

AS AMENDED IN THE H.O.R.

No. 16 of 2019

Fourth Session Eleventh Parliament Republic of
Trinidad and Tobago

HOUSE OF REPRESENTATIVES

BILL

AN ACT to amend the Financial Institutions Act,
Chap 79:09, the Securities Act, Chap. 83:02 and
the Insurance Act, No. 4 of 2018

THE MISCELLANEOUS PROVISIONS (FINANCIAL INSTITUTIONS,
SECURITIES AND INSURANCE) BILL, 2019

Explanatory Notes

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

This Bill will seek to amend certain provisions of the Financial Institutions Act, Chap.79:09, the Securities Act, Chap. 83:02 and the Insurance Act, No. 4 of 2018 to include references to the Anti-Terrorism Act, Chap. 12:07, the Economic Sanctions Act, Chap. 81:05 and Orders made thereunder and proliferation financing.

Clause 1 of the Bill would contain the long title of the Act for which this is the Bill.

Clause 2 of the Bill would amend sections 2, 10 and 33 of the Financial Institutions Act, Chap. 79:09. Paragraph (a) would seek to insert a new definition in section 2 of the Act for the term “proliferation financing”. Paragraph (b) would seek to amend section 10(c) to insert the words “Economic Sanctions Act or Orders made thereunder as they relate to proliferation financing” after the words “Anti-Terrorism”. While the Act makes provisions for any other written law, it was felt, for clarity, the reference to the Economic Sanctions Act, Chap. 81:05 as it relates to proliferation financing should be included. The clause would also make it clear that the monitoring of proliferation financing is also under the purview of the Central Bank for the Central Bank to issue guidelines. Paragraph (c) would amend section 33(2)(a) of the Financial Institutions Act, Chap. 79:09 to prohibit any person who was convicted of an offence, not only as presently provided for under the Proceeds of Crime Act, but now also under the Anti-Terrorism Act, Chap. 12:07 and the Economic Sanctions Act, Chap. 81:05 and any Orders made under the Economic Sanctions Act, Chap. 81:05 as they relate to proliferation financing from acting as a director or officer concerned with the management of a licensed institution or financial holding company. The paragraph would also ensure that if there are any other statutory provisions relative to proliferation financing that are not complied with, a person can also be prohibited from acting as a director or officer concerned with the management of a licensed institution or financial holding company.

Clause 3 of the Bill would amend sections 4, 6, 57, 58, 87, 89,

90 and 146 of the Securities Act, Chap. 83:02. Paragraph (a) would amend section 4(1) to introduce a new definition for the term “proliferation financing”. Paragraphs (b), (c), (d), (e), (f) and (h) would all insert references to the Anti-Terrorism Act, Chap. 12:07, the Economic Sanctions Act, Chap. 81:05 and Orders made thereunder as they relate to proliferation financing and proliferation financing. In section 6(1), the insertion would provide that another function of the Commission would be to ensure compliance with the Economic Sanctions Act, Chap. 81:05 or Orders made thereunder as they relate to proliferation financing and any written law providing for proliferation financing. In section 57, the insertion would empower the Commission to issue a warning to a registrant where he has breached the Anti-Terrorism Act, Chap. 12:07, the Economic Sanctions Act, Chap. 81:05 or Orders made thereunder as they relate to proliferation financing and any written law providing for proliferation financing. The section 58 amendment would empower the Commission to revoke the registration of a registrant after suspension where the person has been convicted under the Anti-Terrorism Act, Chap. 12:07, the Economic Sanctions Act, Chap. 81:05 or an Order made thereunder as they relate to proliferation financing and any written law providing for proliferation financing. Section 87 would require market actors to keep documents as required under the Anti-Terrorism Act, Chap. 12:07, the Economic Sanctions Act, Chap. 81:05 or Orders made thereunder as they relate to proliferation financing and any written law providing for proliferation financing. Section 89 would empower the Chief Executive Officer or any other authorized person to review the books, records or documents of a registrant to determine whether the provisions of the Anti-Terrorism Act, Chap. 12:07, the Economic Sanctions Act, Chap. 81:05 or Orders made thereunder as they relate to proliferation financing and any written law providing for proliferation financing is being complied with. The amendment to section 146 would empower the Commission to issue Guidelines to aid compliance with the Anti-Terrorism Act, Chap. 12:07, the Economic Sanctions Act, Chap. 81:05 or Orders made thereunder as they relate to proliferation financing and any written law providing for proliferation financing. Paragraph (g) would amend section 90(1)(c) to empower the Commission to take measures against a registrant if it is of the view after a review or inspection that the registrant is contravening or about to contravene any law which deals with proliferation financing.

