

First Session Twelfth Parliament Republic of
Trinidad and Tobago



REPUBLIC OF TRINIDAD AND TOBAGO

Act No. 25 of 2020

[L.S.]

AN ACT to amend the Mutual Legal Assistance in Criminal Matters Act, Chap. 11:24, the Proceeds of Crime Act, Chap. 11:27, the Anti-Terrorism Act, Chap. 12:07, the Interception of Communications Act, Chap. 15:08, Financial Intelligence Unit of Trinidad and Tobago Act, Chap. 72:01, the Income Tax Act, Chap. 75:01, the Central Bank Act, Chap. 79:02, the Financial Institutions Act, Chap. 79:09, the Companies Act, Chap. 81:01, the Securities Act, Chap. 83:02, and the Non-Profit Organisations Act, No. 7 of 2019

[Assented to 18th December, 2020]

Enactment	ENACTED by the Parliament of Trinidad and Tobago as follows:
Short title	1. This Act may be cited as the Miscellaneous Provisions (FATF Compliance) Act, 2020.
Commencement	2. This Act shall come into effect on such date as is set by the President by Proclamation.
Chap. 11:24 amended	3. The Mutual Assistance in Criminal Matters Act is amended by inserting after section 40, the following new section: <div style="margin-left: 40px;"> <p>^{“Confidentiality of information} 41. A person employed in the Central Authority who knowingly or recklessly discloses information that has come into his possession as a result of his employment in the Central Authority to a person otherwise than in the proper exercise of his duties, whether or not he continues to be employed at the Central Authority, commits an offence and is liable on summary conviction to a fine of two hundred and fifty thousand dollars and imprisonment for three years.”.</p> </div>
Chap. 11:27 amended	4. The Proceeds of Crime Act is amended— <div style="margin-left: 40px;"> <p>(a) in section 57(1)— <div style="margin-left: 40px;"> <p>(i) in subsection (1), by deleting the words “and any Regulations made under section 56”; and</p> <p>(ii) by inserting after subsection (1), the following new subsections: <div style="margin-left: 40px;"> <p>“(1A) A person who contravenes Regulations made under this section— <div style="margin-left: 40px;"> <p>(a) may be liable to the administrative fine set out in Regulations; and</p> </div> </p></div> </p></div> </p></div>

(b) failing the payment of the administrative fine, commits an offence and is liable—

(i) on summary conviction to a fine of one million dollars and to a further fine of twenty-five thousand dollars for each day that the offence continues; or

(ii) on conviction on indictment to a fine of three million dollars and to a further fine of fifty thousand dollars for each day that the offence continues; or

(c) commits an offence and is liable—

(i) on summary conviction, to a fine of one million dollars and to a further fine of twenty-five thousand dollars for each day that the offence continues; or

(ii) on conviction on indictment, to a fine of three million dollars and to a further fine of fifty thousand dollars for each day that the offence continues.

(1B) Notwithstanding section 63 of the Interpretation Act, Regulations made under section 53

may carry an administrative fine of up to one hundred thousand dollars and a fine—

(a) on summary conviction, to a fine of one million dollars and a term of imprisonment of two years; or

(b) on conviction on indictment, to a fine of three million dollars and to a term of imprisonment of seven years.”;

(b) renumbering 58E as 58E(1);

(c) in section 58E(1), as renumbered, in paragraph (e), by deleting the words “; and” and substituting the words “; or”;

(d) inserting after section 58E(1), as renumbered, the following new subsection:

“(2) The Minister may, by Order, in addition to the matters set out in subsection (1), determine that the funds of the Fund may be used for any other purpose.

(3) An Order under subsection (2) may be subject to negative resolution of Parliament.”; and

(e) in the Financial Obligations Regulations, by deleting regulation 42 and substituting the following new regulation:

“Offences and
penalties

42. A financial institution or listed business which does not comply with these Regulations—

(a) may be liable to the administrative fine set out in Regulations; and

(b) failing the payment of the administrative fine, commits an offence and is liable on summary conviction or on conviction on indictment, to the penalty prescribed in section 57 of the Act; or

(c) commits an offence and is liable on summary conviction or on conviction on indictment, to the penalty prescribed in section 57 of the Act.”.

