
Fourth Session Twelfth Parliament Republic of
Trinidad and Tobago



REPUBLIC OF TRINIDAD AND TOBAGO

Act No. 1 of 2024

[L.S.]

AN ACT to amend the Trustees Ordinance, Chap. 4 of 1939, Exchequer and Audit Act, Chap. 69:01, the Minister of Finance (Incorporation) Act, Chap. 69:03, Proceeds of Crime Act, Chap. 11:27, Income Tax Act, Chap. 75:01, the Companies Act, Chap. 81:01, the Partnerships Act, Chap. 81:02, the Securities Act, Chap. 83:02, the Tax Information Exchange Agreements Act, No. 5 of 2020, the Non-Profit Organisations Act, No. 7 of 2019 and the Mutual Administrative Assistance in Tax Matters Act, No. 7 of 2020

[Assented to 22nd February, 2024]

Enactment ENACTED by the Parliament of Trinidad and Tobago as follows:

Short title **1.** This Act may be cited as the Miscellaneous Provisions (Trustees, Exchequer and Audit Act, the Minister of Finance (Incorporation) Act, Proceeds of Crime, Income Tax, Companies, Partnerships, Securities, Tax Information Exchange Agreements, the Non-Profit Organisations and Mutual Administrative Assistance in Tax Matters) Act, 2024.

Commencement **2.** This Act shall come into effect on such date as is set by the President by Proclamation.

Chap. 4 of 1939 amended **3.** The Trustees Ordinance is amended by inserting after section 10 the following new Part and sections:

“PART IIA

BENEFICIAL OWNERSHIP OF EXPRESS TRUSTS

Interpretation of certain words and phrases in Part IIA 10A. (1) Section 10B is to be read and have effect as if each of the following were an individual, even if they are legal persons under the laws by which they are governed—

- (a) a corporation sole;
- (b) a body corporate created under any written law except under this Act; or
- (c) an international organization where members include two or more countries or territories or their government.

(2) For the purposes of this Part “beneficial owner” means—

- (a) the settlor, trustee, protector, the beneficiaries or class of beneficiaries and any other natural person exercising ultimate effective control

over an express trust directly or indirectly, including through a chain of control or ownership, whether a domestic or foreign trust, and, in respect of a settlor or trustee that is a company that is not a natural person, the beneficial owner identified under section 337A(2) of the Companies Act, or a registered entity under section 4 of the Securities Act; and

Chap. 81:01

(b) in respect of other types of legal arrangements, the natural persons in equivalent or similar positions.

Obligation to ascertain and obtain beneficial ownership information

10B. A trustee of every express trust, or the administrator of any other form of legal arrangement, shall ascertain and obtain information as to all the beneficial owners of the express trust or other form of legal arrangement.

Requirement to register beneficial owner of trust

10C. (1) Where a person is a beneficial owner identified under section 337A(2) of the Companies Act or a registered entity under section 4 of the Securities Act, the person shall, within thirty days of—

(a) the commencement of this section or such other period as the Minister may by Order approve, in respect of an express trust or other legal arrangement in existence at the commencement of this subsection; or

- (b) acquiring the beneficial interest, after the commencement of this subsection,

submit a statement in the prescribed form to the trustee of the express trust or administrator of the other form of legal arrangement.

(2) Where after the commencement of this section any change occurs in—

- (a) the beneficial ownership of the express trust or other form of legal arrangement;
or
(b) the particulars of the beneficial owner,

the beneficial owner shall submit to the trustee of an express trust or the administrator of any other form of legal arrangement, within a period of thirty days from the date of the change of statement or such other period as the Minister may by Order approve in the prescribed form together with any supporting documentation.

(3) A person who fails, without reasonable cause, to submit a statement as required under this section commits an offence and is liable on summary conviction to a fine of ten thousand dollars and to imprisonment for three years and for every day in which the offence continues, a further fine of three hundred dollars.

(4) A person who provides false information in the statement under subsection (1), commits an offence and is liable on summary conviction to a fine of ten thousand dollars and to imprisonment for three years.

Trustee or
administrator
to submit a
statement

10D. (1) The trustee of every express trust, or the administrator of any other form of legal arrangement, shall, submit a return in the prescribed form, together with any supporting documentation and the prescribed fee, to the Registrar General within thirty days of receipt of a statement under section 10C.

(2) Where, after the commencement of this section any change occurs in—

- (a) the beneficial ownership of the express trust or other form of legal arrangement;
or
- (b) the particulars of the beneficial owner or settlor, trustee, protector, beneficiaries or class of beneficiaries, or persons in equivalent or similar positions,

the trustee of an express trust or the administrator of any other legal arrangement shall, within a period of thirty days of receipt of the statement under section 10C submit a return in the prescribed form, together with any supporting documentation and the prescribed fee, to the Registrar General.

(3) A trustee of an express trust or the administrator of any other form of legal arrangement shall maintain and keep updated a register of all the beneficial owners containing the name, nationality, the latest known address, telephone number, email and other contact details and the date on which any person ceased to be beneficial owner.

(4) A trustee of an express trust or the administrator of any other form of legal arrangement shall not remove beneficial ownership information from its register, for a period of six years after—

- (a) a person ceases to be a beneficial owner; or
- (b) the dissolution of the trust or other form of legal arrangement.

(6) A trustee of every express trust or the administrator of any other legal arrangement shall ensure that the information he maintains, in respect of beneficial owners of the trust or legal arrangement, is current and correct.

(7) Where a trustee of an express trust or the administrator of any other legal arrangement fails—

- (a) to take reasonable steps to ascertain and obtain all information as to the beneficial owners of the express trust or other legal arrangement;
- (b) to maintain and keep updated its register of beneficial owners;
- (c) to ensure that the information it maintains in respect of beneficial owners of the express trust or other legal arrangement is current and correct; or
- (d) knowingly or recklessly, to file a return under subsection (1), within the specified period,

the trustee of the express trust or administrator of the other legal arrangement commits an offence and is liable on summary conviction to a fine of ten thousand dollars and to imprisonment for three years and for every day in which the offence continues a further fine of three hundred dollars.

Registrar
General to
maintain
register of
beneficial
owners of
express trust
etc.

10E. (1) The Registrar General shall maintain a register of beneficial owners of express trusts and other forms of legal arrangements.

(2) The Registrar General, upon receipt of a return pursuant to section 10C, shall update the register of beneficial owners.”.

4. The Exchequer and Audit Act is amended by Chap. 69:01
amended inserting after section 31, the following new sections:

“Interpretation
of certain
words and
phrases for
sections 31B
and 31C

31A. For the purposes of sections 31B and 31C—

“beneficial owner” means, in respect of statutory body subject to this Act—

(a) the natural person who owns or controls ten per cent or more of the membership interest in the statutory body through—

(i) direct ownership;
or

(ii) indirect ownership; or

(iii) control through other means;

- (b) the natural person who exercises ultimate effective control of the statutory body indirectly or through other means; or
- (c) if no person is identified under paragraphs (a) or (b), or if there is any doubt that the person identified is the beneficial owner, the natural person who holds the position of senior managing official; and

“Member” means the person or persons having control over a statutory body, including a director.

