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First Session Tenth Parliament Republic of  
Trinidad and Tobago

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HOUSE OF REPRESENTATIVES

**BILL**

AN ACT to amend the Financial Intelligence Unit of  
Trinidad and Tobago Act, 2009

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THE FINANCIAL INTELLIGENCE UNIT OF TRINIDAD  
AND TOBAGO (AMENDMENT) (NO. 2) BILL, 2011

**Arrangement of Clauses**

*Clause*

1. Short title
2. Act inconsistent with the Constitution
3. Interpretation
4. Long title repealed and substituted
5. Section 2 amended
6. Section 3 amended
7. Section 3A inserted
8. Section 6 amended
9. Part III with Heading removed and reinserted
10. Section 11 amended
11. Section 12 repealed and substituted
12. Section 14 amended
13. Section 15 amended
14. Section 17 amended
15. Part IIIA inserted
16. Section 19 amended
17. Schedule deleted and substituted
18. Validation
19. Immunity from legal proceedings
20. Saving of evidence

THE FINANCIAL INTELLIGENCE UNIT OF TRINIDAD  
AND TOBAGO (AMENDMENT) (NO. 2) ACT, 2011

**Explanatory Note**

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

The purpose of this Bill is to amend the Financial Intelligence Unit of Trinidad and Tobago Act, 2009.

Clause 1 of the Bill contains the short title.

Clause 2 of the Bill would allow the Act to have effect even though inconsistent with sections 4 and 5 of the Constitution.

Clause 3 of the Bill would provide for the Financial Intelligence Unit of Trinidad and Tobago Act, 2009 to be referred to as “the FIU Act” throughout the Bill unless otherwise stated.

Clause 4 of the Bill would provide an amended long title of the Act in view of the expanded remit of the FIU which would include the combating of terrorist financing.

Clause 5 of the Bill would amend certain definitions of section 2 of the Act and would include new definitions.

Clause 6 of the Bill would amend section 3 of the Act by establishing the Financial Intelligence Unit as a department of the Office of the Attorney General, rather than the Ministry of Finance. Further, this clause would remove subsection (2) of section 3, which deals with the staff composition of the Financial Intelligence Unit.

Clause 7 of the Bill would provide a new section 3A of the Act to clarify certain issues related to the staffing of the Financial Intelligence Unit.

Clause 8 of the Bill would amend section 6 of the Act, to require staff of the FIU to take the Oath of Office and Secrecy, before embarking upon their duties.

Clause 9 of the Bill would remove and re-insert the heading to Part III of the Act.

Clause 10 of the Bill would amend a cross reference in section 11 of the Act.

Clause 11 of the Bill would repeal section 12 of the Act and provide for the Financial Intelligence Unit to apply to the Court for an Order that requires the financial institution or listed business to disclose information requested by the FIU.

Clause 12 of the Bill would amend section 14 of the Act to increase the time during which the Financial Intelligence Unit may order the suspension of suspicious transactions.

Clause 13 of the Bill would amend section 15 of the Act.

Clause 14 of the Bill would amend section 17 of the Act in terms of the expanded remit of the Financial Intelligence Unit.

Clause 15 of the Bill would amend the Act to insert a new Part IIIA, which would provide for administrative sanctions to be imposed by the Financial Intelligence Unit as a Supervisory Authority.

Clause 16 of the Bill would amend section 19 of the Act to clarify the meaning of the term “FIU Officer” for the purposes of Part IV of the Act.

Clause 17 of the Bill would amend the Schedule of the Act.

Clause 18 of the Bill would provide for validation of the actions performed by certain officers on behalf of the Financial Intelligence Unit since its creation.

Clause 19 of the Bill would provide for immunity from civil suit in respect of any act or thing done prior to the coming into force of this Act.

Clause 20 of the Bill would introduce a new section, to preserve any evidence that may have been gathered before the coming into force of the Act.

# BILL

AN ACT to amend the Financial Intelligence Unit of  
Trinidad and Tobago Act, 2009

[ , 2011]

WHEREAS it is enacted *inter alia*, by subsection (1) of <sup>Preamble</sup> section 13 of the Constitution, that an Act of Parliament to which this section applies may expressly declare that it shall have effect even though inconsistent with sections 4 and 5 of the Constitution and, if any such Act does so declare, it shall have effect accordingly:

And whereas it is provided by subsection (2) of section 13 of the Constitution that an Act of Parliament to which this section applies is one the Bill for which has been passed by both Houses of Parliament and at the final vote thereon in each House has been supported by the votes of not less than three-fifths of all the members of that House:

And whereas it is necessary and expedient that the provisions of this Act shall have effect even though inconsistent with sections 4 and 5 of the Constitution:

Enactment            ENACTED by the Parliament of Trinidad and Tobago as follows:

Short title            **1.** This Act may be cited as the Financial Intelligence Unit of Trinidad and Tobago (Amendment) (No. 2) Act, 2011.

