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No. 17 of 2011

First Session Tenth Parliament Republic of
Trinidad and Tobago

HOUSE OF REPRESENTATIVES

BILL

AN ACT to amend the Anti-Terrorism Act, Chap. 12:07

THE ANTI-TERRORISM (AMENDMENT) BILL, 2011

Arrangement of Clauses

Clause

1. Short title
2. Interpretation
3. Section 2 amended
4. Sections 22AA and 22AB inserted
5. Section 22B amended
6. Section 22C amended
7. Section 33 amended
8. Section 41 amended
9. Section 42 inserted

ANTI-TERRORISM (AMENDMENT) BILL, 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 Anti-Terrorism Act, Chap. 12:07.

Clause 1 of the Bill contains the short title.

Clause 2 of the Bill would provide for the Anti-Terrorism Act, Chap. 12:07 to be referred to as “the Act” throughout the Bill unless otherwise stated.

Clause 3 of the Bill would amend the definition of financial institution in section 2 of the Act to be consistent with the Proceeds of Crime Act, Chap. 12:27.

Clause 4 of the Bill would provide new sections 22AA and 22AB of the Act. Section 22AA would define the term “designated entities” which are to apply to sections 22AB, 22B and 22C. This clause would also identify the functions of the Financial Intelligence Unit in relation to section 22B and the designated entities. Further, it would require the Financial Intelligence Unit to circulate updated information or a new list of designated entities. Section 22AB would provide that a financial institution and listed business make reports to the Financial Intelligence Unit where it knows or has reasonable grounds to suspect that a designated entity has funds in this country.

Clause 5 of the Bill would amend section 22B of the Act and include service of the Order by the Court in accordance with the Civil Proceedings Rules, 1998; and restricts the availability of funds upon such service.

Clause 6 of the Bill would amend section 22C of the Act. It would include: preventing the financial institution or listed business from entering or continuing a business transaction or relationship with a person or designated entity the name of whom or which appears on the consolidated list of foreign and local designated entities. It would also impose an obligation on the part of financial institutions and listed businesses to make suspicious activity or suspicious transaction reports to the Financial Intelligence Unit. Other amendments would deal with keeping

records, developing and implementing a written compliance programme and monitoring compliance with Regulations by a financial institution and listed business.

Clause 7 of the Bill would amend section 33 of the Act to make certain consequential amendments.

Clause 8 of the Bill would amend section 41 of the Act to provide for the Minister's power to make Regulations under the Act.

Clause 9 of the Bill would create offences for breaches of certain provisions in the Act and would also specify the penalties attached to those breaches.

BILL

AN ACT to amend the Anti-Terrorism Act, Chap. 12:07

[, 2011]

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

1. This Act may be cited as the Anti-Terrorism Short title
(Amendment) Act, 2011.

Interpretation
Chap. 12:07

2. In this Act, “the Act” means the Anti-Terrorism Act.

Section 2 amended

3. Section 2 of the Act is amended, by deleting the definition of the term “financial institution” and substituting the following definition:

“financial institution” has the meaning assigned to it in the Proceeds of Crime Act;”

Chap. 11:27

Sections 22AA
and 22AB inserted

4. The Act is amended by inserting after section 22A the following sections:

“Special
provisions
for
designated
entities

22AA (1) In this section and sections 22AB, 22B and 22C, the term “designated entities” means individuals or entities and their associates designated as terrorist entities by the Security Council of the United Nations.

(2) For the purposes of section 22B, the FIU shall be responsible for—

- (a) maintaining a list of designated entities;
- (b) maintaining contact with the United Nations at frequent intervals to ensure that the list of designated entities remains current;
- (c) circulating the list of designated entities to financial institutions and listed businesses requesting information on whether these designated entities have funds in Trinidad and Tobago;

- (d) furnishing the Attorney General with information required to facilitate an application under section 22B, where a designated entity has funds in Trinidad and Tobago; and
- (e) maintaining a consolidated list of all Orders issued by the Court under section 22B(3) and circulating the same by facsimile transmission to all financial institutions and listed businesses at intervals of three months.

(3) Notwithstanding its obligation to circulate the consolidated list under subsection (1)(e), the FIU shall, when new information has been obtained before the expiration of three months, circulate any additions to that list or a new list forthwith by facsimile transmission.

Reports to
the FIU

22AB. Where a financial institution or listed business knows or has reasonable grounds to suspect that a designated entity has funds in Trinidad and Tobago, it shall report the matter forthwith to the FIU.”

