

ANTIGUA AND BARBUDA



THE AUTOMATIC EXCHANGE OF FINANCIAL ACCOUNT INFORMATION
(AMENDMENT) ACT 2025 No.

5 of 2025

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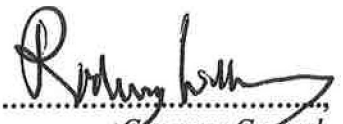
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No. 5 of 2025



I Assent,


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Governor-General.
7/3 2025

ANTIGUA AND BARBUDA

THE AUTOMATIC EXCHANGE OF FINANCIAL ACCOUNT INFORMATION

(AMENDMENT) ACT 2025

No. 5 of 2025

AN ACT to amend the Automatic Exchange of Financial Account Information Act 2016, No. 11 of 2016 to strengthen the legal and regulatory framework relating to global standard of automatic exchange of financial information related to the scope of financial information reported, the scope of account holders subject to the reporting and the scope of financial institutions required to report.

ENACTED by the Parliament of Antigua and Barbuda as follows:

1. Short title

This Act may be cited as the Automatic Exchange of Financial Account Information (Amendment) Act 2025.

2. Amendment of section 2 — Interpretation

The principal Act is amended in section 2 as follows —

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(a) by repealing the definition of "financial account" and substituting the following —

"Financial Account" means an account maintained by a Financial Institution, and includes a Depository Account, a Custodial Account, and:

(a) in the case of an Investment Entity, any equity or debt interest in the Financial Institution. Notwithstanding the foregoing, the term "Financial Account" does not include any equity or debt interest in an Entity that is an Investment Entity solely because it

(i) renders investment advice to, or acts on behalf of, or (ii)
manages portfolios for, and acts on behalf of,

a customer for the purpose of investing, managing or administering Financial Assets deposited in the name of the customer with a Financial Institution other than such Entity;

(b) in the case of a Financial Institution not described in subparagraph C(1)(a), any equity or debt interest in the Financial Institution, if the class of interests was established with a purpose of avoiding reporting with section I; and

(c) any Cash Value Insurance Contract and any Annuity Contract issued or maintained by a Financial Institution, other than a non-investment-linked, non-transferrable immediate life annuity that is issued to an individual and monetises a pension or disability benefit provided under an account that is an Excluded Account; but

(d) The term "Financial Account" does not include any account that is an Excluded Account."

(b) by repealing the definition of "reportable person" and substituting the following —

„ „Reportable Person" has the meaning given to it in the Common Reporting Standard;"

(c) by repealing the definition of "Reportable Account" and replacing it with the following:

"Reportable Account" means an account held by one or more Reportable Persons or by a Passive NFE with one or more Controlling Persons that is a Reportable Person, provided it No.

has been identified as such pursuant to the due diligence procedures described in Sections II through VII of the Common Reporting Standard."

(d) by inserting the following terms and their meanings in the appropriate alphabetical position within the section —

"Depository Account" includes —

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

"Custodial Account" means an account (other than an Insurance Contract or Annuity Contract) that holds one or more Financial Assets for the benefit of another person.

"Equity Interest" means —

- (a) in the case of a partnership that is a financial institution, either a capital or profits interest in the partnership;
- (b) In the case of a trust that is a financial institution, an equity trust is considered to be held by any person created as a settlor or beneficial of all or a portion of the trust, or any other natural person exercising ultimate beneficial control over the trust.

"Insurance Contract" means an account (other than an Annuity Contract) under which the issuer agrees to pay an amount upon the occurrence of a specified contingency involving mortality, morbidity, accident, liability or proper risk.

"Annuity Contract" means —

- (a) a contract under which the issuer agrees to make payments for a period of time determined in whole or in part by reference to the life expectancy of one or more individuals; and

- (b) includes a contract that is considered to be an annuity contract in accordance with the law, regulation or practice of the jurisdiction in which the contract was issued, an under which the issuer agrees to make payments for a term of years.

"Cash Value Insurance Contract" means an Insurance Contract (other than an indemnity reinsurance contract between two insurance companies) that has a Cash Value.

