

THE MISCELLANEOUS PROVISIONS [PROCEEDS OF CRIME, ANTI-TERRORISM,
FINANCIAL INTELLIGENCE UNIT OF TRINIDAD AND TOBAGO, SECURITIES,
INSURANCE, NON-PROFIT ORGANISATIONS, CIVIL ASSET RECOVERY AND
MANAGEMENT AND UNEXPLAINED WEALTH AND MISCELLANEOUS PROVISIONS
(FATF COMPLIANCE)] BILL, 2024

EXPLANATORY NOTE

*(These notes form no part Bill but are intended
only to indicate its general purport)*

The Bill seeks to amend eight pieces of legislation. The eight pieces of legislation are the Proceeds of Crime Act, Chap. 11:27, the Anti-Terrorism Act, Chap. 12:07, the Financial Intelligence Unit of Trinidad and Tobago Act, Chap. 72:01, the Securities Act, Chap. 83:02, the Insurance Act, Chap. 84:01, the Non-Profit Organisations Act, No. 7 of 2019, the Civil Asset Recovery and Management and Unexplained Wealth Act, No. 8 of 2019 and the Miscellaneous Provisions (FATF Compliance) Act, No. 25 of 2020. These amendments are being done in order to be in compliance with the international recommendations of the Financial Action Task Force and to ensure that some procedures under the various Acts are clear.

The Bill will contain 10 clauses.

Clause 1 of the Bill would provide the short title of the Act for which this is the Bill.

Clause 2 of the Bill would provide that the Act come into effect on such date as is set by the President by Proclamation.

Clause 3 of the Bill would amend the Proceeds of Crime Act, Chap. 11:27 to empower the Minister to make Regulations providing for administrative fines for contravention of regulatory money laundering measures. The clause would amend section 52(4) to provide that not only would a disclosure to a police officer of the suspicion of money laundering or information on which the suspicion is based would be treated as a non-breach of any restriction imposed by statute or otherwise, but also where such disclosure is made to the FIUTT. Section 55A(3) is also being amended to put in a shorter time frame from fourteen days to five days for a report to be made as soon as possible, of the date on which the financial institution or listed business knew or had reasonable grounds to suspect that the funds used for a transaction were the proceeds of criminal conduct.

The clause would also, under section 58E, make it mandatory for the Order of the Minister in respect determining the funds of the fund to be subject to negative resolution of Parliament. The clause would also amend the Second Schedule to ensure that the explanation of the service of “Real Estate” reflects the definition provided under the Real Estate Agents Act, No. of 12 of 2020. The amendment would also amend the definition of “Attorney-at-law, Accountant, or other person performing the functions or other Independent Legal professionals” to be in line with the FATF Standard. It would also delete the National Lotteries Control Board and insert Gaming and Betting Control under the Gambling (Betting

and Control) Act, No 8 of 2021.

Clause 4 of the Bill would amend the Anti-Terrorism Act, Chap. 12:07 to empower the Minister to make Regulations providing for administrative fines for regulatory money laundering measures.

Clause 5 of the Bill will seek to amend the Financial Intelligence Unit of Trinidad and Tobago Act, Chap. 72:01 to first amend section 2 to include a new definition of “Oversight Authority” which would reflect the FIUTT’s role in respect of non-profit organisations. New subsection (5) is being inserted into section 15 to require the FIUTT to forward the report submitted to law enforcement under subsection (1), to the Counter-Trafficking Unit of the Ministry of National Security where the report is in respect of an offence under the Trafficking in Persons Act. The clause would also delete section 18G(2) as this subsection only allows for the obtaining of documents during an onsite examination where the FIUTT is accompanied by the Police after having obtained a warrant to enter the premises. It purports to give the FIUTT officer the ability to "caution" the entity; this is not necessary as the subsequent paragraph already gives the police officer the power to obtain documents on behalf of the FIUTT and a police officer can rightfully caution a person through police regulations. The clause would introduce a new section 18GA. New section 18GA in subsection (1) would empower the Financial Intelligence Unit of Trinidad and Tobago to require a non-regulated financial institution or listed business for which it is, the Supervisory Authority to provide to it such books, records, documents and other information, or copies of books, records, documents or other information, that are relevant to assess compliance with the written laws listed under section 18F. New subsection (2) would empower the Financial Intelligence Unit of Trinidad and Tobago to issue a directive to a non-regulated financial institution or listed business in accordance with section 18H where the non-regulated financial institution or listed business fails to produce such books, records, documents and other information, or copies of books, records, documents or other information required. New subsection (3) would provide that new subsection (1) would not apply to information that has come into the possession of an attorney-at-law or other independent legal professional in privileged circumstances. The clause would also amend the rest of section 18I of the Financial Intelligence Unit of Trinidad and Tobago Act to delete the reference to penalties and replace it with a reference to “fines”.

Clause 6 of the Bill will seek, by paragraphs (a) to (c)(i), (ii) and (iii) to amend sections 14, 51 and 57 of the Securities Act. The amendments contained in paragraphs (a) to (c)(i), (ii) and (iii) are provided to correct inadvertent amendments made in the Miscellaneous Provisions (FATF Compliance) Act, 2020. Subparagraph (c)(iv) would insert new paragraphs “(m)” and “(n)” to empower the Commission to also issue a warning to a registrant registered under section 51(1), (2) or (5) if the registrant contravenes or fails to comply with a provision of the Securities Act and if the registrant contravenes or fails to comply with any obligation imposed on it by the Proceeds of Crime Act, the Anti-Terrorism Act, the Economic Sanctions Act or Orders made thereunder as they relate to proliferation financing, any other written law in relation to the prevention of money laundering, combating the financing of terrorism, proliferation financing or any other written law which may be administered or supervised by the Commission which may be in force from time to time.

Paragraph (d) would seek to insert a new section 156AA into the Securities Act to provide for the power

of the Commission to issue administrative penalties for breaches of the Anti-Money Laundering laws.

