

**IN THE SECOND SESSION OF THE SEVENTH
PARLIAMENT OF THE FOURTH REPUBLIC OF GHANA**

REPORT OF THE

FINANCE COMMITTEE

ON THE

**STANDARD FOR AUTOMATIC EXCHANGE OF
FINANCIAL ACCOUNT INFORMATION BILL, 2017**

14TH FEBRUARY, 2018

1.0 INTRODUCTION

The Standard for Automatic Exchange of Financial Account Information Bill, 2017 was first presented to Parliament and read the first time on 29th November, 2017.

Rt. Hon. Speaker referred the Bill to the Finance Committee for consideration and report in accordance with the 1992 Constitution and the Standing Orders of Parliament

The Committee met with a Deputy Minister for Finance, Hon. Abena Osei Asare, and a team of officials from the Ministry of Finance, Ghana Revenue Authority and Attorney-General's Department.

2.0 DOCUMENTS REFERRED TO

The Committee referred to the following documents in order to consider the Bill:

1. 1992 Constitution;
2. The Standing Orders of Parliament.

2.1 BACKGROUND

The world is increasingly becoming globalized and therefore making it easier for taxpayers to make, hold and manage investments through financial institutions outside of their countries of residence.

To this extent, taxpayers fail to comply with their tax obligations at home. A number of them also keep vast amounts of money offshore just to avoid payment of tax.

The offshore tax evasion has become a serious problem for countries all over the world. As a result, countries have come together to help address this problem.

Key to this fight is the need to improve transparency and exchange of information. Thus, the Global Forum on Transparency and Exchange of Information for tax purposes, of which Ghana is a Member, has developed the Common Reporting Standard as a new global standard for the exchange of tax

information. This model allows participating countries to automatically exchange financial account information with their exchange partners.

In fulfilment of her international obligations as a member of the Global Forum on transparency and Exchange of Information for tax purposes, Ghana signed on the Multilateral Competent Authority Agreement (MCAA) on 14th May, 2015. The MCAA requires Ghana to automatically exchange financial account information from the year 2018 with other participating countries.

It is in accordance with Article 75 of the Constitution that this bill has been presented to Parliament for the House to ratify the MCAA and to put in place the necessary legal framework to collect the relevant information as per the Agreement.

3.0 OBJECT OF THE BILL

The object of the Bill is to provide a legal framework for the implementation of the Common Reporting Standard approved by the Council of the Organization for Economic Cooperation and Development (OECD) on 15th July, 2015.

4.0 STRUCTURE OF THE BILL

The Bill has twenty-two clauses:

Clause 1 sets out the purpose of the Bill, which is to impose on financial institutions an obligation to report information regarding the financial accounts of reportable individuals or entities to the Ghana Revenue Authority and conduct due diligence with respect to the accounts.

Clause 2 provides for the application of the Bill

Clause 3 designates the Commissioner-General of the Ghana Revenue Authority as the competent authority for the purpose of the Bill.

Clause 4 places an obligation on the reporting financial institution to submit to the Ghana Revenue Authority annually, a report that provides information with

respect to each reportable account maintained by that financial institution for each calendar year.

Clause 5 and *6* deals with due diligence obligations and modification of due diligence procedures for the purpose of identifying reportable accounts.

Clause 7 defines a reportable jurisdiction for the purpose of the due diligence requirements under the Bill.

Clause 8 provides for the retention of records by a reporting financial institution for a period of at least six (6) years.

Clause 9 provides for inspection of books, records and other documents. It also mandates a designated officer to request a financial institution to provide information or other assistance reasonably required to the administration and enforcement of the Bill.

Clause 10 allows a reporting financial institution to delegate responsibilities under the Bill to a service provider.

Clause 11 imposes an obligation of confidentiality on the competent authority

Clause 12 deals with anti-violence and imposes an obligation on a person where that person enters into an arrangement or engages in a practice with the aim of avoiding that obligation.

Clause 13 enumerates the powers of the competent authority in relation to the enforcement of the Bill.

Clause 14 and *15* deal with excluding accounts and participating and reporting jurisdiction.

Clause 16 enjoins the Authority to publish in a Gazette a list of non-reporting financial institutions.