Chap. 12:07
amended

5. (1) The Anti-Terrorism Act is amended—

(a) in section 22B, by inserting after subsection (12), the following new subsection:

“(13) An application under subsection (1A) shall be filed under seal.”;

(b) in section 42—

(i) in paragraph (b), by deleting all the words after the words “section 41(2)” and substituting the following:

“—

(i) may be liable to the administrative fine

set out in Regulations; and

(ii) failing the payment of the administrative fine commits an offence and is liable—

(A) on summary conviction to a fine of one million dollars and to a further fine of twenty-five thousand dollars for each day that the offence continues; or

(B) on conviction on indictment to a fine of five million dollars and to a further fine of fifty thousand dollars for each day that the offence continues; or

(iii) commits an offence and is liable—

(A) on summary conviction to a fine of one million dollars and to

a further fine of twenty-five thousand dollars for each day that the offence continues; or

(B) on conviction on indictment to a fine of three million dollars and to a further fine of fifty thousand dollars for each day that the offence continues.

(c) commits an offence and is liable—

(i) on summary conviction to a fine of one million dollars and to a further fine of twenty-five thousand dollars for each day that the offence continues; or

(ii) on conviction on indictment to a fine of three million dollars and

to a further
fine of fifty
t h o u s a n d
dollars for
each day that
the offence
continues.”;
and

- (ii) by inserting after subsection (1),
the following new subsection:

“(1B) Notwithstanding
section 63 of the
Interpretation Act,
Regulations made under
section 41(2) may carry an
administrative fine of up to
one hundred thousand
dollars and a fine—

(a) on summary
conviction, of one
million dollars and
a term of imprison-
ment of two years;
or

(b) on conviction on
indictment, of
three million
dollars and to a
term of imprison-
ment of seven
years.”; and

- (c) by inserting after section 43, the following
new section:

“Confidentiality
of
information 44. A person employed in
the Anti-Terrorism Unit who
knowingly or recklessly discloses
information that has come into his

possession as a result of his employment in the Anti-Terrorism Unit to a person otherwise than in the proper exercise of his duties, whether or not he continues to be employed at the Anti-Terrorism Unit, commits an offence and is liable on summary conviction to a fine of two hundred and fifty thousand dollars and imprisonment for three years.”.

(2) The Financial Obligations (Financing of Terrorism) Regulations are amended—

(a) in regulation 3, by inserting after the word “shall”, the words “, until regulations are made under this Act,”; and

(b) by deleting regulation 8 and substituting the new regulation:

“Offences and penalties

8. A financial institution or listed business which does not comply with these Regulations—

(a) may be liable to the administrative fine set out in Regulations; and

(b) failing the payment of the administrative fine, commits an offence and is liable on summary conviction or on conviction on indictment, to the penalty prescribed in section 57 of the Act; or

(c) commits an offence and is liable on summary

conviction or on conviction on indictment, to the penalty prescribed in section 57 of the Act.”.

6. The Interception of Communications Act is Chap. 15:08 amended amended in—

(a) section 6A(2), by deleting paragraph (b) and substituting the following:

“(b) in such places within a prison,

as may be specified by the Minister, by Order.”; and

(b) section 18A(1), (2), (6) and (7), by inserting after the words “communications data”, wherever it occurs, the words “, stored data”.