Obligations in respect of beneficial ownership information

31B. (1) A statutory body, which is subject to the provisions of this Act, shall ascertain and obtain information as to all the beneficial owners of the statutory body, which existed before the commencement of the Miscellaneous Provisions (Trustees, Exchequer and Audit Act, the Minister of Finance (Incorporation) Act, Proceeds of Crime, Income Tax, Companies, Partnerships, Securities, Tax Information Exchange Agreements, the Non-Profit Organisations and Mutual Administrative Assistance in Tax Matters) Act, 2023.

(2) A statutory body, subject to the provisions of this Act, shall issue a notice in the prescribed form to all members within thirty days of the commencement of this subsection, where the members of

the statutory body were appointed prior to, or after the commencement of the Miscellaneous Provisions (Trustees, Exchequer and Audit Act, Minister of Finance (Incorporation) Act, Proceeds of Crime, Income Tax, Companies, Partnerships, Securities, Tax Information Exchange Agreements, the Non-Profit Organisations and Mutual Administrative Assistance in Tax Matters) Act, 2023 and failed to comply with subsection (1).

(3) The notice referred to in subsection (2) shall require that a statement be submitted to the statutory body in accordance with section 31C(4).

(4) A statutory body, which is subject to the provisions of this Act, shall maintain and keep updated a register of all its beneficial owners containing the name, nationality or the latest known address or, telephone, email and other contact details and the date on which any person ceased to be beneficial owner.

(5) A statutory body, which is subject to the provisions of this Act, shall not remove beneficial ownership information from its register, for a period of six years after a person ceases to be a beneficial owner.

(6) A statutory body, which is subject to the provisions of this Act, shall take reasonable steps to verify information on the register of the beneficial owners of the statutory body.

(7) Where a statutory body, which is subject to the provisions of this Act, fails

to maintain its register of beneficial owners, the statutory body, every member of the statutory body commits an offence and is liable on summary conviction to a fine of ten thousand dollars and to imprisonment for three years and for every day in which the offence continues a further fine of three hundred dollars.

(8) Where a statutory body under this section fails to take reasonable steps to ascertain and obtain all information as to the beneficial owners holding an interest in the statutory body, the statutory body and every member of the statutory body commits an offence and is liable on summary conviction to a fine of ten thousand dollars and to imprisonment for three years and for every day in which the offence continues a further fine of three hundred dollars.

(9) A statutory body shall annually verify information on record at the Treasury.

Statement in
respect of
beneficial
interest

31C. (1) Where, prior to or upon the commencement of this section, the name of a person is entered in the register of beneficial owners of a statutory body as the holder of ten per cent or more of the membership interest in that the statutory body and that person is the beneficial owner of such membership interest—

(a) notwithstanding section 31B, the person is exempt from submitting a statement in the prescribed form to the statutory body;

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- (b) the person will be deemed to be a beneficial owner and recorded on the register of beneficial owners maintained by the statutory body; and
 - (c) the statutory body shall, within thirty days of the name of the beneficial owner being recorded on its register, deliver to the Treasury, a return in the prescribed form.

(2) Where the name of a person is entered in the register of beneficial owners of the statutory body as the holder of ten percent or more of the membership interests in that the statutory body but the person, is not the beneficial owner of such membership interests the person shall, within thirty days of the issue of a notice under section 31B(2) or such other period as the Minister may by Order approve, submit a statement in the prescribed form to the statutory body.

(3) Where a notice is not received under section 31B(2) and—

- (a) a Member is not the beneficial owner; and
- (b) the name of the beneficial owner is not entered on the register,

the member and the beneficial owner shall submit a statement in the prescribed form to the statutory body to that effect.

(4) Where a person is the beneficial owner of ten per cent or more of the membership interest of the statutory

body, but his name is not entered in the register of members, the person shall, within thirty days of acquiring the beneficial interest or alternatively, the issue of a notice under section 31B(2) or such other period as the Minister may by Order approve, submit a statement in the prescribed form to the statutory body.

(5) Where any change occurs in—

- (a) the beneficial ownership of the membership of a statutory body; or
- (b) the particulars of the beneficial owner or shareholder,

both the person referred to in subsection (2) and the beneficial owner specified in subsection (4) shall, within a period of thirty days from the date of the change or such other period as the Minister may by Order approve, submit a statement in the prescribed form to the statutory body.

(6) A person who fails, without reasonable cause, to submit a statement as required under this section, commits an offence and is liable on summary conviction to a fine of ten thousand dollars and to imprisonment for three years and for every day in which the offence continues, a further fine of three hundred dollars.

(7) Where a statement is made to a statutory body under this section, the statutory body shall update the register established by it for such purpose and, within thirty days from the receipt of the statement, deliver to the Treasury a return in the prescribed form and accompanied by the prescribed fee.

(8) Where a statutory body, required to file a return under subsection (7) within the specified period fails to do so, the statutory body and any member of the statutory body who knowingly or recklessly fails to file the return commits an offence and is liable on summary conviction to a fine of ten thousand dollars and to imprisonment for three years and for every day in which the offence continues, a further fine of three hundred dollars.

(9) A return under this section shall contain the prescribed information which shall be current information up to the date of delivery of the return.

Register of
Beneficial
Owners

31D. (1) The Treasury shall maintain a register of beneficial owners.

(2) The Treasury, upon receipt of a return pursuant to section 31B(2), shall update the register of beneficial owners.

Treasury to
monitor
beneficial
ownership
information

31E. For the purposes of this Part, the Treasury shall monitor the filings by the statutory bodies of beneficial ownership information.”.

5. The Minister of Finance (Incorporation) Act is Chap. 69:03
amended amended—

(a) in section 2, by inserting the appropriate alphabetical sequence, the following new definition:

““beneficial owner” means in respect of Corporation Sole or any person acting under delegated authority of Corporation Sole, subject to this Act—

(a) the natural person who owns or controls ten per cent or more of the

membership interest of Corporation Sole or any person acting under delegated authority of Corporation Sole through—

- (i) direct ownership; or
 - (ii) indirect ownership; or
 - (iii) control through other means;
- (b) the natural person who exercises ultimate effective control of the Corporation Sole or any person acting under delegated authority of Corporation Sole indirectly or through other means; or
- (c) if no person is identified under paragraphs (a) or (b) or if there is any doubt that the person identified is the beneficial owner, the natural person who holds the position of senior managing official”;

(b) inserting after subsection 8, the following new section:

“Obligations
in respect of
beneficial
ownership
information

8A. (1) Corporation Sole or any person acting under delegated authority of Corporation Sole shall maintain all beneficial ownership information in respect of Corporation Sole.

