

BILL ESSENTIALS

BILL ESSENTIALS NO. 2 of 2024-2025

5th SESSION, 12TH PARLIAMENT



THE PARLIAMENT OF
TRINIDAD AND TOBAGO

BILL ESSENTIALS

Date Introduced: November 15, 2024

House: House of Representatives

Minister: Minister of Finance

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)] Bill, 2024









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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

BACKGROUND

1. **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)] Bill, 2024¹** (hereinafter referred to as “the Bill”) was introduced in the House of Representatives by the Honourable Colm Imbert, Minister of Finance on Friday November 15, 2024. The Bill seeks to amend the following pieces of legislation:

-  **The Proceeds of Crime Act (“POCA”), Chapter 11:27;**
-  **The Anti-Terrorism Act, Chapter 12:07;**
-  **The Financial Intelligence Unit of Trinidad and Tobago Act (“FIUTT Act”), Chapter 72:01;**
-  **The Securities Act, Chapter 83:02;**
-  **The Insurance Act, Chapter 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.**

2. The Bill aims to align Trinidad and Tobago’s laws with the Financial Action Task Force (“FATF”)² recommendations, enhancing transparency, accountability, and procedural clarity across financial and anti-terrorism regulations.
3. FATF is an intergovernmental organisation, created by the Group of Seven (G-7)³ in 1989, which issues guidelines to combat global money laundering, terrorism financing and the financing of proliferation (such as weapons)⁴. These internationally applied standards set minimum requirements for financial oversight, anti-money laundering (“AML”), and

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

² For more information on FATF see: <https://www.fatf-gafi.org/en/topics.html>






³The Group of Seven (G-7) is an intergovernmental organization made up of the world's largest developed industrial economies: France, Germany, Italy, Japan, the United States, the United Kingdom, and Canada.

⁴ See: <https://www.fatf-gafi.org/en/the-fatf/mandate-of-the-fatf.html>

counter-terrorism financing (“CTF”) practices, urging countries to adopt comprehensive measures to protect financial systems from exploitation by criminal networks.

4. The FATF recommendations advocate the strict regulation of financial institutions, requiring diligent client verification processes, monitoring of suspicious transactions, and the safeguarding of non-profit organisations from abuse. National measures are also encouraged to facilitate the quick and effective freezing and confiscation of assets linked to terrorism. Through regular updates, FATF addresses the ever-changing landscape of financial crime, promoting improved technology standards and data-sharing practices to support national authorities in keeping abreast with emerging threats.
5. The Bill, once passed, will come into effect on such date as fixed by the President for proclamation.

BILL SUMMARY

-  Imposes increased penalties for breaches of the Regulations of the respective pieces of legislation;
-  Creates a procedure to be adopted when financial institutions or listed businesses contravene Regulations;
-  Empowers the Director of Public Prosecutions (“DPP”) to refer matters to the Civil Asset Recovery and Management Agency⁵;
-  Creates a distinction between Supervisory Authority and Oversight Authority; and
-  Expands the powers of the Financial Intelligence Unit of Trinidad and Tobago.

KEY FEATURES OF THE BILL

The Proceeds of Crime Act, Chapter 11:27

6. **Clause 3** of the Bill proposes amendments to the **Proceeds of the Crime Act (“POCA”)**.

⁵ It should be noted that Section 8 of the Civil Assets Recovery and Management and Unexplained Wealth Act, No. of 2019 establishing the Civil Asset Recovery and Management Agency is yet to be proclaimed by the President of the Republic of Trinidad and Tobago.

