

## THE PROCEEDS OF CRIME (AMENDMENT) BILL, 2009

List of Amendments made in the Senate on Monday October 05, 2009

First Column Clause	Second Column Extent of Amendment
New Clause 2A	Insert after Clause 2 a new clause 2A as follows: "2A. This Act shall come into operation on such day as is set by the President by Proclamation."
4	<p>A. In paragraph (b)-</p> <p>(a) In subparagraph (i), by deleting the words "<b>Exchange Control</b>;" and substituting the words "<b>Financial Institutions</b>";</p> <p>(b) Insert at the end of subparagraph (ii) the word "<b>and</b>";</p> <p>(c) Insert after subparagraph (ii) the following:            "(iii) deleting paragraph (h), under the definition 'Financial Institutions', and substituting the following:  <b>"(h) a person who is registered to carry on cash remitting services under the Central Bank Act;</b></p> <p>(iv) inserting in the definition of Financial Institutions" after paragraph (i) the following new paragraphs (j) and (k) and renumbering existing paragraph (j) as paragraph (h):            "(j) an entity providing mutual funds;            (k) development banks, trust companies, mortgage companies; and";</p> <p>B. In paragraph (d)-</p> <p>(a) In subparagraph (i) by inserting after the word "<b>three</b>" the words "<b>and replacing it with a comma</b>";</p> <p>(b) In subparagraph (ii) by deleting the word "<b>after</b>" and substituting the word "<b>before</b>";</p>

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- 4(cont'd)
- C. In paragraph (f)-
- (a) By deleting the word “**security**” and substituting the word “**securities**”;
  - (b) In the definition of the word “security” –
    - (i) in line 3, by deleting the word “**means**” and substituting the word “includes”;
    - (ii) in line 6, by inserting the word “**property,**” after the word “**debt**”;
  - (c) In subparagraph (d), by inserting the word “**instrument**” after the word “**document**” ;
- D. In paragraph (g)-
- (a) in subparagraph (a) by deleting the words “**from which proceeds of crime may be derived and**”;
  - (b) in subparagraph (b) by deleting the words “**have constituted an indictable offence within the meaning of paragraph (a); or**” and substituting the words “**would constitute an indictable offence in Trinidad and Tobago.**”
- E. Insert after subparagraph (g), the following new subparagraphs:
- “(h) by inserting in the appropriate alphabetical sequence the following new definition:  
“**Supervisory Authority**” means the competent authority responsible for ensuring compliance by financial institutions and listed businesses with requirements to combat money laundering;”
- F. Renumber (h) as (i)
- 5 In paragraph (b) by deleting the word “**activity**” and substituting the word “**activities**”.
- 15 In paragraph (f) by deleting all the words after the word “**associated**” and replacing it with the words “**For the purpose of this section associated**”.

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- 17 In paragraph (a) by inserting after the word “**government department,**” the words “**where it first appears**”.
- 28 Insert after subparagraph(2) the following:  
**“(3) A person guilty of an offence under section 52 is liable on summary conviction to a fine of two hundred and fifty thousand dollars and to imprisonment for three years.”**
- 29 In Paragraph (a) by deleting the chapeau and substituting the following-  
(a) by repealing subsections (2) and (3) and substituting the following:  
**“(2) Every financial institution or listed business shall-**  
**(a) pay special attention to all-**  
**(i) business transactions with persons and financial institutions in or from other countries which do not or insufficiently comply with the recommendations of the Financial Action Task Force;**  
**(ii) complex, unusual, or large transactions, whether completed or not, to, all unusual patterns of transaction and to insignificant but periodic transactions which have no apparent economic or visible lawful purpose.**  
**(b) report all complex, unusual or large transactions referred to in subparagraph (a) to the FIU;**  
**(c) examine the background and purpose of all transactions which have no economic or visible legal purpose under paragraph (a) (i) and make available to the Supervisory Authority, written findings after its examinations where necessary.”;**

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29 (cont'd)

(b) Insert after subclause (3) the following:

**“(3A) Where a financial institution or listed business makes a suspicious transaction or suspicious activity report to the FIU under this section, the Director or staff of such financial institution or listed business shall not disclose the fact or content of such report to any person, and any person who contravenes this subsection commits an offence and is liable on summary conviction to a fine of two hundred and fifty thousand dollars and imprisonment for three years.”**

(c) Renumber the existing clause “(3A)” as (3B)” and insert the following new subclauses thereafter:

**“(3C) For the purpose of subsection (1), “large transaction” means a transaction, the value of which is ninety-five thousand dollars or such other amount as the Minister may by Order prescribe.**

**(3D) A report shall be made irrespective of the type of specified offence from which the funds may be generated including offences under the Income Tax Act, the Corporation Tax Act and the Value Added Tax Act.”.**

Chap. 75:01

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In clause 30 (a), in new section 56(1)-

A. Delete the word **“and”** at the end of paragraph (e);

B. Insert after paragraph (e) the following new paragraphs:

**“(f) the measures that may be taken by a Supervisory Authority to secure compliance with this Act or to prevent the commission of an unsafe or unsound practice including-**  
**(i) administrative sanctions;**  
**(ii) disciplinary actions when possible;**

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30 (cont'd)

(g) the manner and time frame in which retrospective due diligence may be undertaken in respect of business relationships or one off transactions that were established or performed prior to the coming into force of the proceeds of Crime (Amendment) Act, 2009 by a financial institution or listed business; and”;

C. Renumber existing paragraph “(f)” as paragraph “(h)”.

New Clause 30A

Insert after clause 30 the following new sub-clause:

“30A. The Act is amended by inserting after section 56 the following:

Supervisory Authority

“56A. The Supervisory Authority shall submit an annual report to the Minister who shall lay such report, in Parliament, one month after its receipt.

Joint Committee of

56B. There shall be established for the purposes of this Act, a Joint Committee of Parliament to be known as the Joint Parliamentary Committee on the Proceeds of Crime.”

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In the First Schedule insert after item “An Art Dealer” the following new item:

Trust and Company  
Service Provider

“Any such person when he prepares for and when he carries out transactions for a client in relation to the following activities:

- (a) acting as a formation agent of legal persons;
- (b) acting as (or arranging for another person to act as) a director or secretary of a company, a partner of a partnership or a similar position in relation to other legal persons;
- (c) providing a registered office, business address or accommodation, correspondence or administrative address for a company a partnership or any other legal person or arrangement;

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34. (cont'd)

(d) **acting as (or arranging for another person to act as) a nominee shareholder for another person.”.**

**Senate Secretariat  
October 06, 2009**