(2) Corporation Sole or any person acting under delegated authority of Corporation Sole shall determine the beneficial ownership information of Corporation Sole, which was in existence before the commencement of the Miscellaneous Provisions (Trustees, Exchequer and Audit Act, Minister of Finance (Incorporation) Act, Proceeds of Crime, Income Tax, Companies, Partnerships, Securities, Tax Information Exchange Agreements, the Non-Profit Organisations and Mutual Administrative Assistance in Tax Matters) Act, 2023.

(3) Corporation Sole or any person acting under delegated authority of Corporation Sole shall maintain and keep updated a register of all the beneficial owners containing the name, nationality or the latest known address or, telephone, email and other contact details and the date on which any person ceased to be beneficial owner.

(4) Corporation Sole or any person acting under delegated authority of Corporation Sole shall not remove beneficial ownership information from its register, for a period of six years after—

- (a) a person ceases to be a beneficial owner; or

(b) the dissolution of Corporation Sole.

(5) Corporation Sole or any person acting under delegated authority of Corporation Sole shall take reasonable steps to verify that information on the register of the beneficial owners of the Corporation Sole.

(6) Where Corporation Sole or any person acting under delegated authority of Corporation Sole fails to maintain its register of beneficial owners, Corporation Sole or any person acting under delegated authority of Corporation Sole, commits an offence and is liable on summary conviction to a fine of ten thousand dollars and to imprisonment for three years and for every day in which the offence continues a further fine of three hundred dollars.

(7) Where Corporation Sole or any person acting under delegated authority of Corporation Sole fails to take reasonable steps to ascertain and obtain all information as to the beneficial owners holding an interest in the Corporation Sole or any person acting under delegated authority of Corporation Sole, the Corporation Sole or any person acting under delegated authority of Corporation Sole, commits an offence and is liable

on summary conviction to a fine of ten thousand dollars and to imprisonment for three years and for every day in which the offence continues a further fine of three hundred dollars.

(8) Corporation Sole or any person acting under delegated authority of Corporation Sole shall annually verify information on record at the Office referred to in section 5(1) through the filing of its annual return.

Register of
Beneficial
Owners to be
made avail-
able to Board
of Inland
Revenue

8B. Corporation Sole or any person acting under delegated authority of Corporation Sole shall make the register under section 8A(3) available to the Board of Inland Revenue or to any other person as the Minister may by Order prescribe, where required under any Tax Information Sharing Agreement to which Trinidad and Tobago is a party.”.

6. The Proceeds of Crime Act is amended in the Chap. 11:27
amended
Financial Obligations Regulations in regulation 12—

(a) in subregulation (5), by—

(i) deleting the definition of “beneficial owner” and substituting the following new definition:

““beneficial owner” means—

(a) the natural person on whose behalf a transaction is being conducted;

(b) the natural person who ultimately owns or controls a customer; or

(c) the person on whose behalf a transaction is being conducted, or who owns and controls a customer, is a legal person or arrangement, the natural person who exercises ultimate effective control over the legal person or arrangement; and”;
and

(ii) deleting the definition of “legal arrangements”;

(b) by inserting after subsection (5), the following new subsection:

“(6) For the purposes of subsection (5), the natural person in relation to legal arrangements means—

(a) for trusts, the settlor, the trustee, the protector, the beneficiaries or class of beneficiaries and any other natural person exercising ultimate effective control over trusts, including through a chain of control or ownership, or control through other means; and

(b) for other types of legal arrangements, persons in equivalent or similar positions to those listed in paragraph (a).”.

7. The Income Tax Act is amended—

Chap. 75:01
amended

(a) in section 4, by deleting subsection (8) and substituting the following new subsection:

“(8) Notwithstanding any law to contrary, where taxpayer information is received by the Board from another jurisdiction under a tax information sharing agreement for the exchange of information in relation to taxes—

(a) the Board shall only disclose such taxpayer information to other agencies; and

(b) the Board and other agencies shall only use such taxpayer information,

as permitted under the terms of the tax information sharing agreement for the exchange of information in relation to taxes.”; and

(b) in section 117A(1), by deleting the words “Act, 2017 and other” and substituting the words “Act, 2017”.

8. The Companies Act is amended—

Chap. 81:01
amended

(a) in section 4, in the definition of “Commission”, by deleting the words “under section 3(1) of the Securities Industry Act” and substituting the words “under section 5 of the Securities Act”;

(b) in section 33, by—

- (i) deleting section 11 and substituting the following new sections:

“(11) On or from the appointed date, the share warrant or bearer share warrant shall cease to be valid in Trinidad and Tobago and subject to subsection (4), shall for all purposes be cancelled and be of no value.

(11A) A Company shall convert any share warrant or bearer share warrant which has not been surrendered for conversion prior to the appointed date.

(11B) A Company may, with the approval of the Registrar, convert any share warrant or bearer share warrant that is surrendered within a period of three months after the appointed date if satisfied that the failure to present the share warrant or bearer share warrant for conversion prior to the appointed date resulted from circumstances beyond the control of the true owner of the share warrant or bearer share warrant or that there was some other good or sufficient reason for the failure.

(11C) For the purposes of this section—

“appointed date”, in relation to any share warrant or bearer share warrant means the date of cancellation specified in the notice published in accordance with subsection (11A).

(11D) Notwithstanding the imposition of a penalty under subsection (9) for failing to surrender a share warrant or bearer share warrant, as required under subsection (7), the holder of a share warrant or bearer share warrant that has been cancelled under subsection (10) or (11A) may, prior to the expiration of eighteen months from the date of the commencement of this subsection, apply to the Court for—

- (a) the reinstatement of the share warrant or bearer share warrant as a share in the name of the holder; and
- (b) the instruction to the company for the entry of the name of the holder in the

register of shareholders in respect of the share or shares represented by the instrument in accordance with the terms of issue thereof.

(11E) Where an application is made under subsection (11D) for the reinstatement of a share warrant or bearer share warrant, the applicant shall provide—

(a) evidence to the Court that he, at the time of cancellation, was the lawful holder of an uninterrupted chain of share transfer from the creation of the company or to the last shareholder known to the company through written evidence, such as—

(i) a contract for sale of shares; or

(ii) a share purchase warrant;

(b) reasonable grounds for not having complied with the registration requirements; and

(c) evidence that the applicant was the holder of the bearer instrument at the time of the cancellation.