Clause 7 of the Bill would amend the Insurance Act, Chap. 84:01. Section 259(1) of the Insurance Act currently prohibits a registrant, financial holding company, controlling shareholder, significant shareholder or affiliate of a registrant, a director, officer, employee or agent of a registrant, financial holding company or other controlling shareholder or affiliate, who receives information in the course of his duties relating to the business or other person from disclosing the information unless the disclosure is required under compulsion of law or the policyholder, consumer or other person concerned expressly consents to the disclosure. The Bill will introduce a new exception to this subsection. The exception would be the provision of a witness statement to a police officer of the rank of Superintendent or above for the purposes of any criminal investigation or criminal proceedings or the Police Complaints Authority for the purpose of an investigation of criminal offences involving police officers, police corruption and serious police misconduct being conducted by it, where the witness statement relates to information disclosed under compulsion of law, this Act or any other written law and is requested, in writing, by that police officer with the prior written consent of the Director of Public Prosecutions. This clause will also introduce new subsections (5) and (6). New subsection (5) would provide that notwithstanding any law to the contrary, it shall not be a contravention of any law, or a breach of contract or any duty of confidentiality, for a person or entity to disclose information pursuant to this section by way of a witness statement. New subsection (6) would provide that no action or other proceeding can be brought against a person or entity with respect to the disclosure by him or it, in good faith, of any information pursuant to section 259.

Clause 8 of the Bill would amend the Non-Profit Organisations Act, No. 7 of 2019 to insert a new term and definition of "Oversight Authority" and delete the definition of "Supervisory Authority". It would also amend section 4 to provide that the FIUTT shall be the Oversight Authority of NPOs and shall be responsible for the AML/CFT/CPF oversight and guidance of NPOs who meet the FATF functional definition of an NPO; with a gross annual income exceeding five hundred thousand dollars and who have been identified as at risk pursuant to an AML/CFT/CPF sector risk assessment or in a national risk assessment. The Oversight Authority shall, using a risk based approach, determine the level of oversight and guidance required for the NPO. The clause would also correct the cross reference in section 28 from "sections 8(3)(i) and 18F(2)" to "18J".

The Bill would also seek to amend the Act to delete all references to "Supervisory Authority" and substitute a reference to "Oversight Authority".

Clause 9 of the Bill would amend the Civil Asset Recovery and Management and Unexplained Wealth Act, 2019 to address a concern raised by the Judiciary in respect of the disjunctive or conjunctive application of section 31(2) as it was previously silent. The provision would also provide for matter to be referred where a person has been acquitted of an offence as provided for under section 45(3) relative to recoverable property or in any other case where the Director of Public Prosecutions is of the view that the matter should be referred to the Agency.

Clause 10 of the Bill would amend the Miscellaneous Provisions (FATF Compliance) Act, No. 25 of 2020.

- (a) the first amendment is to section 4 of the Miscellaneous Provisions (FATF Compliance) Act which amended the Proceeds of Crime Act. New paragraph (a)(i) will delete subsection 57(1). New subsection 57(1) would provide that a person who knowingly contravenes or fails to comply with the provisions of sections 55, 55A and 55C commits an offence and is liable on summary conviction, to a fine not exceeding two million dollars and imprisonment for a term not exceeding two years or on conviction on indictment, to a fine not exceeding five million dollars and imprisonment for a term not exceeding seven years. The amendment also introduces new subsections (1A) to (1O).

New subsection (1A) would set out the penalties for breaches of Regulations made under section 56. The new section provides that the following penalties on summary conviction, of a fine not exceeding two million dollars and imprisonment for a term not exceeding two years or on conviction on indictment, of a fine not exceeding five million dollars and imprisonment for a term not exceeding seven years.

New subsection (1B) would provide for the application of administrative fines for breaches of the regulations. The administrative fines shall not exceed one million seven hundred and fifty thousand dollars in the manner provided for under subsections (1C) to (1O).

New subsection (1C) would set out the procedures for the administering of administrative fines. It would provide that notwithstanding any other action available to a Supervisory Authority, a Supervisory Authority, where it believes that a financial institution, or listed business which is supervised by it, has contravened or is contravening a provision of the Financial Obligations Regulations, 2010 specified in the Regulations, the Supervisory Authority may offer the financial institution, or listed business the opportunity to discharge the liability for the contravention by issuing a Notice under subsection (1D), requiring the financial institution or listed business to comply with the relevant provision of the Financial Obligations Regulations, 2010 to the satisfaction of the Supervisory Authority and pay the applicable administrative fine in the Regulations within such period as is specified in the Notice.

New subsection (1D) would set out the requirements of a Notice under subsection (1C).

New subsection (1E) would empower the Minister, on the advice of the Supervisory Authority to vary the period for the paying of the fine.

New subsection (1F) would require a Supervisory Authority, prior to the issue of a Notice under subsection (1C), to forward a Notification of Intention to Issue a Notice. The contents of the notice is specified in this subsection.

In New subsection (1G) provision is made for where a Supervisory Authority issues a Notice under subsection (1C), the financial institution, or listed business will have twenty-one business days, commencing from the day after which the Notice was served, to pay the administrative fine and discontinue or remedy the contravention to the satisfaction of the Supervisory Authority.

New subsection (1H) would empower a Supervisory Authority to extend the time to discontinue or remedy the contravention for a further period not exceeding twenty-one business days.

New subsection (1I) would provide that the payment of an administrative fine is to be made to the Comptroller of Accounts.

New subsection (1J) would allow an administrative fine to be paid electronically.

New subsection (1K) would provide that notwithstanding subsection (1C), a financial institution or listed business to whom a Notice has been issued, can within fifteen business days of the receipt of the Notice, appeal to the High Court, from the decision to issue the Notice.

New subsection (1L) would provide that the procedure for determining an appeal filed under subsection (1J) shall be in accordance with the Civil Proceedings Rules of the Supreme Court of Judicature.