7. **Clause 3(a)** seeks to amend **section 52(4)** of the **POCA**, allowing a person who discloses to the Financial Intelligence Unit of Trinidad and Tobago (“FIUTT”) to enjoy the same treatment as one who discloses to a Police Officer. Such disclosure would not be considered a violation of any confidentiality laws or restrictions imposed by statute. This aligns with FATF’s recommendations for protection of persons who disclose.
8. **Clause 3(b)** seeks to amend **section 55A(3)** of the **POCA** which requires a financial institution or listed business to file a suspicious transaction or suspicious activity report to the FIUTT within fourteen (14) days, where it suspects the transaction involves the use of proceeds from criminal conduct. The proposed amendment will reduce the reporting period from fourteen (14) to five (5) days.
9. Under **section 56(1)(f)** the Minister has the power to make Regulations which would govern the measures taken by the Supervisory Authority to enforce **POCA**. **Clause 3(c)** of the Bill clarifies that administrative sanctions, which can be levied by the Supervisory Authority, include administrative fines.
10. **Clause 3(d)** seeks to amend **section 58E(3)** of the **POCA** to make clear that Orders made by the Minister in respect of the use of funds held in the Seized Assets Fund (“Fund”) shall be subject to negative resolutions of Parliament. This means that an Order issued by the Minister determining the use of monies in the Fund shall come into force on the date that it is made (published) and shall remain in force until revoked by Parliament.
11. **Clause 3(e)(i)** also amends the First Schedule of the **POCA** to replace the existing definition of “Real Estate” to align with **section 5(1)** of the **Real Estate Agent Act, No.12 of 2020**, which provides a more comprehensive list of the activities that constitute real estate.
12. **Clause 3(e)(iv)** removes Non-Profit Organisations (“NPOs”) from the Second Schedule which identifies listed businesses which are subject to the provisions of the **POCA**.
13. **Clause 3(e)(v)** amends the First Schedule to include Gaming and Betting Control as a listed business.

The Anti-Terrorism Act, Chapter 12:07

14. **Clause 4** of the Bill amends **section 41(2)(e)(i)** of the **Anti-Terrorism Act** (in this section referred to as the “Act”) regarding the power of the Minister to make Regulations to enable the Supervisory Authority to impose sanctions which enforce compliance with the Act. The proposed amendment corresponds with the amendment in **Clause 3(c)** above, clarifying that sanctions include administrative fines.

The Financial Intelligence Unit of Trinidad and Tobago Act, Chapter 72:01

15. **Clause 5(c)** of the Bill introduces **new section 18GA** into the **Financial Intelligence Unit of Trinidad and Tobago Act, Chapter 72:01**, which empowers the FIUTT to require the production of books, records, documents, information from non-regulated financial institutions or listed businesses for which it is the Supervisory Authority, to monitor compliance with section 18F. Upon failure to produce the required documents, the FIUTT can issue directives to cease activities which will render an institution or business non-compliant, or to perform duties necessary for compliance, in accordance with section 18H.
16. **New section 18GA** also creates an exception for Attorneys-at-law or other independent legal professionals from providing books, records, documents and other information or copies of a similar nature where said records, documents or other information were acquired in privileged circumstances.
17. **Clause 5(e)** also introduces **new section 18J** to provide for oversight and scrutiny of NPOs by the FIUTT. It mandates that the FIUTT take measures to promote focused, proportionate and risk-based oversight of NPOs in its role as the Oversight Authority. The FIUTT is now empowered to issue guidelines to address the vulnerabilities of NPOs in respect of terrorist financing risks. The provision therefore seeks to prevent the abuse of civil-society spaces as “fronts” for illicit conduct. To enforce compliance with the guidelines, the FIUTT may issue directives to an NPO, in accordance with section 18H.
18. A distinction is now recognised between the Oversight Authority and the Supervisory Authority. The FIUTT is the Supervisory Authority which monitors listed businesses and non-regulated financial institutions. With regard to the monitoring of NPOs, the FIUTT is the Oversight Authority.

The Securities Act, Chapter 83:02

19. **Clause 6(a)** of the Bill amends the **Securities Act** (in this section referred to as the “Act”), by inserting in **section 14(2)** the words “**or a declared agreement**” after the words “foreign jurisdiction”. This would allow the authorised persons and entities enumerated in section 14(2) to disclose confidential information in connection with the administration and enforcement of a declared agreement, and not only in connection with the administration and enforcement of this Act or similar legislation in a foreign jurisdiction.
20. **Clause 6(c)** seeks to make several amendments to **section 57(1)** of the Act regarding the issue of warnings to registrants⁶. **New section 57(1)(m)** reinstates the power of the Commission to issue warnings to registrants who breach this Act, as this clause will remove that power from under **section 57(1)(h)**. **New section 57(1)(n)** allows the Commission to issue a warning to a registrant for failing to comply with obligations imposed under the POCA, 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.
21. **Clause 6(d)** introduces a **new section 156AA** which empowers the Commission to impose an administrative fine for breaches of any written law associated with money laundering, anti-terrorism and proliferation financing⁷ as well as written laws over which the Commission exercises a supervisory function.





