



THE PARLIAMENT OF
TRINIDAD AND TOBAGO

BILL ESSENTIALS

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House: House of Representatives

Minister: The Attorney General and
Minister of Legal Affairs

HOR Bill No: 22 of 2018

Links: The links to the Bill, and its
progress can be found on the Bill's
home page through the Parliament's
website, www.ttparliament.org

BILL ESSENTIALS

BILL ESSENTIALS NO. 4, 2018–19

13 DECEMBER, 2018

The Miscellaneous Provisions (Proceeds of Crime, Anti-Terrorism and Financial Intelligence Unit of Trinidad and Tobago) Bill, 2018

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BACKGROUND

1. **The Miscellaneous Provisions (Proceeds of Crime, Anti- Terrorism and Financial Intelligence Unit of Trinidad and Tobago) Bill, 2018¹** (hereinafter referred to as “the Bill”) aims to amend the **Proceeds of Crime Act, Chap 11:27**, the **Anti-Terrorism Act, Chap. 12:07** and the **Financial Intelligence Unit of Trinidad and Tobago Act, Chap 72:01**.
2. Included among the amendments are changes in definitions, establishment of the National Anti-Money Laundering and Counter Financing Terrorism Committee and establishment of an Anti-Terrorism Unit in the Office of the Attorney General.
3. The Bill was introduced in the House of Representatives by the Attorney General on December 7, 2018.

KEY FEATURES OF THE BILL

Proceeds of Crime Act Chap. 11:27

Change of Definition of Financial Institution

4. **Clause 2** of the Bill proposes to amend **Section 2** of the **Proceeds of Crime Act Chap. 11:27²** to exclude insurance agents, and the underwriting and placement of term life insurance, from the ambit of the definition of “*financial institution*”.
5. The **Proceeds of Crime Act** establishes the procedure for the confiscation of the proceeds of certain offences and for the criminalising of money laundering.

Extension of the offence of tipping off

6. Further, **Clause 2** of the Bill proposes to amend **Section 51** of the **Proceeds of Crime Act** by extending the offence of tipping off to the disclosure of information that is likely to prejudice

¹ <http://www.ttparliament.org/legislations/b2018h22.pdf>

² http://rgd.legalaffairs.gov.tt/laws2/alphabetical_list/lawspdfs/11.27.pdf

the filing of a suspicious transaction report or a suspicious activity report and to exempt the disclosure of information within a financial group from criminal liability.

7. Tipping off may be described as the disclosing of information to any other person, knowing that the matter is subject to investigation or proposed investigation³.

Change in the Penalty for Facilitating Money Laundering

8. **Section 53** of the **Proceeds of Crime Act** would be amended to provide for the offence of facilitating money laundering and to impose higher penalties on public officers and persons employed on contract in the service of the State who commit the offence of tipping off or failing to disclose knowledge or suspicion of money laundering.
9. The penalty for tipping-off pursuant to **Section 53** of the **Proceeds of Crime Act** is ***\$5 million and 5 years imprisonment upon summary conviction***. In relation to public officers and persons employed on contract in the service of the State, the penalty for tipping off will be increased to ***\$10 million and 10 years imprisonment upon summary conviction***.
10. The penalty for failure to disclose knowledge or suspicion of money laundering is a fine of ***\$250,000 and 3 years imprisonment upon summary conviction***. However, the applicable penalty for public officers and persons employed on contract in the service of the State will be increased to ***\$500,000 and 5 years imprisonment upon summary conviction***.
11. Consequently, **Clause 2** of the Bill proposes the repeal of **Section 54** (Extension of certain offences to public servants) of the Act.

Exemption of Financial Institutions from Liability

12. **Section 55B** of the **Proceeds of Crime Act** would also be amended to exempt a financial institution or listed business from criminal, civil or administrative liability if it makes a suspicious transaction or suspicious activity report in good faith. The exemption applies whether or not the underlying criminal activity was known or any illegal activity occurred.

³ <https://www.fiu.gov.tt/content/14%20Nov%202014%20Offences%20and%20Penalties.pdf>

Amendment of the Definition of Supervisory Authority

13. **Clause 2** of the Bill also amends the definition of “*Supervisory Authority*” in **Section 55D(4)** of the **Proceeds of Crime Act** to exclude the National Insurance Board and the Unit Trust Corporation of Trinidad and Tobago.
14. Under **Section 55D**, a Supervisory Authority is empowered to enter into the premises of any financial institution or listed business during working hours in order to inspect any business transaction record or client information record kept by the financial institution, determine whether there is compliance with the Act, and determine whether a compliance programme has been implemented

Liability of Officers Directors and Agents

15. **Section 57(2)** of **Proceeds of Crime Act** would be amended to make it clear that a company and its officers, directors and agents are liable to be prosecuted and convicted for an offence committed by the company

Establishment of the National Anti-Money Laundering and Counter Financing of Terrorism Committee.

16. Further, **Clause 2** of the Bill proposes to amend the Act by inserting after **Section 57, Part II A** establishing the National Anti-Money Laundering and Counter Financing of Terrorism Committee. This new Part will provide for the establishment, composition and functions of the Committee.

Anti- Terrorism Act Chap. 12:07

17. **Clause 3** of the Bill proposes to amend the **Anti- Terrorism Act Chap. 12:07⁴**, by inserting after **Section 38A**, a new **Part VIII A** to provide for the establishment of the Anti-Terrorism Unit in the Office of the Attorney General.
18. The functions of the Attorney General under the Act would be exercisable by him in person or through a public officer or legal officer who is employed in the Anti-Terrorism

⁴ https://rgd.legalaffairs.gov.tt/laws2/Alphabetical_List/lawspdfs/12.07.pdf

Unit, authorised by the Attorney General in writing and acting under and in accordance with the general or special directions of the Attorney General.

19. A public officer or legal officer would, however, be precluded from making an Order or other statutory instrument under the Act.
20. The Attorney General would be required to cause an annual report with respect to the performance of his functions under the Act, to be prepared and laid in both Houses of Parliament.

Financial Intelligence Unit of Trinidad and Tobago Act Chap. 72:01

21. **Clause 4** of the Bill proposes to amend the **Financial Intelligence Unit of Trinidad and Tobago Act Chap. 72:01**⁵ by correcting certain cross-references in the Act and its Regulations.

REFERENCES

KEY LEGISLATION

- **The Miscellaneous Provisions (Proceeds of Crime, Anti- Terrorism and Financial Intelligence Unit of Trinidad and Tobago) Bill, 2018**
<http://www.ttparliament.org/legislations/b2018h22.pdf>
- **Proceeds of Crime Act Chap. 11:27**
http://rgd.legalaffairs.gov.tt/laws2/alphabetical_list/lawspdfs/11.27.pdf
- **Anti- Terrorism Act Chap. 12:07**
https://rgd.legalaffairs.gov.tt/laws2/Alphabetical_List/lawspdfs/12.07.pdf
- **Financial Intelligence Unit of Trinidad and Tobago Act Chap. 72:01**
<https://www.fiu.gov.tt/content/FIUTT%20Act%2072%2001.pdf>

⁵ <https://www.fiu.gov.tt/content/FIUTT%20Act%2072%2001.pdf>



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