(11F) The holder of a share warrant or bearer share warrant that has been cancelled under subsection (10) or (11A) who fails to apply for reinstatement under subsection (11E) shall, after the period set out in that section, no longer be able to apply for reinstatement.”;

(c) in section 139(1), by deleting the definition of “broker” and substituting the following new definition:

““broker” has the same meaning assigned to it in section 4 of the Securities Act;”;

(d) in section 190, by deleting the words “337C(6)” and substituting the words “337C(7)”;

(e) in section 248, by inserting after paragraph (b) the following new paragraph:

“(c) under Part VA;”;

(f) in section 318(1), by deleting the words “which after the commencement of this Act establish a place of business within Trinidad and Tobago shall within fourteen days from the establishment of the place of business” and substituting the words “which prior to the commencement of the Miscellaneous Provisions (Trustees,

Exchequer and Audit Act, the Minister of Finance (Incorporation), Proceeds of Crime, Income Tax, Companies, Partnerships, Securities, Tax Information Exchange Agreements, and Mutual Administrative Assistance in Tax Matters) Act, 2023 established a place of business in Trinidad and Tobago, shall, within ninety days of the commencement of the Miscellaneous Provisions (Trustees, Exchequer and Audit Act, the Minister of Finance (Incorporation), Proceeds of Crime, Income Tax, Companies, Partnerships, Securities, Tax Information Exchange Agreements, and Mutual Administrative Assistance in Tax Matters) Act, 2023.”;

(i) in section 333A—

(i) by deleting subsection (9) and substituting the following new subsections:

“(9) On or from the appointed date, the bearer share, bearer share certificate, share warrant or bearer share warrant shall cease to be valid in Trinidad and Tobago and subject to subsection (4), shall for all purposes be cancelled and be of no value.

(9A) A Company may, with the approval of the Registrar, convert any bearer share, bearer share certificate, share warrant or bearer share warrant that is surrendered within a period

of three months after the appointed date if satisfied that the failure to present the bearer share, bearer share certificate, share warrant or bearer share warrant for conversion prior to the appointed date resulted from circumstances beyond the control of the true owner of the bearer share, bearer share certificate, share warrant or bearer share warrant or that there was some other good or sufficient reason for the failure.

(9B) For the purposes of this section—

“appointed date” in relation to any bearer share, bearer share certificate, share warrant or bearer share warrant means the date of cancellation specified in the notice published in accordance with subsection (9A).

(9C) Notwithstanding the imposition of a penalty under subsection (9) for failing to surrender a bearer share, bearer share certificate, share warrant or bearer share warrant, as required under subsection (7), the

holder of a bearer share, bearer share certificate, share warrant or bearer share warrant that has been cancelled under subsection (8) or (9), may prior to the expiration of eighteen months from the date of the commencement of this subsection, apply to the Court for—

- (a) the reinstatement of the bearer share, bearer share certificate, share warrant or bearer share warrant as a share in the name of the holder; and
- (b) the instruction to the company for the entry of the name of the holder in the register of shareholders in respect of the share or shares represented by the instrument in accordance with the terms of issue thereof.

(9D) Where an application is made under subsection (9C) for the reinstatement of a bearer share, bearer share certificate, share warrant or

bearer share warrant, the applicant shall provide—

(a) evidence to the court that he, at the time of cancellation, was the lawful holder of an uninterrupted chain of share transfer from the creation of the company or to the last shareholder known to the company through written evidence, such as—

(i) a contract for sale of shares; or

(ii) a share purchase warrant;

(b) reasonable grounds for not having complied with the registration requirements; and

(c) evidence that the applicant was the holder of the bearer instrument at the time of the cancellation.

(9E) The holder of a share warrant or bearer share warrant that has been

cancelled under subsection (8) or (9) who fails to apply for reinstatement under subsection (9C) shall, after the period set out in that section, no longer be able to apply for reinstatement.”; and

- (ii) inserting after subsection (12), the following new subsection:

“(13) Where, upon the end of the period referred to in subsection (9), an application is not made to the court for the reinstatement of a bearer share, bearer share certificate, share warrant or bearer share warrant, the bearer share, bearer share certificate, share warrant or bearer share warrant shall be null and void.”; and

- (f) insert after section 510, the following new section:

“Failure to pay prescribed fee or send any return, notice, document
510A. Where a company fails without reasonable cause to send any return, notice, document or prescribed fee to the Registrar General, as required pursuant to this Act, the Registrar General may make an application to a Judge of the High Court for an order directing that the shares in the company be subject to restrictions which would include, but not be limited to—

- (a) rendering the transfer of the shares or members’ interest void; and

- (b) stipulating that no voting rights are exercisable in respect of the shares or members' interest.”.

9. The Partnerships Act is amended by inserting after section 20, the following new sections: Chap. 81:02
amended

“Definition of
beneficial
owner 20A. For the purposes of sections 20A
to 20E—

“beneficial owner” means—

- (a) the natural person on whose behalf a transaction is being conducted;
- (b) the natural person who exercises ultimate effective control over a partnership;
- (c) all natural persons having a direct or indirect ownership interest in a partnership;
- (d) in respect of a partnership which is not comprised of a natural person subject to this Act—
 - (i) the natural person who ultimately owns or controls the partnership through indirect or direct ownership or control through other means, that is subject to disclosure requirements which

ensure adequate transparency of ownership information; or

(ii) if no natural person is identified under paragraph (i) or if there is any doubt that the person identified in paragraph (i) with the controlling ownership interest is the beneficial owner, the natural person who exercises control of the partnership through other means; and

(iii) if no person is identified under paragraphs (a), (b) or (c)(i) or (ii), the natural person who holds the position of senior managing official; or

(e) the person identified under paragraphs (a) to (c) above who exercise direct or indirect ownership or control through voting rights or over the management of the partnership or similar relationship.

Obligation to
ascertain and
obtain
beneficial
ownership
information

20B. (1) A partnership shall, within twelve months of the coming into force of the Miscellaneous Provisions (Trustees, Exchequer and Audit Act, the Minister of Finance (Incorporation) Act, Proceeds of Crime, Income Tax, Companies, Partnerships, Securities, Tax Information Exchange Agreements, the Non-Profit Organisations and Mutual Administrative Assistance in Tax Matters) Act, 2023 and regularly thereafter, ascertain and obtain information together with any supporting documentation as to all the beneficial owners holding an interest in the partnership whether before or after the commencement of the Miscellaneous Provisions (Trustees, Exchequer and Audit Act, the Minister of Finance (Incorporation) Act, Proceeds of Crime, Income Tax, Companies, Partnerships, Securities, Tax Information Exchange Agreements, the Non-Profit Organisations and Mutual Administrative Assistance in Tax Matters) Act, 2023.

(2) A partnership shall annually issue a notice in the prescribed form to all partners requiring a statement, together with any supporting documentation, be submitted to the partnership in accordance with section 20C.

(3) Where a partnership fails to take reasonable steps to ascertain and obtain all information as to the beneficial owners holding an interest in the partnership, the partnership and every partner of the partnership commits an offence and is liable on summary conviction to a fine of ten thousand dollars and to imprisonment

for three years and for every day in which the offence continues a further fine of three hundred dollars.

(4) For the purpose of identifying individuals who are the beneficial owners under subsection (1), a partnership is entitled to rely on the declaration received in good faith by the partnership under section 20C as a defence for an offence under subsection (3), unless the partnership has reason to believe that the declaration is misleading or false.

(5) A partnership shall—

- (a) ensure that the information on record at the Office of the Registrar General is current and correct;
- (b) issue a notice under subsection (2), when it deems necessary, to ensure that the information on record at the Office of the Registrar General is correct; and
- (c) file with the Registrar General an annual report of all beneficial ownership information relative to the partnership.

