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First Session Tenth Parliament Republic of
Trinidad and Tobago



REPUBLIC OF TRINIDAD AND TOBAGO

Act No. 16 of 2011

[L.S.]

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

[Assented to 24th June, 2011]

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

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

Interpretation
Chap. 12:07

Section 2 amended

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

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 referred to in paragraph (a) or (b) immediately, 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 immediately at intervals of three months.

(3) Notwithstanding its obligation to circulate the consolidated list under subsection 2(c), 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 immediately by facsimile transmission.

Certain
Procedures
apply

22AB. As soon as a financial institution or listed business receives the list of designated entities or the consolidated list referred to in section 22AA(2)(c) or (e), the following procedures shall apply:

- (a) the financial institution shall immediately inform the FIU, if any person or entity named on either list has funds with the financial institution or listed business;
- (b) if the financial institution or listed business has reasonable grounds to believe that a person or entity named on either list has funds in Trinidad and Tobago, the FIU shall be informed immediately;
- (c) in the circumstances referred to in paragraph (a) or (b), the financial institution or listed

business shall obtain the prior approval of the FIU to continue the transaction or business relationship with the person or entity; and

- (d) if a person or entity named on that list attempts to enter into a transaction or continue a business relationship, the financial institution or listed business shall submit a suspicious activity report to the FIU immediately and shall not enter into or continue a business transaction or business relationship with such person or entity.”.

Section 22B amended 5. Section 22B of the Act is 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 immediately 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.”.

6. Section 22C of the Act is amended—

Section 22C amended

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

“(b) is a designated entity;”;

(b) 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)”.

8. Section 41 of the Act is amended by—

Section 41 amended

(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, subject to

negative resolution of the Parliament 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) t r e a t w i t h c i r c u m s t a n c e s i n w h i c h s u f f i c i e n t i d e n t i f i c a t i o n d a t a i s n o t m a d e a v a i l a b l e b y a n a p p l i c a n t o r b u s i n e s s ;
- (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) a d m i n i s t r a t i v e s a n c t i o n s ; a n d

- (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 Act No. 10 of 2009 financial institution or listed business; and
- (g) generally, for the purpose of giving effect to Part IIIA of this Act.”.

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

- “Offences and penalties 42. (1) A financial institution or listed business which fails to comply with—
- (a) sections 22AB and 22C(1), (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 22AB and 22C(1), (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 3rd day of June, 2011.

J. SAMPSON MEIGUEL
Clerk of the House

Passed in the Senate this 15th day of June, 2011.

N. JAGGASSAR
Clerk of the Senate