

*Legal Supplement Part C to the "Trinidad and Tobago Gazette", Vol. 61,
No. 6, 13th January, 2022*

No. 14 of 2021

Second Session Twelfth Parliament Republic of
Trinidad and Tobago

HOUSE OF REPRESENTATIVES

BILL

AN ACT to amend the Proceeds of Crime Act,
Chap. 11:27, the Anti-terrorism Act, Chap. 12:07,
the Securities Act, Chap. 83:02, the Insurance Act,
Chap. 84:01 and the Miscellaneous Provisions
(FATF Compliance) Act, No. 25 of 2020

THE MISCELLANEOUS PROVISIONS [PROCEEDS OF
CRIME, SECURITIES, INSURANCE AND
MISCELLANEOUS PROVISIONS (FATF COMPLIANCE)]
BILL, 2021

Explanatory Notes

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

This Bill contains six clauses and seeks to amend the Proceeds of Crime Act, Chap. 11:27, the Securities Act, Chap. 83:02, the Insurance Act, Chap. 84:01 and the Miscellaneous Provisions (FATF Compliance) Act, No. 25 of 2020.

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

Clause 2 of the Bill would provide for the commencement of the Act on Proclamation by the President.

Clause 3 of the Bill would seek to amend section 56(i)(f)(ii) of the Proceeds of Crime Act, Chap. 11:27 to include in the Regulation making power of the Minister, the power to make Regulations for administrative fines. One clause would also insert a new subsection (3), which recognizes the limitations of the Interpretation Act in respect of the maximum fine that can be imposed for breaches of Regulations and now would allow a breach of Regulations to carry a penalty on summary conviction of a fine not exceeding two million dollars and imprisonment for a term not exceeding two years and on conviction on indictment to a fine not exceeding five million dollars and imprisonment for a term not exceeding seven years. The clause would amend section 57(1) to increase the penalties on summary conviction to a fine not exceeding two million dollars and imprisonment for a term not exceeding two years on conviction on indictment and a fine not exceeding five million dollars and imprisonment for a term of seven years.

Clause 4 of the Bill would amend the Anti-terrorism Act in section 41 to insert a new subsection (3) which would allow for the maximum penalties for Regulations made under the Act notwithstanding section 63 of the Interpretation Act. The penalties for Regulations would be liable on summary conviction to a fine not exceeding two million dollars and imprisonment for a term not exceeding two years and on conviction on indictment to a fine not exceeding five million dollars and imprisonment for a term not exceeding seven years.

Clause 5 of the Bill would seek to amend the Securities Act, Chap. 83:02, first in section 4 in the definition of “investment adviser” to include persons conducting such other business as the Commission with the approval of the Minister may prescribe. Section 8(8) is also being amended by deleting the reference “General Counsel” and substituting the words ‘Chief Legal Counsel’ to recognize the change in the organisational structure of the Trinidad and Tobago Securities Exchange Commission. Section 14 (2) is being amended by re-inserting the words “or a declared agreement” at the end of the subsection. Section 51(1) is being amended by correcting a typographical error. Section 57(*h*) and (*j*) are amended. Paragraph (*a*) would be amended by inserting after the word “Act” the words “or is prosecuted for breaching the Act”. Those words are then deleted in paragraph (*i*) and replaced with the words “fails to comply with any obligation imposed on it by”.

The clause would amend section 58 by deleting references to paragraph (*h*). New section 156AA is also inserted in the Act to provide for administrative fines. The new section would empower the Commission to impose an administrative fine for breaches of any law for the prevention of money laundering, anti-terrorism, financing and proliferation financing or under which the Commission has a supervisory role.

The imposition of the administrative fine would in accordance with procedure for the imposition of administrative fines set out in any written law or in accordance with section 157 (1).

Clause 6 of the Bill would amend the Insurance Act, Chap. 81:04 in section 259 to first insert after subsection 31(*b*) a new paragraph (*c*) to require witness statements to be provided to a police officer of the rank of Superintendent or above for the purpose of a criminal investigation or criminal proceedings and to the police Complaints Authority for the purposes of an investigation or criminal offences involving police officers, police corruption and serious police misconduct being conducted by it. These witness statements being provided must relate to information disclosed under compulsion of law, the Insurance Act or any other written law and where such information is requested in writing by the police officer with the prior written consent of the Director of Public Prosecution.

