



**REPORT OF THE FINANCE COMMITTEE ON THE
STANDARD FOR AUTOMATIC EXCHANGE OF
FINANCIAL ACCOUNT INFORMATION
(AMENDMENT) BILL, 2022**

1.0 INTRODUCTION

The **Standard for Automatic Exchange of Financial Account Information (Amendment) Bill, 2022** was *presented and read the first time* in the House on 14th February, 2023 by the Hon. Minister responsible for Health, Hon. Kwaku Agyeman-Manu on behalf of the Minister responsible for Finance.

The Bill was subsequently *referred* to the Finance Committee for consideration and report in accordance with Order 169 of the Standing Orders of the House.

The Committee met and considered the Bill with a Deputy Ministers for Finance, Hon. Mrs. Abena Osei-Asare and a team of officials from the Ministry of Finance, the Ghana Revenue Authority (GRA) and the Attorney General's Department.

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The Committee is grateful to the above-mentioned Hon. Deputy Minister and the team of officials of the Ministry of Finance, GRA and the Attorney General's Department for attending upon the Committee.

2.0 REFERENCES

The Committee referred to and was guided by the following documents *inter alia* during its deliberations on the Bill:

- The 1992 Constitution of the Republic of Ghana.
- The Standing Orders of the Parliament of Ghana.
- Interpretation Act, 2009 (Act 792).
- Standard for Automatic Exchange of Financial Account Information Act, 2018 (Act 967).

3.0 OBJECT OF THE BILL

The object of the Bill is to amend the Standard for Automatic Exchange of Financial Account Information Act, 2018 (Act 967) to provide for the strengthening of due diligence procedures and proscribe circumvention practices.

4.0 CONTENTS OF THE BILL

The Bill contains a total of five (5) clauses.

Clause 1 of the Bill amends section 8 of the Act to impose an obligation on a reporting financial institution to note the steps taken in the performance of due diligence procedures for obtaining self-certification from an account holder.

Clause 2 of the Bill amends section 12 of the Act. The clause prohibits financial institutions, persons or intermediaries from adopting circumvention practices intended to circumvent reporting and due diligent procedures. The clause further defines circumvention practices to include the manipulating of year-end amounts such as account balances to avoid reporting or being reported upon, and advising a customer to maintain an account with a related entity in a non-participating jurisdiction that enables the reporting financial institution to avoid reporting while offering to provide services and retain customer relations as if the account was maintained by that reporting financial institution. Other circumvention practices include parking balances from other reportable accounts and qualified credit card issuers for a short period at the end of the year to avoid reporting; intentionally creating any electronic records such that an electronic record search would not yield any results; or maintaining computerised systems artificially dissociated to avoid the account aggregation rules.

Clause 3 of the Bill amends section 17 of the Act to provide additional offences and penalties while *clause 4* provides definitions for "currency point" and "Depository Account".

Clause 5 amends the Second Schedule of the Act to provide the date of implementation of policies and procedures by Financial Institutions either to prevent a customer from making an overpayment in excess of USD50,000, or to ensure that any customer overpayment in excess of USD50,000 is refunded to the customer.

5.0 OBSERVATION

5.1 Fulfilment of International Obligation

The Committee observed that in fulfilment of the international obligations of Ghana as a member of the Global Forum on Transparency and Exchange of Information for Tax Purposes, Ghana signed onto the Multilateral Competent Authority Agreement on 14th May, 2015. The Multilateral Competent Authority Agreement requires Ghana to automatically exchange financial account information with other participating jurisdictions from the year 2018. The Standard for Automatic Exchange of Financial Account Information Act, 2018 (967) was enacted to implement the obligations of the country under the Agreement. After putting in place the necessary structures, Ghana started exchanging information in 2021.

5.2 Necessity of the Amendment

The Global Forum on Transparency and Exchange of Information for Tax Purposes conducted an assessment of the domestic legislative framework for implementing the Automatic Exchange of Information Standard in 2022 to enable Ghana to also receive information. The report of the assessment gave Ghana the green light for the receipt of information and recommended some legislative changes to Act 967. The recommended legislative changes have necessitated this amendment.

5.3 Worldwide Taxation Principle

The Committee was informed that it has presently become relatively easy for capital and individuals to move freely across the globe.

Since the Ghana Revenue Authority (GRA) is now applying worldwide taxation principles in respect of persons resident in Ghana, there is the need to receive financial account information in respect of foreign based accounts and income of persons resident in Ghana.

5.4 Tax Credits Applicable

The Committee was further informed that where taxes have already been paid abroad on the foreign held income of a person resident in Ghana, the person gets the credit for the tax already paid so that only the information is collected by GRA and not another tax.

5.5 Automatic Exchange vrs Specific Requests

The Committee noted that the automatic exchange of information regime makes the exchange of relevant information automatic and not subject to any specific request.

Currently, 162 countries are said to be part of this multilateral arrangement of which 122 are presently actively exchanging information, with more countries joining over time.

It was explained that 'exchange of information on request' is used to complement the automatic exchange regime for enhanced effectiveness.

5.6 Prohibition of Circumvention

The Committee noted that provisions have been made in the Bill to prohibit circumvention practices intended to circumvent reporting and due diligent procedures.

The Bill defines circumvention practices to include the manipulating of year-end amounts such as account balances to avoid reporting or being reported upon, and advising a customer to maintain an account with a related entity in a non-participating jurisdiction that enables the reporting financial institution to avoid reporting while offering to provide services and retain customer relations as if the account was maintained by that reporting financial institution.

6.0 AMENDMENTS PROPOSED

- i. **Clause 1 – Amendment Proposed** – Line 3, before “of”
insert “of section 8”
- ii. **Clause 1 – Amendment Proposed** – *Delete* subclause (5) and *insert* the following:
“(5) A reporting financial institution required under subsection (1) to keep records shall document the steps taken in accordance with the Second Schedule, in performing due diligence procedures for obtaining self-certification from an account holder.”
- iii. **Clause 4 – Amendment Proposed** – Line 1, before “by”,
insert “of section 19”

- iv. **Clause 5 – Amendment Proposed – Line 1, after “amended” insert “in the Second Schedule”**

7.0 RECOMMENDATION AND CONCLUSION

The Committee recommends to the House to adopt this report and pass the **Standard for Automatic Exchange of Financial Account Information (Amendment) Bill, 2022** into law, subject to the amendments proposed.

Respectfully Submitted.



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HON. KWAKU KWARTENG
(CHAIRMAN, FINANCE COMMITTEE)



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JOANA A.S. ADJEI (MRS)
(CLERK, FINANCE COMMITTEE)

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