(6) A partnership shall ensure that the information it maintains, in respect of beneficial owners of the partnership, is current and correct.

(7) A partnership that fails to ensure that the information it maintains in respect of beneficial owners of the partnership is current and correct, commits

an offence and is liable on summary conviction to a fine of ten thousand dollars and to imprisonment for three years and for every day in which the offence continues, a further fine of three hundred dollars.

(8) A partnership that fails to ensure that the information at the Office of the Registrar General is current and correct, commits an offence and is liable on summary conviction to a fine of ten thousand dollars and to imprisonment for three years and for every day in which the offence continues, a further fine of three hundred dollars.

Statement in respect of beneficial interest in any share

20C. (1) Where prior to the proclamation of the Miscellaneous Provisions (Trustees, Exchequer and Audit Act, the Minister of Finance (Incorporation) Act, Proceeds of Crime, Income Tax, Companies, Partnerships, Securities, Tax Information Exchange Agreements, the Non-Profit Organisations and Mutual Administrative Assistance in Tax Matters) Act, 2023, a partnership is in existence, and a notice is submitted section 20B(2), every partner shall within thirty days of the issue of such notice submit a statement, in the form approved by the Registrar, to the partnership, stating the capacity which the partner making the statement holds and indicating the person who is the beneficial owner by name and address and other particulars sufficient to enable that person to be identified.

(2) Where a person who upon the commencement of the Miscellaneous Provisions (Trustees, Exchequer and

Audit Act, the Minister of Finance (Incorporation) Act, Proceeds of Crime, Income Tax, Companies, Partnerships, Securities, Tax Information Exchange Agreements, the Non-Profit Organisations and Mutual Administrative Assistance in Tax Matters) Act, 2023, held beneficial ownership in a partnership, the person shall submit a statement, in the form approved by the Registrar, within thirty days of the issue of a notice from the company under section 20B(2).

(3) Every person who, after the commencement of the Miscellaneous Provisions (Trustees, Exchequer and Audit Act, the Minister of Finance (Incorporation) Act, Proceeds of Crime, Income Tax, Companies, Partnerships, Securities, Tax Information Exchange Agreements, the Non-Profit Organisations and Mutual Administrative Assistance in Tax Matters) Act, 2023, acquires a beneficial interest in a partnership for whom a notice is submitted under section 20B(2), shall, within thirty days of acquiring the beneficial interest submit a statement, in the form approved by the Registrar, to the partnership specifying the nature of the interest, particulars of the person, the date on which the beneficial interest was created and such other particulars as may be prescribed.

(4) Where upon the commencement of the Miscellaneous Provisions (Trustees, Exchequer and Audit Act, the Minister of Finance (Incorporation) Act, Proceeds of Crime, Income Tax, Companies, Partnerships, Securities, Tax Information

Exchange Agreements, the Non-Profit Organisations and Mutual Administrative Assistance in Tax Matters) Act, 2023, any change occurs in the beneficial interest in the shares of a partnership, both the person referred to in subsection (1) and the beneficial owner specified in subsections (2) and (3) and where a notice is issued under section 20(B)(2), shall, within a period of thirty days from the date of the change, submit a statement, in the form approved by the Registrar, other particulars as may be prescribed.

(5) A person who fails, without reasonable cause, to submit a statement as required under this section, commits an offence and is liable on summary conviction to a fine of ten thousand dollars and to imprisonment for three years and for every day in which the offence continues, a further fine of three hundred dollars.

(6) Where a partnership, required to file a return under subsection (4), fails to do so within the specified period, the partnership and any partner who knowingly or recklessly fails to file the return commits an offence and is liable on summary conviction to a fine of ten thousand dollars and to imprisonment for three years and for every day in which the offence continues, a further fine of three hundred dollars.

Register of
beneficial
owners to be
kept

20D. (1) The Registrar General shall maintain a register of beneficial owners.

(2) The Registrar General, upon receipt of a return pursuant to section 20C, shall update the register of beneficial owners.”;

Chap. 83:02
amended

10. The Securities Act is amended—

(a) in section 4—

(i) by deleting the definition of “beneficial owner” and substituting the following definition:

““beneficial owner” means any natural person who ultimately owns or controls a legal entity or the natural person on whose behalf a transaction is being conducted and includes the natural person who exercises ultimate effective control over a legal person or arrangement and in respect of a reporting entity includes—

(a) any natural person who owns or controls through direct or indirect ownership or through other means at least ten percent of the voting rights, voting shares, or capital of the reporting entity; and

(b) any natural person who exercises control over the reporting entity alone or together with others through any contract, understanding, relationship, intermediary or tiered entity; or

-
- (c) any natural person who ultimately owns or controls or exercises ultimate effective control over the reporting entity indirectly or through other means; or
- (d) if no person is identified under paragraphs (a), (b) and (c) above, or if there is any doubt that the person identified is the beneficial owner, the natural person who holds the position of senior managing official;”;
- (ii) in the definition of “beneficial ownership” by deleting the words “ownership, direct ownership through a trustee,” and substituting the words “direct or indirect ownership, ownership through a trustee, whether a domestic or foreign trust.”; and
- (iii) by inserting in the appropriate alphabetical sequence, the following new definitions:
- “Beneficial Ownership Information” means the identification documents or information on the beneficial owner of the

reporting entity as
required under this Act;
and

“reporting entity” means an
entity whose securities
are listed on any securities
exchange registered or
required to be registered
under Part III of this
Act;” and

(b) by inserting after section 136 the following
new section:

“Requirements
re: Beneficial
Ownership
Information

136A. (1) Every reporting entity
shall establish and maintain a
register of their beneficial owners
as defined in section 4 and such
register must contain beneficial
ownership information including—

- (a) complete name, which
shall include the
surname, given name,
middle name and
name extension (for
example, JR., SR.,
III);
- (b) latest known residential
address;
- (c) date of birth;
- (d) nationality;
- (e) contact details;
- (f) percentage of owner-
ship, if applicable;
- (g) date on which any
person ceases to be a
beneficial owner; and

(h) any other information as may be prescribed by the Commission.

(2) For the purposes of subsection (1), a reporting entity shall take reasonable steps to ascertain, obtain and verify all required information pertaining to its beneficial owners.

(3) A reporting entity shall not remove beneficial ownership information from its register for a period of six years after—

(a) a person ceases to be a beneficial owner; or

(b) the dissolution of the entity.

(4) For the purpose of identifying individuals who are the beneficial owners under subsection (1), a reporting entity is entitled to rely on any information received in good faith under section 137 as a defence for a contravention of subsection (2), unless the reporting entity has reason to believe that such information is misleading or false.

(5) A reporting entity shall be required to provide beneficial ownership information to the Commission annually, within twenty-one days of the end of the financial year of the reporting entity in a manner and form approved by the Commission.