New subsection (1M) would provide that, notwithstanding the fact that an appeal may have been filed under subsection (1L), the Notice shall be binding upon the appellant and the appellant is required to comply with the Financial Obligations Regulations, 2010 and any instruction of the Supervisory Authority, unless, on an *inter partes* application made to the High Court, the High Court is satisfied that circumstances exist that warrant a stay of the particular instruction contained in the Notice and grants an injunction to the appellant for a stay of the Notice before the determination of the appeal on such terms and conditions as the High Court may direct.

New subsection (1N) would provide that for the purposes of this section “business day” means Monday to Friday, except a public holiday.

New paragraph (a)(ii) would introduce new subsections (3), (4) and (5). New subsection (3) would provide that notwithstanding anything in any other law to the contrary, any complaint relating to an offence under Regulations made under section 56 which is triable by a District Court in Trinidad and Tobago, may be so tried if it is laid at any time within seven years after the commission of the offence or within eighteen months after the relevant date. New subsection (4) would provide for the use of the term “relevant date” in the section. New subsection (5) would provide that for the purposes of subsection (4), a certificate as to the date on which the evidence referred to in subsection (4) came into the knowledge of the Supervisory Authority shall be conclusive evidence of that fact.

New paragraph (a)(iii) would delete paragraph (e) as provisions relating to Regulations will be dealt with separately.

- (b) the second amendment at paragraph (b) is to section 5 of the Miscellaneous Provisions (FATF Compliance) Act, 2020. Section 5 of the Miscellaneous Provisions (FATF Compliance) Act, 2020 amended the Anti-Terrorism Act, Chap. 12:07. Paragraph (b)(i) would delete subsection (1)(b) of the Miscellaneous Provisions (FATF Compliance) Act, 2020 which amended section 42(1) and make new amendments to section 42(1), to provide clearer provisions relative to the penalties and administrative fines to be applied and the procedures relative to the administrative fine similar to that provided for under clause 5 for the Financial Intelligence Unit of Trinidad and Tobago Act.

The clause in subparagraph (ii) would insert new subsections (1A) to (1O) similar to the provisions introduced in the amendments to section 57 of the Proceeds of Crime Act.

The clause in subparagraph (iii) would insert new section 42A to create a time period of seven years within which an offence can be prosecuted and defines the term “relevant date” for the purposes of the section.

- (c) the third amendment at paragraph (c) is to section 7 of the Miscellaneous Provisions (FATF Compliance) Act, 2020. Section 7 would amend the Financial Intelligence Unit of Trinidad and Tobago Act. The clause at subparagraph (i) would delete paragraph (d) which inserted a new subsection 11(2) which provided for administrative fines. This is being deleted as it would be provided for elsewhere in the Act. The clause at subparagraph (ii) would delete paragraph (g). Paragraph (g) sought to delete the power of the Financial Intelligence Unit of Trinidad and Tobago to 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 and introduced new provisions providing for the imposition of administrative fines and directive orders of the Court. These amendments are no longer being included. Subparagraph (iii) would delete paragraph (h) and substitute a new paragraph (h) to insert a new section 18I to provide for the imposition of an administrative fine by the Financial Intelligence Unit of Trinidad and Tobago for violations by non-regulated financial institutions or listed businesses. Subparagraph (iv) would delete subparagraphs (j)(i) and (ii) which amended section 27. New amendments to section 27 are now provided which will set out new procedures for the application of administrative fines similar to what are provided for under section 57 of the Proceeds of Crime Act.
- (d) the final amendment is to section 12 of the Miscellaneous Provisions (FATF Compliance) Act, 2020 which amended section 12(a) of the Securities Act to correct the reference in the Act from section 2 to section 4.

BILL

AN ACT to amend the Proceeds of Crime Act, Chap. 11:27, the Anti-Terrorism Act, Chap. 12:07, the Financial Intelligence Unit of Trinidad and Tobago Act, Chap. 72:01, the Securities Act, Chap. 83:02, the Insurance Act, Chap. 84:01, the Non-Profit Organisations Act, No. 7 of 2019, the Civil Asset Recovery and Management and Unexplained Wealth, No. 8 of 2019 and the Miscellaneous Provisions (FATF Compliance) Act, No. 25 of 2020.

Enactment	ENACTED by the Parliament of Trinidad and Tobago as follows:
Short title	1. This Act may be cited as the Miscellaneous Provisions [Proceeds of Crime, Anti-Terrorism, Financial Intelligence Unit of Trinidad and Tobago, Securities, Insurance, Non-Profit Organisations, the Civil Asset Recovery and Management and Unexplained Wealth and Miscellaneous Provisions (FATF Compliance)] Act, 2024.
Commencement	2. This Act shall come into effect on such date as is set by the President by Proclamation.
Chap. 11:27 amended	3. The Proceeds of Crime Act is amended – <ul style="list-style-type: none">(a) in section 52(4), by inserting after the words “Police Officer” the words “or to the FIUTT”;(b) in section 55A(3), by deleting the word “fourteen” and substituting the word “five”;(c) in section 56(1)(f)(i), by inserting after the word “sanctions” the words “, which may include administrative fines”;(d) in section 58E(3,) by deleting the word “may” and substituting the word “shall”; and(e) in the First Schedule –<ul style="list-style-type: none">(i) in relation to the item listed in the First Column as Real Estate –<ul style="list-style-type: none">(A) insert after the word “Estate” the word “business”; and(B) in the Second Column, by deleting all the words from the words “the business of” and substituting the following –<ul style="list-style-type: none">“the business of –<ul style="list-style-type: none">(a) the auctioning or negotiating the sale, exchange, purchase, lease or licensing of real property;(b) advertising or holding himself out as being engaged in the business of auctioning or negotiating the sale, exchange, purchase, lease or licensing of

real property;

- (c) engaging in property management either as a consultant or an agent;
- (d) taking part in the procuring of vendors, purchasers, lessors, lessees, landlords or tenants of real property; or
- (e) directing or assisting in the procuring of prospects, or the negotiation or closing of transactions which result in the sale, exchange, lease or licensing of real property.

