

**FINANCIAL INTELLIGENCE UNIT OF
TRINIDAD AND TOBAGO ACT**

CHAPTER 72:01

Act
11 of 2009
Amended By
3 of 2011
8 of 2011
14 of 2012

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LAWS OF TRINIDAD AND TOBAGO

MINISTRY OF LEGAL AFFAIRS

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CHAPTER 72:01

**FINANCIAL INTELLIGENCE UNIT OF
TRINIDAD AND TOBAGO ACT**

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.

11 of 2009.
[8 of 2011].

*[9TH FEBRUARY 2010]

Commencement.
21/2010.

WHEREAS it is enacted *inter alia*, by subsection (1) of section 13 of the Constitution, that an Act to which that 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:

Preamble.

And whereas it is provided by subsection (2) of section 13 of the Constitution, that an Act 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:

PART I

PRELIMINARY

1. This Act may be cited as the Financial Intelligence Unit of Trinidad and Tobago Act.

Short title.

2. (1) In this Act—
“Constitution” means the Constitution of the Republic of Trinidad and Tobago;

Interpretation.
[8 of 2011
14 of 2012].
Ch. 1:01.

“Deputy Director” means the Deputy Director of the FIU;

*This Act came into operation on 9th February 2010. (*See* LN 21/2010)

“Director” means the Director of the FIU;

“Egmont Group” means that group of Financial Intelligence Units which subscribe to the Egmont Principles for Information Exchange and Financial Intelligence for Money Laundering cases;

“Financial Action Task Force” means the task force established by the Group of Seven to develop and provide national and international policies to combat money laundering and terrorist financing;

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

Ch. 12:07.

“financing of terrorism” means the offence created under section 22A(1) of the Anti-Terrorism Act;

“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;

“FIU” means the Financial Intelligence Unit established under section 3;

“law enforcement authority” means—

(a) the Commissioner of Police appointed in accordance with the Constitution;

(b) the Comptroller of Customs and Excise appointed in accordance with the Public Service Commission Regulations;

(c) the Chief Immigration Officer appointed in accordance with the Public Service Commission Regulations;

Ch. 75:01.

(d) the Chairman of the Board of Inland Revenue appointed by the President in accordance with the Income Tax Act; and

Ch. 15:01.

(e) any other office or agency of the State in which is vested coercive powers of a constable under the Police Service Act;

“listed business” means a business listed in the First Schedule to the Act;

“Minister” means the member of the Cabinet to whom responsibility for finance is assigned;

“non-regulated financial institution” means—

- (a) a society registered under the Co-operative Societies Act; Ch. 81:03.
- (b) a person who carries on postal services; or
- (c) a Building Society registered under the Building Societies Act; Ch. 33:04.

“Permanent Secretary” means the Permanent Secretary in the Ministry with responsibility for finance;

“the Act” means the Proceeds of Crime Act; and Ch. 11:27.

“public authority” means—

- (a) a Ministry or a department or division of a Ministry;
- (b) the Tobago House of Assembly, the Executive Council of the Tobago House of Assembly or a division of the Tobago House of Assembly;
- (c) a Municipal Corporation established under the Municipal Corporations Act; Ch. 25:04.
- (d) a Regional Health Authority established under the Regional Health Authorities Act; Ch. 29:05.
- (e) a statutory body, responsibility for which is assigned to a Minister of Government;
- (f) a company incorporated under the laws of the Republic of Trinidad and Tobago which is owned or controlled by the State;
- (g) a Service Commission established under the Constitution or other written law; or
- (h) a body corporate or unincorporated entity—
 - (i) in relation to any function which it exercises on behalf of the State;
 - (ii) which is established by virtue of the President’s prerogative, by a Minister of Government in his capacity as such or by another public authority; or
 - (iii) which is supported, directly or indirectly, by Government funds and over which Government is in a position to exercise control.

(2) In determining what is a suspicious transaction or suspicious activity, a financial institution or listed business shall follow the guidelines issued by the Central Bank of Trinidad and Tobago, or other supervisory authority, from time to time.

PART II

ESTABLISHMENT AND STAFF OF THE FINANCIAL
INTELLIGENCE UNIT

Establishment
and staff of
FIU.
[8 of 2011].

3. There is hereby established a department of the Ministry of Finance, to be known as the Financial Intelligence Unit (hereinafter referred to as “the FIU”), for the purpose of performing the functions and exercising the powers vested in it under section 8.

Staff of the
FIU.

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

(2) The Director and Deputy Director and other officers on the establishment of the FIU, shall be appointed by the Public Service Commission.

(3) The Permanent Secretary may appoint—

- (a) other members of staff, after consultation with the Director; and
- (b) consultants and experts, on the advice of the Director,

on a contractual basis and shall be guided by any guidelines for contractual employment issued by the Chief Personnel Officer, from time to time.

(4) 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.

Implementation
of policies.
[14 of 2012].

4. The Director shall be the head of the FIU and shall be responsible for the overall supervision of the department and the implementation of policies with respect to money laundering and financing of terrorism policies in accordance with this Act and any other law.

5. (1) An officer performing functions assigned to the FIU under this Act, shall be provided with identification documents signed by the Minister. Identification documents.

