

Anti-money laundering and Anti-terrorist financing awareness

For persons engaged in relevant business activities



Bankers Association
Of Trinidad & Tobago

Table of Contents

<i>Money Laundering</i>	1
<i>Terrorist Financing</i>	1
<i>The Threat</i>	1
<i>The Law</i>	1
<i>What are Revelent Business Activities?</i>	2
<i>Some Key provisions of the Proceeds of Crime Act, 2000</i>	2 - 6
<i>Some Key provisions of the Anti-Terrorism Act, 2005</i>	7 - 8
<i>Potential Targets for Money Laundering</i>	9 - 10
<i>You and Your Financial Institution Working Together</i>	10
<i>What information do Financial Institutions need from persons engaged in Revelent Business Activities?</i>	10 - 11
<i>Sources of Assistance</i>	12



Bankers Association
Of Trinidad & Tobago



First Citizens



INTERCOMMERCIAL BANK LIMITED



Republic Bank



Sources of Assistance

For further information on Anti-Money Laundering and Anti-Terrorist Financing, you may refer to the following:

- www.ttparliament.org
(*Anti-Terrorism Act, 2005 and the Proceeds of Crime Act, 2000*)
- www.central-bank.org.tt
(*Central Bank Guideline on Combating Money Laundering and Terrorist Financing, 2005*)
- *The Designated Authority,*
4th Floor, ABMA Building,
55-57 St. Vincent Street,
Port of Spain
Telephone: 624-5969
Email: cri.fiu@tstt.net.tt

ANTI-MONEY LAUNDERING AND ANTI-TERRORIST FINANCING AWARENESS FOR PERSONS ENGAGED IN RELEVANT BUSINESS ACTIVITIES

Money Laundering

Money Laundering is the criminal practice of processing criminal proceeds in order to disguise their illegal origin (Financial Action Task Force). It involves (1) the placement of funds into a financial system without attracting the attention of financial institutions or law enforcement; (2) the layering of transactions to disguise the source, ownership and location of funds and (3) the integration of the funds into the economy in the form of holdings that have the appearance of respectability.

Terrorist Financing

The motivation behind terrorist financing is ideological as opposed to profit seeking, which is generally the motivation for most crimes associated with money laundering. Terrorism is intended to intimidate a population or to compel a government or an international organisation to do or abstain from doing any specific act through the threat of violence. Before carrying out attacks however, terrorists need funds for housing, recruitment, training, supplies, weapons, and travel. Unlawful activities such as extortion, kidnapping, and narcotics trafficking have been found to be a major source of terrorist funding. Other observed activities include smuggling, fraud, theft, robbery, identity theft and improper use of charitable or relief funds. Since the September 11, 2001 terrorist attacks in the United States, governments around the world have strengthened their legislative frameworks to address terrorist financing.

The Threat

Money laundering and terrorist financing are financial crimes with potentially devastating social and financial effects. In both money laundering and terrorist financing, criminals can exploit loopholes or other weaknesses in the legitimate financial system to launder criminal proceeds, support terrorism, and ultimately, hide the actual purpose of their activity.

The Law

The Proceeds of Crime Act, enacted in Trinidad and Tobago in 2000, provides for the confiscation of the proceeds of drug trafficking and other crimes and the criminalizing of money laundering.

The Anti-Terrorism Act, enacted in Trinidad and Tobago in 2005, criminalizes terrorism and provides for the detection, prevention, prosecution of terrorist activities and the confiscation, forfeiture and seizure of terrorists' assets.

What are Relevant Business Activities?

In addition to financial institutions, credit unions and insurance companies, the Proceeds of Crime Act, 2000 applies to entities described as "relevant business activities". A relevant business activity is an activity between two or more persons in which at least one person is acting in the course of the following businesses:

- Real Estate
- Motor Vehicle Sales
- Courier Services
- Gaming Houses
- Jewellers
- Pool Betting
- National Lottery On Line Betting Games

Some Key Provisions of the Proceeds of Crime Act, 2000.