Notwithstanding the foregoing, a person shall not be regarded as engaging in real estate business by reason only of the fact that—

- (a) he acts for and on behalf of a client under a power of attorney for the purpose of negotiating or executing a contract, transfer or conveyance in respect of real property, provided always that he does not engage in these transactions in breach of his fiduciary duties or for personal profit;
- (b) he furnishes legal advice and services ancillary thereto in his capacity as an Attorney-at-law;
- (c) he is—
 - (i) an administrator, executor, receiver or trustee acting under or by virtue of an appointment by will or written instrument or by order of a court; or
 - (ii) an assignee, custodian, liquidator, receiver, or trustee acting

under any written law;

- (d) he deals with real property of which he is an owner or a part owner;
 - (e) he is a developer; or
 - (f) he is employed as a salaried employee of a financial institution dealing with real estate transactions.”;
- (ii) by deleting the item listed as “National Lotteries On-Line Betting Games” in the First Column and its corresponding Chapter Number and its description in the Second Column;
 - (iii) in relation to the item listed in the First Column as “an Attorney-at-law, Accountant or other person performing the functions of an Accountant or Other Independent Legal Professional”, in the Second Column by deleting the words “performing the following functions on behalf of a client:” and substituting the words “they prepare for, or carry out, transactions for their clients concerning the following activities:”;
 - (iv) by deleting the item listed as “Non-Profit Organisations” in the First Column and its corresponding description in the Second Column; and
 - (v) by inserting after the item in the First Column listed as Pool Betting the following item together with its description in the Second Column:

“First Column	Second Column
<i>Type of Business</i>	<i>Interpretation</i>

Act No. 8 of 2021	Gaming and Betting Control	Licence for any activity under the Gambling (Gaming and Betting) Control Act, 2021.”.
----------------------	-------------------------------	---

Chap. 12:07
amended

4. The Anti-Terrorism Act is amended-

- (a) in section 22B(10) by-
 - (i) inserting after the words “(9)” the words “(9A)”;
 - (ii) deleting the words “that subsection” and substituting the words “those subsections”; and
- (b) in section 41(2)(e)(i), by inserting after the word “sanctions”

the words “, which may include administrative fines”.

Chap. 72:01
amended

5. The Financial Intelligence Unit of Trinidad and Tobago Act is amended -

(a) in section 2 by inserting in the appropriate alphabetical sequence the following new definition:

““Oversight Authority” has the meaning assigned to it by the Non-Profit Organisation Act;”;

(b) in section 15 by inserting after subsection (4) the following new subsection:

Chap. 12:10

“(5) Where a report submitted under subsection (1) is in respect of an offence under the Trafficking in Persons Act, the FIUTT shall also transmit a copy of the report to the Counter-Trafficking Unit of the Ministry with responsibility for national security for investigation.”;

(c) in section 18G by repealing subsection (2A);

(d) inserting after section 18G, the following new section:

“Provision of books, records or documents etc. to Supervisory Authority

18GA.(1) Notwithstanding section 18G, the FIUTT may require a non-regulated financial institution or listed business for which it is the Supervisory Authority to provide to it such books, records, documents and other information, or copies of books, records, documents or other information, that are relevant to assess compliance with the written laws listed under section 18F.

(2) Where a non-regulated financial institution or listed business fails to produce such books, records, documents and other information, or copies of books, records, documents or other information required under subsection (1), the FIUTT may issue a directive to such non-regulated financial institution or listed business in accordance with section 18H.

(3) Subsection (1) does not apply to information that has come into the possession of an Attorney-at-law or other independent legal professional in

privileged circumstances.”; and

(e) by inserting after section 18 the following new section:

“FIUTT as **18J.**(1) The FIUTT shall take the oversight necessary measures to effectively authority for non-profit promote focused, proportionate and risk-based oversight of non-profit organisations for which it is the Oversight Authority.

(2) For the purposes of subsection (1), the FIUTT shall, from time to time, issue guidelines, as appropriate, about the vulnerabilities of non-profit organisations to terrorist financing abuse and terrorist financing risks and the measures that non-profit organisations can take to protect themselves against such abuse and risks.

(3) If, in the opinion of the FIUTT, a non-profit organisation for which it is the Oversight Authority, fails to comply with the guidelines issued in accordance with subsection (2), the FIUTT may, issue a directive to such non-profit organisation in accordance with the process prescribed in section 18H.”.

Chap. 83:02
amended

6. The Securities Act is amended-

(a) in section 14(2) by inserting after the words “foreign jurisdiction” the words “or a declared agreement”;

(b) in section 51(1) by deleting the word “exempt” and substituting the word “except”;

(c) in section 57(1)-

(i) in paragraph (h), by deleting the words “, or with a provision of this Act”;

(ii) in paragraph (k), by deleting the words “; or” and substituting the word “;”;

(iii) in paragraph (l), by deleting the word “.” and substituting the word “;”;

(iv) by inserting after paragraph (l) the following new paragraphs:

“(m) such registrant contravenes, or fails to comply with a provision of this Act; or

(n) contravenes or fails to comply with any obligation imposed on it by the Proceeds of

Crime Act, the Anti-Terrorism Act, the Economic Sanctions Act or Orders made thereunder as they relate to proliferation financing, any other written law in relation to the prevention of money laundering, combating the financing of terrorism, proliferation financing or any other written law which may be administered or supervised by the Commission which may be in force from time to time.”; and

(d) by inserting after section 156A the following new section:

“Additional
administrative
fines

156AA. In addition to its power to impose an administrative fine under sections 156 and 156A, the Commission may, impose an administrative fine as provided for under—

(a) any written law for the prevention of money laundering, anti-terrorism and proliferation financing; or

(b) any other written law which the Commission has a supervisory role,

in accordance with the procedure for the imposition of such administrative fine as specified in that written law.”.