7. The Financial Intelligence Unit of Trinidad and Tobago Act is Chap. 72:01 amended amended—

(a) in section 2, by deleting the definition of “FIU” and substituting the following new definition:

““FIUTT” means the Financial Intelligence Unit of Trinidad and Tobago established under section 3;”;

(b) in section 3, by inserting after the word “Unit”, the words “of Trinidad and Tobago”;

(c) in section 8, in subsection (3)—

(i) in paragraph (d), by deleting the word “set” and substituting the words “may set”;

(ii) in paragraph (e), by deleting the word “engage” and substituting the words “may engage”;

- (iii) in paragraph (g), by deleting the word “facilitate” and substituting the words “may facilitate”; and
 - (iv) in paragraphs (h) and (i), by deleting the word “provide” and substituting the words “shall provide”.
- (d) in section 11 by—
- (i) renumbering section 11 as section 11(1); and
 - (ii) inserting after section 11(1), as renumbered, the following new subsection:
 - “(2) The FIU may impose administrative penalties for breaches of obligations, by any listed business or non-regulated financial institution supervised by it, as provided for under any written law.”;
- (e) in section 15, by inserting after subsection (2), the following new subsections:
- “(3) Where a report submitted under subsection (1) is in respect of a police officer, the FIUTT shall also transmit a copy of the report to the Police Complaints Authority for investigation.
 - (4) For the purposes of subsection (3), “police officer” has the meaning assigned to it under the Police Complaints Authority Act.”;
- (f) by inserting after section 18B, the following new section:

“De-registra-
tion

18BA. (1) An entity supervised by the FIUTT may apply for de-registration with the FIUTT once it no longer functions as an entity required to be supervised by the FIUTT.

(2) The FIUTT may, on the application of an entity supervised by it or on its own motion, de-register an entity supervised by it if the FIUTT is satisfied that the supervised entity is no longer performing the activities which requires it to be registered.”;

(g) in section 18H (8), by deleting all the words after the word “Act” and substituting the words—

“—

(a) impose such administrative fines as are provided for under the written laws under subsection (1); or

(b) apply to the High Court for an Order requiring the non-regulated financial institution or listed business to comply with the directive, to cease the contravention or do anything that is required to be done.”;

(h) by inserting after section 18H, the following new section:

^{“Administrative penalties} 18I. Notwithstanding section 18H, if a compliance review is conducted under section 18G or any review or inspection reveals that a non-regulated financial institution or listed business has violated the provisions of—

- (a) this Act;
- (b) the Financial Obligations Regulations;
- (c) the Anti-Terrorism Act;
- (d) the Financial Intelligence Unit of Trinidad and Tobago Regulations; or
- (e) the Economic Sanctions Act or Orders made thereunder,

the FIUTT may impose such administrative penalties as is provided for under any written law under which the FIUTT has a supervisory function.”;

(i) in section 22—

(i) in subsection (1), by inserting after the—

- (A) words “officer who”, the words “knowingly or recklessly”; and
- (B) word “duties”, the words “, whether or not he continues to be employed at the FIUTT.”; and

(ii) in subsection (2), by deleting the word “55” and substituting the word “55F”;

(j) in section 27—

- (i) in subsection (3), by inserting after the word “may” the words “, subject to subsection (4), ”; and
- (ii) by deleting subsection (4) and substituting the following new subsections:

“(4) A person who contravenes Regulations made under this section—

(a) may be liable to the administrative fine set out in Regulations; and

(b) failing the payment of the administrative fine, commits an offence and is liable—

(i) on summary conviction, to a fine of one million dollars and to a further fine of twenty-five thousand dollars for each day that the offence continues; or

(ii) on conviction on indictment, to a fine of three million dollars and

to a further
fine of fifty
t h o u s a n d
dollars for
each day that
the offence
continues.”;
or

(c) commits an offence
and is liable—

(i) on summary
conviction, to
a fine of
one million
dollars and to
a further fine
of twenty-five
t h o u s a n d
dollars for
each day that
the offence
continues; or

(ii) on conviction
on indictment,
to a fine of
three million
dollars and
to a further
fine of fifty
t h o u s a n d
dollars for
each day that
the offence
continues.”;
and

(k) by deleting the word “FIU”, wherever it
occurs, and substituting the words
“FIUTT”.