The second amendment would insert a new subsection (5) which would provide that the provision of information provided under subsection (3)(*c*) does not violate or amount to a contravention of any law, breach of contract or any duty of confidentiality. The new subsection (6) would provide that no action or other proceeding could be brought against any person or entity if information is disclosed in good faith.

Clause 7 of the Bill would amend the Miscellaneous Provisions (FATF Compliance) Act, 2020. Paragraph (a) would amend section 4 of the Act which amends the Proceeds of Crime Act, Chap. 11:27. Subparagraph (1) would now delete paragraph (a)(ii) of section 4 to insert new subsections to provide a new procedure similar to what obtains under the Motor Vehicles and Road Traffic Act, Chap. 48:50 and the Gambling (Gaming and Betting) Act, No. 8 of 2021. New subsection (1A) would provide that notwithstanding any other action that may be taken by it, a Supervisory Authority (Central Bank, Trinidad and Tobago Securities Exchange Commission and the Financial Intelligence Unit of Trinidad and Tobago), where it has reasonable cause to believe that a financial institution or listed business has contravened or is contravening a provision of the Financial Obligations Regulations, 2010 (“FORS”) which would be specified in the Schedule to those Regulations, issue a Notice to the non-regulated financial institution or listed business offering the non-regulated financial institution or listed business the opportunity to comply with the provisions of the Financial Obligations Regulations, 2010 to the satisfaction of the Supervisory Authority and pay the administrative fine.

The Notice, under subsection (1B) is required to specify that the Supervisory Authority has reason to believe that the financial institution or listed business has breached the Financial Obligations Regulations, 2010 and will set out the particulars of the breach and that the financial institution or listed business can discharge the liability to conviction by discontinuing or remedying the contravention to the satisfaction of the Supervisory Authority in the time frame specified and by paying the administrative fine within 21 business days from the day after which the notice was served.

The Notice would also specify that the failure to discontinue or remedy the contravention to the satisfaction of the Supervisory Authority or pay the administrative fine may result in the matter being referred to the Commissioner of Police.

The Notice would specify the amount of the administrative fine and the place where, or manner in which the administrative fine may be paid. Finally, the Notice will also state that the issuance of a Notice or the payment or non-payment of the administrative fine is without prejudice to any proceedings that may be taken for an offence to which the Notice applies, unless the accused makes such reference in connection with the proceedings.

New paragraph (1C) would require a financial institution or listed business to pay the administrative fine and discontinue or remedy the contravention within 21 days after the issue of the Notice.

New paragraph (1D) would empower the Supervisory Authority to extend the time or discontinue or remedy the contravention for a period of not more than 21 days.

New paragraph (1E) would require the administrative fine to be paid to the Comptroller of Accounts and new paragraph (1F) allows this payment to be done electronically.

New paragraph (1G) would allow a financial institution or listed business to appeal to the High Court the issue of a Notice.

New paragraph (1H) would provide that even though an appeal has been filed, the Notice is still binding and the financial institution or listed business is still required to comply with the FORS and any instruction of the Supervisory Authority unless the High Court is satisfied, on an application, that the circumstances warrant a stay on the instruction contained in the Notice and grants an injunction. New paragraph (1I) would provide a definition for “business day”.

Clause 7(b) would amend section 5 of the Miscellaneous Provisions (FATF Compliance) Act, 2020. Section 5 of the Miscellaneous Provisions (FATF Compliance) Act, 2020 amends the Anti-terrorism Act, Chap. 12:07. The amendments are to the section 5(1)(b) by deleting that paragraph and introducing a new paragraph (b) which would delete subsection (1) and (1B) and replace with new subsections (1), and (1A) to (1I).