(2) Where a person is no longer employed with the FIU, he shall return forthwith any identification documents given to him, in accordance with subsection (1).

(3) A person who contravenes subsection (2) commits an offence.

6. Before any officer commences duty under this Act, he shall take the Oath of Office and of Secrecy attached to the Schedule. Oath of Office. Schedule. [8 of 2011].

7. The salaries and other conditions of service of the Director and Deputy Director shall be subject to review by the Salaries Review Commission, in accordance with section 141 of the Constitution. Salaries and other conditions. Ch. 1:01.

PART III

FUNCTIONS AND POWERS OF THE FIU

8. (1) The FIU shall be responsible for the collection of financial intelligence and information and the analysis, dissemination, and exchange of such financial intelligence and information among law enforcement authorities, financial institutions and listed business in Trinidad and Tobago and internationally and shall exercise the functions given to it under the Proceeds of Crime Act and the Anti-Terrorism Act. Functions of FIU. [3 of 2011 14 of 2012]. Ch. 11:27. Ch. 12:07.

(2) The FIU shall also receive suspicious transaction and suspicious activity reports from financial institutions and listed business in accordance with this Act.

(3) In furtherance of the functions assigned to it under subsections (1) and (2), the FIU—

- (a) may request financial information from a financial institution or listed business in order to facilitate the exercise of its powers under this Act;
- (b) shall analyse and evaluate reports and information upon receipt thereof, to determine

- whether there is sufficient basis to transmit reports for investigation by any local or foreign law enforcement authority;
- (c) shall collect information as required for—
- (i) the annual and periodic reports in accordance with section 18; and
 - (ii) tactical analysis, in order to generate activity patterns, investigative leads and identify possible future behaviour;
- (d) set reporting standards to be followed by financial institutions or listed business in furtherance of section 55(3) of the Act and section 22C of the Anti-Terrorism Act;
- (e) engage in the exchange of financial intelligence and information with members of the Egmont Group or with Foreign Financial Intelligence Units;
- (f) may disseminate financial intelligence and information to local and foreign authorities and affiliates within the intelligence community;
- (g) facilitate the sharing of information among local financial institutions and listed business and prosecutorial authorities;
- (h) provide information, advice and assistance to persons and law enforcement authorities, in furtherance of an investigation;
- (i) provide assistance to financial institutions and listed business in connection with their obligations under this Act;
- (j) shall retain all pertinent information it receives for a minimum of six years; and
- (k) may enter into such written agreements with a local authority or Foreign Financial Intelligence Unit as the Director considers necessary for the performance of its functions.
- (4) For the purpose of—
- (a) subsection (3)(e), the exchange of financial intelligence and information shall be undertaken

Ch. 11:27.

Ch. 12:07.

on the basis of reciprocity with members of the Egmont Group or with Foreign Financial Intelligence Units; and

- (b) subsection (3)(f) and (k), “local authority” includes investigative and prosecutorial authorities in respect of criminal matters and supervisory authorities and regulators, in respect of administrative sanctions and civil penalties.

9. The FIU shall also implement a system for monitoring the effectiveness of its policies with respect to money laundering and financing of terrorism by maintaining comprehensive statistics on—

Monitoring the effectiveness of the system. [14 of 2012].

- (a) suspicious transaction or suspicious activity reports received and transmitted to law enforcement;
- (b) money laundering and financing of terrorism investigations and convictions;
- (c) property frozen, seized and confiscated; and
- (d) international requests for mutual legal assistance or other co-operation.

10. Where the FIU receives a suspicious transaction or suspicious activity report or information from a financial institution or listed business under the Act, or under the Anti-Terrorism Act it shall provide feedback in writing on the report or information to the financial institution or listed business.

Suspicious transaction or suspicious activity report. [14 of 2012]. Ch. 11:27. Ch. 12:07.

11. Where, after the analysis of a suspicious transaction or suspicious activity report from a financial institution or listed business in accordance with section 8(3)(b), the Director is of the view that further information may disclose that a specified offence has been or may be committed or the proceeds of crime are or may be located within Trinidad and Tobago or elsewhere, he may—

Powers of FIU. [8 of 2011].

- (a) request further information from a financial institution or listed business within a specified time, which information shall be provided accordingly; or
- (b) take action in accordance with section 12.

Order for
disclosure.
[8 of 2011
14 of 2012].

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 to the High Court, for an Order to require the financial institution or listed business to disclose the information requested by the FIU.

(2) Before an application to the Court is made under subsection (1), the FIU shall give notice in writing to the financial institution or listed business of its intention to do so.

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

(4) 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.

13. (Repealed by Act No. 14 of 2012).

Instructions to
financial
institutions.
[8 of 2011
14 of 2012].

14. (1) The FIU may instruct a financial institution or listed business, in writing, to suspend the processing of a suspicious transaction or suspicious activity for a period not exceeding five working days—

- (a) in the course of enquiring into a suspicious transaction or suspicious activity relating to the proceeds of suspected criminal conduct, to a money laundering offence or to the financing of terrorism; or
- (b) where a request is made by a law enforcement authority or a Foreign Financial Intelligence Unit, during the course of its inquiry into a suspicious transaction or suspicious activity.