Clause 17 applies the relevant provisions of the Revenue Administration Act, 2016 (Act 915) with respect to dispute resolution, penalties and offences.

The Minister's power to make Regulations is provided for in *Clause 18*.

Clause 19 is on interpretation.

Repeals provision and consequential amendments and savings are provided for in *clauses 20* and *21*.

Clause 22 deals with transitional provisions.

5.0 OBSERVATIONS

5.1 Rationale for the Bill

The Deputy Minister informed the Committee that this Agreement is part of efforts to improve transparency and exchange of information for tax purposes amongst member countries. It would also improve tax revenue collections.

She indicated that the request for ratification is coming under Article 75 (2) (a) in order to put in place a legal framework required under the MCAA to collect the relevant information.

5.2 Breach of confidentiality

In response to whether the Bill would not breach confidentiality agreements between clients and financial institutions in the country, the Deputy Minister indicated that there are a number of laws that require agencies to report on the financial activities of their clients. These include banking laws and the Financial Intelligence Act. She said that most people are now very familiar with these reporting requirements.

She explained that the law is only permitting member countries to request for information of their nationals for tax purposes and vice versa.

5.3 Sensitizing the public on the Bill

The Deputy Minister indicated that the Ghana Revenue Authority has undertaken a number of sensitization workshops for stakeholders in order to prepare the grounds for a smooth take off. She said stakeholders including the

banks have been involved and therefore they do not expect any implementation challenges.

She stated that some of the concerns raised by stakeholders during sensitization have been included in the Bill.

6.0 AMENDMENTS

1. **Amendment proposed - Clause 4**, sub clause (6), line 2; *substitute* “paragraph (b) of subsection (1) of section 15” for “section 15(1)(b)”.
2. **Amendment proposed - Clause 6**, sub clause (8)(c), line 4; *substitute* “USD 1, 000, 000” for “USD 1 000 000”.
3. **Amendment proposed - Clause 8**, sub clause (1), line 3; *delete* “and records of”.
4. **Amendment proposed - Clause 10**, sub clause (2)(b), line 3; *substitute* “subsection (4) of section 8” for “section 8(4)”.
5. **Amendment proposed - Clause 19-Interpretation**
 - (a) In the definition for
 - (i) “excluded account”, line 3; *substitute* “subsection (1) of section 14” for “section 14(1)”.
 - (ii) “high value account”, line 3; *substitute* “USD 1, 000, 000” for “US\$ 1, 000, 000”.
 - (iii) “lower value account”, line 4; *substitute* “USD 1, 000, 000” for “US\$ 1, 000, 000”.
 - (iv) “participating jurisdiction”, paragraph (b), line 2; *substitute* “paragraph (a) of subsection (1) of section 15” for “section 15(1)(a)”.
 - (v) “US\$” *substitute* “USD” for “US\$” and wherever it appears in the Bill.

(b) *Insert* the following in the appropriate alphabetical order:

- (i) ““Board” means the governing body of the Ghana Revenue Authority constituted under section 4 of the Ghana Revenue Authority Act, 2009 (Act 791);”
- (ii) ““Minister” means the Minister responsible for Finance;”

6. **Amendment proposed - Clause 20-** *Substitute* the following for clause 20:

“paragraph (c) of subsection (1) and subsections (2) and (3) of section 127 and section 137 of the Income Tax Act, 2015 (Act 896) are repealed.”

7. **Amendment proposed - Clause 21** line 2, *substitute* “subsection (3) of section 146” for “section 146(3)”.

8. **Amendment proposed - Clause 22-** *delete*

This is because the clause is redundant.

7.0 CONCLUSION

After careful consideration, the Committee is of the view that the Bill is in the right direction and therefore recommends to the House to adopt its Report and pass the **Standard for Automatic Exchange of Financial Account Information Bill, 2017** in accordance with the 1992 Constitution and the Standing Orders of the House.

Respectfully submitted.


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HON. MARK ASSIBEY-YEBOAH (DR)
(CHAIRMAN, FINANCE COMMITTEE)


.....
LOUIS YIADOM BOAKYE
(FOR CLERK TO THE COMMITTEE)