These new subsections are similar to what are introduced to section 37 of the Proceeds of Crime Act, Chap. 11:27. New subsection (1A) would provide that notwithstanding any other action that may be taken by it, a Supervisory Authority (Central Bank, Trinidad and Tobago Securities Exchange Commission and the Financial Intelligence Unit of Trinidad and Tobago), where it has reasonable cause to believe that a financial institution or listed business has contravened or is contravening section 33(3)(a) or (b) or a provision of the Financial Obligations Regulations, 2010 (“FORS”) which would be specified in the Schedule to those Regulations, issue a Notice to the non-regulated financial institution or listed business offering the non-regulated financial institution or listed business requiring it to comply with section 33(3)(a) or (b) or the provisions of the Financial Obligations Regulations, 2010 to the satisfaction of the Supervisory Authority and pay the administrative fine.

The Notice, under subsection (1B) is required to specify that the Supervisory Authority has reason to believe that the financial institution or listed business has breached section 33(3)(a) or (b) or the Financial Obligations Regulations, 2010 and will set out the

particulars of the breach and that the financial institution or listed business can discharge the liability to conviction by discontinuing or remedying the contravention to the satisfaction of the Supervisory Authority in the time frame specified and by paying the administrative fine within 21 business days from the day after which the notice was served.

The Notice would also specify that the failure to discontinue or remedy the contravention to the satisfaction of the Supervisory Authority or pay the administrative fine may result in the matter being referred to the Commissioner of Police.

The Notice would specify the amount of the administrative fine and the place where, or manner in which the administrative fine may be paid. Finally, Notice will also state that the issuance of a Notice or the payment or non-payment of the administrative fine is without prejudice to any proceedings that may be taken for an offence to which the Notice applies, unless the accused makes such reference in connection with the proceedings.

New paragraph (1C) would require a financial institution or listed business to pay the administrative fine and discontinue or remedy the contravention within 21 days after the issue of the Notice.

New paragraph (1D) would empower the Supervisory Authority to extend the time or discontinue or remedy the contravention for a period of not more than 21 days.

New paragraph (1E) would require the administrative fine to be paid to the Comptroller of accounts and new paragraph (1F) allows this payment to be done electronically.

New paragraph (1G) would allow a financial institution or listed business to appeal to the High Court the issue of a Notice.

New paragraph (1H) would provide that even though an appeal has been filed, the Notice is still binding and the financial institution or listed business is still required to comply with the FORS and any instruction of the Supervisory Authority unless the High Court is satisfied, on an application, that the circumstances warrant a stay on the instruction contained in the Notice and grants an injunction. New paragraph (1I) would provide a definition for “business day”.

The proposed amendments to section 5(2)(b) of the Miscellaneous Provisions (FATF Compliance Act) would amend new regulation 8 of the Financial Obligations (Anti-terrorism) Regulations, 2011 to delete paragraph (b) and (c) and replace them with new paragraphs (b), (c) and (d) which would require a financial institution or listed business which does not comply with the Financial Obligations (Anti-terrorism) Regulations would be required to comply with any instruction of the relevant Supervisory Authority and where it fails to pay the administrative fine and discontinue or remedy the contravention the matter can be referred to the Commissioner of Police.

Clause 5 would amend section 7 of the Miscellaneous Provisions (FATF Compliance) Act, 2020 which amended the Financial Intelligence Unit of Trinidad and Tobago Act, Chap. 72:01 in the amendment contained in—

- (a) in paragraph (d) by deleting the subparagraph (11) and inserting a new subsection 11 (2) which would speak to the Financial Intelligence Unit of Trinidad and Tobago being empowered to administer administrative penalties under any written law under which the Financial Intelligence Unit of Trinidad and Tobago has a supervisory function.
- (b) by deleting paragraph (g) which amended section 184(8). With the new procedure paradigm introduced for the administrative fine structure this amendment was no longer required.
- (c) in paragraph (h) in the proposed section 18I(a) to delete an incorrect reference of “this Act”, which would have meant the Financial Intelligence Unit of Trinidad and Tobago Act, to “the Act” which is defined in section 2 of the Financial Intelligence Unit of Trinidad and Tobago Act to be the Proceeds of Crime Act. Chap. 11:27.
- (d) in paragraph (j)(ii) which amended section 27 to delete the proposed subsection (4) and substituting new subsections (4) to (12) which would provide the penalties for breaches of the Regulations on summary conviction to a fine of \$500,000.00 and to a further fine of \$25,000.00 for every day the offence continues and on conviction or indictment to a fine of one million dollars and a further fine of \$50,000.00 for each day the offence continues. New subsections (5) to (12) would be similar to those provided for the administrative regimes in the Proceeds of Crime Act Chap 11:27 and the Anti-terrorism Act, Chap. 12:07.