(2) Where such instructions are given, a financial institution, listed business or any other aggrieved person may apply to a judge to discharge the instructions of the FIU and shall serve notice on the FIU, to join in the proceedings, save however, that the instructions shall remain in force until the judge determines otherwise.

15. (1) After the FIU has concluded its analysis or evaluation of a suspicious transaction or activity report, and where the Director is of the view that the circumstances warrant investigation, a report shall be submitted to the relevant law enforcement authority for investigation to determine whether a money laundering offence or the financing of terrorism has been committed, or whether the proceeds of crime are located in Trinidad and Tobago or elsewhere.

Investigation.
[8 of 2011
14 of 2012].

(2) Any department or agency of government to which a report is submitted under subsection (1), shall take appropriate action.

(3) *(Repealed by Act No. 8 of 2011).*

16. (1) The FIU may, in the performance of its functions, co-operate and liaise with any person who, in the opinion of the Director is able to assist in the provision of information relevant to an analysis of a suspicious transaction or suspicious activity.

Request for
information.
[14 of 2012].

(2) Notwithstanding subsection (1), the FIU may, in the performance of its functions, request information from—

- (a) the Central Bank;
- (b) a public authority; or
- (c) an authority specified by or under a treaty for co-operation on any matter provided for in this Act and to which Trinidad and Tobago is a party.

(3) Any information requested under subsection (2) shall be provided within a reasonable time.

(4) Where a person fails to provide the requested information or fails to provide it in a reasonable time, under subsection (2) or (3), the Director may apply to a Judge for an order to direct that person to comply with the request made under subsection (2).

(5) Information received under this section shall not be disclosed without the prior consent of the person from whom the information was obtained.

Publication in
the *Gazette* and
in newspapers.
[8 of 2011
14 of 2012].

17. (1) The FIU shall publish—

(a) as frequently as is necessary, by Notices in the *Gazette* and in at least two newspapers in daily circulation in Trinidad and Tobago—

(i) a list of the countries identified by the Financial Action Task Force, as non-compliant or not sufficiently compliant with its recommendations; and

(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;

Ch. 12:07.

(b) periodically, information on trends and typologies of money laundering, and the financing of terrorism locally and internationally, as well as appropriate statistics and any other information that would enhance public awareness and understanding of the nature of money laundering and financing of terrorism.

(2) In respect of countries listed in the Notice published under subsection (1), the FIU may by Order set out the measures that may be utilised by a financial institution or listed business, against such countries.

Annual Reports.
[14 of 2012].

18. (1) The Director shall submit within sixty days of the end of the financial year an annual report to the Minister on the performance of the FIU, including statistics on suspicious transactions and suspicious activities reports, the results of any analyses of these reports, and trends and typologies of money laundering activities or offences and the financing of terrorism.

(2) The Minister shall, within thirty days of receipt of a report from the Director under subsection (1), lay the report in Parliament.

PART IIIA

THE SUPERVISORY AUTHORITY

- 18A.** For the purposes of this Part—
“monitor” means to observe for the purpose of compliance with this Act; and
“Supervisory Authority” means the FIU in relation to listed businesses as defined in the Act and non-regulated financial institutions.
- 18B.** All non-regulated financial institutions and listed businesses shall register with the FIU, in accordance with the prescribed procedure.
- 18C.** The FIU shall establish and maintain a register of all non-regulated financial institutions and listed businesses for which it is the Supervisory Authority.
- 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 the financing of terrorism 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.
- 18E.** (1) The FIU shall effectively monitor non-regulated financial institutions and listed 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:
- (a) the Proceeds of Crime Act;
 - (b) the Anti-Terrorism Act;
 - (c) the Financial Obligations Regulations;
 - (d) the Financial Intelligence Unit of Trinidad and Tobago Regulations;
 - (e) Regulations made under the Anti-Terrorism Act; and

Interpretation and application. [8 of 2011].

Registration. [8 of 2011, 14 of 2012].

Supervisory Authority to establish and maintain register. [8 of 2011, 14 of 2012].

Suspicious activity and suspicious transactions. [8 of 2011].

Functions of the FIU under this Part. [8 of 2011].

Ch. 11:27.

Ch. 12:07.

Sub. Leg. 7/2010.

Sub. Leg. 12/2011.

(f) any other written law 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) which shall be published in the *Gazette* and at least one newspaper in daily circulation in Trinidad and Tobago.

Powers of the
FIU.
[8 of 2011
14 of 2012].

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 non-regulated financial institution or listed business refuses to give consent under subsection (1), a police officer above the rank of Sergeant 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 18E(1);
- (b) inspect the premises; and
- (c) observe the manner in which certain functions are undertaken.

(3) For the purpose of this section, “document” includes any data, correspondence, memorandum, book, machine-readable record or other documentary material, regardless of the form or manner in which it is stored.

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

Administrative sanctions for compliance. [8 of 2011 14 of 2012].

- (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 minimise the prejudice.

(2) Before a directive is issued under this section, the non-regulated financial institution or listed business 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 non-regulated financial institution or listed business served with the notice may make representations to the FIU.

(3) Where the non-regulated financial institution or listed business 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 non-regulated 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 issued under subsection (4)(b), shall remain in force for a period of twenty-one days, during which the non-regulated financial institution or listed business may make representations to the FIU which shall hear or examine those representations as soon as possible, after they are received.