The Insurance Act, Chapter 84:01

22. **Clause 7** seeks to amend **section 259 of the Insurance Act**, regarding information not to be disclosed. **Clause 7(a)(iii)** introduces a **new paragraph (c)** to **subsection 259(3)** which creates

⁶ Registrant includes a broker-dealer or sub-category of a broker dealer, an investment adviser, an underwriter or any other category of person prescribed by the Trinidad and Tobago Securities Exchange Commission who are required to be registered under Part 4 of the Securities Act.

⁷The act of providing funds or financial services which are used, in whole or in part, for the manufacture, acquisition, possession, development, export, transshipment, brokering, transport, transfer, stockpiling or use of nuclear, chemical or biological weapons and their means of delivery and related materials, including both technologies and dual-use goods used for non-legitimate purposes, in contravention of any written law or, where applicable, international obligation. (section 4(1) of the Act.)

a new category of exceptions to disclosure relating to witness statements. Disclosure is permitted through 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 proceedings;
-  to the Police Complaints Authority for the purposes of any investigation involving police officers, police corruption and serious police misconduct;
-  where the witness statement relates to information disclosed under the compulsion of law, the Act or any other written law; and
-  where the witness statement is requested in writing by a police officer with the prior written consent of the DPP.

23. **Clause 7(b)** inserts **new subsections 259(5) and 259(6)** which protects persons or entities who have disclosed information by virtue of a witness statement or in good faith.

The Non-Profit Organisations Act, No. 7 of 2019

24. **Clause 8(a)** seeks to amend **section 3(1)** of the **Non-Profit Organisations Act** (hereinafter referred to in this section referred to as the “Act”), by substituting the phrase “**AML/CFT/PF**” wherever it occurs in the Act with “**AML/CTF/CPF⁸**” for the purpose of standardising the language with FATF’s terminology.

25. Moreover the definition of the term “**Supervisory Authority**” is deleted and the definition of “**Oversight Authority**” is inserted. “**Oversight Authority**” “means the competent authority responsible for providing oversight and guidance to non-profit organisations with respect to AML/CTF/CPF risks.”

26. **Clause 8(b)** repeals and replaces section 4 of the Act with a **new section 4** which delineates the functions of the FIUTT as the **Oversight Authority** of NPOs. Consequently, all references to Supervisory Authority in the Act will be replaced by the term Oversight Authority, as prescribed by **Clause 8(f)**.

⁸ “AML/CTF/CPF” – Anti-Money Laundering/ Counter Terrorism Financing/Counter Proliferating Financing (see: Interpretative Note to Recommendation 1 [FATF Recommendations 2012.pdf.coredownload.inline.pdf](#))

The Civil Asset Recovery and Management and Unexplained Wealth Act, No. 8 of 2019

27. **Clause 9** of the Bill repeals and replaces **section 31(2)** of the Civil Asset Recovery and Management and Unexplained Wealth Act to introduce an additional circumstance whereby the DPP can refer a matter involving a Defendant, whose property may be subject to a Property Restriction Order, to the Civil Asset Recovery and Management Agency (“Agency”). The DPP may refer the matter to the Agency where the Defendant has been acquitted but the property may be found to be recoverable under section 43(3) of this Act.