New subsection (5) would provide that notwithstanding any other action that may be taken by it, the FIUTT, where it has reasonable cause to believe that a 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 which would be specified in the Schedule to those Regulations, issue a Notice to the non-regulated financial institution or listed business offering the non-regulated financial institution or listed business requiring it to comply with the provisions of the Financial Obligations Regulations, 2011 to the satisfaction of the FIUTT and pay the administrative fine.

The Notice, under subsection (7) is required to specify that the FIUTT has reason to believe that the financial institution or listed business has breached the Financial Intelligence Unit of Trinidad and Tobago Regulations, 2011 and will set out the particulars of the breach and that the financial institution or listed business can discharge the liability to conviction by discontinuing or remedying the contravention to the satisfaction of the Supervisory Authority in the time frame specified and by paying the administrative fine within 21 business days from the day after which the notice was served.

The Notice would also specify that the failure to discontinue or remedy the contravention to the satisfaction of the Supervisory Authority or pay the administrative fine may result in the matter being referred to the Commissioner of Police.

The Notice would specify the amount of the administrative fine and the place where, or manner in which the administrative fine may be paid. Finally, the Notice will also state that the issuance of a Notice or the payment or non-payment of the administrative fine is without prejudice to any proceedings that may be taken for an offence to which the Notice applies, unless the accused makes such reference in connection with the proceedings.

New paragraph (1C) would require a financial institution or listed business to pay the administrative fine and discontinue or remedy the contravention within 21 days after the issue of the Notice.

New paragraph (1D) would empower the FIUTT to extend the time or discontinue or remedy the contravention for a period of not more than 21 days.

New paragraph (1E) would require the administrative fine to be paid to the Comptroller of Accounts and new paragraph (1F) allows this payment to be done electronically.

New paragraph (1G) would allow a financial institution or listed business to appeal to the High Court the issue of a Notice.

New paragraph (1H) would provide that even though an appeal has been filed, the Notice is still binding and the financial institution or listed business is still required to comply with the Financial Intelligence Unit of Trinidad and Tobago Regulations, 2011 and any instruction of the FIUTT unless the High Court is satisfied, on an application, that the circumstances warrant a stay on the instruction contained in the Notice and grants an injunction. New paragraph (1I) would provide a definition for “business day”.

Finally, paragraph (*d*) would amend section 13 of the Miscellaneous Provisions (Proceeds of Crime, Anti-terrorism, Securities, Insurance and Miscellaneous Provisions (FATF Compliance) Bill, 2021 which amends the Non-Profit Organisations Act, 2019 to amend the definition of “Supervisory Authority” to include a reference to “the finances of terrorism and proliferation financing.

BILL

AN ACT to amend the Proceeds of Crime Act, Chap. 11:27, the Anti-terrorism Act, Chap. 12:07, the Securities Act, Chap. 83:02, the Insurance Act, Chap. 84:01 and the Miscellaneous Provisions (FATF Compliance) Act, No. 25 of 2020

[, 2022]

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

- Short title **1.** This Act may be cited as the Miscellaneous Provisions [Proceeds of Crime, Anti-terrorism, Securities, Insurance and Miscellaneous Provisions (FATF Compliance)] Act, 2021.
- 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—
- (a) in section 56—
- (i) in subsection (1)(f)(ii) by inserting after the word “sanction” the words—
- “including administrative fines;”;
- (ii) by inserting after subsection (2) the following new subsection:
- “ (3) Notwithstanding section 63 of the Interpretation Act, Regulations made under subsection (1) may provide that any contravention thereof shall be punishable on—
- (a) summary conviction, to a fine not exceeding two million dollars and imprisonment for a term not exceeding two years; or
- (b) conviction on indictment, to a fine not exceeding five million dollars and imprisonment for a term not exceeding seven years.”; and
- (b) in section 57(1), by deleting paragraphs (a) and (b) and substituting the following new paragraphs:
- (a) summary conviction, to a fine not exceeding two million dollars and imprisonment for a term not exceeding two years; or

(b) conviction on indictment, to a fine not exceeding five million dollars and imprisonment for a term not exceeding seven years.”.

