<sup>2</sup>, to determine its classification and to confirm whether it:
- a) is an FI as defined in Section 9(1) of the TIEAA 2017 and Section 4(1) of the MAATMA;
  - b) is a RFI or a NRFI;
  - c) is registered or is required to register with the IRS for FATCA purposes. An FI that is already registered with the IRS must include the Global Intermediary Identification Number on the self-assessment form;

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<sup>1</sup> These individuals include officers, other employees and agents of insurance companies, or a director or officer of a licensee.

<sup>2</sup> A pdf fillable form is available on the Central Bank's website.

- d) in the case of an FI, whether it has reporting obligations under the TIEAA 2017 and the MAATMA; and
- e) in the case of a RFI, whether it has met the requirements under this Guideline.

## 8. KEY ELEMENTS OF A COMPLIANCE PROGRAMME

8.1 A RFI is required to implement a robust compliance framework to ensure compliance with the TIEAA 2017 and the MAATMA. The compliance framework shall be documented and approved by the RFI's Board of Directors, and shall include the establishment of appropriate policies, procedures, systems and controls for the following:

- a) identification of reportable accounts following the due diligence procedures outlined in Schedule 4 of the TIEAA 2017 and Schedule 1 of the MAATMA;
- b) processing of information in respect of a reportable account, with or without the consent of the account holder;
- c) transmission of information to the BIR in accordance with the reporting requirements and timelines set out in the TIEAA 2017 and the MAATMA;
- d) ensuring timely responses and status updates in respect of requests for information from the BIR and the Central Bank and other competent authorities;
- e) reporting to the RFI's Board of Directors on submissions to the BIR as well as any requests for information, queries and/or notification of non-compliance from the BIR;
- f) taking timely corrective action regarding minor or administrative errors or areas of significant non-compliance identified by the BIR, as outlined in Schedule 2, Article 5 of the TIEAA 2017 and Sections 16(3) and 16(4) of the MAATMA;
- g) conducting specific training for the Board of Directors and for employees including senior management, who have responsibilities pertaining to FATCA and CRS, particularly in respect of on-boarding and documentation validation;
- h) independent testing for compliance with this Guideline, the TIEAA 2017 and the MAATMA;
- i) retention of records and other information in accordance with Section 15 of this Guideline;
- j) adequate safeguards for confidentiality of data submissions; and
- k) ensuring the appropriateness of the information technology systems and the integrity of the data to be submitted to the BIR.

## 9. DUE DILIGENCE REQUIREMENTS

9.1 The compliance framework referred to in section 8 shall include due diligence procedures and processes to identify *inter alia*:

- a) reportable accounts for the purposes of FATCA<sup>3</sup> and CRS<sup>4</sup>;
- b) payments made to a non-participating Financial Institution (for FATCA);
- c) accounts held by a passive NFE and controlled by one or more persons that are reportable persons (for CRS);
- d) pre-existing entity accounts with an aggregate account balance or value that did not exceed 250,000 United States dollars as at December 31, 2024 and which were not initially reviewed, identified, or reported, but subsequently, where the aggregate account balance or value exceed 250,000 United States dollars as at December 31 in any subsequent calendar year;
- e) excluded accounts and when there are changes that would affect the excluded status;
- f) an NRFI; and
- g) undocumented accounts.

9.2 The due diligence processes to be conducted will depend on:

- a) when the account was opened i.e. whether it is a pre-existing (for CRS purposes only) or a new account;
- b) whether the account is held by an individual and is a:
  - low value account<sup>5</sup>; or
  - high value account<sup>6</sup> (where enhanced due diligence procedures apply); or
- c) whether the account is held by an entity.

9.3 A RFI is not required to review accounts closed before January 1, 2025. Table 1 below provides a summary of the procedures to be followed to identify reportable accounts

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<sup>3</sup> See Annex I of the TIEAA 2017.

<sup>4</sup> See Schedule 1 of the MAATMA.

<sup>5</sup> See Annex I-II(B.) of the TIEAA 2017 for FATCA and Schedule 1 -Section VIII(C.)(14) in of the MAATMA for CRS.

<sup>6</sup> See Annex I-II(D.) of the TIEAA 2017 for FATCA and Schedule 1 - Section VIII(C.)(15) in of the MAATMA for CRS.