8. The Income Tax Act is amended in section 4(4A) by Chap. 75:01
amended deleting paragraph (c) and substituting the following:

- “(c) the provision of a witness statement to—
- (i) a police officer of the rank of Superintendent or above for the purposes of any criminal investigation or criminal proceedings; or
 - (ii) the Police Complaints Authority for the purposes of an investigation of criminal offences involving police officers, police corruption and serious police misconduct being conducted by it,

where the witness statement—

- (iii) relates to information disclosed under compulsion of law, this Act or any other written law; and
- (iv) is requested, in writing, by that police officer or the Police Complaints Authority with the prior written consent of the Director of Public Prosecutions.”.

9. The Central Bank Act is amended in—

Chap. 79:02
amended

- (a) section 7(2), by inserting after the words “term of” the words “not less than three years but no more than”;
- (b) section 36, by inserting after paragraph (cc), the following new paragraph:
 - “(dd) impose such administrative fines as are provided for under any written law under which the Central Bank has a supervisory role or general administration.”;
 - and

(c) section 56(2A), by deleting paragraph (c) and substituting the following:

“(c) the provision of a witness statement to—

- (i) a police officer of the rank of Superintendent or above for the purposes of any criminal investigation or criminal proceedings; or
- (ii) the Police Complaints Authority for the purposes of an investigation of criminal offences involving police officers, police corruption and serious police misconduct being conducted by it,

where the witness statement—

- (iii) relates to information disclosed under compulsion of law, this Act or any other written law; and
- (iv) is requested, in writing, by that police officer or the Police Complaints Authority with the prior written consent of the Director of Public Prosecutions.”.

Chap. 79:09
amended

10. The Financial Institutions Act is amended in section 55(4) by deleting paragraph (c) and substituting the following:

“(c) the provision of a witness statement to—

- (i) a police officer of the rank of Superintendent or above for

the purposes of any criminal investigation or criminal proceedings; or

- (ii) the Police Complaints Authority for the purposes of an investigation of criminal offences involving police officers, police corruption and serious police misconduct being conducted by it,

where the witness statement—

- (iii) relates to information disclosed under compulsion of law, this Act or any other written law; and
- (iv) is requested, in writing, by that police officer or the Police Complaints Authority with the prior written consent of the Director of Public Prosecutions.”.

11. The Companies Act is amended—

Chap. 81:01
amended

(a) in section 33—

- (i) in subsections (6) and (7), by deleting the words “bring in” and substituting the word “surrender”; and
- (ii) subsections (9) and (10), by deleting the words “bring in” and substituting the word “surrender”;

(b) in section 177, by deleting subsection (2)(a) and substituting the following new paragraph:

“(a) the name, nationality, occupation, the latest known address, telephone, email and other contact details of each person who is a member;”;

(c) in section 318(1)—

- (i) in paragraph (*m*), by deleting the words “; and” and substituting the word “;”;
- (ii) in paragraph (*n*), by deleting all the words after the words “if any” where it first occurs; and
- (iii) by inserting after paragraph (*n*), the following new paragraph:

“(o) the particulars of members of an external company limited by guarantee.”;

(d) in section 337A, in subsection (2)(c)(i), by inserting after—

- (i) the words “other than” the words, “in the case of”; and
- (ii) the word “company”, wherever it occurs, the words “or external company”;

(e) in section 337B(2), by inserting after the word “shareholders”, the words “or to members whose liability is limited by guarantee or by both shares and guarantees”; and

(f) in section 337C—

- (i) in subsection (2), by deleting the words “prior to” and substituting the word “upon”;
- (ii) in subsection (3), by—
 - (A) deleting the word “upon” and substituting the word “after”; and

- (B) inserting after the words “holder of share or shares”, the words “or to whom a notice is submitted under section 337(B)(2),”; and
- (iii) in subsection (4), by inserting after the words “(2) and (3)”, the words “and where a notice is issued under section 337(B)(2),”.