Clause 4 of the Bill would seek to amend sections 34, 65, 121,

136, 147 and 278 of the Insurance Act, No. 4 of 2018. Paragraph (a) would introduce the definition of “proliferation financing” as is being introduced in the Financial Institutions Act and the Securities Act. Paragraph (b) would seek to amend section 34(1)(c) to provide that registration may be revoked where the insurer fails to comply with any obligations for the prevention of proliferation financing and under the Economic Sanctions Act, Chap. 81:05 or any Orders made thereunder as they relate to proliferation financing. Paragraph (c) would now prohibit a person who has been convicted of an offence in contravention of the Economic Sanctions Act, Chap. 81:05 or Orders as they relate to proliferation financing made thereunder from acting or continuing to act as a director or officer of or concerned in any way in the management of an insurer or financial holding company. Paragraph (d) would amend section 121(1)(o) to empower the Central Bank to also revoke the registration of a person registered where the person failed to comply with any obligations imposed on him under any written law for proliferation financing or under the Economic Sanctions Act, Chap 81:05 or any Orders made thereunder as they relate to proliferation financing. Paragraph (e) would amend section 136(3) to require every auditor of every agency and brokerage to monitor and evaluate compliance with the Economic Sanctions Act, Chap. 81:05 and any Orders made thereunder and any guidelines issued for proliferation financing. Paragraph (f) would seek to amend section 147(8) to require every auditor of an insurer or financial holding company to monitor and evaluate compliance with the Economic Sanctions Act, Chap. 81:05 and any Orders made thereunder as they relate to proliferation financing and any guidelines issued for proliferation financing. Finally, paragraph (g) would amend section 278(1)(c) to empower the Central Bank to also issue guidelines to aid compliance with the Economic Sanctions Act, Chap. 81:05 or any Orders made thereunder as they relate to proliferation financing and any written law in relation to proliferation financing.

BILL

AN ACT to amend the Financial Institutions Act, Chap
79:09, the Securities Act, Chap. 83:02 and the
Insurance, Act No. 4 of 2018

[, 2019]

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

1. This Act may be cited as the Miscellaneous Short title

Provisions (Financial Institutions, Securities and Insurance) Act, 2019.

Chap. 79:09
amended

2. The Financial Institutions Act is amended—

(a) in section 2, insert after the definition “principal representative” the following new definition:

“proliferation financing” means the act of providing funds or financial services which are used, in whole or in part, for the manufacture, acquisition, possession, development, export, transshipment, brokering, transport, transfer, stockpiling or use of nuclear, chemical or biological weapons and their means of delivery and related materials, including both technologies and dual-use goods used for non-legitimate purposes, in contravention of any written law or, where applicable, international obligations;”;

(b) in section 10(c) by—

(i) inserting after the words “Anti-Terrorism Act,” the words “Economic Sanctions Act or Orders made thereunder as they relate to proliferation financing;”;

(ii) deleting the words “and combating” and substituting the words “, combating”; and

(iii) inserting after the word “of terrorism” the words “and proliferation financing”; and

(c) in section 33(2)(a) by—

(i) inserting after the words “contravention of” the words “the

Economic Sanctions Act and any Orders made thereunder as they relate to proliferation financing, the Anti-Terrorism Act and”;

(ii) deleting the words “and the combating” and substituting the words “, the combating”; and

(iii) inserting after the word “financing” the words “and proliferation financing”.

3. The Securities Act is amended in—

(a) section 4(1), by inserting after the definition of “private issuer” the following new definition: Chap. 83:02 amended

“proliferation financing” means the act of providing funds or financial services which are used, in whole or in part, for the manufacture, acquisition, possession, development, export, transshipment, brokering, transport, transfer, stockpiling or use of nuclear, chemical or biological weapons and their means of delivery and related materials, including both technologies and dual-use goods used for non-legitimate purposes, in contravention of any written law or, where applicable, international obligations;”;

(b) section 6(i) by—

(i) inserting after the words “Act,” the words “the Anti-Terrorism Act and the Economic Sanctions Act or Orders made thereunder as they relate to proliferation financing,”;

(ii) deleting the words “and combating”

and substituting the words “, combating”; and

- (iii) inserting after the word “terrorism” the words “, proliferation financing”;

(c) section 57(1)(j) by—

- (i) inserting after the word “Act”, the second time it appears, the words “the Anti-Terrorism Act, the Economic Sanctions Act or Orders made thereunder as they relate to proliferation financing”;
- (ii) by deleting the words “and combating” and substituting the words “, combating”; and
- (iii) inserting after the word “terrorism” the words “, proliferation financing”.

