

GUIDANCE NOTE

Reference	OGC No. 05/2025
Title	Foreign Account Tax Compliance Act (“FATCA”)
Sub Title	Small or Limited Scope Financial Institutions
Purpose	To inform stakeholders on the criteria to be deemed a Small or Limited Scope Financial Institutions for the purposes of the Foreign Account Tax Compliance Act

Introduction

The Authority was guided by the **Agreement between the Government of the United States of America and the Government of Barbados to Improve International Tax Compliance and to Implement FATCA (“the Agreement”)** in penning this Guidance Note.

Please note that, where a Financial Institution satisfies one of the criteria below in Subparagraph A, B or C, the Financial Institution may be deemed a **“Non-Reporting Barbados Financial Institution or Small or Limited Scope Financial Institution”** that shall be treated as a **“deemed-compliant Foreign Financial Institution” (“FFI”)** and thus exempt from the application of the due diligence requirements and reporting obligations for the purposes of FATCA. This determination is based on the low risk of being used by U.S. persons to evade U.S. tax. **Annex II Section III subparagraphs A, B & C** of the **Agreement** outlines the criteria for an FFI to be deemed-compliant. Therefore, a Financial Institution must satisfy one of the subparagraphs.

Subparagraph A - Local Client Base

Annex II, Section III, subparagraph A focuses on the instance where a Financial Institution would qualify as a deemed-compliant FFI where it maintains a **Local Client Base** and adheres to the stipulated requirements. The Financial Institution:

- Must be licensed and regulated as an Financial Institution under the laws of Barbados;
- Must have no fixed place of business outside of Barbados. *“For this purpose, a fixed place of business does not include a location that is not advertised to the public and from which the Financial Institution performs solely administrative support functions;”*
- Must not solicit customers or Account holders outside of Barbados. For this purpose, a Financial Institution shall not be considered to have solicited customers or Account Holders outside of Barbados where the Financial Institution;

- (a) operates a website, provided that the website does not explicitly state that it offers Financial Accounts or services to non-residents, and it does not actively target U.S. customers or Account Holders; or
 - (b) advertises in print media or on radio or television primarily distributed within Barbados, even if it is also available in other countries, provided that the advertisement does not explicitly state that the institution offers Financial Accounts or services to nonresidents, and it does not actively target or solicit U.S. customers or Account Holders.
- Must identify resident Account Holders for purposes of information reporting or withholding of tax with respect to Financial Accounts held by residents in alignment with Barbados' AML due diligence requirements under the laws of Barbados.
 - Must maintain a total value of Financial Accounts of which at least 98 percent of the said accounts are held by residents of Barbados, including resident entities.
 - Must implement policies and procedures consistent with those outlined in **Annex I** beginning on or before **July 1, 2014**. These measures are to prevent the Financial Institution from providing a Financial Account to any Non-participating Financial Institution. Additionally, the Financial Institution must monitor and prevent the opening or maintenance of Financial Accounts for Specified U.S. Persons who are not residents of Barbados. This includes those who were residents at the time the account was opened but later cease to be, as well as for any Passive Non-Financial Foreign Entity ("NFFE") with Controlling Persons who are U.S. residents or U.S. citizens not residing in Barbados.
 - Must stipulate that the policies and procedures referenced above should make clear that if any Financial Institution identifies any Financial Account held by a Specified U.S. Person who is not a resident of Barbados, or by a Passive NFFE with Controlling Persons who are U.S. residents or U.S. citizens not residing in Barbados, the Financial Institution must either report the account as would be required if the Financial Institution was a Reporting Barbados Financial Institution (including complying with the IRS FATCA registration requirements) or close the account.

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- In the instance of Preexisting Accounts held by an individual or entity who is not a resident of Barbados, the Financial Institution must review the said accounts in alignment with the procedures outlined in **Annex I** of the Agreement for Preexisting Accounts. The aim of the review should be to determine any U.S. Reportable Accounts or Financial Accounts held by Non-participating Financial Institution. Following this, the Financial Institution should either report such accounts as would be required if the Financial Institution was a Reporting Barbados Financial Institution or close the account.
- Every Related Entity¹ of the Financial Institution; with the exception for any Related Entity that is a retirement fund as described in paragraphs **A through D of Section II of this Annex II**, must be incorporated or organized in Barbados and must satisfy the foregoing requirements as outlined above.
- Must ensure that it does not have policies or practices that discriminate against opening or maintaining Financial Accounts for individuals who are Specified U.S. Persons or residents of Barbados.

Subparagraph B - Local Bank

Annex II, Section III, Subparagraph B outlines the criteria for a **Local Bank** to be classified as a Non-Reporting Barbados Financial Institution. The Financial Institution being lawfully licensed and regulated under the laws of Barbados must operate entirely as one of the options listed below:

1. Bank
2. Credit union
3. Cooperative Credit Organization operated without profit.

Moreover, the Financial Institution's business should mainly comprise of receiving deposits from and making loans to unrelated customers with respect to a bank. In the case of a credit union or cooperative credit organization this would apply to its members; where no member has greater than five percent (5%) interest in the Financial Institution.

¹ Related Entity as per the Agreement refers to an entity that either controls another entity or is under common control with another entity. *"For this purpose control includes direct or indirect ownership of more than 50 percent of the vote or value in an Entity."*

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The Financial Institution must have no fixed place of business outside of Barbados. For this purpose, a fixed place of business does not include a location that is not advertised to the public and from which the Financial Institution performs solely administrative support functions. In addition, the Financial Institution must not solicit customers or Account Holders outside of Barbados. For this purpose, a Financial Institution shall not be considered to have solicited customers or Account Holders outside of Barbados where the Financial Institution;

- (a) operates a website, provided that the website does not explicitly state that it offers Financial Accounts or services to non-residents, and it does not actively target U.S. customers or Account Holders; or
- (b) advertises in print media or on radio or television primarily distributed within Barbados, even if it is also available in other countries, provided that the advertisement does not explicitly state that the institution offers Financial Accounts or services to nonresidents, and it does not actively target or solicit U.S. customers or Account Holders.

Further, the Financial Institution must NOT have greater than \$175 million² in assets on its balance sheet, and the Financial Institution and any Related Entities must NOT have more than \$500 million in total assets on their consolidated or combined balance sheets. Further, any Related Entity must be incorporated in Barbados and any Related Entity that is a Financial Institution with the exception of any Related Entity that is a retirement fund or a Financial Institution with only low-value accounts, must satisfy the foregoing requirements under this section.

Subparagraph C - Only Low Value Accounts

Annex II, Section III, Subparagraph C provides a third instance where a Financial Institution shall be treated as a deemed-compliant Foreign Financial Institution for the purposes of FATCA. The Financial Institution:

- Must not be an Investment Entity.

² The Agreement makes it clear that, "All dollar amounts are in U.S. dollars and shall be read to include the equivalent in other currencies."

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- Must not maintain any Financial Accounts in excess of \$50,000³ having applied the account aggregation and currency translation rule outlined in **Annex I** of the Agreement.
- Must not have assets on its balance sheet over \$50 million; and when combined with any Related Entities, the Financial Institution must not have more than of \$50 million in total assets on their consolidated or combined balance sheets.

Based on the foregoing, where a Financial Institution satisfies the criteria in Subparagraph A, B or C, the Financial Institution shall be treated as a deemed-compliant Foreign Financial Institution, exempted from the due diligence requirements and reporting obligations under the Agreement.

**Global Relations Unit
Barbados Revenue Authority
January 2025**

³ A Financial Account that is NOT in excess of 50,000 is considered a low value account for the purposes of FATCA.