Chap. 84:04
amended

1.
7. The Insurance Act is amended in section 259-

(a) in subsection (3)-

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

(ii) in paragraph (b), by deleting the word “.” and substituting the words “; or”; and

(iii) by inserting after paragraph (b) the following new paragraph:

“(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 purpose 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 with the prior written consent of the director of Director Public Prosecutions.”; and

(b) by inserting after subsection (4) the following new subsections:

“(5) Notwithstanding any law to the contrary, it shall not be a contravention of any law, or a breach of contract or any duty of confidentiality, for a person or entity to disclose information pursuant to this section by way of a witness statement referred to in subsection (3)(c).

(6) No action or other proceeding shall be brought against a person or entity with respect to the disclosure by him or it, in good faith, of any information pursuant to this section.”.

Act No. 7
of 2019 amended

8. The Non-Profit Organisations Act is amended –

(a) in section 3(1)-

(i) in the definition of the phrase “AML/CFT/PF” by deleting that phrase and substituting the phrase “AML/CTF/CPF;”; and

(ii) by deleting the definition of “Supervisory Authority” and by inserting in the appropriate alphabetical sequence the following definition:

““Oversight Authority” means the competent authority responsible for providing oversight and guidance to non-profit organisations with respect to AML/CTF/CPF risks;”;

(b) by repealing section 4 and substituting the following section:

“FIUTT to
be Oversight
Authority for
non-profit
organisations

4.(1) The Financial Intelligence Unit of Trinidad and Tobago shall be the Oversight Authority of Non-Profit Organisations (hereinafter referred to as the “Oversight Authority”) and shall -

(a) be responsible for the provision of AML/CTF/CPF oversight and guidance to non-profit organisations -

(i) who meet the FATF functional definition of a non-profit organisation; and

(ii) who have been identified as at risk by

an AML/CTF/CPF sector risk assessment carried out by the Oversight Authority or a National Risk Assessment;

- (b) in relation to the non-profit organisations set out in subsection (a), have the powers and duties conferred on it by this Act, the Financial Intelligence Unit of Trinidad and Tobago Act and any other written law.

(2) Notwithstanding subsection (1), section 18B of the Financial Intelligence Unit of Trinidad and Tobago Act does not apply to non-profit organisations.

(3) Where the non-profit organisation under subsection (1)(a) is registered under this Act, the Oversight Authority shall, using a risk-based approach, determine the level of oversight and guidance required for the non-profit organisation.”;

- (c) in sections 5(4)(d) and 27(3) by deleting the phrase “AML/CFT/PF” and substituting the phrase “AML/CTF/CPF”;
- (d) in section 28, by deleting the words “8(3)(i) and section 18F(2)” and substituting the words “18J”;
- (e) in the Schedule-
 - (i) in Form 1 in item 7(c) by deleting the phrase “AML/CFT/PF” and substituting the phrase “AML/CTF/CPF”; and
 - (ii) In Form 1 in the instructions in Item 8 by deleting the phrase “AML/CFT/PF” and substituting the phrase “AML/CTF/CPF”; and
- (f) by deleting the words “Supervisory Authority” wherever it occurs and substituting the words “Oversight Authority”.

Act No. 8 of
2019

9. The Civil Asset Recovery and Management and Unexplained Wealth Act is amended in section 31 by repealing subsection (2) and substituting the following:

“(2) Where, upon receipt of an investigative report under subsection (1), the Director of Public Prosecutions is of the view that-

- (a) there is insufficient evidence to pursue

criminal charges for a specified offence but there is sufficient evidence that the property is recoverable property, he may refer the matter to the Agency.”.

- (b) the defendant whose property may be the subject of a Property Restriction Order—
 - (i) has absconded the jurisdiction;
 - (ii) is outside of the jurisdiction;
 - (iii) is too ill to face trial;
 - (iv) has died;
 - (v) has been acquitted of an offence as provided for under section 45(3) relative to recoverable property; or
 - (vi) in any other case where the Director of Public Prosecutions is of the view that the matter should be referred to the Agency,

and an application should be made for the recoverable property to be forfeited to the State, he may refer the matter to the Agency.”.

Act No. 25 of
2020 amended

10. The Miscellaneous Provisions (FATF Compliance) Act is amended-

(a) in section 4—

(i) by deleting paragraph (a) and substituting the following new paragraph-

“(a) in section 57-

(i) by repealing subsection (1) and substituting the following new subsections:

“(1) A person who knowingly contravenes or fails to comply with the provisions of sections 55, 55A and 55C commits an offence and is liable -

- (a) on summary conviction, to a fine not exceeding two million dollars and imprisonment for a term not exceeding two years; or
- (b) on conviction on indictment, to a fine not exceeding five million dollars and imprisonment for a term not exceeding seven years.

(1A) Regulations made under section 56 may, notwithstanding section 63 of the Interpretation Act, provide that a contravention of a regulation is subject to a penalty –

- (a) on summary conviction, of a fine not exceeding two million dollars and imprisonment for a term not exceeding two years; or
- (b) on conviction on indictment, of a fine not exceeding five million dollars and imprisonment for a term not exceeding seven years.

(1B) Notwithstanding subsection (1A), a contravention of a regulation which attracts a summary penalty under subsection (1A)(a), as provided for under Regulations, may be liable to an administrative fine not exceeding one million seven hundred and fifty thousand dollars in the manner provided for under subsections (1C) to (1N).