(6) Where at the expiration of the period stipulated under subsection (5), no representations are made, or representations are made and rejected thereafter, the FIU shall give notice to the non-regulated financial institution or listed business of its intention to take action under subsection (8).

(7) Where a non-regulated financial institution or listed business is aggrieved by the decision of the FIU under subsection (4), that financial institution or listed business may apply to a Judge to discharge the directive and shall serve notice on the FIU, to join the proceedings, save however, that the directives shall remain in force until the Judge determines otherwise.

(8) Where a non-regulated financial institution or listed business 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 non-regulated financial institution or listed business to comply with the directive, to cease the contravention or do anything that is required to be done.

(9) A person who refuses to comply with an Order of the Court commits an offence and is liable on summary conviction to a fine of two hundred and fifty thousand dollars and to imprisonment for three years.

PART IV

OFFENCES AND PENALTIES

FIU officer.
[8 of 2011
14 of 2012].
Ch. 12:07.
Ch. 11:27.

19. For the purposes of this Part, the Director, Deputy Director and any other person authorised to perform functions under the Anti-Terrorism Act, section 55(7) of the Act, or under this Act, is a FIU officer.

Failure to
return ID.

20. A person found guilty of an offence under section 5(3) is liable on summary conviction, to a fine of twenty thousand dollars and to imprisonment for six months.

21. (1) A financial institution or listed business convicted of an offence under section 12, is liable— Failure to provide information.

- (a) on summary conviction, to a fine of five hundred thousand dollars and a further fine of twenty-five thousand dollars for each day that the offence continues; and
- (b) on conviction on indictment, to a fine of one million dollars and a further fine of fifty thousand dollars, for each day that the offence continues.

(2) Where a person is—

- (a) a member of the Board of Directors;
- (b) the Chief Executive Officer or other officer; or
- (c) the owner or partner,

of a financial institution or listed business, and that person knowingly authorised or acquiesced in the failure to provide the additional information required, the person commits an offence and is liable on summary conviction to a fine of two hundred and fifty thousand dollars and to imprisonment for three years.

(3) Where the offence is committed jointly by members of the Board or officers of a financial institution or listed business, they may be tried jointly or severally.

22. (1) An FIU officer who discloses information that has come into his possession as a result of his employment in the FIU to a person otherwise than in the proper exercise of his duties, commits an offence and is liable on summary conviction to a fine of two hundred and fifty thousand dollars and imprisonment for three years. Confidentiality of information.

(2) Subsection (1) does not apply to information in the possession of an FIU officer as a result of the execution of his functions under section 55 of the Act. Ch. 11:27.

22A. (1) The Director shall not disclose or cause to be disclosed to the Minister or to any other person, except in accordance with this Act, the personal or financial details pertaining to an individual or business contained in— Disclosure of information to Minister.

- (a) a suspicious transaction or a suspicious activity report;

- (b) a report on any analysis forwarded to prescribed law enforcement authorities; and
- (c) information obtained from a financial institution or listed business concerning any account held by a customer or business,

and arising out of or in connection with the annual report or out of or in connection with any other circumstances.

(2) Where the Director contravenes subsection (1), he commits an offence and shall be liable on summary conviction to a fine of three hundred thousand dollars and imprisonment for three years and on conviction on indictment to a fine of one million dollars and imprisonment for five years.

Disclosure of
information.
[14 of 2012].

23. (1) Subject to subsection (2), any person other than an FIU officer, who, in the course of his business obtains or receives information from the FIU, commits an offence if he knowingly discloses—

- (a) the information to any person; or
- (b) the fact that an analysis has been recommended by the FIU,

is liable on summary conviction to a fine of two hundred and fifty thousand dollars and to imprisonment for three years.

(2) A person who receives information in accordance with subsection (1), may communicate that information to a legal practitioner for the sole purpose of obtaining legal advice and the practitioner who receives information for this purpose, shall be deemed to have received it from the FIU and is subject to the provisions of subsection (1).

Disclosure of
investigation.

24. An FIU officer or other person who discloses the fact that an investigation into a suspicious transaction or suspicious activity report has been recommended by the FIU or that an investigation has commenced, otherwise than in the proper exercise of his duties, is guilty of an offence, and is liable on summary conviction, to a fine of two hundred and fifty thousand dollars and to imprisonment for three years.

25. (1) An FIU officer, other member of the staff of the FIU, or any other person authorised to perform any function under this Act, shall not be personally liable for any act done or omitted to be done by him in good faith in the discharge of his functions.

Protection from
personal
liability.
[14 of 2012].

(2) No civil or criminal proceedings shall lie against a person who, in good faith, discloses financial intelligence or information under this Act.

PART V

MISCELLANEOUS

26. Notwithstanding any other law pertaining to the disclosure of personal information, the power of the FIU to collect, disseminate or exchange information under this Act, shall prevail.

Act to prevail.

27. (1) The Minister may make Regulations necessary for carrying out or for giving effect to this Act.

Regulations.

(2) Regulations made under this section shall be subject to negative resolution of Parliament.

28. (1) Within one year of the coming into effect of this Act, the Minister shall return to Parliament for a review, by Parliament, of the operation of this Act.