(d) section 58(2)(b) by—

- (i) inserting after the words “Act,” the words “the Anti-Terrorism Act and the Economic Sanctions Act or Orders made thereunder as they relate to proliferation financing,”;
- (ii) deleting the words “and combating” and substituting the words “, combating”; and
- (iii) inserting after the word “terrorism” the words “, proliferation financing”;

(e) section 87(1)(a)(iii) by—

- (i) inserting after the words “Act,” the words “the Anti-Terrorism Act and the Economic Sanctions Act or Orders made thereunder as they relate to proliferation financing,”;

- (ii) deleting the words “and combating” and substituting the words “, combating”; and
 - (iii) inserting after the word “terrorism” the words “, proliferation financing”;
- (f) section 89(1) by—
- (i) inserting after the words “Act,” the words “the Anti-Terrorism Act and the Economic Sanctions Act or Orders made thereunder as they relate to proliferation financing,”;
 - (ii) deleting the words “and combating” and substituting the words “, combating”; and
 - (iii) inserting after the word “terrorism” the words “, proliferation financing”;
- (g) section 90(1)(c) by inserting after the word “terrorism” the words “, proliferation financing”; and
- (h) section 146(1)(c) by—
- (i) inserting after the words “Act,” the words “the Anti-Terrorism Act and the Economic Sanctions Act or Orders made thereunder as they relate to proliferation financing,”;
 - (ii) deleting the words “and combating” and substituting the words “, combating”; and
 - (iii) inserting after the word “terrorism” the words “, proliferation financing”.

Act No. 4 of 2018
amended

4. The Insurance Act, 2018 is amended in—

- (a) section 4, by inserting after the definition “privately administered pension fund plan” the following new definition:

“proliferation financing” means the act of providing funds or financial services which are used, in whole or in part, for the manufacture, acquisition, possession, development, export, transshipment, brokering, transport, transfer, stockpiling or use of nuclear, chemical or biological weapons and their means of delivery and related materials, including both technologies and dual-use goods used for non-legitimate purposes, in contravention of any written law or, where applicable, international obligations;”;

- (b) section 34(1)(c) by—

(i) deleting the words “or terrorist financing” and substituting the words “, terrorist **financing or** proliferation financing;”;

(ii) inserting after the words “thereunder” the words “, the Economic Sanctions Act or any Orders made thereunder as they relate to proliferation financing.”;

- (c) section 65(2)(a) by—

(i) inserting after the words “thereunder” the words “, the Economic Sanctions Act or any Orders made thereunder as they relate to proliferation financing”;

- (ii) deleting the words “and the combating” and substituting the words “, the combating”; and
 - (iii) inserting after the word “financing” the words “or proliferation financing”;
- (d) section 121(1)(o) by—
- (i) deleting the words “or terrorist financing” and substituting the words “, terrorist financing or proliferation financing,”; and
 - (ii) inserting after the words “thereunder” the words “the Economic Sanctions Act or any Orders made thereunder as they relate to proliferation financing”;
- (e) section 136(3) by—
- (i) deleting the words “and the Anti-Terrorism **Act and any regulations made thereunder**” and substituting the words “, the Anti-Terrorism **Act and any regulations made thereunder** and the Economic Sanctions Act and any Orders made thereunder as they relate to proliferation financing”;
 - (ii) deleting the words “and the combating” and substituting the words “, the combating”; and
 - (iii) inserting after the word “financing” the words “or proliferation financing”;
- (f) section 147(8) by—
- (i) deleting the words “and the Anti-Terrorism **Act and any**

regulations made thereunder” and substituting the words “, the Anti-Terrorism Act **and any regulations made thereunder** and the Economic Sanctions Act and any Orders made thereunder as they relate to proliferation financing”;

- (ii) deleting the words “and the combating” and substituting the words “, the combating of”; and
- (iii) inserting after the word “financing” the words “ or proliferation financing”; and

(g) section 278 (1)(c) by—

- (i) insert after the words “the Anti-Terrorism Act,” the words “the Economic Sanctions Act and any Orders made thereunder as they relate to proliferation financing,”;
- (ii) deleting the words “and combating” and substituting the words “, the combating”; and
- (iii) inserting after the word “financing” the words “and proliferation financing”.

Passed in the House of Representatives this 10th day of June, 2019.

Clerk of the House

I confirm the above.

Speaker

Passed in the Senate this day of , 2019.

Clerk of the Senate

I confirm the above.

President of the Senate

No. 16 of 2019

FOURTH SESSION
ELEVENTH PARLIAMENT

REPUBLIC OF
TRINIDAD AND TOBAGO

BILL

AN ACT to amend the Financial Institutions Act, Chap 79:09, the Securities Act, Chap. 83:02 and the Insurance Act, No. 4 of 2018

Received and read the

First time

Second time

Third time