(1C) Notwithstanding any other action available to a Supervisory Authority under this Act or any other written law, a Supervisory Authority, where it has reasonable cause to believe that a financial institution, or listed business which is supervised by it, has contravened or is contravening a provision of the Financial Obligations Regulations, 2010 specified in the Regulations, may offer the financial institution, or listed business the opportunity to discharge the liability for the contravention by issuing a Notice, in the manner set out in subsection (1D), requiring the financial institution, or listed business to –

- (a) comply with the relevant provision of the Financial Obligations Regulations,

2010 to the satisfaction of the Supervisory Authority; and

- (b) pay the applicable administrative fine in the Regulations,

within such period as is specified in the Notice.

(1D) A Notice under subsection (1C) shall specify -

- (a) that the Supervisory Authority has reason to believe that the financial institution or listed business, has contravened or is contravening a provision of the Financial Obligations Regulations, 2010;

- (b) the particulars of the contravention;

- (c) that the financial institution, or listed business referred to in paragraph (a) may discharge any liability to conviction in respect of that contravention by-

- (i) discontinuing or remedying the contravention to the satisfaction of the Supervisory Authority within the time specified by the Supervisory Authority; and

- (ii) paying the prescribed administrative fine within twenty-one business days from the day after which the Notice was served;

- (d) that a failure to –

- (i) discontinue or remedy the contravention to the satisfaction of the

Supervisory Authority, within the time specified by the Supervisory Authority; or

- (ii) pay the fine within twenty-one business days from the day after which the Notice was served,

may result in the matter being referred to the Commissioner of Police;

- (e) the amount of the administrative fine that is to be paid and the place where, or the manner in which, the administrative fine may be paid; and
- (f) that the payment of the administrative fine will not be accepted after the expiration of twenty-one business days.

(1E) In any proceedings for an offence to which this section applies, no reference shall be made to the giving of any Notice under this section or to the payment or non-payment of an administrative fine thereunder, unless in the course of the proceedings or in some document which is before the Court in connection with the proceedings, reference has been made by, or on behalf of the accused to the giving of such a Notice, or, as the case may be, to such payment.

(1F) The Minister may, on the advice of the Supervisory Authority, by Order, vary the period for paying the fine as stated in respect of subsection (1D)(c)(ii) and (1D)(f).

(1G) A Supervisory Authority shall, prior to the issue of a Notice under subsection (1C), forward a Notification of Intention to Issue a Notice which –

- (a) informs the financial

institution or listed business of its intention to issue a Notice that it has contravened or is contravening a provision of the Financial Obligations Regulations, 2010;

- (b) advises of the circumstances that gave rise to the administrative penalty and the amount of the administrative fine;
- (c) offers the financial institution or listed business an opportunity to present any relevant information that may be pertinent to the decision on whether to issue the Notice under subsection (1C); and
- (d) states that the financial institution or listed business has ten business days to respond to the Notification of Intention.

(1H) Where a Supervisory Authority has issued a Notice under subsection (1C), the financial institution, or listed business shall have twenty-one business days, commencing from the day after which the Notice was served, to pay the administrative fine and discontinue or remedy the contravention to the satisfaction of the Supervisory Authority.

(1I) A Supervisory Authority may extend the time to discontinue or remedy the contravention for a further period not exceeding twenty-one business days.

(1J) Payment of an administrative fine set out in the Regulations shall be made to the Comptroller of Accounts.

(1K) Where an administrative fine is required to be paid, the payment

may be made electronically.

(1L) Notwithstanding subsection (1C), a financial institution or listed business to whom a Notice has been issued may, within fifteen business days of the receipt of the Notice, appeal to the High Court, from the decision to issue the Notice.

(1M) The procedure for determining an appeal filed under subsection (1L) shall be in accordance with the Civil Proceedings Rules of the Supreme Court of Judicature.

(1N) Notwithstanding the fact that an appeal may have been filed under subsection (1L) –

(a) the Notice shall be binding upon the appellant; and

(b) the appellant is required to comply with the Financial Obligations Regulations, 2010 and any instruction of the Supervisory Authority,

unless, on an *inter partes* application made to the High Court, the High Court is satisfied that circumstances exist that warrant a stay of the particular instruction contained in the Notice and grants an injunction to the appellant for a stay of the Notice before the determination of the appeal on such terms and conditions as the High Court may direct.

(1O) For the purposes of this section, “business day” means Monday to Friday, except a public holiday.”;

(ii) by inserting after subsection (2) the following new subsections:

“(3) Notwithstanding anything in any other law to the contrary, any complaint relating to an offence under Regulations made under section 56 which is triable by

a District Court in Trinidad and Tobago, may be so tried if it is laid at any time within seven years after the commission of the offence or within eighteen months after the relevant date.

(4) In this section, “relevant date” means the date on which evidence sufficient in the opinion of the Supervisory Authority to justify the institution of summary proceedings, comes to its knowledge.

(5) For the purposes of subsection (4), a certificate as to the date on which the evidence referred to in subsection (4) came into the knowledge of the Supervisory Authority shall be conclusive evidence of that fact.”;

(iii) by deleting paragraph (e);

(b) in section 5 by –

(i) deleting subsection (1)(b) and substituting the following:

“(b) in section 42 -

(i) in subsection (1) –

(A) in paragraph (a), by deleting the words “five hundred thousand dollars and to imprisonment for two years and on conviction on indictment, to a fine of three million dollars and to imprisonment for seven years.”, and substituting the words “two million dollars and to imprisonment for two years and on conviction on indictment, to a fine of five million dollars and to imprisonment for seven years.”;

(B) in paragraph (b), by deleting the words “is liable on summary conviction to a fine of five hundred thousand dollars”, and substituting the words, “may, notwithstanding section 63 of the Interpretation Act, provide that a contravention of a regulation is subject on summary conviction to a fine of two million dollars”;

(ii) inserting after subsection (1) the following new subsections:

“(1A) Notwithstanding subsection (1)(b), a contravention of a regulation which attracts a

summary penalty under subsection (1)(b) as provided for under Regulations, may be liable to an administrative fine not exceeding one million seven hundred and fifty thousand dollars in the manner provided for under subsections (1B) to (1N).