The Miscellaneous Provisions (FATF Compliance) Act, No. 25 of 2020







Miscellaneous Provisions (FATF Compliance) Act - the Proceeds of Crime Act

28. **Clause 10(a)(i)** of the Bill amends **section 4(a)** of the **Miscellaneous Provisions (FATF Compliance) Act** (hereinafter referred to in this section referred to as the “Act”), which repeals and replaces section 57(1) of the POCA and introduces fifteen (15) new subsections to section 57.
29. **New section 57(1)** introduces greater flexibility in issuing penalties where there is a contravention of sections 55, 55A and 55C of the POCA. On summary conviction, whereas the fine and term of imprisonment are fixed at five hundred thousand dollars (\$500,000.00) and imprisonment for two (2) years, the proposed amendment allows for the imposition of a **fine of two million dollars (\$2,000,000.00) or less and a prison term of two (2) years or less**. With conviction on indictment, the fine and term of imprisonment are fixed at three million dollars (\$3,000,000.00) and seven (7) years respectively. The proposed amendment will allow the imposition of a **fine of five million dollars (\$5,000,000.00) or less and a prison sentence of seven (7) years or less**.
30. **New subsection 57(1A)** increased the maximum fines that can be levied and introduced prison terms for an offence contravening the Regulations made under section 56 of the Act. On summary conviction the penalties are a **fine not exceeding two million dollars (\$2,000,000.00) and imprisonment for a term not exceeding two (2) years**, compared to the current fine of one million dollars (\$1,000,000.00) and an additional twenty-five thousand dollars (\$25,000.00) for each day the offence continues. On conviction on indictment, the proposed amendment imposes a penalty of a **fine not exceeding five million dollars (\$5,000,000.00) and a term of imprisonment not exceeding seven (7)**

years. The current fine for conviction on indictment is three million dollars (\$3,000,000.00) and a further fifty thousand dollars (\$50,000.00) for each day the offence continues.

31. **New subsection 57(1B)** introduces a discretionary **administrative fine not exceeding one million seven hundred and fifty thousand dollars (\$1,750,000.00)** in instances where there is a breach of the Regulations which attracts a summary penalty under **Section 1A(a)** of the POCA.

Procedure for issuing an administrative fine

32. **New subsection 57(1C)** empowers the Supervisory Authority under the POCA to provide a financial institution or listed business with the opportunity to discharge liability for a contravention of the **Financial Obligations Regulations, 2010**⁹ by issuing a Notice, in accordance with **new subsection 57(1D)** requiring the entity to comply with the Financial Obligations Regulations and pay the requisite fine.
33. Pursuant to **new subsection 57(1D)**, the Notice issued under **new subsection 57(1C)**, mandates the Supervisory Authority to specify, *inter alia*:
-  it has reason to believe the financial institution or listed business contravened or is contravening the Financial Obligations Regulations;
 -  particulars of the contravention;
 -  that the liability for said contravention can be discharged through discontinuing the breach or remedying the breach within a specified time, and paying the administrative fine within twenty-one (21) business days from the day after service of Notice;
 -  the penalty for failure to either pay the fine or remedy the breach;
 -  the amount of the fine and where it is to be paid; and
 -  that late payment of the fine will not be accepted.
34. **New subsection 57(1F)** empowers the Minister to vary, by Order, the period for paying the fine, upon the advice of the Supervisory Authority.

⁹ The Proceeds of Crime Act (“POCA”) Chapter 11:27 establishes the [Financial Obligations Regulations \(finance.gov.tt\)](https://finance.gov.tt)

35. The prescribed administrative fine shall be made out to the Comptroller of Accounts. This fee may be paid electronically as stipulated in **new subsections 57(1J) and (1K)** respectively of the POCA.
36. **New subsection 57(1G)** mandates the Supervisory Authority to issue a **Notification of Intention to Issue a Notice** to the financial institution or listed business informing them that they are in breach and offering them the opportunity to provide relevant documentation which would inform the decision of the Supervisory Authority on issuing a Notice.
37. **New subsection 57(1L)** allows a financial institution or listed business to appeal the decision to issue the Notice, to the High Court, within fifteen (15) days from the date of issue.
38. **New section 57(1N)** states that even where the right of appeal has been exercised, the Notice and its requirements shall remain binding on the appellant and that the appellant would be required to comply with the Financial Obligation Regulations, 2010 and any other instruction of the Supervisory Authority. However, a Court, having heard both parties, may grant an injunction for a stay of the Notice.
39. **Clause 10(a)(ii)** inserts a **new subsection 57(3)** in the POCA which set outs the limitation period for offences committed under the Regulations prescribed in section 56 of the POCA. The limitation period is seven (7) years from the commission of the offence or eighteen (18) months from the relevant date as the limitation period. The relevant date is the date upon which the Supervisory Authority is of the opinion that there is sufficient evidence to justify summary proceedings being commenced. A certificate reflecting the relevant date is to be issued and shall be conclusive evidence of that fact.