Act inconsistent with the Constitution    **2.** This Act shall have effect even though inconsistent with sections 4 and 5 of the Constitution.

Interpretation Act No. 11 of 2009    **3.** In this Act, “the FIU Act” means the Financial Intelligence Unit of Trinidad and Tobago Act, 2009.

Long title repealed and substituted    **4.** The long title to the Act is repealed and substituted as follows:

“AN ACT to establish the Financial Intelligence Unit of Trinidad and Tobago, for the implementation of the Recommendations of the Financial Action Task Force on money laundering and the financing of terrorism and for related matters”.

Section 2 amended    **5.** The FIU Act is amended in section 2—

(a) in the definition of the term “law enforcement authority”, by deleting all the words occurring after the word “or” and substituting the following paragraphs:

“(a) Comptroller of Customs and Excise;

(b) Chairman of the Board of Inland Revenue;

(c) Chief Immigration Officer; or

(d) any other body lawfully vested with coercive powers of a police constable appointed under the Police Service Act, 2006;”;

Act No.

(b) by deleting the definition of the word “Minister” and substituting the following definition:

“ “Minister” means the Attorney General;”;

(c) by inserting in the appropriate alphabetical sequence the following definitions:

“ “financing of terrorism” has the meaning assigned to it in the Anti-Terrorism Act;

Chap. 12:07

“Foreign Financial Intelligence Unit” means a competent authority which, in a country outside Trinidad and Tobago, exercises functions similar to those of the Financial Intelligence Unit under this Act;

“non-regulated financial institution” means—

(a) a society registered under the Co-operative Societies Act; or

Chap. 81:03

(b) a person who carries on postal services; and

“Permanent Secretary” means the Permanent Secretary in the Office of the Attorney General;”.

Section 3 amended

**6.** The FIU Act is amended in section 3 by deleting—

- (a) the word “(1)”, occurring after the word “3”;
- (b) the words “Ministry of Finance” and substituting the words “Office of the Attorney General”;
- (c) the words “under this Act and any other written law” and substituting the words “under section 8”; and
- (d) subsection (2).

Section 3A inserted

**7.** The FIU Act is amended by inserting after section 3 the following section:

“Staff of the  
FIU

3A. (1) The staff of the FIU shall include the Director and Deputy Director and such other persons required for the performance of its functions.

(2) The Director and Deputy Director shall be appointed by the Public Service Commission.

(3) Other members of staff, referred to in subsection (1), as well as consultants or experts, shall be appointed by the Permanent Secretary on a contractual basis—

(a) upon the advice of the Director;  
and

(b) in accordance with guidelines issued by the Chief Personnel Officer from time to time.

(4) Notwithstanding subsection (1), the Public Service Commission may, with the approval of such other Service Commissions as may be necessary, assign, transfer or transfer on secondment suitably qualified public officers to the



office of Director, Deputy Director or any other public office on the establishment of the FIU.”.

8. The FIU Act is amended in section 6 by inserting Section 6 amended after the words “Oath of Office” the words “and of Secrecy”.

9. The FIU Act is amended by deleting the heading—Part III with  
Heading removed  
and reinserted

“PART III

FUNCTIONS AND POWERS OF THE FIU”

occurring after section 6 and inserting that heading after section 7.

10. The FIU Act is amended in section 11(b) by deleting Section 11 amended the word “15” and substituting the word “12”.

11. The FIU Act is amended by repealing section 12 Section 12 repealed  
and substituted and substituting the following section:

“Order for  
disclosure

12. (1) Where a financial institution or listed business fails or refuses to provide any information or refuses to produce any documents required by the FIU under sections 8(3) and 11, the FIU may apply *ex-parte* to the High Court, for an Order to require the financial institution or listed business to disclose the information requested by the FIU.

(2) An application made by the FIU under subsection (1) shall be heard *in camera*.

(3) A financial institution or listed business which refuses to comply with an Order of the Court, under subsection (1), commits an offence and is liable on conviction to a fine of two hundred and fifty thousand dollars and to imprisonment for three years.”.