(1B) Notwithstanding any other action available to a Supervisory Authority under this Act or any other written law, a Supervisory Authority, where it has reasonable cause to believe that a financial institution, or listed business which is supervised by it, has contravened or is contravening a provision of the Financial Obligations (Financing of Terrorism) Regulations, 2011 specified in the Regulations, may offer the financial institution, or listed business the opportunity to discharge the liability for the contravention by issuing a Notice, in the manner set out in subsection (1C), requiring the financial institution, or listed business to –

- (a) comply with the relevant provision of the Financial Obligations (Financing of Terrorism) Regulations, 2011 to the satisfaction of the Supervisory Authority; and
- (b) pay the applicable administrative fine in the Regulations,

within such period as is specified in the Notice.

(1C) A Notice under subsection (1B), shall specify –

- (a) that the Supervisory Authority has reason to believe that the financial institution, or listed business, has contravened or is contravening the Financial Obligations (Financing of Terrorism) Regulations, 2011;
- (b) the particulars of the contravention;
- (c) that the financial institution, or listed business referred to in paragraph (a) may discharge any liability to conviction in respect of that contravention by –
 - (i) discontinuing or remedying the contravention to the satisfaction of the Supervisory Authority within

the time specified by the Supervisory Authority; and

- (ii) paying the prescribed administrative fine within twenty-one business days from the day after which the Notice was served;

(d) that a failure to –

- (i) discontinue or remedy the contravention to the satisfaction of the Supervisory Authority, within the time specified by the Supervisory Authority; or
- (ii) pay the fine within twenty-one business days from the day after which the Notice was served,

may result in the matter being referred to the Commissioner of Police;

- (e) the amount of the administrative fine that is to be paid and the place where, or the manner in which, the administrative fine may be paid; and
- (f) that the payment of the administrative fine will not be accepted after the expiration of twenty-one business days.

(1D) In any proceedings for an offence to which this section applies, no reference shall be made to the giving of any Notice under this section or to the payment or non-payment of an administrative fine thereunder, unless in the course of the proceedings or in some document which is before the Court in connection with the proceedings, reference has been made by, or on behalf of the accused to the giving of such a Notice, or, as the case may be, to such payment.

(1E) The Minister may, on the advice of the Supervisory Authority, by Order, vary the period for paying the fine as stated in respect of subsection (1C)(c)(ii) and (1C)(f).

(1F) A Supervisory Authority shall, prior to the issue of a Notice under subsection (1B), forward a

Notification of Intention to Issue a Notice which –

- (a) informs the financial institution or listed business of its intention to issue a Notice that it has contravened or is contravening the Financial Obligations (Financing of Terrorism) Regulations, 2011;
- (b) advises of the circumstances that gave rise to the administrative penalty and the amount of the administrative fine;
- (c) offers the financial institution or listed business an opportunity to present any relevant information that may be pertinent to the decision on whether to issue the Notice under subsection (1B); and
- (d) states that the financial institution or listed business has ten business days to respond to the Notification of Intention.

(1G) Where a Supervisory Authority has issued a Notice under subsection (1B), the financial institution, or listed business shall have twenty-one business days, commencing from the day after which the Notice was served, to pay the administrative fine and discontinue or remedy the contravention to the satisfaction of the Supervisory Authority.

(1H) A Supervisory Authority may extend the time to discontinue or remedy the contravention for a further period not exceeding twenty-one business days.

(1I) Payment of an administrative fine set out in the Regulations shall be made to the Comptroller of Accounts.

(1J) Where an administrative fine is required to be paid, the payment may be made electronically.

(1K) Notwithstanding subsection (1B), a financial institution or listed business to whom a Notice has been issued, may within fifteen business days of the receipt of the Notice, appeal to the High Court, from the decision to issue the Notice.

(1L) The procedure for determining an appeal filed under subsection (1K) shall be in accordance

with the Civil Proceedings Rules of the Supreme Court of Judicature.

(1M) Notwithstanding the fact that an appeal may have been filed under subsection (1K) –

- (a) the Notice shall be binding upon the appellant; and
- (b) the appellant is required to comply with the Financial Obligations (Financing of Terrorism) Regulations, 2011 and any instruction of the Supervisory Authority,

unless, on an *inter partes* application made to the High Court, the High Court is satisfied that circumstances exist that warrant a stay of the particular instruction contained in the Notice, and grants an injunction to the appellant for a stay of the Notice before the determination of the appeal on such terms and conditions as the High Court may direct.

(1N) For the purposes of this section, “business day” means Monday to Friday, except a public holiday.”; and

(iii) by inserting after subsection (1)(b) the following new paragraph:

“(ba) by inserting after section 42 the following new section:

“Limitation period for offences **42A.**(1) Notwithstanding anything in any other law to the contrary, any complaint relating to an offence under regulations made under section 41(2) which is triable by a District Court in Trinidad and Tobago may be so tried if it is laid at any time within seven years after the commission of the offence or within eighteen months after the relevant date.

(2) In this section, “relevant date” means the date on which evidence

sufficient in the opinion of the Supervisory Authority to justify the institution of summary proceedings, comes to its knowledge.

(3) For the purposes of subsection (2), a certificate as to the date on which the evidence referred to in subsection (2) came into the knowledge of the Supervisory Authority shall be conclusive evidence of that fact.”;

(c) in section 7 by –

- (i) deleting paragraph (d);
- (ii) deleting paragraph (g);
- (iii) deleting paragraph (h) and substituting the following:

“(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 18GA or any reviews or inspections reveals that a non-regulated financial institution or listed business has contravened any of the provisions of the written laws listed under section 18F, the FIUTT may impose such administrative fines as is provided for under any written law under which the FIUTT has a supervisory function.”; and

- (iv) in paragraph (j) by deleting all the words, after the word “27”, including paragraphs (i) and (ii) and substituting the following:

“ by repealing subsections (3) and (4) and substituting the following new subsections:

“(3) Regulations made under this section may,

notwithstanding section 63 of the Interpretation Act, provide that the contravention of a regulation is subject to a penalty –

- (a) on summary conviction to a fine of five hundred thousand 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 one million dollars and to a further fine of fifty thousand dollars for each day that the offence continues.