Section	Summary	Legal Requirements
43	Suspicious dealings with property	A person is guilty of an offence who conceals, disposes, disguises, transfers, brings into Trinidad and Tobago or removes from Trinidad and Tobago any money or other property knowing or having reasonable grounds to suspect that the money or other property is derived, obtained or realised, directly or indirectly from drug trafficking.
44	Concealing or disguising own proceeds of crime	A person is guilty of an offence if he- (a) conceals or disguises any property which is, or which, in whole or in part directly or indirectly represents, his proceeds of a specified offence or drug trafficking; or (b) converts, transfers or disposes of that property or removes it from the jurisdiction, for the purpose of avoiding prosecution for a specified offence or the making or enforcement in his case of a confiscation order or a forfeiture order.
45	Concealing or disguising own proceeds of crime	A person is guilty of an offence if, knowing or having reasonable grounds to suspect that any property is, or in whole or in part directly or indirectly represents another person's proceeds of a specified offence or drug trafficking, he- (a) conceals or disguises that property; or

- (7) Signature
- (8) Purpose of the proposed business relationship or transaction
- (9) Source of funds
- (10) Any other information deemed appropriate by the institution
- (11) Photo-bearing identification, that is, Passport, National Identification Card or Driver's Licence (Birth Certificates are not to be accepted as the sole means of identification)
- (12) In the case of foreign customers, a reference should be sought from the customer's bank

Businesses

- (1) As required for individuals above, verification of the identity of the directors, partners, sole traders, officers, account signatories and beneficial owners
- (2) Articles of Incorporation or Continuance
- (3) Certificate of Incorporation
- (4) By-laws
- (5) At a minimum, management accounts for last three years for self-employed persons and businesses
- (6) Information on Shareholders holding more than 5% of the paid up share capital of the company

Financial Institutions are also required to verify and periodically update customer identification records to ensure the information remains current and to take into account any changes regarding the business relationship.

- client purchases property in the name of a nominee eg. an associate or relative (not spouse)
- client does not properly explain last minute substitution of the purchasing party's name
- client sells property soon after purchase at below purchase price
- client purchases a number of properties over a short time and seems to have little concern about location, condition and repair costs

You and your Financial Institution - working together

The process by which Financial Institutions build relationships with their customers is important in the defence against money-laundering and terrorist financing. A sound "Know Your Customer" (KYC) policy is critical to a company's risk management strategy. Effective KYC means an effective customer acceptance policy, a customer identification program and proactive account monitoring.

You can assist Financial Institutions in their KYC efforts by cooperating with their representatives to provide any information requested regarding your business or even a specific transaction. **Our due diligence activities support your efforts to comply with the requirements of the Proceeds of Crime Act, 2000.**

What information do Financial Institutions need from persons engaged in Relevant Business Activities?

In accordance with the Guideline on Combating Money Laundering and Terrorist Financing, issued by the Central Bank of Trinidad and Tobago in September 2004 and updated in December 2005, Financial Institutions are required to have KYC information on all their customers. KYC information should be obtained prior to the commencement of business relations or the performance of a transaction. The Guideline requires all Financial Institutions to obtain the following:-

Individuals

- (1) Full name(s)
- (2) Permanent address (no temporary or post office addresses)
- (3) Date and place of birth
- (4) Nationality
- (5) Nature and place of business/occupation
- (6) Where applicable, occupational income

Section	Summary	Legal Requirements
		(b) converts, transfers or disposes of that property or removes it from the jurisdiction, for the purpose of assisting any person to avoid prosecution for a specified offence or the making or enforcement of a confiscation order or a forfeiture order.
46(1)	Receiving etc another's proceeds of crime	A person is guilty of an offence if, knowing or having reasonable grounds to suspect that any money or other property is, or in whole or in part, directly or indirectly represents another person's proceeds of a specified offence or drug trafficking, he receives, possesses or converts that money or other property.
51(1)	Tipping-off	A person is guilty of an offence if- (a) he knows or suspects that a police officer is acting, or is proposing to act, in connection with an investigation which is being, or is about to be, conducted into money laundering; and (b) he discloses to any other person information or any other matter which is likely to prejudice that investigation, or proposed investigation.
51(2)	Tipping-off	A person is guilty of an offence if- (a) he knows or suspects that a disclosure (hereinafter referred to as "the disclosure") has been made to a police officer or the designated authority, and (b) he discloses to any other person information or any other matter which is likely to prejudice any investigation which might be conducted following the disclosure.
51(3)	Tipping-off	A person is guilty of an offence if- (a) he knows or suspects that a disclosure has been made to the law enforcement authorities; and