"Cash Value" means —

(a) the greater of—

- (i) the amount that the policyholder is entitled to receive upon surrender or termination of the contract (determined without reduction for any surrender charged or policy loan); and
- (ii) the amount the policyholder can borrow under or with regard to the contract

(b) but does not include any amount payable under an Insurance Contract:

- (i) solely by reason of the death of an individual insured under a life insurance contract;
- (ii) as a personal injury or sickness benefit or other benefit providing indemnification of an economic loss uncured upon the occurrence of the event insured against;
- (iii) as a refund of a previously paid annuum (less cost of insurance charges whether or not actually imposed_ under an Insurance Contract (other than an investmentlinked life insurance or annuity contract) due to cancellation or termination of the contract, decrease in risk exposure during the effective period of the contract, or arising from the correction of a posting or similar error with regard to the premium for the contract;
- (iv) as a policyholder dividend (other than a termination dividend) provided that the dividend relates to an Insurance Contract under which the only benefits payable are described in subparagraph C(8)(6); or
- (v) as a return of an advance premium deposit for an Insurance Contract for which the premium is payable at least annually if the amount of the advance premium deposit does not exceed the next annual premium that will be payable under the contract.

"Controlling Person" has the meaning given to it in the Common Reporting Standard;

"Self certification" has the meaning given to it in the Common Reporting Standard;

3. Amendment of section 7 — Functions and powers of Commissioner

Section 7 of the principal Act is amended by repealing subsection (4) and substituting the following

—

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"(4) The Commissioner or any designated officer may request information from and, at all reasonable times, enter any premises or place of business of a Reporting Financial Institution for the purposes of:

- (a) determining whether information -
 - (i) included in an information return made under the Regulations by the Reporting Financial Institutions is correct and complete; or
 - (ii) not included in an information return was correctly not included; or
- (b) examining the procedures put in place by the Reporting Financial Institutions for the purposes of ensuring compliance with that institution's obligations under this Act and the Regulations;
- (c) accessing the records for the purposes of verifying compliance with the Common Reporting Standard, without first requiring that there be a suspicion of noncompliance.

4. Amendment of section 10 — Penalties

Section 10 of the principal Act is amended —

- (a) in subsection (1) by repealing the subsection and substituting the following — "(1) Every legal person or legal arrangement who fails to comply with a duty or obligation under this Act or the Regulations made under this Act is liable to a penalty of ten thousand United States Dollars (US\$10,000), for each such failure, and five thousand United States Dollars (US\$5,000) for each day that the failure continues."
- (b) in subsection (3) by repealing the subsection and substituting the following — "(3) Every individual, legal person or legal arrangement who —
 - (a) makes a false statement or omission in respect of any information required to be included on an information return, under this Act or under the regulations made under this Act; or
 - (b) makes a false statement or omission in respect of information in a selfcertification or made for the purposes of the due diligence described in this Act or under the regulations made this Act,

is liable to a penalty of ten thousand United States Dollars (US\$10,000) for each such failure, unless in the case of information required in respect of another person, a reasonable effort was made by the person to obtain the information from the other person."

- (c) in subsection (5) by repealing the subsection and substituting the following — "(5) Every legal person or legal arrangement who fails to comply with the direction or requirement of the Commissioner or a designated officer during the

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of

exercise or performance of the Commissioner or the officer's powers or duties under this Act or the Regulations made under this Act is liable to a penalty of ten thousand United States Dollars (US\$10,000) for each such failure."

5. Amendment of section 11 — Liabilities to penalties

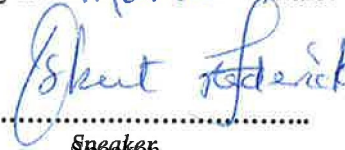
Section 11 of principal Act is amended by inserting the following subsections -

"(4) Where a reporting financial institution that would be subject to the penalty provisions under section 9 is a legal arrangement or is a branch located in Antigua and Barbuda, the

penalty may be imposed on any person(s) responsible for managing the affairs of the Reporting Financial Institution in Antigua and Barbuda.

(5) For the purpose of this provision, the person(s) responsible shall always include, in the case of a trust, the trustee(s) and in the case of a partnership, each of the partners."

ed the House of Representatives on
4th day of March 2025.


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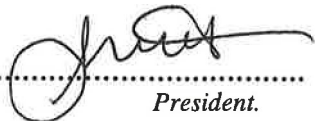
Speaker

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Clerk to the House of Representatives.

Passed the Senate on the 5 day of *en*, 2025.


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President.


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Clerk to the Senate.