Minister may
review Act.
[14 of 2012].

(2) The review shall be debated by Parliament with a view to any amendment of this Act that may further the compliance with the Financial Action Task Force obligations of the State.

29. All acts or things purportedly done in good faith by any person pursuant to the Proceeds of Crime Act, the Anti-Terrorism Act, the FIU Act, the Financial Obligations Regulations, the Financial Intelligence Unit of Trinidad and Tobago Regulations, or the Financial Obligations (Financing of Terrorism) Regulations, prior to 5th May 2011, 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.
[8 of 2011].
Ch. 11:27.
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*Financial Intelligence Unit of
Trinidad and Tobago*

[Subsidiary]

Financial Intelligence Unit of Trinidad and Tobago Regulations

Immunity from
legal
proceedings.
[8 of 2011].

30. 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 in good faith prior to 5th May 2011 in the purported exercise of powers conferred under the Proceeds of Crime Act, the Anti-Terrorism Act, the FIU Act, the Financial Obligations Regulations, the Financial Obligations (Financing of Terrorism) Regulations, or the Financial Intelligence Unit of Trinidad and Tobago Regulations, where the act or thing done would have been lawfully and validly done, if the person had been lawfully and validly appointed.

Saving of
evidence.
[8 of 2011].

31. Any evidence obtained in good faith by any person during any investigation carried out in the purported exercise of the powers conferred under the Proceeds of Crime Act, the Anti-Terrorism Act, the FIU Act, the Financial Obligations Regulations, the Financial Intelligence Unit of Trinidad and Tobago Regulations, the Financial Obligations (Financing of Terrorism) Regulations, 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.

7/2011.

Section 6.
[8 of 2011
14 of 2012].

SCHEDULE

OATH OF OFFICE AND SECRECY

I, AB, do solemnly and sincerely swear that I will conscientiously and to the best of my ability discharge the duties of my office and that I will treat all documents and reports filed with the FIU and all records and information relating thereto as secret and confidential and I shall not disclose or communicate to any unauthorised person or allow any such person to have access to any such document, reports, record or information. So help me God.

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SUBSIDIARY LEGISLATION

**FINANCIAL INTELLIGENCE UNIT OF TRINIDAD AND
TOBAGO REGULATIONS**

ARRANGEMENT OF REGULATIONS

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ARRANGEMENT OF REGULATIONS—*Continued*
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12/2011.

**FINANCIAL INTELLIGENCE UNIT OF TRINIDAD AND
TOBAGO REGULATIONS**

made under section 27

Citation.

1. These Regulations may be cited as the Financial Intelligence Unit of Trinidad and Tobago Regulations.

PART I

PRELIMINARY

Interpretation.

2. In these Regulations—

“Director” means the Director of the FIU;

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

“FIU” means the Financial Intelligence Unit established under the Financial Intelligence Unit of Trinidad and Tobago Act;

“foreign FIU” means a Financial Intelligence Unit established outside of Trinidad and Tobago for the purpose of meeting the Financial Action Task Force’s forty plus nine recommendations;

“listed business” has the meaning assigned to it under the Proceeds of Crime Act; and

“Suspicious Transaction/Activity Report” means a report submitted under section 55(3) of the Proceeds of Crime Act.

PART II

**COLLECTION OF FINANCIAL INTELLIGENCE AND
INFORMATION**

Request for
information.

3. (1) The FIU may request financial information from a financial institution or listed business by means of—

- (a) a written request signed by the Director of the FIU (“the Director”) and delivered to the registered office or principal place of business of the listed business, financial institution or other entity from which the Director is empowered under section 8 to request information; or

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(b) any secure electronic system that the FIU establishes.

(2) Where the Director makes a request under subregulation (1), the financial institution or listed business shall respond to the request within seven working days of the receipt of the request for information.

(3) The Director may, in appropriate circumstances, stipulate a longer or shorter period, for response to a request under subregulation (1).

(4) Where the Director wishes to stipulate a shorter period for response to a request under subregulation (3), he shall first consult with the relevant financial institutions or listed businesses.

(5) Where a financial institution or listed business wishes an extension of the period of time set out in subregulation (4) it may request such extension of time from the Director and where the Director so agrees, the new time frame shall apply.

(6) A financial institution or listed business that fails to furnish the information requested under this regulation within the period set out in subregulation (3) commits an offence.

4. (1) Notwithstanding regulation 3, the Director may, in limited or exigent circumstances, make an oral request under regulation 3 for information from a financial institution or listed business. Oral requests.

(2) Where the Director makes an oral request under subregulation (1), he shall as soon as reasonably practicable, but in any event within twenty-four hours, forward a written request.

(3) The circumstances under subregulation (1) shall include—

(a) an urgent request for information from a law enforcement authority either locally or internationally; or

(b) a request for information by a law enforcement authority for the purpose of supporting an application for an injunction by the Courts or similar Court process.

(4) Where a request is made under this regulation, the financial institution or listed business shall as soon as practicable but in any event within twenty-four hours of receipt of the request for financial information, provide the financial information to the FIU.

Requirement to respond to a request.

5. A financial institution or listed business shall respond to the Director's request for financial information under regulations 3 and 4 either—

- (a) electronically, by a secure reporting system established by the FIU;
- (b) by submitting the financial information according to the reporting instructions issued by the FIU; or
- (c) by submitting the completed financial information in writing by facsimile.