12. The Securities Act is amended—

Chap. 83:02
amended

- (a) in section 2, in the definition of “investment adviser”, by inserting after the word “scheme”, the words “and a person conducting such other business as the Commission may with the approval of the Minister prescribe”;
- (b) in section 7(1)—
 - (i) in paragraph (m), by deleting the words “; and” and substituting the word “;”;
 - (ii) by inserting after paragraph (m), the following new paragraph:
 - “(ma) impose such administrative fines or other sanctions on a person registered under section 51(1) as are provided for under this Act, the Proceeds of Crime Act or Regulations made thereunder, the Anti-Terrorism Act or Regulations made thereunder, the

Economic Sanctions Act or Orders made thereunder or any other written law for the prevention of money laundering, combatting the financing of terrorism and proliferation financing; and”;

(c) in section 8(8), by inserting after paragraph (c), the following new paragraph:

“(ca) Chief Legal Counsel;”;

(d) in section 14—

(i) in subsection (2)(b)—

(A) by deleting paragraph (iii) and substituting the following new subparagraph:

“(iii) a duly authorised representative of—

(A) the Central Bank;

(B) the Financial Intelligence Unit;

(C) a regulatory agency in Trinidad and Tobago; or

(D) the Police Complaints Authority; and

(B) by deleting all the words after the words “foreign jurisdiction”; and

(ii) in subsection (6), by deleting paragraph (c) and substituting the following:

“(c) the provision of a witness statement to—

(i) a police officer of the rank of Superintendent or above for the purposes of any criminal investigation or criminal proceedings; or

(ii) the Police Complaints Authority for the purposes of an investigation of criminal offences involving police officers, police corruption and serious police misconduct being conducted by it,

where the witness statement—

(iii) relates to information disclosed under compulsion of law, this Act or any other written law; and

(iv) is requested, in writing, by that police officer or the Police

C o m p l a i n t s
Authority with
the prior written
consent of the
Director of Public
Prosecutions.”;

- (e) in section 22(2), by deleting the words “chief executive officer” and substituting the words “chief executive officer and any person acting in this position”;
- (f) in section 51(1)—
 - (i) in paragraph (b), by deleting the words “; or” and substituting the word “;”;
 - (ii) by deleting paragraph (c) and the closing words and substituting the following:
 - “(c) an underwriter; or
 - (d) such other category or sub-category as the Commission may prescribe, unless the person is registered, as such, or otherwise exempted in accordance with this Act, and exempt for such persons deemed registered, the person has received written notice of the registration from the Commission.”;
- (g) in section 64(1)(c), by deleting the words “a copy of the” and substituting the words “copies of the actual”;
- (h) by renumbering section 86 as section 86(1), and in section 86(1), as renumbered, by inserting after the words “in trades”, the words “in locally distributed securities”;

(i) in section 86, by inserting after subsection (1), the following new subsection:

“(2) Notwithstanding subsection (1), a registrant is not required to file a report where the registrant, notifies the Commission in writing that the registrant has not participated in trades in locally distributed securities, other than through the facilities of the securities exchange.”; and

(j) in section 136(4), by inserting after the word “issuer”, the words “and within five days of the day that said person becomes connected to the reporting issuer, notifies the Commission in writing that he does not beneficially own, or exercise control or direction over, any securities of the reporting issuer”.

13. The Non-Profit Organizations Act is amended— Act No. 7 of 2019 amended

(a) in section 3, by—

(i) deleting the definition of “Regulator”; and

(ii) by inserting after the definition of “Rules”, the following new definition:

““Supervisory Authority” means the competent authority responsible for ensuring compliance by financial institutions and listed business with requirements to combat money laundering;”;

- (b) in section 4(1), by deleting the words “of Non-Profit Organisations”; and
- (c) by deleting the word “Regulator”, wherever it occurs, and substituting the word “Supervisory Authority”.

Passed in the House of Representatives this 4th day of December, 2020.

J. SAMPSON-MEIGUEL

Clerk of the House

Passed in the Senate this 10th day of December, 2020.

B. CAESAR

Clerk of the Senate

Senate amendments were agreed to by the House of Representatives this 11th day of December, 2020.

J. SAMPSON-MEIGUEL

Clerk of the House