**Table 1: Summary of Procedures to Identify Reportable Accounts**

Account Holder	Pre-existing accounts maintained as at December 31, 2024 (for CRS purposes only)	New Accounts <sup>7</sup>
<b>Individual</b>	Generally, rely on 'indicia' held on file to determine whether the individual is a resident of a Reportable Jurisdiction listed in Schedule 4 of the MAATMA, by applying the due diligence procedures set out in Section III of Schedule 1 of the MAATMA.	Generally, ask the individual account holder to 'self-certify' <sup>8</sup> whether they are a resident of a Reportable Jurisdiction listed in Schedule 4 of the MAATMA, or whether the account holder is resident in the United States for tax purposes, by applying the due diligence procedures set out in Section IV of Schedule I of the MAATMA for CRS and Section III of Annex I of the TIEAA 2017 for FATCA.
<b>Entity</b>	Generally, rely on 'indicia' held on file that the entity (and, if the entity is a Passive NFE, that any of its controlling persons) is a resident of a Reportable Jurisdiction listed in Schedule 4 of the MAATMA, by applying the due diligence procedures set out in Section V of Schedule 1 of the MAATMA.	Generally, ask the entity account holder to 'self-certify' whether it (and if the entity is a Passive NFE, that any of its controlling persons) is a resident of a Reportable Jurisdiction listed in Schedule 4 of the MAATMA, by applying the due diligence procedures set out in Section VI of Schedule 1 of the MAATMA for CRS and Section V of Annex I of the TIEAA 2017 for FATCA.

<sup>7</sup> For CRS, 'new accounts' are in respect of accounts opened on or after January 1, 2025. See Schedule 1 - Section IV and Section VI of the MAATMA for new individuals and entities respectively.

<sup>8</sup> The self-certification should contain the minimum information listing in the Mutual Administrative Assistance in Tax Matters Regulations. Where it is not possible to obtain a self-certification on 'day one' of the account opening process, one should be obtained and validated as soon as practicable, and in any event, no later than 90 days after the account was opened.

## 10. REPORTING REQUIREMENTS

### 10.1 TIEAA 2017 / FATCA Reporting

10.1.1 A RFI shall continue to meet the established reporting requirements in respect of FATCA reportable accounts as set out in Schedule 2, Article II of the TIEAA 2017, to report to the BIR on:

- a) Information on an Account Holder in respect of a U.S. Reportable Account within nine (9) months after the end of the calendar year to which the Information relates; and
- b) the names of Non-Participating Financial Institutions to which any payments have been made, within nine (9) months after the end of the calendar year.

10.1.2 A RFI shall notify the BIR and the Central Bank if there is a change in its registration status with the IRS, including if it ceases to be registered, within 30 days of such change.

### 10.2 MAATMA / CRS Reporting

10.2.1 The first reporting date to the BIR shall be **May 31, 2026 and annually on May 31** thereafter, following the calendar year ending December 31, to which the information relates.

10.2.2 A RFI or a third party acting on behalf of a RFI must follow the due diligence procedures set out in Sections II to VII of Schedule 1 of the MAATMA, to identify:

- a) whether it maintains any financial accounts;
- b) the type of financial accounts held; and
- c) whether the financial accounts are reportable accounts.

10.2.3 For CRS purposes, the RFI shall report the information set out in Section 11(2) of the MAATMA, subject to the provisions outlined in Section 12(7), (8) and (9) of the MAATMA, on every identified reportable account. See Table 2 for the key CRS implementation dates.

### 10.3 General Reporting Requirements

10.3.1 The reports referred to hereunder shall be submitted electronically in a form and manner as prescribed by the BIR.

10.3.2 Where a RFI applies the due diligence procedures for a particular calendar year and no account is identified as a reportable account, the

RFI shall file a 'Nil' report to the BIR, by May 31 annually, following the calendar year ending December 31, to which the information relates.

10.3.3 A RFI shall notify an account holder that information relating to that person has been reported to the BIR and will be exchanged with the competent authority in accordance with the TIEAA 2017 and the MAATMA. The notification must be made by January 31 in the calendar year following the first year in which the account held by the persons became reportable. The notification shall be in the form prescribed by Order made by the Minister.

10.3.4 A RFI shall withhold the notification to the account holder when required to do so by the BIR, until such time as informed by the BIR to proceed with notifying the account holder.