PART III

RECEIVING SUSPICIOUS TRANSACTION/ACTIVITY REPORT (STRs/SARs)

Submission of STRs/SARs.

6. (1) Subject to subregulation (2), a financial institution or listed business may submit a Suspicious Transaction/Activity Report (hereinafter referred to as "STR/SAR") to the Director either—

- (a) electronically, by a secure reporting system established by the FIU;
- (b) by submitting the completed STR/SAR forms in writing by hand delivery or by registered post; or
- (c) by submitting the completed STR/SAR forms in writing by facsimile.

(2) The Director may, by Notification published in the *Gazette* and in two newspapers in daily circulation in Trinidad and Tobago, specify which of the modes under subregulation (1) may be used by certain categories of listed businesses and financial institutions for submitting a STR/SAR.

7. Where a financial institution or listed business wishes to submit a STR/SAR to the Director, it shall do so in the form attached as the Third Schedule to the Proceeds of Crime Act.

Use of forms under Proceeds of Crime Act. Ch. 11:27.

PART IV

STORAGE OF FINANCIAL INTELLIGENCE AND INFORMATION

8. (1) Where financial intelligence and information has been collected by the FIU, the Director shall ensure that the financial intelligence and information in its custody or under its control is secure.

Protection of financial intelligence and information.

(2) Where reference is made in subregulation (1) to ensuring that financial intelligence and information is secure, such arrangements shall apply to the collection, storage, unauthorised access, use, alteration, disclosure, exchange and dissemination of the information.

9. The Director shall be responsible for the development and implementation of internal policies that are in accordance with data protection requirements of the FIU and any other written law.

Power of the Director in respect of protection of data.

10. The Director shall institute and maintain an internally secured electronic database for the storage of financial intelligence and information.

Internal secured database.

11. (1) The Director shall limit the personnel of the FIU who may access the FIU's database and grant specific authorisations in that regard.

Power of Director to limit access to database.

(2) The Director shall cause a log to be kept of all persons who access the FIU's database.

(3) A person who accesses financial intelligence and information on the database without authorisation from the Director under subregulation (1) commits an offence and shall be liable on summary conviction to a fine of two hundred and fifty thousand dollars and imprisonment for three years.

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Securing of
financial
intelligence and
information.

12. The Director shall ensure that financial intelligence and information in the FIU's custody or under its control is secured in the following manner:

- (a) copying and storing data onto more than one electronic device on an on-site or off-site facility on a daily basis; and
- (b) storing data on an off-site backup facility in the event of a natural disaster, technical malfunction or man-made incident.

Physical
storage.

13. The Director shall establish a security system or protocol for the physical storage of files of the FIU and financial intelligence and information in its custody or under its control.

PART V

INFORMATION ANALYSIS AND FEEDBACK

Requirement to
analyse
STR/SAR.

14. Where the FIU receives a STR/SAR or any financial intelligence and information either—

- (a) as the result of a request from the FIU to a financial institution or listed business; or
- (b) through the financial institution or listed business having reason to believe that some suspicious activity occurred thereby transmitting to the FIU a voluntary report of the activity,

the FIU shall analyse it.

Feedback.

15. Where a financial institution or listed business submits a STR/SAR or information to the FIU under section 10, the Director shall ensure that feedback is given to the financial institution or listed business within thirty days of the receipt of the report or information.

Establishment
of system for
analysis.

16. The Director shall implement a system for the effective analysis of—

- (a) financial information received from a financial institution or listed business; and

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- (b) a STR/SAR received from a financial institution or listed business.

17. The Director shall establish criteria for prioritising the processing of a STR/SAR and financial intelligence and information.

Prioritising reports.

PART VI

DISSEMINATION

18. For the purposes of this Part, “local authorities” mean—
- (a) the Customs and Excise Division;
 - (b) the Board of Inland Revenue;
 - (c) the VAT Office;
 - (d) regulatory and supervisory authorities for listed businesses and financial institutions; and
 - (e) lawfully authorised law enforcement agencies other than those agencies to whom files are transmitted for investigations.

Interpretation of “local authorities”.

19. (1) The Director may upon request, disseminate financial intelligence information to—
- (a) local authorities; and
 - (b) foreign authorities and law enforcement authorities under section 15(1) of the FIU Act.

Dissemination of information.

(2) The Director may, upon disseminating financial information under subregulation (1), impose the conditions upon which the information may be used.

(3) Where the Director determines under subregulation (2) that the sharing of information that is being requested shall be subject to terms and conditions attached, he shall require the requesting party to agree to the terms and conditions upon which the information is being shared.

20. (1) The FIU may, in accordance with any written law, share information with financial institutions, listed businesses and prosecutorial authorities.

Sharing or providing information.

(2) The Director may, where a criminal investigation is being conducted, authorise the provision of—

- (a) information under the control or custody of the FIU; and
- (b) advice and assistance,

to law enforcement authorities.

(3) In providing information or advice and assistance under subregulation (2), the Director may enter into a Memorandum of Understanding with law enforcement authorities.

Exchange of
information
with local and
foreign
authorities.