(6) The reporting entity shall notify the Commission, in writing, of any changes in the submitted beneficial ownership information under subsection (5) as they arise and in any event within thirty days after such change occurred or became effective or such other period as the Minister may by Order approve.

(7) The Commission shall establish and maintain a record of the submitted beneficial ownership information in a Register of Beneficial Ownership.

(8) The Commission shall update the Register of Beneficial Ownership immediately after notification of any changes under subsection (6).

(9) The Commission may, at any reasonable time, verify the beneficial ownership information provided to the Commission through an on-site inspection of the register and other books and records of the reporting entity or through other means available.”;

(c) in section 137—

(i) in subsection (1), in the *chapeau* by—

(A) deleting the word “may” and substituting the words “or reporting entity shall,” and

(B) inserting after the words “writing,” the words “for the purpose of complying

-
- with section 136A or where otherwise required under this Act.”;
- (ii) in subsection (2), in the *chapeau* by—
- (A) inserting after the words “reporting issuer” wherever they occur the words “or reporting entity”; and
- (B) deleting the word “may” and substituting the word “shall”;
- (iii) in subsection (3), by deleting the word “may” and substituting the words “or reporting entity shall,” and
- (iv) in subsection (4), by—
- (a) inserting after the words “reporting issuer” wherever they occur the words “or reporting entity”; and
- (b) deleting the word “may” and substituting the word “shall”;
- (v) in subsections (5) and (6), by inserting after the word “issuer”, the words “or reporting entity”;
- (d) in section 138, by deleting all the words from the word “any” to the words “136(3)” and substituting the words “Any person who contravenes section 136(1), 136(2), 136(3), 136A(1), 136A(2), 136A(3), 136A(5) or 136A(6) or who, in purporting to comply with section 136(1), 136(2), 136(3) or 136A(1), 136A(2), 136A(3), 136A(5) or 136A(6)”;

(e) in the Schedule, in the column entitled “General Description of Offences” in respect of section 138 by—

(i) inserting after the third paragraph the following new paragraphs:

“Failure of a reporting entity to establish and maintain a register of beneficial owners in accordance with section 136A(1).

Removal of beneficial ownership information from the register contrary to the prescribed time as contained in section 136A(2).

Failure of a reporting entity to take reasonable steps to ascertain, obtain and verify all required information pertaining to its beneficial owners pursuant to section 136A (3).

Failure of a reporting entity to disclose beneficial ownership information to the Commission as contained in section 136A(5).

Failure of a reporting entity to disclose changes to beneficial ownership information in accordance with section 136A(6)”; and

(ii) in the last paragraph by inserting after the words “136,” the words “136A”;

11. The Non-Profit Organisations Act, 2019 IS Act No. 7 of 2019
amended—

(a) in section 3(1), by inserting after the definition “AML/CFT/PF” the following new definition:

“beneficial owner” means in respect of a Non-Profit Organisation subject to this Act—

(a) the natural person who owns or controls ten per cent or more of the membership interest of a Non-Profit Organisation through—

(i) direct ownership;

(ii) indirect ownership; or

(iii) control through other means;

(b) the natural person who exercises ultimate effective control of the Non-Profit Organisation indirectly or through other means; or

(c) if no person is identified under paragraphs (a) or (b) or if there is any doubt that the person identified is the beneficial owner, the natural person who holds the position of senior managing official;” and

(b) by inserting after section 21 the following new sections:

“Obligations
in respect of
beneficial
ownership
information

21A. (1) A Non-Profit Organisation shall ascertain and obtain information as to all the beneficial owners of the Non-Profit Organisation, whether before the commencement of the Miscellaneous Provisions (the Trustees, Exchequer and Audit, Minister of Finance (Incorporation), Proceeds of Crime, Income Tax, Companies, Partnerships, Securities, Tax Information Exchange Agreements, the Non-Profit Organisations and Mutual Administrative Assistance in Tax Matters) Act, 2023.

(2) A Non-Profit Organisation shall issue a notice in the prescribed form to all members whose liability is limited by guarantee—

(a) within thirty days of the commencement of this subsection, where a Non-Profit Organisation issued Membership prior to or after or after the commencement of the Miscellaneous Provisions (the Trustees, Exchequer and Audit, Minister of Finance (Incorporation), Proceeds of Crime, Income Tax,

Companies, Partnerships, Securities, Tax Information Exchange Agreements, the Non-Profit Organisations and Mutual Administrative Assistance in Tax Matters) Act, 2023 and failed to comply with subsection (1);

- (b) within thirty days of the commencement of this subsection, where a Non-Profit Organisation issued membership interests prior to or after the commencement of the Miscellaneous Provisions (the Trustees, Exchequer and Audit, Minister of Finance (Incorporation), Proceeds of Crime, Income Tax, Companies, Partnerships, Securities, Tax Information Exchange Agreements, the Non-Profit Organisations and Mutual Administrative Assistance in Tax Matters) Act, 2023; and

(c) at the time of the issuance of membership interests, where a Non-Profit Organisation issues membership interests after the commencement of this subsection.

(3) The notice referred to in subsection 2 shall require that a statement be submitted to the Non-Profit Organisation in accordance with section 21B(2).

(4) A Non-Profit Organisation shall maintain and keep updated a register of all the beneficial owners containing the name, nationality or the latest known address or, telephone, email and other contact details and the date on which any person ceased to be beneficial owner.

(5) A Non-Profit Organisation shall not remove beneficial ownership information from its register, for a period of six years after—

(a) a person ceases to be a beneficial owner; or

(b) the dissolution of the Non-Profit Organisation.

(6) A Non-Profit Organisation shall take reasonable steps to verify information on the register of the beneficial owners of the Non-Profit Organisation.

(7) Where a Non-Profit Organisation fails to maintain its register of beneficial owners, the Non-Profit Organisation, every director and officer of the Non-Profit Organisation commits an offence and is liable on summary conviction to a fine of ten thousand dollars and to imprisonment for three years and for every day in which the offence continues a further fine of three hundred dollars.

(8) Where a Non-Profit Organisation fails to take reasonable steps to ascertain and obtain all information as to the beneficial owners holding an interest in the Non-Profit Organisation, the Non-Profit Organisation, every director and officer of the Non-Profit Organisation commits an offence and is liable on summary conviction to a fine of ten thousand dollars and to imprisonment for three years and for every day in which the offence continues a further fine of three hundred dollars.

(9) For the purpose of identifying individuals who are the beneficial owners under subsection (1), a Non-Profit Organisation is entitled to rely on the declaration received in good faith by the Non-Profit Organisation under section 21B(2) as a defence for an offence under subsection (8),

unless the Non-Profit Organisation has reason to believe that the declaration is misleading or false.

(10) A Non-Profit Organisation shall annually verify information on record at the Office of the Registrar General through the filing of its annual return.