5. Section 22B of the Act is amended—

Section 22B amended

- (a) in subsection (1), by deleting paragraph (a) and substituting the following paragraph:

“(a) the entity is a designated entity;
or”;

- (b) in subsection (3), by deleting the word “an” in paragraph (a) and substituting the words “a designated or legal”; and
- (c) by inserting after subsection (4), the following subsections:

“ (4A) Where an Order is made under subsection (3), the Court shall serve the Order upon the financial institution or listed business and the FIU in accordance with the Civil Proceedings Rules, 1998.

(4B) Where an Order is served on a financial institution or listed business under subsection (4A), action shall immediately be taken to restrict the availability of the funds, subject to the Order, in accordance with the terms of the Order.”.

Section 22c amended

6. Section 22C of the Act is amended—

- (a) in subsection (1), by deleting paragraph (b), and substituting the following paragraph:

“(b) is a designated entity;”;

- (b) by inserting after subsection (1), the following subsection:

“ (1A) A financial institution or listed business shall not enter into or continue—

(a) a business transaction with a person whose name or a designated entity, the name of which appears on the consolidated list referred to in section 22AA (2)(e); or

(b) a business relationship with a person whose name or a designated

entity, the name of which appears on such a list, without the prior approval of the FIU,

and shall make a suspicious activity or a suspicious transaction report forthwith to the FIU, where any attempt is made by any person or designated entity to enter or continue a business transaction or relationship.”;

(c) in subsection 2(b)—

(i) by deleting the full stop and substituting a semi-colon; and

(ii) by inserting after paragraph (b), the following paragraphs:

“(c) keep and retain records relating to financial activities in accordance with the Regulations made under section 41(2);

(d) develop and implement a written compliance programme, reasonably designed to ensure compliance with this Act; and

(e) monitor compliance with the Regulations made under section 41(2).”.

7. Section 33 of the Act is amended—

Section 33 amended

(a) by deleting subsection (4); and

(b) in subsection (6), by deleting the words “(1), (3) or (4)” and substituting the words “(1) or (3)”.

Section 41 amended

8. Section 41 of the Act is amended by—

(a) renumbering subsection (2) as subsection (3); and

(b) inserting after subsection (1) the following subsection:

“ (2) The Minister to whom responsibility for the FIU is assigned may make Regulations prescribing—

(a) the type of records to be kept by a financial institution or listed business and the type of information to be included in these records;

(b) the procedure to be followed in implementing section 22c(2)(d);

(c) the periods for which and the methods by which the records referred to in paragraph (a) may be retained;

(d) the measures which a financial institution or listed business shall implement to—

(i) ascertain the identity of persons with whom they are dealing; and

(ii) treat with circumstances in which sufficient identification

data is not made available by an applicant or business;

- (e) the measures that may be taken by a Supervisory Authority to secure compliance with this Act or to prevent the commission of an unsafe or unsound practice, including—
 - (i) administrative sanctions; and
 - (ii) disciplinary actions when possible;
- (f) the manner and time frame in which due diligence may be undertaken in respect of existing customers and business relationships established prior to the coming into force of the Proceeds of Crime (Amendment) Act, 2009 by a financial institution or listed business; and
- (g) generally, for the purpose of giving effect to Part IIIA of this Act.”.

Act No. 10 of
2009

9. The Act is amended by inserting after section 41 Section 42 inserted the following section:

“Offences
and
penalties

42. (1) A financial institution or listed business which fails to comply with—

- (a) sections 22C(1), (1A), (2) and (3) commits an offence and is liable on summary conviction to a fine of five hundred thousand dollars

and to imprisonment for two years and on conviction on indictment, to a fine of two million dollars and to imprisonment for seven years; or

(b) Regulations made under section 41(2) is liable on summary conviction to a fine of five hundred thousand dollars and to imprisonment for two years.

(2) Where a company commits an offence under sections 22C(1), (1A), (2) and (3), any officer, director or agent of the company—

(a) who directed, authorized, assented to, or acquiesced in the commission of the offence; or

(b) to whom any omission is attributable,

is a party to the offence and is liable on summary conviction or on conviction on indictment, to the penalty prescribed in subsection (1)(a), whether or not the company has been prosecuted or convicted.”.

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

Clerk of the House

I confirm the above.

Speaker

Passed in the Senate this day of ,
2011.

Clerk of the Senate

I confirm the above.

President of the Senate

No. 17 of 2011

FIRST SESSION
TENTH PARLIAMENT
REPUBLIC OF
TRINIDAD AND TOBAGO

BILL

AN ACT to amend the Anti-Terrorism
Act, Chap. 12:07

Received and read the

First time

Second time

Third time