4. The Anti-terrorism Act is amended in section 41^{Chap. 12:07} by inserting after subsection (2) the following new^{amended} subsection:

“ (3) Notwithstanding section 63 of the Interpretation Act, Regulations made under subsection (2) may provide that any contravention thereof shall be punishable on—

(a) summary conviction, to a fine not exceeding two million dollars and imprisonment for a term not exceeding two years; or

(b) conviction on indictment, to a fine not exceeding five million dollars and imprisonment for a term not exceeding seven years.”.

5. The Securities Act is amended—

^{Chap. 83:02}
^{amended}

(a) in section 4(1) in the definition of “investment adviser”, by inserting after the word “scheme” the words “and a person conducting such other business as the Commission with the approval of the Minister may prescribe”;

(b) in section 8(8), by deleting paragraph (c) and substituting the following new paragraph:

“(c) Chief Legal Counsel;”;

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

(d) in section 51(1), delete the word “exempt” and substitute the word “except”;

(e) in section 57—

- (i) in paragraph (h), by inserting after the word “Act” the words “or is prosecuted for breach of this Act,”; and
- (ii) in paragraph (j), by deleting the words “is prosecuted for breach of this Act” and substituting the words “fails to comply with any obligation imposed on it by”;

(f) in section 58 in—

- (i) subsection (1), by deleting the words “, (j)”;
- (ii) subsection (2), by deleting the words “, (j)”;

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

“Additional
administrative
fines

156AA. In addition to any administrative fine under sections 156 and 156A, the Commission may by order, impose an administrative fine for breaches of—

- (a) any written law for the prevention of money laundering, anti-terrorism financing and proliferation financing; or
- (b) any other written law under which the Commission has a supervisory role,

in accordance with the procedure for the imposition of administrative

finer as specified in any other written law or where there is no such procedure set out in any other written law, in accordance with section 157(1).”.

6. The Insurance Act is amended in section 259— Chap 84:01 amended

(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 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.”.

7. The Miscellaneous Provisions (FATF Compliance) Act is amended—

(a) in section 4, by deleting paragraph (a)(ii) and substituting the following new paragraphs:

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

“ (1A) Notwithstanding any ^{Section 4} other action available to a ^{amended} 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 ^{L.N. No.7 of 2010} Obligations Regulations, 2010 specified in the Schedule of ^{Schedule} those 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 (1B), 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 set out in Schedule I, ^{Schedule I}

within such period as is specified in the Notice.

(1B) A Notice under subsection (1A), 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 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 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 it is to be paid and the place where, or the manner in which, the administrative fine may be paid; and
- (g) that the issuance of a Notice under subsection (1A), or the payment or non-payment of

the administrative fine is without prejudice to any proceedings for the offence to which the Notice applies, unless the accused makes such reference in connection with the proceedings.

(1C) Where a Supervisory Authority has issued a Notice under subsection (1A), 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.

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

(1E) Payment of an administrative fine set out in Schedule II shall be made to the Comptroller of Accounts.

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

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

(1H) Notwithstanding the fact that an appeal may have been filed under subsection (1G)—

- (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.