Statement in
respect of
beneficial
interest

21B. (1) Where, prior to or upon the commencement of this section, the name of a person is entered in the register of members of a Non-Profit Organisation as the holder of ten per cent or more of the membership interest in that Non-Profit Organisation and that person is the beneficial owner of such membership interest—

- (a) notwithstanding section 21A, the person is exempt from submitting a statement in the prescribed form to the Non-Profit Organisation;
- (b) the person will be deemed to be a beneficial owner and recorded on the register of beneficial owners maintained by the Non-Profit Organisation; and
- (c) the Non-Profit Organisation shall, within thirty days of the

name of the beneficial owner being recorded on its register, deliver to the Registrar, a return in the prescribed form.

(2) Where the name of a person is entered in the register of members of a Non-Profit Organisation as the holder of ten percent or more of the membership interests in that Non-Profit Organisation but the person, is not the beneficial owner of such membership interests the person shall, within thirty days of the issue of a notice under section 21A or such other period as the Minister may by Order approve, submit a statement in the prescribed form to the Non-Profit Organisation.

(3) Where a notice is not received under section 337B and—

- (a) a member is not the beneficial owner; and
- (b) the name of the beneficial owner is not entered on the register,

the member and the beneficial owner shall submit a statement in the prescribed form to the Non-Profit Organisation to that effect.

(4) Where a person is the beneficial owner of ten per cent or more of the membership interest of the Non-Profit Organisation, but

his name is not entered in the register of members, the person shall, within thirty days of acquiring the beneficial interest or alternatively, the issue of a notice under section 21A(2) or such other period as the Minister may by Order approve, submit a statement in the prescribed form to the Non-Profit Organisation.

(5) Where any change occurs in—

- (a) the beneficial ownership of the membership of a company; or
- (b) the particulars of the beneficial owner or shareholder,

both the person referred to in subsection (2) and the beneficial owner specified in subsection (4) shall, within a period of thirty days from date of change or such other period as the Minister may by Order approve, submit a statement in the prescribed form to the Non-Profit Organisation.

(6) A person who fails, without reasonable cause, to submit a statement as required under this section, commits an offence and is liable on summary conviction to a fine of ten thousand dollars and to imprisonment for three years and for every day in which the offence continues, a further fine of three hundred dollars.

(7) Where a statement is made to a Non-Profit Organisation under this section, the Non-Profit Organisation shall update the register established by it for such purpose and, within thirty days from the receipt of the statement, deliver to the Registrar a return in the prescribed form and accompanied by the prescribed fee.

(8) Where a Non-Profit Organisation, required to file a return under subsection (7) within the specified period fails to do so, the Non-Profit Organisation and any director and officer of the Non-Profit Organisation who knowingly or recklessly fails to file the return commits an offence and is liable on summary conviction to a fine of ten thousand dollars and to imprisonment for three years and for every day in which the offence continues, a further fine of three hundred dollars.

(9) A return under this section shall contain the prescribed information which shall be current information up to the date of delivery of the return.

Register of
Beneficial
Owners

21C. (1) The Registrar shall maintain a register of beneficial owners.

(2) The Registrar, upon receipt of a return pursuant to section 21A(2), shall update the register of beneficial owners.

Registrar
General to
monitor
beneficial
ownership
information

21D. For the purpose of this Part, the Registrar shall monitor the filings by Non-Profit Organisations of beneficial ownership information.

Act No. 5 of 2020

12. The Tax Information Exchange Agreements Act, 2020 is amended—

(a) in section 3—

(i) by deleting the definition “declared agreement” and replace with the following definition:

“declared agreement” means—

(a) a tax information exchange agreement that has, under section 4, been declared by the President; or

(b) a double taxation arrangement under section 93 of the Income Tax Act,

to be a declared agreement for the purposes of this Act;”;

(ii) in the definition of “the Board” by deleting the word “4” and substituting the word “3”;

(b) in section 5, by inserting after subsection (2) the following new subsection:

“(3) Where the President, declares a double taxation arrangement under section 93 of the Income Tax Act that Agreement shall be for the purposes of this Act is deemed to be a declared agreement.”; and

(c) by inserting after section 11, the following new section:

“Restriction
on sharing

12. (1) Notwithstanding section 11, where in the course of making a notification under section 11 by the Board, the requesting jurisdiction informs the Board that the notification is likely to undermine the success of an investigation being conducted by the requesting jurisdiction, the Board may withhold such notification.

(2) Where a notification identified under section 11 is identified by the requesting jurisdiction as no longer posing a risk, the Board shall then notify the person in respect of whom the information relates in accordance with section 11.”.

13. The Mutual Administrative Assistance in Tax Act No. 7 of 2020
amended Matters Act, 2020 is amended—

(a) in section 4, in—

(i) in subsection (1)—

(A) in the definition of “broad participation retirement fund”—

(i) in subparagraph (c)(ii) by inserting after the words “Broad”, the word “Participation”; and

(ii) in subparagraph (c)(iii) by deleting the words “that are

described in paragraphs (a) to (c),” and substituting the words “funds that are Broad Participation Retirement Funds,”;

(B) in the definition of “cash value”—

(i) in paragraph (a), by deleting all the words after the word “any” and substituting the words “surrender charge or policy loan; and”;

(ii) by deleting paragraph (b) and substituting the following new paragraph:

“(b) the amount the policyholder can borrow under or with regard to the contract.”;

(C) in the definition of “Common Reporting Standard Due Diligence Requirements” by inserting after the word “Schedule 1” the words “including commentaries”;

(D) by deleting the definition of “controlling person” and substituting the following definition:

“controlling person”
means—

(a) the natural person who exercise control over an entity;

(b) in the case of a trust, the settlor, trustees, the protector, the beneficiary or class of beneficiaries, and any other natural person exercising ultimate effective control over the trust;

(c) in the case of a legal arrangement other than a trust, such term means a person in equivalent or similar positions,

and as defined in accordance with the Financial Action Task Force Recommendations of 2012;”;

(E) in the definition of
“excluded account” in—

(I) in paragraph (a)(v)(B)
by deleting the
words “of to the”;

(II) in paragraph (b)
by deleting sub-
paragraph (iii) and
substituting the
following new para-
graph:

“(iii) where with-
drawals are
conditioned
on meeting
specific criteria
related to
the purpose
of the
investment
or savings
a c c o u n t ,
such as the
provision of
educational
or medical
benefits, or
where penalties
apply to
withdrawals
made before
such criteria
are met;
and”;

(III) in paragraph (g) by
inserting after the
word “tax” the

words “and has substantially similar characteristics to any of the accounts described in paragraphs (a) through (f), provided that the status of such account as an Excluded Account does not frustrate the purposes of the Common Reporting Standard.”;

(F) in the definition of “Governmental Entity”—

(I) in paragraph (b) by inserting after the word “,” the word “or”; and

(II) by deleting paragraph (c) and substituting the following new paragraph and closing words:

“(c) any wholly owned agency or instrumentality of a jurisdiction or of any one or more of the foregoing,

and comprised of the integral parts,

controlled entities
and political sub-
divisions of a jurisdic-
tion;”;