(4) Notwithstanding subsection (3), a contravention of a regulation which attracts a summary penalty under subsection (3)(a), may be liable to an administrative fine, as provided for under Regulations, not exceeding two hundred and fifty thousand dollars in the manner provided under subsections (5) to (17).

(5) Notwithstanding any other action available to the FIUTT under this Act or any other written law, the FIUTT, where it has reasonable cause to believe that a non-regulated financial institution or listed business which is supervised by it, has contravened or is contravening a provision of the Financial Intelligence Unit of Trinidad and Tobago Regulations, 2011, may offer the non-regulated financial institution or listed business the opportunity to discharge the liability for the contravention by issuing a Notice, in the manner set out in subsection (6), requiring the non-regulated financial institution or listed business to –

- (a) comply with the relevant provision of the Financial Intelligence Unit of Trinidad and Tobago Regulations, 2011 to the satisfaction of the FIUTT; and
- (b) pay the applicable administrative fine set out in the Regulations,

within such period as is specified in the Notice.

(6) A Notice under subsection (5), shall

specify –

- (a) that the FIUTT has reason to believe that the non-regulated financial institution or listed business, has contravened or is contravening a provision of the Financial Intelligence Unit of Trinidad and Tobago Regulations, 2011;
- (b) the particulars of the contravention;
- (c) that the non-regulated financial institution or listed business referred to in paragraph (a) may discharge any liability to conviction in respect of that contravention by-
 - (i) discontinuing or remedying the contravention to the satisfaction of the FIUTT within the time specified by the FIUTT; and
 - (ii) paying the prescribed administrative fine within twenty-one business days from the day after which the Notice was served;
- (d) that a failure to -
 - (i) discontinue or remedy the contravention to the satisfaction of the FIUTT, within the time specified by the FIUTT; or
 - (ii) pay the fine within twenty-one business days from the day after which the Notice was served,may result in the matter being referred to the Commissioner of Police;
- (e) the amount of the administrative fine that is to be paid and the place where, or the manner in which, the administrative fine may be paid; and
- (f) that the payment of the administrative fine will not be accepted after the expiration of twenty-one business days.

(7) In any proceedings for an offence to which this section applies, no reference shall be made to the giving of any Notice under this section or to the payment or non-payment of an administrative fine thereunder unless in the course of the proceedings or in some document which is before the Court in connection with the proceedings, reference has been made by, or on behalf of the accused to the giving of such a Notice, or, as the case may be, to such payment.

(8) The Minister may, on the advice of the FIUTT, by Order, vary the period for paying the fine as stated in respect of subsections (6)(c)(ii) and (6)(f).

(9) The FIUTT shall, prior to the issue of a Notice under subsection (5), forward a Notification of Intention to Issue a Notice which-

- (a) informs the non-regulated financial institution or listed business of its intention to issue a Notice that it has contravened or is contravening a provision of the Financial Intelligence Unit of Trinidad and Tobago Regulations 2011;
- (b) advises of the circumstances that gave rise to the administrative penalty and the amount of the administrative fine;
- (c) offers the non-regulated financial institution or listed business an opportunity to present any relevant information that may be pertinent to the decision on whether to issue the Notice under subsection (5); and
- (d) states that the non-regulated financial institution or listed business has ten business days to respond to the Notification.

(10) Where the FIUTT has issued a Notice under subsection (5), the non-regulated financial institution or listed business shall have twenty-one business days, commencing from the day after which the Notice was served, to pay the

administrative fine and discontinue or remedy the contravention to the satisfaction of the FIUTT.

(11) The FIUTT may extend the time to discontinue or remedy the contravention for a further period not exceeding twenty-one business days.

(12) Payment of the administrative fine set out in the Regulations shall be made to the Comptroller of Accounts.

(13) Where an administrative fine is required to be paid, the payment may be made electronically.

(14) Notwithstanding subsection (5), a non-regulated financial institution or listed business to whom a Notice has been issued, may within fifteen business days of the receipt of the Notice, appeal to the High Court, from the decision to issue the Notice.

(15) The procedure for determining an appeal filed under subsection (14) shall be in accordance with the Civil Proceedings Rules of the Supreme Court of Judicature.

(16) Notwithstanding the fact that an appeal may have been filed under subsection (14) -

- (a) the Notice shall be binding upon the appellant; and
- (b) the appellant is required to comply with the Financial Intelligence Unit of Trinidad and Tobago Regulations, 2011 and any instruction of the FIUTT,

unless, on an *inter partes* application made to the High Court, the High Court is satisfied that circumstances exist that warrant a stay of the particular instruction contained in the Notice and grants an injunction to the appellant for a stay of the Notice before the determination of the appeal on such terms and conditions as the High Court may direct.

(17) For the purposes of this section, “business day” means Monday to Friday, except a public holiday.

(18) Notwithstanding any other written law to the contrary any complaint relating to the offence contained in regulations made under section 27 which is triable by a District Court in Trinidad and Tobago, may be so tried if it is laid at any time within seven years after the commission of the offence or within eighteen months after the relevant date.

(19) In this section, "the relevant date" means the date on which, evidence sufficient in the opinion of the FIUTT to justify the institution of summary proceedings, comes to its knowledge.

(20) For the purpose of subsection (19), a certificate as to the date on which the evidence referred to in subsection (19) came into the knowledge of the FIUTT shall be conclusive evidence of that fact."; and

- (d) in section 12(a) by deleting the word "2" and by substituting the word "4".

Passed by the House of Representatives this day of , 2024.

Clerk of the House

Passed by the Senate this day of , 2024.

Clerk of the Senate.