Section 14 amended **12.** The FIU Act is amended in section 14, by deleting the word “three” and substituting the word “five”.

Section 15 amended **13.** The FIU Act is amended in section 15 by repealing subsection (3).

Section 17 amended **14.** The FIU Act is amended in section 17(1) by—  
    (a) deleting the words “Tobago,” and substituting the word “Tobago”;  
    (b) inserting the word “(i)” before the words “a list”; and  
    (c) inserting the following subparagraph after subparagraph (i):  
        “(ii) a consolidated list of financial institutions or listed businesses against whom or which an order is in effect, declaring any such institution or business to be a listed entity under the Anti-Terrorism Act; and”.

Part IIIA inserted **15.** The FIU Act is amended by inserting after section 18 the following new Part:

“PART IIIA

THE SUPERVISORY AUTHORITY

Interpretation and application 18A. For the purposes of this Part, “Supervisory Authority” means the FIU in relation to listed businesses as defined in the Act and non-regulated financial institutions.

Registration 18B. All listed businesses and non-regulated financial institutions shall register with the FIU in accordance with the prescribed procedure.

Supervisory Authority to establish and maintain register 18C. The FIU shall establish and maintain a register of all listed businesses for which it is the Supervisory Authority.

Suspicious  
activity and  
suspicious  
transactions

18D. Where in the course of carrying out any of its functions as a Supervisory Authority, the FIU acquires knowledge or has reasonable grounds to suspect that a person is engaging or has engaged in money laundering or terrorist financing, it shall request an investigation by the relevant law enforcement authority as soon as is reasonably practicable, but in any event before the expiration of seven working days.

Functions of  
the FIU  
under this  
Part

18E. (1) The FIU shall effectively monitor the persons and businesses for which it is the Supervisory Authority and shall take the necessary measures to secure compliance with this Act and the following written laws.:

Chap. 11:27

(a) the Proceeds of Crime Act, 2000 ;

Chap. 12:07

(b) the Anti-Terrorism Act, 2005;

LN No. 7 of  
2011

(c) the Financial Obligations Regulations, 2010

LN No. 12 of  
2011

(d) the Financial Intelligence Unit of Trinidad and Tobago Regulations, 2011;

(e) the Financial Obligations (Financing of Terrorism) Regulations, 2011; and

(f) any other written laws by which the recommendations of the Financial Action Task Force are implemented as well as guidelines issued in pursuance of this Act and the laws identified in paragraphs (a) to (e).

(2) The FIU may, from time to time, issue guidelines as to compliance with the written laws listed under subsection (1).

Powers of the  
FIU

18F. (1) In order to secure compliance with the written laws listed under section 18E, the FIU may take any of the following actions:

- (a) enter into the business premises of a non-regulated financial institution or listed business during working hours and with the consent of the owner or occupier of such premises in order to—
  - (i) inspect or take documents or make copies or extracts of information from such documents;
  - (ii) inspect premises; and
  - (iii) observe the manner in which certain functions are undertaken; and
- (b) require any person on the premises to provide an explanation on any such information.

(2) Where a person refuses to give consent under subsection (1), a police officer may apply for a warrant to enter the premises referred to in subsection (1)(a) and to—

- (a) seize or take copies of any documents which may be evidence of non-compliance with the laws listed under section 18(1)(a);
- (b) inspect the premises; and
- (c) observe the manner in which certain functions are undertaken.

Administrative  
sanctions for  
compliance

18G.(1) Notwithstanding any other action or remedy available under this Act, if in the opinion of the FIU, a financial institution or listed business has violated or is about to violate the provisions of the Act, the Financial Obligations Regulations, 2010, the Anti-Terrorism Act, 2005, the Financial Intelligence Unit of Trinidad and Tobago Act, 2009, the Financial Intelligence Unit of Trinidad and Tobago Regulations, 2011 and any other guidelines issued by the FIU, it may issue a directive to such financial institution or listed business to—

- (a) cease or refrain from committing the act or violation, or pursuing the course of conduct; or
- (b) perform such duties as in the opinion of the FIU are necessary to remedy the situation or minimize the prejudice.

(2) Before a directive is issued under this section, the person to whom the directive is to be issued, shall be served with a notice specifying—

- (a) the facts of the matter;
- (b) the directives that are intended to be issued; and
- (c) the time and place at which the person served with the notice may make representations to the FIU.