(G) by deleting the definition
of “investment entity” and
substituting the following
new definition:

““investment entity”
means—

(a) an entity that
primarily con-
ducts as a
business one
or more of the
f o l l o w i n g
activities or
operations for,
or on behalf of
a customer
trading in—

(i) m o n e y
m a r k e t
i n s t r u -
m e n t s ,
such as
cheques,
bills, cer-
tificates of
deposits,
d e r i v a -
t i v e s ;

(ii) f o r e i g n
exchange,
exchange,
interest
rate and

i n d e x
i n s t r u -
m e n t s ,
t r a n s f e r -
a b l e
s e c u r -
i t i e s
o r
c o m m o d -
i t i e s
f u t u r e s
t r a d i n g ;

(iii) individual
and collec-
tive port-
folio man-
agement;
or

(iv) otherwise
investing,
adminis-
tering or
managing
financial
assets or
money on
behalf of
o t h e r
p e r s o n s ;
or

(b) an entity where
the gross
income of
which is
p r i m a r i l y
a t t r i b u t a b l e
t o
i n v e s t i n g ,
r e i n v e s t i n g , o r

trading in
financial
assets, if the
entity is
managed by
another entity
that is a
depository
institution, a
custodial institu-
tion, a specified
insurance
company or an
investment
entity under
paragraphs (a)
to (d),

but does not
include an entity
that is an active
NFE and does not
include an Entity
that is an Active
NFE because it
meets any of the
criteria in para-
graphs (d) through
(g) of the definition
of Active NFE”;

- (H) in the definition of “national” by inserting after the words “in force” the words “in a”;
- (I) in the definition of “non-reporting financial institution” by deleting paragraph (b) and substituting

the following new paragraph:

“(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”;

(J) in the definition of “pre-existing account” by deleting the words “30th June, 2017” and substituting the words “such date as is prescribed by the Minister by Order”;

(K) in the definition of “related entity of an entity” by deleting the words “related entity of an entity means” and substituting the words “Related Entity means”;

(L) in the definition of “reportable jurisdiction” by deleting paragraphs (a) and (b) and substituting the following new paragraphs:

“(a) the due diligence requirements described in Sections II to VII of

Schedule 1, means 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, means any jurisdiction which is listed in Schedule 5;”;

(M) by deleting the definition of “reportable jurisdiction financial institution”; and

(N) by inserting in the appropriate alphabetical sequence the following definitions:

““no portion of income inuring 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;”;

- (vi) in subsection (4) by deleting paragraph (c) and substituting the following new paragraph (c) and closing words:

“(c) “interest” includes a futures or forward contract or option in a security, partnership interest, commodity, swap, insurance contract, or annuity contract,

however, the term “financial asset” does not include a non-debt, direct interest in real property.”;

- (vii) in subsection (6) by deleting the words “, 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) to (g) of the definition of “active NFE”; and

(viii) by deleting subsection (7);

(b) in section 11—

(i) in subsection (1), by deleting the words “(3)” and substituting the words “(2)”; and

(ii) in subsection (2)—

(A) in paragraph (a) by deleting the words “of each reportable person that is an account holder of the account” and substituting the words “that is an account holder and a reportable person,”;

(B) in paragraph (b) by deleting the words “jurisdiction of residence,”; and

(C) by deleting paragraph (e) and substituting the following new paragraph:

“(e) 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,”;

(iii) in subsection (3), by deleting the words “2017 and all subsequent years within nine months” and substituting the words “prescribed by the Minister by Order and all subsequent years within twelve months”;

(c) section 12 of the Act is amended—

(i) in subsection (1), by deleting the words “and the due diligence requirements set out in” and substituting the word “of”;

(ii) by repealing subsection (3) and substituting the following new subsection:

“(3) A reporting financial institution shall report the information set out in section 11(2) in respect of every reportable account maintained by the financial institution in a calendar year, on the date prescribed by the Minister by Order and all subsequent years on or before 31st May of the year following the calendar year to which the information relates.”;

(iii) by deleting subsection (5) and inserting the following new subsections:

“(5) Notwithstanding subsection (4), where in the course of making a notification under that subsection by the Board, the requesting

jurisdiction informs the Board that the notification is likely to undermine the success of an investigation being conducted by the requesting jurisdiction, the Board may withhold the notification.

(5A) Where a notification under subsection (5) is identified by the requesting jurisdiction as no longer posing a risk, the reporting financial institution shall then notify the account holder in accordance with that subsection.”;

(iv) in subsection (7)—

(A) by deleting the words “the exchange of” and substituting the word “reporting”;

(B) in paragraph (a) by inserting after the word “,” the word “and”;

(C) in paragraph (b) by deleting the word “; and” and substituting the word “.”; and

(D) by deleting paragraph (c);

(v) by inserting after subsection (7), the following new subsection:

“(7A) Notwithstanding section 11(2)(a) and (b), the TIN is not required to be reported if—

(a) a TIN is not issued by the relevant

-
- reportable jurisdiction; or
- (b) the domestic law of the relevant reportable jurisdiction does not require the collection of the TIN issued by such reportable jurisdiction.”;
- (vi) in subsection (8), by inserting after the words “11(2)(a),” the words “11(2)(a) and (b)”;
- (vii) by inserting after subsection (9), the following new subsection:
- “(10) A reporting financial institution that—
- (a) fails to—
- (i) keep records as required under section 17 including records for non-reportable accounts;
- (ii) file or file on time the information required by subsection (3);
- (iii) carry out the due diligence, as required by this section including failing to obtain self-certification for any individual;

(b) provides a false statement or report to the Board,

commits an offence and is liable to a penalty of one hundred thousand dollars.”;

(d) in section 15, in—

(i) subsection (1), by inserting after the words “, the main purpose”, the words “or one of the main purposes”;

(ii) by deleting subsection (2) and substituting the following new subsection:

“(2) If a person, including an Account Holder and intermediary, enters into any arrangement or engages in any practice for which the main purpose or one of the main purposes is to avoid a requirement imposed under this Act or regulations made hereunder, this Act and regulations made hereunder shall apply as if the person had not entered into the arrangement or engaged in the practice.”;

(e) in section 16, by deleting subsections (6) to (9);

(f) in section 17, by inserting after the words “Schedule 1” the words, “and any records relied upon”;

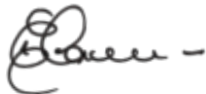
(g) in section 19(1), by deleting the words “Schedule 1.” and substituting the words “section 12(1) and (3).”;

- (h) in Schedule 1, by deleting the cross reference “(Sections 4, 9, 13, 17, 18 and 22)” and substituting the words “(Sections 4, 11, 12, 16, 17 and 19)”; and
- (i) in Schedule 5, by deleting the cross reference “(Sections 12, 19 and 21) and substituting the words “(Section 4)”.

Passed in the Senate this 24th day of November, 2023.


Clerk of the Senate (Acting)

Passed in the House of Representatives this 19th day of January, 2024.


Clerk of the House