Miscellaneous Provisions (FATF Compliance) Act - the Anti-Terrorism Act.

40. **Clause 10(b)(i)** repeals and replaces **section 5(1)(b)** of the **Miscellaneous Provisions (FATF Compliance) Act** which makes changes to section 42 of the **Anti-Terrorism Act**. The proposed amendment increases the penalties for breaching sections 22AB or 22C(1), (2) or (3) of the Anti-Terrorism Act. The financial institution or listed business will be liable on summary conviction to a **fine of two million dollars (\$2,000,000.00)** and **imprisonment for a term of two (2) years**, and on conviction on indictment, to a **fine of five million dollars (\$5,000,000.00)** and a **term of imprisonment of seven (7) years**. Moreover, contravention

of the Regulations made under section 41(2) may incur a **fine of two million dollars (\$2,000,000.00)** on summary conviction.

41. **Clause 10(b)(ii)** replicates the procedure for issuing an administrative fine explained above into the Anti-Terrorism Act.
42. **Clause 10(b)(iii)** prescribes the same limitation period for offences under regulations made pursuant to section 41(2), as outlined in clause **10(a)(ii)**.

Miscellaneous Provisions (FATF Compliance) Act – Financial Intelligence Unit of Trinidad and Tobago Act

43. **Clause 10(c)(iii)** seeks to amend section 7 of the **Miscellaneous Provisions (FATF) Compliance, Act** by repealing and replacing **paragraph (h)** to make clear that the FIUTT may impose an administrative fine for contravention of any of the written laws under section 18F of the FIUTT Act.
44. **Clause 10(c)(iv)** introduces **new subsection 27(3)** which prescribes penalties for contravening the Regulations made under section 27 of the Act. A person who breaches the regulations may be liable on summary conviction to a **fine of five hundred thousand dollars (\$5,000,000.00) and an additional twenty-five thousand dollars (\$25,000.00)** for each day the offence continues. On conviction on indictment, the person may be liable to a **fine of one million dollars (\$1,000,000.00) and a further fifty thousand dollars (\$50,000.00)** for each day the offence continues.
45. **Clause 10(c)(iv)** replicates the procedure for issuing an administrative fine, explained above, into the Financial Intelligence Unit of Trinidad and Tobago Act.

REFERENCES

KEY LEGISLATION



Proceeds of Crime Act, Chapter 11:27
[The Proceeds of Crime Act](#)



Real Estate Agent Act, No.12 of 2020
[The Real Estate Agents Act](#)

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)] Bill, 2024



The Anti-Terrorism Act, Chapter 12:07

[The Anti-Terrorism Act](#)



The Financial Intelligence Unit of Trinidad and Tobago Act, Chapter 72:01

[The Financial Intelligence Unit Act](#)



The Securities Act, Chapter 83:02

[The Securities Act](#)



The Insurance Act, Chapter 84:01

[The Insurance Act](#)



The Non-Profit Organisations Act, No.7 of 2019

[The Non-Profit Organisations Act](#)



The Civil Asset Recovery and Management 2019 and Unexplained Wealth Act, No. 8 of 2019

[The Civil Asset Recovery and Management and Unexplained Wealth Act](#)



The Miscellaneous Provisions (FATF Compliance) Act

[The Miscellaneous Provisions \(FATF Compliance\) Act](#)



The Financial Obligations Regulations, 2010

[The Financial Obligations Regulations](#)



Legal Unit
Parliament Secretariat
Parliamentary Complex, Cabildo Building,
No. 23-27 St. Vincent Street, Port-of-Spain

November 15, 2024

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