



GOVERNMENT OF ANTIGUA AND BARBUDA

Ministry of Finance

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INLAND REVENUE DEPARTMENT

CIRCULAR NO. 4 OF 2025

TO: ALL REPORTING FINANCIAL INSTITUTIONS (RFI)

DATE: 1ST OCTOBER 2025

CIRCULAR CONTENT - AEOI-CRS

SUBJECT: ANTI-AVOIDANCE (ANTI-CIRCUMVENTION) MEASURES UNDER AEOI-CRS COMPLIANCE

Supersession and Purpose

This Circular supersedes all earlier versions of Circular No. 5 of 2024 and is issued to ensure full alignment with the **Common Reporting Standard (CRS)** as incorporated under the **Automatic Exchange of Financial Information Regulations, 2017**. This revision addresses feedback provided during the AEOI effectiveness assessment and clarifies addressing anti-circumvention practices linked to citizenship/residency by investment schemes.

1. Anti-Avoidance (Anti-Circumvention)

Anti-Avoidance (Anti-circumvention) refers to the strategies and procedures designed to prevent individuals or entities from exploiting loopholes or engaging in practices that undermine the intent of AEOI and CRS regulations. This includes any actions taken to avoid the proper reporting of income or assets.

2. Key Anti-Circumvention Measures

Financial institutions must adopt the following measures to detect and prevent circumvention of AEOI-CRS obligations:

- **Robust Due Diligence Procedures:** Implement comprehensive due diligence processes to verify the identity and tax residency of account holders, including:
 - Thorough verification of self-certification forms.
 - Collection of supporting documentation to confirm tax residency claims.
- **Monitoring and Reporting:** Establish systems to monitor account activity for signs of avoidance (circumvention), such as:
 - Unusual patterns of deposits or withdrawals that may indicate attempts to disguise the source of funds.
 - Accounts being opened in the names of nominees or other third parties to obscure true ownership.
- **Risk Assessment Framework:** Develop a risk-based approach to identify high-risk accounts that may be more likely to engage in circumvention. This includes:
 - Regularly reviewing and updating risk profiles based on emerging trends and patterns.

2.A Prevention of CRS Circumvention through CBI/RBI Schemes – OECD-Identified High-Risk Scenarios (NEW!)

The Organisation for Economic Co-operation and Development (OECD), in its “Preventing Abuse of Residence by Investment (RBI) and Citizenship by Investment (CBI) Schemes” guidance, has identified such programmes as potentially high-risk for CRS circumvention where they allow individuals to misrepresent their jurisdiction of tax residency.

Antigua and Barbuda’s Citizenship by Investment Programme and Permanent Residence Certificate fall within the scope of schemes referenced by the OECD. In this regard, all Reporting Financial Institutions (RFIs) are reminded of their obligation under Section [insert relevant section] of the Automatic Exchange of Financial Account Information Regulations to ensure the reasonableness of self-certifications, particularly where CBI/RBI participation is present.

Accordingly, RFIs must implement the following measures in respect of CBI/RBI clients:

1. ***Application of Enhanced Reasonableness Checks:*** *RFIs must apply heightened scrutiny to validate the declared tax residency of Account Holders and/or Controlling Persons who have acquired citizenship or residence through CBI/RBI schemes, especially where alternative connections (e.g. place of birth, habitual residence, economic interests) may indicate tax residency elsewhere.*
2. ***Review of Supporting Indicators:*** *In line with OECD expectations, RFIs should consider information such as travel frequency, duration of physical presence, ownership or leasing of property, and any ties to jurisdictions where tax residency may be established.*
3. ***Integration with AML/CFT Enhanced Due Diligence:*** *Enhanced CRS checks must be aligned with, and not limited to, existing AML/CFT enhanced due diligence procedures undertaken for CBI/RBI customers.*
4. ***Record-Keeping and Audit Trail:*** *RFIs must retain documented evidence demonstrating how CBI/RBI participation was identified and how the reasonableness of tax residency was assessed*

3. Training and Awareness

Financial institutions must provide training to staff to ensure they are aware of the tactics used to avoid (circumvent) AEOI-CRS requirements and the importance of maintaining compliance. Training should include:

- Identification of red flags associated with avoidance (circumvention) attempts.
- Procedures for reporting suspicious activities or concerns.

4. Collaboration with Authorities

Financial institutions are encouraged to collaborate with the IRD to share information and insights regarding potential avoidance (circumvention) schemes. This may involve:

- Participating in forums or working groups focused on AEOI-CRS compliance.
- Reporting any identified avoidance (circumvention) attempts to the relevant authorities.

5. Non-Compliance with Anti-Circumvention Measures

Failure to implement effective anti-avoidance (anti-circumvention) measures may result in:

- Increased scrutiny from the IRD.
- Potential penalties in accordance with Section 10 of the AEOI Act 2016 against the financial institution for non-compliance.

6. Guidance for Financial Institutions

Financial institutions should ensure that:

- Policies and procedures related to anti-avoidance (anti-circumvention) are documented and regularly reviewed.
- Systems for detecting and reporting suspicious activities are effective and well-integrated into overall compliance frameworks.

7. Conclusion

Implementing robust anti-avoidance (anti-circumvention) measures is crucial for maintaining compliance with AEOI and CRS obligations. Financial institutions are urged to follow these guidelines diligently to prevent avoidance (circumvention) attempts and ensure accurate reporting.

For further information, please contact the AEOI/EOI Unit at the IRD at aeoi.information@ab.gov.ag. Please also refer to the relevant IRD's legal framework *the Automatic Exchange of Financial Information Act No. 11 of 2016 and the Automatic Exchange of Financial Information Act No. 18 of 2017* together with relevant amendments. The information has also been posted on the IRD website at <https://ird.gov.ag/index.php/fatca-and-crs>.