21. (1) The exchange of information with members of the Egmont Group under section 8(3) shall be undertaken on a reciprocal basis.

(2) Where a local authority or a foreign FIU within the Egmont Group request financial information from the FIU, the FIU shall only provide that financial information upon receipt of—

- (a) sufficient data to support a case involving money laundering, terrorist financing or a related crime;
- (b) the reason for the financial information requested;
- (c) proof that the request is linked to an ongoing investigation from the head of the agency;
- (d) the purpose for which the information will be used; and
- (e) in the case of a foreign FIU, sufficient information from the foreign FIU to show that the request complies with the domestic law of the foreign FIU.

(3) Where information is provided to a requesting foreign FIU, the provision of such information shall be on the condition that the information provided shall be used for the specific purpose for which the information was requested and shall not be used in an administrative, investigative, prosecutorial or judicial purpose without the prior consent of the FIU.

22. (1) The FIU in co-operating and liaising with agencies, authorities and persons under section 16 may, *inter alia*, share or request financial information from the agencies, authorities and persons.

Request for financial information.

(2) For the purposes of this regulation, the Director may enter into Memoranda of Understanding with local authorities.

23. (1) Where the FIU has received information from a foreign FIU, the FIU shall not share that information without the written permission of the foreign FIU that provided the information.

Requirements in respect of sharing of information.

(2) Information received by the FIU from a foreign FIU shall be stored in a secured database.

24. (1) The FIU shall only respond to a request for information under this Part where the request is received—

Responding to requests for information.

- (a) electronically through a secured reporting system established by the FIU;
- (b) electronically by secured mail;
- (c) in writing and submitted by hand or registered post; or
- (d) by facsimile.

(2) Notwithstanding the modes of receiving a request for information provided for under subregulation (1), the Director may specify a mode that is acceptable to the FIU by which certain categories of requesting parties may submit a request.

25. Where, under sections 8(3)(b) and 15, the Director sends a report to law enforcement agencies for investigation to determine whether an offence has been committed, the report shall contain where applicable—

Contents of reports to be sent to law enforcement agencies.

- (a) the reasons for the suspicion contained in the original report from the reporting entity;
- (b) the results of the evaluation and analysis of a STR/SAR, including analytical reports, charts, associated documentation and the results of the

- research conducted on the FIU's database of suspicious transaction or suspicious activity reports;
- (c) details of requests for further information in accordance with section 11(a);
 - (d) details of any request for approval to complete a transaction and the decision taken in accordance with section 13; and
 - (e) details of any instructions to suspend the processing of a transaction in accordance with section 14(1).

PART VII

PERIODIC REPORTS

Periodic
Reports.

26. (1) The FIU shall provide financial institutions, listed businesses and other public or private bodies with reports in respect of the following:

- (a) statistics on—
 - (i) the number of disclosures made by the FIU; and
 - (ii) the results of the disclosures by the FIU;
- (b) information on matters such as the number of STRs/SARs received by the FIU;
- (c) the number of STRs/SARs received in relation to the sectors or types of institutions and the geographic areas from which reports have been referred; and
- (d) information—
 - (i) as to the types of institutions which STRs/SARs and the types of transactions reported; and
 - (ii) on current techniques, methods and trends or typologies and examples of actual money laundering cases with no direct references as to persons or institutions.

(2) Reports under subregulation (1) shall be made available by the FIU on a quarterly basis.

**PART VIII
SUPERVISORY AUTHORITY**

27. For the purpose of this Part—

(a) “supervised entity” means—

- (i) a financial institution at paragraphs (d), (h) and (i) of the definition of “financial institution” under the Proceeds of Crime Act; and
- (ii) a listed business; and

(b) references to the FIU shall mean the FIU in its role under section 34 of the Proceeds of Crime Act as the Supervisory Authority of listed businesses.

Interpretation of certain words in this Part and references to the FIU.

Ch. 11:27.

28. (1) A supervised entity shall, within three months of the coming into force of these Regulations register with the FIU in the form set out in the Schedule for the purpose of identifying themselves as a supervised entity.

Requirement for supervised entity to register. Schedule.

(2) A supervised entity that fails to register with the FIU as required by subregulation (1) commits an offence and shall be liable on summary conviction to a fine of fifty thousand dollars and to a further fine of five thousand dollars for each day that the offence continues.

29. (1) Where a supervised entity changes its registered office or principal place of business it shall within six months of such change notify the FIU of the new address of its registered office or principal place of business.

Change of address of supervised entity.

(2) Where a supervised entity fails to notify the FIU under subregulation (1) of the new address of its registered office or principal place of business it commits an offence and shall be liable on summary conviction to a fine of twenty thousand dollars.

30. (1) The FIU shall provide guidelines and standards to supervised entities.

Requirements to provide guidelines and standards.

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(2) Guidelines and standards under subregulation (1) shall seek to ensure that supervised entities—

- (a) are aware of the risks of money laundering and the financing of terrorism inherent in their business activities; and
- (b) manage these risks prudently and in keeping with their responsibilities to customers and other stakeholders,

and set out—

- (c) any features of a transaction that may give rise to a suspicion that the transaction is or may be relevant to the enforcement of the Act or these Regulations; and
- (d) the procedures for making a report of any transactions.