Section	Summary	Legal Requirements
52(1)	Failure to disclose knowledge or suspicion of money laundering	<p>(b) he discloses to any person information or any other matter which is likely to prejudice any investigation which might be conducted following the disclosure.</p> <p>A person is guilty of an offence if-</p> <p>(a) he knows or suspects that another person is engaged in money laundering;</p> <p>(b) the information, or other matter, on which that knowledge or suspicion is based came to his attention in the course of his trade, profession, business or employment; and he does not disclose the information or other matter to a police officer as soon as is reasonably practicable after it comes to his attention.</p>
53	Penalties and Punishment	<p>A person guilty of an offence under sections 43, 44, 45, 46, 51 and 52 shall be liable -</p> <p>(a) on summary conviction, to a fine of ten million dollars and to imprisonment for ten years; or</p> <p>(b) on conviction on indictment, to a fine of twenty-five million dollars and to imprisonment for fifteen years.</p>
55(1)	Record keeping and retention duties	<p>Every financial institution or person engaged in a relevant business activity shall keep and retain records relating to financial activities in accordance with the Regulations made under section 56(1).</p>
55(2)	Pay attention to complex, unusual and complex transactions.	<p>Every financial institution or person engaged in a relevant business activity shall pay special attention to all complex, unusual or large transactions, whether completed or not, and to all unusual patterns of transactions, and to insignificant but periodic transactions, which have no apparent economic or lawful purpose.</p>

The term "**terrorist property**" is defined in the Anti-Terrorism Act, as proceeds from the commission of a terrorist act, property which has been, is being or is likely to be used to commit a terrorist act or property which has been collected for the purpose of funding a terrorist act.

The term "**terrorist act**" is defined *inter alia* as an act which causes or is likely to cause loss of human life, damage to property or prejudice to national security or disruption of public safety and services and is intended to compel a government or international organization to do or refrain from doing something or intimidate the public or a section of the public for the purpose of advancing a political, ideological or a religious cause.

All businesses selling high value items are potential targets for money launderers. Some possible indicators of money laundering include the following:

- customer is known to be involved in, or indicates his involvement in criminal activities
- customer pays substantial amounts in cash for high value items such as cars, jewelry and property
- customer is accompanied by others and watched
- customer appears to have only a vague knowledge of or interest in the amount of the transaction
- customer purchases property or cars without inspecting them
- customer places a large deposit on an item, then subsequently requests a refund of the deposit
- customer attempts to return a recent purchase for a refund with no satisfactory explanation or attempts to sell back a recently purchased item at a significant discount
- customer appears unconcerned about the price of an item
- customer is secretive, nervous or reluctant to meet in person
- customer insists that a transaction be done quickly
- customer attempts to develop a close relationship with staff
- customer attempts to bribe or offer unusual favours for services which are suspicious or unusual
- customer raises the subject of the transaction being "**clean**" and not involved in money laundering
- customer refuses to provide personal identification or refuses to present originals
- identification documents appear new or have recent issue dates
- customer uses bank notes in unusual denominations (eg: \$1.00 or \$5.00 bills)
- customer presents notes that are suspicious in that they are extremely dirty or musty
- the transaction does not appear to be economically viable
- the transaction is unnecessarily complex

Section	Summary	Legal Requirements
8	Dealing with terrorist property	Any person who knowingly- (a) acquires or possesses terrorist property; (b) conceals, converts or disguises terrorist property; (c) deals directly or indirectly with any terrorist property; or (d) enters into or facilitates directly or indirectly any transaction in relation to terrorist property, commits an offence and shall, on conviction on indictment, be liable to imprisonment for twenty years.
32(1)	Duty to disclose information relating to offences and terrorist acts	Every person who has information which will assist in- (a) preventing the commission by another person, of a terrorist act; or (b) securing the arrest or prosecution of another person for an offence under this Act, or an offence under any other law and which also constitutes a terrorist act, shall forthwith disclose the information to a police officer not below the rank of sergeant.
33(1)	Duty to disclose information relating to property used for commission of offences under the Act	Every person shall forthwith disclose to the designated authority – (a) the existence of any property in his possession or control, which to his knowledge is terrorist property, or which there are reasonable grounds to believe is terrorist property; (b) any information regarding a transaction or proposed transaction in respect of terrorist property; or (c) any information regarding a transaction or proposed transaction which there are reasonable grounds to believe may involve terrorist property.

