



Government of the Republic of Trinidad and Tobago

MINISTRY OF FINANCE

FEATURE ADDRESS

By

***Senator The Honourable Allyson West,
Minister in the Ministry of Finance***

AT THE TECHNICAL ANTI-MONEY LAUNDERING SEMINAR

**WEDNESDAY 20TH MARCH, 2019
Festival Ballroom, Radisson Hotel**

Salutations

- Mr. Nigel Matthew, AML and Leadership Consultant
- Other fellow presenters:
 - Mr. Calvin Wilson – Principal, Calvin Wilson and Associates
 - Mr. David J. Schwartz, President and CEO Florida International Bankers Association (FIBA)
 - Mr. Anthony Peyson – ICT Consultant
- Participants
- All other specially invited guests
- Members of the Media
- Ladies and gentlemen ...

...Good morning, it is indeed a pleasure to deliver the feature address at the Technical Anti Money Laundering Seminar 2019. I have been tasked with providing an update on the status of T&T's compliance with its Global Forum and FATCA obligations. These two issues have formed part of the public discourse for some considerable time, especially when one factors in the FATCA debate. As such it is critical that we have a firm appreciation of our commitments and responsibilities as we move forward in this increasingly globalized and complex financial landscape.

As you may be aware, the mandate of the Global Forum on Tax Transparency and Exchange of Information is to promote the exchange of information through a robust and comprehensive monitoring and peer review process. The peer review process evaluates the compliance of a jurisdiction with the international standards of tax transparency and exchange of information. This process is divided into

- Phase 1 reviews, which examine a jurisdiction's legal and regulatory framework for transparency and exchange of information, and

- Phase 2 reviews, which examine information exchange in practice between jurisdictions.

As a member of the *Global Forum* since October 2011, Trinidad and Tobago completed the Phase 1 Review stage. In this stage, the Global Forum evaluated the legal and regulatory framework in place against the standard of transparency and exchange of information. The Global Forum Terms of Reference break down the standard into ten essential elements. The Standard is divided into three broad categories:

- availability,
- access and
- exchange of information.

A determination is then made in respect of each element by independent assessors from member jurisdictions to determine its status. Where a determination was found to be “not in place”, the Global Forum provide a recommendation for its

improvement. There are **two major deficiencies** regarding the *elements that are not in place* for Trinidad and Tobago and they are:

1. The Competent Authority (The Board of Inland Revenue) has limited powers to access banking information; and
2. Inland Revenue Division's information gathering powers is limited to Trinidad and Tobago's tax laws which primarily encompasses our Domestic Tax Interest.

Trinidad and Tobago have been assessed as non-complaint in Phase 1 and is in fact the only country that has been so assessed. This was reported by the OECD General Secretary to the G 20 Leaders in December 20018.

The Phase 2 reviews examine information exchange in practice between jurisdictions.

For Trinidad and Tobago to become compliant, the Global Forum Secretariat recommended that we:

- Amend our Income Tax legislation;
- Expand Trinidad and Tobago's Treaty Network via the negotiation of Tax Information Exchange Agreements (TIEAs); and
- Become a signatory to the Multilateral Convention on Mutual Assistance in Tax Matters;

To remedy the above, The Income Tax (Amendment) Bill 2018 was passed in Parliament last December whilst the Mutual Administrative Assistance in Tax Matters Bill 2018 and the TIEA Bill 2018 are currently before a Joint Select Committee of Parliament. Although the Income Tax Amendment Bill was passed, the fundamental elements that were so critical for our compliance with Global Forum standards were unfortunately eliminated.

Given our unacceptable, seemingly perennial position as the only non-compliant jurisdiction in the world; coupled with the fact that this status certainly negatively impacts our image on the international stage as a jurisdiction committed to upholding the international standards geared at eradicating tax evasion and promoting tax transparency; it is imperative that we must carry on our efforts to improve our tax compliance status.

With that being said, the Ministry of Finance continues to work closely with the Global Forum to improve Trinidad and Tobago's current non-compliant rating and to ensure that Trinidad and Tobago honours its commitment to commence automatically exchanging information according to the Common Reporting Standard.

The Second Round of the Peer Review Process incorporates an on-site visit and Trinidad and Tobago's assessment is expected to take place next month, April.

However, it must be stressed that without the necessary legislation in place, the onsite visit will be futile.

The implications of Trinidad and Tobago remaining non-compliant have not been explicitly outlined by the G20 member states and other monitoring international organisations in particular the OECD. However, even if no direct penalties are imposed, it is likely that the efficiency of conducting business internationally and the cost of doing so will be significantly impacted. This impending reality, unfortunately does not bode well for our country and as such we must work steadfastly and with great urgency with our Parliamentary colleagues, towards passing the necessary legislation.