PART IX

COMPLIANCE PROGRAMME

Submission of compliance programme.

Ch. 11:27.

31. (1) For the purpose of a financial institution or listed business developing and implementing a written compliance programme to be approved by the FIU in accordance with section 55(5) of the Proceeds of Crime Act, a financial institution or listed business shall submit its compliance programme to the FIU within three months of the coming into effect of these Regulations.

(2) Where the FIU is in receipt of a compliance programme submitted for approval under this Part, it shall examine same to determine whether it accords with international standards for compliance programmes and within three months either approve the compliance programme or make recommendations for rectification of defects in the compliance programme.

Rectification of defects.

32. (1) Where the FIU recommends a financial institution or listed business to rectify defects in its compliance programme submitted for approval under this Part, the FIU shall specify the time frame by which the financial institution or listed business is required to rectify the deficiencies.

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(2) In determining the time frame to rectify deficiencies under subregulation (1), the FIU shall take into consideration the nature of the deficiencies and the category of business of the financial institution or listed business and such other matters as may be relevant following consultations with the respective financial institutions or listed businesses.

(3) Where the FIU makes a decision to approve or recommend rectification of defects it shall notify the Compliance Officer of the financial institution or listed business in writing.

33. (1) Where the FIU is not the Supervisory Authority for the financial institution that submitted a compliance programme under this Part, the FIU shall, before granting approval for the compliance programme, consult with the relevant Supervisory Authority.

Consultation with Supervisory Authorities.

(2) The FIU shall forward a copy of the decision in respect of a financial institution under subregulation (1) to the Supervisory Authority.

34. (1) Subject to subregulation (2), where a financial institution or listed business has submitted a compliance programme which has been approved by the FIU under this Part, the financial institution or listed business shall review such compliance programme annually and resubmit same to the FIU every two years.

Requirement to review compliance programmes.

(2) The Director may alter the period under subregulation (1) for the submission of compliance programmes after making an assessment of risks related to money laundering and terrorist financing of a particular sector and after consulting with the relevant Supervisory Authority.

PART X

MISCELLANEOUS

35. Where the FIU has reasonable grounds to believe that a supervised entity or a person concerned in the management of a supervised entity has breached or is breaching the provisions of

Examination by the FIU.

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7/2010.

the Act, these Regulations or the Financial Obligations Regulations, it may initiate an examination of the circumstances.

Penalties.

36. Where a financial institution or listed business commits an offence under these Regulations for which no penalty is specified it shall be liable—

- (a) on 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; and
- (b) on 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.

Defence.

37. In proceedings against a financial institution or listed business for an offence under these Regulations, it is a defence for the financial institution or listed business to show that it took all reasonable steps and exercised due diligence to comply with the requirements of these Regulations.

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 FIU Financial Intelligence Unit FIU Form RG1	REGISTRATION OF LISTED BUSINESS	For official use only
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Please type or complete in BLOCK LETTERS • Complete entire form

Indicate the type of filing by checking A, B, or D, below (check only one). If filing a correction, check "C" or either A, B, or D.

A E Initial Registration B Li Renewal (L i Correcting a prior filing D Re-registration

If checked item 1D, please indicate briefly, the reason(s)

Part II Registrant Information Individual or Legal Entity

i. Name of Individual

ii. Name of Legal Entity

Nature of Business :

Company Registration Number :

Registered address	Street No.	Street Name	City	Country
Tel. No.: (868)			E-mail:	Website:

Where there are branches/outlets, include addresses of the locations:

VAT Registration Number (where applicable)

Estimated Annual Income (in TTS)

Part III Director(s) / Owner / Partners

Surname: Mr./Mrs./Ms.

First name

Middle name

Address (Street number, Street name,)

Town/City

Country

Telephone number(s) (include area code)

Nationality (include social security number if applicable)

ID : National ID, DP#, PP # : (any 1)

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Part IV Compliance Officer		
Surname : Mr./Mrs./Ms.	First name	Middle name

Address (Street number, Street name,)	Town/City	Country

Telephone number (include area code) Office -	Nationality include social security # (if applicable)	
Mobile -		
Part V Beneficial Owner(s)		
Surname : Mr./Mrs./Ms.	First name	ID # (any 1) National ID, DP#, PP # :
		Middle name

Address (Street number, Street name,)	Town/City	Country

Telephone number (include area code) Office -	Nationality include social security # (if applicable)	ID # (any 1) National ID, DP#, PP # :
Mobile -		
<i>Attach additional sheets if necessary.</i>		
Part VI Authorized Signature		
I am authorized to file this form on behalf of the myself/the company/the business listed in Part II. I declare that		
<u>the information provided is true, correct and complete. I understand that the individual/company/business listed in</u>		
Position held in the Listed Business:	Date of signature	/ / DD MM YYYY

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SCHEDULE

Regulation 28.

Part II is subject to the Proceeds of Crime Act (Ch. 11:27), the Anti-Terrorism Act (Ch. 12:07), the Financial Intelligence Unit of Trinidad and Tobago Act (Ch. 72:01) and the Financial Obligations Regulations (LN 7/2010).

I declare that the above information is true, complete and correct.

The signature of the owner/authorised person is mandatory.

Signature:

Print Name: Mr. / Mrs / Ms.