Issued for Consultation



**Table 2: CRS Implementation Dates for Identification, Review and Reporting of Accounts**

Type of Account	Defined as	Reporting Date(s) to the BIR		
<b>New Accounts</b>	A Financial Account maintained by a Reporting Financial Institution opened on or after January 1, 2025.	May 31, 2026 and May 31 annually thereafter		
<b>Preexisting Accounts</b>	A Financial Account maintained by a Reporting Financial Institution as of <b>December 31, 2024</b> .	<b>Individual High Value Accounts</b>	<b>Individual Low Value Accounts</b>	<b>Entity Accounts</b>
	<b>Deadline for Completing Review of Pre-Existing Accounts</b> The review of all pre-existing accounts shall commence on <b>January 1, 2025</b> .	December 31, 2025	December 31, 2026	December 31, 2026
	<b>Initial Deadline for Reporting Pre-Existing Accounts to BIR</b>	May 31, 2026	May 31, 2027 <sup>9</sup>	May 31, 2027 <sup>10</sup>

<sup>9</sup> Pre-existing individual low value accounts identified as reportable in 2025 must be reported to the BIR by May 31, 2026

<sup>10</sup> Pre-existing entity accounts identified as reportable in 2025 must be reported to the BIR by May 31, 2026

## 11. USE OF THIRD PARTY SERVICE PROVIDERS

- 11.1 A RFI may use third party service providers such as data providers, financial advisors or insurance agents, to the extent provided in the relevant U.S. Treasury Regulations and the conditions prescribed in the Regulations made in respect of Sections 12(1) and (3) of the MAATMA, to perform due diligence procedures and fulfill their reporting obligations, In such instances, the RFI shall be ultimately responsible for its reporting and due diligence obligations.
- 11.2 The use of service providers is subject to the requirements of the Central Bank's *Guideline for the Management of Outsourcing Risks*. This includes *inter alia* ensuring that the outsourcing will not impair the RFI from fulfilling its reporting obligations to the BIR and to other competent authorities such as the Financial Intelligence Unit of Trinidad and Tobago ("FIUTT") and the Trinidad & Tobago Police Service, or impede the Central Bank from exercising its regulatory and supervisory functions.
- 11.3 Where a third party service provider is utilized, the RFI shall obtain the consent of the customer to share his/her information with the service provider.
- 11.4 The RFI must also inform the Central Bank of its decision to use a third party service provider within 30 days of entering into an agreement with the third party service provider, and provide information on the measures taken to ensure confidentiality of information.
- 11.5 Where a third party service provider is used, the RFI:
- a) shall at all times, have access to and be able to produce the records and documentary evidence<sup>11</sup> used to identify and report on reportable accounts;
  - b) is responsible for any failure of the third party service provider to carry out its obligations;
  - c) shall be responsible for the confidentiality of any information transmitted to the third party provider.

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<sup>11</sup> See Section VIII(E)(6) - Defined Terms in Schedule 1 of the MAATMA for examples of what constitutes 'documentary evidence'.

## 12. CONFIDENTIALITY OF CUSTOMER INFORMATION

- 12.1 The RFI shall, in respect of any information received with regards to the TIEAA 2017 and the MAATMA, ensure that the information is:
- a) treated as confidential;
  - b) afforded the necessary safeguards as may be required for the protection of personal data; and
  - c) only disclosed to an authority that is legally entitled to the information, who shall use the information solely to fulfil its obligations under the TIEAA 2017 and the MAATMA.

## 13. RESPONSIBLE OFFICER AND/OR POINT OF CONTACT

- 13.1 For the purpose of ensuring compliance with the reporting requirements of the TIEAA 2017, every RFI shall:
- a) designate a manager or official employed at managerial level as the Responsible Officer for the purpose of conducting the activities at section 13.6;
  - b) designate a Point of Contact for the purpose of conducting activities at section 13.5; and
  - c) notify the BIR and the Central Bank of the name, designation and contact details.
- 13.2 Where the RFI is a member of a financial group, the financial group may designate a manager or senior officer employed at a managerial level within the financial group as the Responsible Officer for one or more Reporting Financial Institutions within the group.
- 13.3 The Responsible Officer and Point of Contact may be one and the same person, and may also be responsible for ensuring that the RFI meets its obligations under the MAATMA.
- 13.4 A RFI shall ensure that the Responsible Officer and Point of Contact receive appropriate training to enable him/her to perform his/her duties adequately of the Responsible Officer and Point of Contact.
- 13.5 The Point of Contact must:
- a) report to the BIR, as required under section 10; and
  - b) facilitate communication between the RFI and the BIR.
- 13.6 The Responsible Officer shall also function as the official liaison with the Central Bank and ensure:

- a. that the self-assessment referred at section 7 is conducted and submitted to the Central Bank;
- b. that the policies and procedures of the RFI, required for compliance with the reporting requirements of the TIEAA 2017 and the MAATMA, are in place;
- c. the accuracy and timeliness of all data submissions to the BIR;
- d. that the RFI complies with the applicable registration requirements on the IRS FATCA registration website;
- e. that queries from the BIR and the Central Bank are prioritized and responded to in such time and such manner as may be required; and
- f. there is reporting to the Board of Directors, at least annually, on the RFI's compliance framework, which should include *inter alia* any:
  - self-identified deficiencies or incidents of non-compliance;
  - recommendations made by the Central Bank or the internal or external auditors in respect of deficiencies in its compliance framework;
  - notifications from the BIR of errors or material non-compliance with the reporting requirements of the TIEAA 2017 and the MAATMA and remedial actions undertaken, and
  - instances where the RFI is unable to comply with a request for information from the BIR, the reasons why and the risks of non-compliance with the request for the RFI.

13.7 The RFI must ensure that the Responsible Officer, Point of Contact and other relevant employees have timely access to customer data, records and relevant information to enable them to:

- a. comply with the reporting requirements under the TIEAA 2017 and the MAATMA;
- b. report to its Board of Directors, the BIR and the Central Bank as appropriate; and
- c. address queries and/or instances of non-compliance.

## 14. INDEPENDENT REVIEW

### 14.1 Internal Audit Reviews

14.1.1 RFIs should conduct an internal audit to assess their compliance with FATCA and CRS reporting requirements. **The first internal audit review for CRS purposes should be completed by March 31, 2026, and thereafter, on a risk basis for both CRS and FATCA purposes.** Consequently, RFIs regulated by the Central Bank must have the requisite monitoring systems and key indicators in place to periodically assess the risks presented from non-compliance with CRS and FATCA obligations.

14.1.2 Internal audits should ensure that the RFI's compliance framework adheres to the requirements of the TIEAA 2017, MAATMA and Guidelines issued by the Regulators. Audit reviews should assess the adequacy of the systems, procedures and processes for collecting, processing and for the appropriate retention of information on reportable accounts to be submitted to the BIR, including *inter alia* the following:

- a) Account categorization: there are appropriate measures for the identification and the applicable due diligence procedures for:
  - New and pre-existing accounts;
  - High and lower value accounts;
  - Entity (and its controlling person(s)) and individual accounts;
  - Accounts held by a passive NFE and controlled by one or more persons that are reportable persons;
  - Excluded accounts and when there are changes that would affect the excluded status;
  - Undocumented accounts; and
  - NRFIs.
- b) Account balance thresholds: there are processes in place to identify entity accounts where the account balances:
  - should be aggregated and for the calculation of aggregate balances, to determine whether reportable; and
  - were initially below the threshold for review and reporting, but subsequently exceeds the threshold.
- c) BIR and other Competent Authorities' Requests for Information: there are procedures and processes for the timely processing of

requests for information, including for providing the BIR and other Competent Authorities with status updates when there are delays.

- d) Corrective action regarding minor or administrative errors or areas of significant non-compliance: there are procedures and processes for addressing in a timely manner, errors and non-compliant issues identified by the BIR and the Central Bank.
- e) Escalation procedures: there are procedures and processes in place to ensure that senior management and as necessary, the RFI's Board of Directors, are notified of requests for information and directives from the BIR and the Central Bank to take corrective actions.

14.1.3 Internal auditors should also follow up routinely to ensure that recommendations made by the RFI's external auditors, the BIR and the Central Bank are acted upon in a timely manner.

## 14.2 External Audit Reviews

14.2.1 The external auditor shall evaluate the RFI's compliance with the TIEAA 2017, MAATMA and Guidelines issued by the Regulators at least once every three (3) years and submit an external audit report with recommendations to the Central Bank and the RFI's Board of Directors within four (4) months of the RFI's year end.