Section	Summary	Legal Requirements
55(3)	Requirement to report suspicious transactions to the designated authority.	Upon suspicion that the transactions described in subsection 55(2) could constitute or be related to illicit activities, a financial institution or person engaged in a relevant business activity shall report the suspicious transactions to the designated authority in the form specified in the Third Schedule, within fourteen days of the date the transaction was deemed to be suspicious as relating to illicit activities.
55(4)	Safe Harbour	When the report referred to above is made in good faith, the financial institution or persons engaged in relevant business activities and their employees, staff, directors, owners or other representatives as authorised by law, shall be exempted from criminal, civil or administrative liability as the case may be, for complying with this section or for breach of any restriction on disclosure of information imposed by contract or by any legislative, regulatory or administrative provision, regardless of the result of the communication.
55(5)	Develop a Written Compliance Programme.	Every financial institution or person engaged in a relevant business activity shall develop and implement a written compliance programme reasonably designed to ensure and monitor compliance with Regulations made under this Act.
55(6)(a)	Elements of the Compliance Programme	A compliance programme referred to in subsection 55(5) shall include- (a) a system of internal controls to ensure ongoing compliance; (b) internal or external independent testing for compliance; (c) training of personnel in the identification of suspicious transactions; and (d) appointment of a staff member continually responsible for compliance with the Act and the Regulations.

Section	Summary	Legal Requirements
55(7)(a)	Entry into Premises	The designated authority or a person authorized by the designated authority may, after obtaining the relevant court order, enter the premises of any financial institution to inspect any business transaction record or client information record kept by the financial institution or person engaged in a relevant business activity pursuant to this Act and the Regulations made thereunder and ask any questions relevant to such record and to make any notes or take any copies of the whole or any part of any such record.
57	Offences and Punishment	<p>(1) Everyone who knowingly contravenes or fails to comply with the provision of section 55 is guilty of an offence and liable -</p> <p>(a) on summary conviction, to a fine of five hundred thousand dollars and to imprisonment for a term of two years; or</p> <p>(b) on conviction on indictment, to a fine of three million dollars and to imprisonment for a term of seven years.</p> <p>(2) Where a company commits an offence under this Act any officer, director or agent of the company who directed, authorized, assented to, acquiesced in or participated in the commission of the offence is a party to, and guilty of, the offence and liable on conviction to the punishment provided for the offence, whether or not the company has been prosecuted or convicted.</p>

The term "specified offence" used in the Proceeds of Crime Act refers to **any indictable offence and certain offences under the Income Tax Act, the Corporation Tax Act, the Value Added Tax Act and the Copyright Act.**

To summarise, money laundering offences and offences related to money laundering include:

- conducting a transaction with criminal proceeds
- receiving/transferring criminal proceeds
- concealing criminal proceeds
- failing to disclose information of suspicious activities to police officers
- disclosing of information prejudicial to an investigation

Some Key Provisions of the Anti-Terrorism Act, 2005

Section	Summary	Legal Requirements
5	Collection or provision of property	A person who, directly or indirectly, provides or makes available property having reasonable grounds to believe that the property will be used to commit a terrorist act, commits an offence and shall, on conviction on indictment, be liable to imprisonment for twenty years.
6	Use of property for commission of terrorist acts	<p>Any person who -</p> <p>(a) uses property, directly or indirectly, in whole or in part, for the purpose of committing or facilitating the commission of a terrorist act; or</p> <p>(b) possesses property intending that it be used or knowing that it will be used, directly or indirectly, in whole or in part, for the purpose of committing or facilitating the commission of a terrorist act,</p> <p>commits an offence and shall, on conviction on indictment, be liable to imprisonment for twenty years.</p>
7	Arrangements for retention or control of terrorist property	Any person who knowingly becomes concerned or enters into an arrangement which facilitates the acquisition, control or retention of terrorist property by or on behalf of another person commits an offence and shall, on conviction on indictment, be liable to imprisonment for twenty years.