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

(b) in section 5—

(i) in subsection (1)—

(A) by deleting paragraph (b) and substituting the following paragraph:

“(b) in section 42, by deleting subsections (1) and (1B) and substituting the following new subsections:

“Offences and penalties 42. (1) Subject to subsection (2), a financial institution, non-regulated financial institution or listed business which fails to comply with sections 22AB, 22C(1), (2) or (3) commits an offence and is liable on—

(a) summary conviction, to a fine not exceeding two million dollars and imprisonment for a term not exceeding two years; or

(b) conviction on indictment, to a fine not exceeding five million dollars and

imprisonment
for a term
not exceeding
seven years.”;
and

(1A) 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) sections 33(3)(a) or (b) of this Act; or

(b) a provision of the Financial Obligations Regulations, 2011^{L.N. No. 7 of 2010} specified in the Schedule of the^{Schedule} Financial Obligations (Financing of Terrorism) Regulations, 2011,

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 (1B), requiring the financial institution, or listed business to—

(c) comply with sections 33(3)(a) or (b) of this Act or the relevant provision of the Financial Obligations

(Financing of Terrorism) Regulations, 2011 to the satisfaction of the Supervisory Authority; and

- (d) pay the applicable administrative fine set out in the Schedule,

within such period as is specified in the Notice.

(1B) A Notice under subsection (1A), shall specify—

- (a) that the Supervisory Authority has reason to believe that the financial institution, or listed business, has contravened or is contravening section 33(3)(a) or (b) or a provision of 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 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 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 it is to be paid and the place where, or the manner in which, the administrative fine may be paid;
- (f) that the payment of the administrative fine will not be accepted after the expiration of twenty-one business days; and
- (g) that the issuance of a Notice under subsection (1A), or the payment or non-payment of the administrative fine is without prejudice to any proceedings for the offence to which the Notice applies, unless the accused makes such reference in connection with the proceedings.

(1C) Where a Supervisory Authority has issued a Notice under subsection (1A), 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.

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

(1E) Payments of the fine set out in the Schedule shall be made to the Comptroller of Accounts.

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

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

(1H) Notwithstanding the fact that an appeal may have been filed under subsection (1G)—

(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.

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

- (ii) in subsection (2)(b) in the new regulation 8 by deleting paragraphs (b) and (c) and substituting the following new paragraphs:

“(b) shall comply with any instruction of the relevant Supervisory Authority and,

a failure to—

(c) pay the administrative fine;
and

(d) discontinue or remedy the contravention to the satisfaction of the Supervisory Authority,

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

(c) in section 7—

(i) in paragraph (d) by deleting subparagraph (ii) and substituting the following new subparagraph:

“(ii) inserting after section 11(1), as renumbered, the following new subsection:

“(2) The FIUTT may administer such administrative penalties as is provided for under any written law under which the FIUTT has a supervisory function.”;

(ii) by deleting paragraph (g);

(iii) in paragraph (h) in proposed section 18I(a) by deleting the words “this Act” and substituting the words “the Act”;

(iv) in paragraph (j)(ii) by deleting new subsection (4) and substituting the following new subsections:

“(4) A person who contravenes Regulations made under this section commits an offence and is liable on—

(a) 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) 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.

(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 specified in the Schedule 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 Schedule,

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 Supervisory Authority; or

- (ii) pay the fine within twenty-one 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 it is to be paid and the place where, or the manner in which, the administrative fine may be paid;
- (f) that the payment of the administrative fine will not be accepted after the expiration of twenty-one business days; and
- (g) that the issuance of a Notice under subsection (5), or the payment or non-payment of the administrative fine is without prejudice to any proceedings for the offence to which the Notice applies, unless the accused makes such reference in connection with the proceedings.

(7) 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.

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

(9) Payment of the fine set out in the Schedule shall be made to the Comptroller of Accounts.

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

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

(12) Notwithstanding the fact that an appeal may have been filed under subsection (11)—

- (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 instruction of the FIUTT,

I confirm the above.

President of the Senate

No. 14 of 2021

SECOND SESSION

TWELFTH PARLIAMENT

REPUBLIC OF

TRINIDAD AND TOBAGO

BILL

AN ACT to amend the Proceeds of Crime Act, Chap. 11:27, the Anti-terrorism Act, Chap. 12:07, the Securities Act, Chap. 83:02, the Insurance Act, Chap. 84:01 and the Miscellaneous Provisions (FATF Compliance) Act, No. 25 of 2020

Received and read the

First time

Second time

Third time