Distinguished guests, permit me if I may to pivot to an equally pertinent sphere of our efforts to collaborate with members of the international community in facilitating reciprocal tax transparency and information exchange and that is FATCA. On the legislative front, Trinidad and Tobago by Act No. 4 of 2017,

assented to on March 20th, 2017 introduced a Tax Information Exchange Agreements (United States of America) Act which makes provision for the implementation of agreements between Trinidad and Tobago and the United States of America. This provision is fundamental for the exchange of information for the purposes of taxation, the lawful sharing of personal information held by the Board of Inland Revenue and financial institutions and for any other related purposes.

With respect to the operationalisation of this FATCA legislation, the major stakeholders are the Board of Inland Revenue (BIR), Financial Institutions within Trinidad and Tobago (FIs), Central Bank of Trinidad and Tobago and the Trinidad and Tobago Securities Exchange Commission which are the regulatory bodies for financial institutions and small investment entities respectively and the US Internal Revenue Service (IRS). Since most of you would have some sense of the role of the local players I will focus on the role of the IRS in this process.

The IRS mainly facilitates the reciprocal exchange of FI's FATCA information via the E-Tax and IRS International Data Exchange Service (IDES) platform. They register Trinidad and Tobago's FI's by assigning them a Global International Intermediary Number (GIIN), they receive FATCA information transmitted from the BIR and they send FI's notifications via IDES to the BIR E-Tax platform on the status of files received. In the vein of reciprocity, the IRS at intervals assist Trinidad and Tobago with our responsibility in ensuring quality compliance standards on our end by the provision of an up-to-date listing of all Trinidad and Tobago's FI's registered with them.

With respect to Trinidad & Tobago's implementation of FATCA, it should be noted that the BIR first submission of live FATCA information from the FI's commenced in 2016 when the BIR portal was initially open to receive FATCA files for the years 2014 onwards. The BIR has initiated critical steps which have manifested in the ongoing rollout of FI's registrations and Point of Contact amendment requests on a

monthly basis. Furthermore, the BIR assists FI's with their queries and provides guidance at the most essential stages.

Regarding the FATCA Files submissions, Financial Institutions are mandated to present their files on the previous year's information by September 30th annually. As such, 2018 FATCA information is due by September 30th of this year.

Distinguished guests, having meaningful reciprocity in a bilateral tax information exchange agreement such as FATCA is fundamental in achieving two (2) objectives:

- i) Maximizing the intended benefits for both signatories and
- ii.) Ensuring that these benefits are equitably distributed and felt by both parties.

With respect to the reciprocal exchange of information from US IRS, at present the IRD has successfully decrypted the US IRS' test file received. The US IRS has a mandatory requirement for a workbook committing to Data Protection Safeguards,

which is being completed by the BIR and will be submitted shortly in order to progress the full operationalization of the reciprocal file exchange.

Despite the above, Trinidad and Tobago has successfully submitted FATCA files to the US IRS for 2016 and 2017. In a quantitative sense, in 2016, ninety-nine (99) FATCA files were submitted to the US while this number increased to one hundred and ninety-nine (139) in 2017. Six (6) FATCA files were not submitted to the US in 2016 and seven (7) were not submitted in 2017. This was so because these files mostly related to FI's with nil files for submission to BIR and their request for deregistration is currently a work-in-progress. The date of submission for the 2018 files is September 2019.

So stakeholders as it relates to you, once the suite of legislation that is geared towards meeting international tax transparency, exchange of information and compliance standards which encompasses the Global Forum requirements has been enacted and

it is my hope that this happens expeditiously, the focal point of the modern day exchange of information will be the adoption of the Common Reporting Standard which bears substantive similarities to how we transmit information under FATCA.

I would like to bookend this affair by extending a hearty round applause and appreciation to the NEM Leadership Consultants (NEMLC) for providing me, in my capacity as Minister in the Ministry of Finance, with the platform to meaningfully engage a large number of stakeholders on our country's position, status and strident efforts in advancing international tax transparency and exchange of information standards under the Global Forum Framework and FATCA.

I trust that I have clearly outlined where we are, that we have made significant effort to be compliant with our obligations and will continue to do so. Where there are gaps in our compliance these are due to a failure to implement the relevant legislation in a timely manner. You will appreciate since the legislation in question requires the disclosure of personal information, much of it requires passage by a special majority, which requires opposition support. With the very vocal support of the financial

institutions in particular and the public in general we were able to garner the requisite support for the FATCA legislation. The legislation we are seeking to introduce in respect of global forum essentially replicates what was done re FATCA and as such we are at a loss to determine the basis of the resistance to support of the legislation. But we continue to represent your interest and to press for passage of the bills to remove from T&T the unwelcome distinction of being the only member of the global forum to be non-compliance with phase one and to become fully compliant at the earliest opportunity. We bring the relevant bills back before both Houses of Parliament shortly for debate and hopefully with you equally vocal support passage in time for the end of April peer review.

It was most certainly a pleasure to address you and I wish you a successful seminar today

THANK YOU