14.2.2 **The first external audit report must be submitted to the Central Bank within four (4) months of the RFI's 2026 financial year end, and every three (3) years thereafter.** The scope of each subsequent audit must cover the three-year period following the reference date of the previous audit.

## 15. RECORD KEEPING REQUIREMENTS

15.1 A RFI shall retain the records of information reported to the BIR for a minimum period of five (5) years after the end of the reporting period. Such records shall include records of the steps taken, and all books, documents, and other records obtained, created or relied upon for the purpose of complying with the TIEAA 2017 and the CRS due diligence requirements outlined in Schedule 1 of the MAATMA.

15.2 The record keeping period set out in section 15.1 is subject to any longer period of retention that may be required under other laws, including but not limited to the laws enacted to combat money laundering, the financing of terrorism and the financing of proliferation of weapons of mass destruction.



## 16. TRAINING OF EMPLOYEES

- 16.1 A RFI is required to ensure that its directors, Responsible Officer, Point of Contact and relevant employees are made aware of their obligations in respect of the reporting requirements of the TIEAA 2017 and the MAATMA, including the requirements concerning customer due diligence.
- 16.2 Training should target all directors and relevant employees including senior management, with emphasis on the Responsible Officer as well as relationship officers, and the compliance and audit employees.
- 16.3 At a minimum, a RFI is required to:
- a) develop an appropriately tailored FATCA and CRS training and awareness programme;
  - b) document its approach to training;
  - c) ensure that employees involved with screening customers or obtaining customer information including relationship officers, are aware of the reporting requirements of the TIEAA 2017 and the MAATMA;
  - d) establish and maintain a regular schedule of new and refresher programmes for the different types of training required for relevant employees; and
  - e) provide all relevant employees with reference manuals/materials that outline their responsibilities and the RFI's policies. These should complement rather than replace formal training programmes.

## 17. NON-COMPLIANCE AND ENFORCEMENT

- 17.1 Pursuant to Section 12(10) of the MAATMA, a RFI commits an offence when it fails to:
- a) maintain records, including records of non-reportable accounts;
  - b) report or report on time to the BIR, the information (where applicable to the RFI) required under Section 11(2) and Section 1 of Schedule 1 of the MAATMA;
  - c) conduct the due diligence measures necessary to meet its reporting obligations to the BIR, including failing to obtain the self-certification from reportable persons confirming that they are tax resident of a particular country or territory.
- 17.2 FIs licensed or registered under the FIA and IA respectively, are reminded that nothing in Section 55 of the FIA and Section 259 of the IA prevents them from disclosure of information to the BIR for the purpose of giving effect to a declared agreement. Pursuant to Section 117A(1) of the Income Tax Act Chap. 75:01, it is an offence for a RFI or an officer of the RFI, to fail to comply

with a request from the BIR, for the purpose of giving effect to the TIEAA 2017 and the MAATMA, in the following instances:

- a) for financial and other information;
- b) for a RFI or officer of the RFI to give evidence or be examined under other or otherwise; or
- c) for any supporting documentation in respect of (a) and (b) above.

17.3 In this regard, the Central Bank may take such regulatory measures, as may be allowed under the FIA and IA, to ensure compliance with this Guideline, including, but not limited to, on-site examinations to assess the adequacy/effectiveness of the RFI's compliance framework.

17.4 Additionally, if the BIR indicates that:

- a) in the case of a RFI licensed under the FIA, the RFI or its controlling or significant shareholder, director or officer; or
- b) in the case of a specified insurer, the RFI, its officer, employee or agent,

failed to take such actions as may be necessary to give effect to, or comply with, the TIEAA 2017 or the MAATMA, the Central Bank may issue compliance directions as may be necessary to rectify the non-compliance.

17.5 When considering the appropriate intervention action or combination of actions needed to address potential concerns or non-compliance with this Guideline, the Central Bank will consider the underlying factors outlined in section 7.4 of its Supervisory Ladder of Intervention<sup>12</sup>, including *inter alia*:

- a) the nature and seriousness of the non-compliance;
- b) whether there are a number of deficiencies which, when considered collectively, indicate a pattern of non-compliance;
- c) the extent to which the Board of Directors, Responsible Officer or any other officer acted in such a way to contribute to or further non-compliance; and
- d) any corrective measures undertaken by the RFI.