(3) Where the person served with the notice referred to in subsection (2) fails to attend at the time and place stipulated by the said notice, the FIU may proceed to issue a directive in his absence.

(4) Where after considering any representations made in response to the notice referred to in subsection (2)—

- (a) the FIU determines that the matters specified in the notice are established, the FIU may proceed to issue a directive to the person served with the notice; or
- (b) the FIU determines that the financial institution or listed business should be afforded the opportunity to take remedial action, the FIU shall proceed to issue the directive for remedial action to be taken within a specified time.

(5) A directive made above continues to have effect for a period of twenty-one days, but if no representations are made to the FIU within that period or, if representations have been made, the FIU shall notify the person to whom the direction is issued.

(6) Where a person to whom a directive is issued fails to comply with the said directive, the FIU may, in addition to any other action that may be taken under this Act, apply to the High Court for an Order requiring the financial institution or listed business to comply with the directive, to cease the contravention or do anything that is required to be done.”.

Section 19 amended **16.** The FIU Act is amended in section 19, by deleting the words—

- (a) “by the Minister:”; and
- (b) “, is an FIU Officer” and substituting the words “or under this Act, is a FIU officer.”.

**17.** The Schedule to the FIU Act is deleted and the following Schedule is substituted: Schedule deleted and substituted

**“SCHEDULE**

**OATH OF OFFICE AND SECRECY**

I, AB, do solemnly and sincerely swear that I will faithfully and honestly fulfil the duties that devolve upon me by reason of my employment in the Civil Service and that I will not without the authority in that behalf, in any manner publish or communicate any facts or information, being facts or information or expressions of opinion based on such facts that come to my knowledge, by reason of such employment. So help me God.”.

**18.** All acts or things purportedly done by any person pursuant to the Proceeds of Crime Act, 2005, the Anti-Terrorism Act, 2010, the FIU Act, 2009, the Financial Obligations Regulations, 2005, the Financial Intelligence Unit of Trinidad and Tobago Regulations, 2011 or the Financial Obligations (Financing of Terrorism) Regulations, 2011 prior to the coming into operation of this Act, shall be deemed to have been lawfully and validly done, to the extent that it would have been lawfully and validly done if the person had been lawfully and validly appointed. Validation Chap. 18:05

**19.** Notwithstanding any law to the contrary, no legal proceedings or other action shall be filed or maintained against any person for any act or thing done prior to the coming into operation of this Act in the purported exercise of powers conferred under the Proceeds of Crime Act, the Anti-Terrorism Act, 2005, the FIU Act, 2009, the Financial Obligations Regulations, 2010, the Financial Obligations (Financing of Terrorism) Regulations, 2011 or the Financial Intelligence Unit of Trinidad and Tobago Regulations, 2011 where the act or thing done would have been lawfully and validly done, if the person had been lawfully and validly appointed. Immunity from legal proceedings Chap. 11:27 Act No. of 2010

**20.** Any evidence obtained by any person during any investigation carried out in purported exercise of the powers conferred under the Proceeds of Crime Act 2005, Saving of evidence

the Anti-Terrorism Act, 2005, the Financial Obligations Regulations, 2010, the Financial Intelligence Unit of Trinidad and Tobago Regulations, 2011, the Financial Obligations (Financing of Terrorism) Regulations, 2011 are deemed to have been lawful and valid, to the extent that such evidence would have been lawful and valid had it been obtained by a person lawfully and validly appointed.

Passed in the House of Representatives this        day  
of                               , 2011.

*Clerk of the House*

IT IS HEREBY CERTIFIED that this Act is one the Bill for which has been passed by the House of Representatives and at the final vote thereon in the House has been supported by the votes of not less than three-fifths of all members of the House, that is to say by the votes of        members of the House.

*Clerk of the House*

I confirm the above.

*Speaker*

Passed in the Senate this        day of                               ,  
2011.

*Clerk of the Senate*



IT IS HEREBY CERTIFIED that this Act is one the Bill for which has been passed by the Senate and at the final vote thereon in the Senate has been supported by the votes of not less than three-fifths of all the members of the Senate, that is to say by the votes of        members of the Senate.

*Clerk of the Senate*

I confirm the above.

*President of the Senate*

No. 18 of 2011

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FIRST SESSION  
TENTH PARLIAMENT  
REPUBLIC OF  
TRINIDAD AND TOBAGO

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**BILL**

AN ACT to amend the Financial  
Intelligence Unit of Trinidad and  
Tobago Act, 2009

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Received and read the

First time .....

Second time .....

Third time .....

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