17.6 Compliance directions issued by the Central Bank's Inspector of Financial Institutions for non-compliance with this Guideline shall require the RFI to either take or not take a specified action in order to comply with this Guideline, the TIEAA 2017 and the MAATMA.

17.7 A RFI is required to immediately notify the BIR and Central Bank of any matter arising that would impede its ability to comply with this Guideline or the reporting requirements under the TIEAA 2017 and the MAATMA, and its plan to address this deficiency.

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<sup>12</sup> [The Central Bank's Supervisory Ladder of Intervention, May 2022](#)

**APPENDIX I****SELF-ASSESSMENT FORM**

This Form is intended to assist you in identifying your entity's classification in accordance with the TIEAA 2017 and is to be used as a guide only.

Section D of this Form must be completed by all Reporting Financial Institutions to assist with assessing the industry's compliance with the TIEAA 2017 and the industry's state of readiness to comply with the MAATMA and this Guideline.

This Form is not a substitute for understanding the requirements and obligations of the relevant laws and must be read in conjunction with the TIEAA 2017, the MAATMA and this Guideline.

**Section A (Fill in block letters)**

1. Legal Name of the Financial Institution

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2. Address of the Financial Institution

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3. What is the jurisdiction of incorporation of the Financial Institution?

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4. Status of Financial Institution (tick all applicable boxes)

Licensed under the Financial Institutions Act, Chap. 79:09

Registered under the Insurance Act, Chap. 84:01

Registered under the Securities Act, Chap.83:02

**Section B (Tick relevant boxes)**

5. With reference to the TIEAA 2017, the Financial Institution is categorized as a:

- a)  Financial Institution (as defined in Section 9(1) of the TIEAA 2017) - **GO TO SECTION C**

Custodial Institution

Depository Institution

Investment Entity

Specified Insurance Company



### Section D (Tick relevant boxes)

9. For the purposes of compliance with the reporting requirements of the TIEAA 2017 and the MAATMA, please confirm the following:

	YES	NO
i. The Reporting Financial Institution has developed and implemented a compliance framework as required under Section 8 of this Guideline.	<input type="checkbox"/>	<input type="checkbox"/>
ii. The compliance framework of the Reporting Financial Institution is documented and has been approved by the Board of Directors.	<input type="checkbox"/>	<input type="checkbox"/>
iii. The Reporting Financial Institution has established due diligence procedures in accordance with Section 9 of this Guideline to identify Reportable Accounts.	<input type="checkbox"/>	<input type="checkbox"/>
iv. The Reporting Financial Institution has implemented a record retention policy for the information required to be reported to the BIR in accordance with Section 15 of the Guideline.	<input type="checkbox"/>	<input type="checkbox"/>
v. The Reporting Financial Institution has implemented a process to notify account holders in respect of Reportable Accounts in accordance with Section 10.3.3 of this Guideline.	<input type="checkbox"/>	<input type="checkbox"/>

### Section E

#### Self-Declaration:

I declare that I have examined the information on this form, to the best of my knowledge, and belief it is true, correct, and complete. I agree that I will submit a revised form within 30 days if there is any change of circumstances which will necessitate an update to the information provided in this form.

Name and designation of Chief Executive Officer

Signature:

Date:

## REFERENCES

OECD (2014), Standard for Automatic Exchange of Financial Account Information in Tax Matters, OECD Publishing. [https://www.oecd.org/en/publications/standard-for-automatic-exchange-of-financial-account-information-for-tax-matters\\_9789264216525-en.html](https://www.oecd.org/en/publications/standard-for-automatic-exchange-of-financial-account-information-for-tax-matters_9789264216525-en.html)

OECD (2020), Automatic Exchange of Information: Guide on Promoting and Assessing Compliance by Financial Institutions, Paris. [www.oecd.org/tax/forum-on-tax-administration/publications-and-products/automatic-exchange-of-information-guide-on-promoting-and-assessing-compliance-by-financial-institutions.html](http://www.oecd.org/tax/forum-on-tax-administration/publications-and-products/automatic-exchange-of-information-guide-on-promoting-and-assessing-compliance-by-financial-institutions.html)

Issued for Consultation