

**MONEY LAUNDERING AND FINANCING OF TERRORISM
(PREVENTION AND CONTROL)
ACT, 2011 – 23**

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BARBADOS

I assent
C. STRAUGHN HUSBANDS
Governor-General.
22nd July, 2011.

2011 – 23

An Act to reform the law in respect of the prevention and control of money laundering and financing of terrorism and provide for related matters.

(By Proclamation). Commence-
ment.

ENACTED by the Parliament of Barbados in accordance with the provisions of section 49 of the Constitution as follows:

PART I

PRELIMINARY

1. This Act may be cited as the *Money Laundering and Financing of Terrorism (Prevention and Control) Act, 2011*. Short title.

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Interpreta-
tion.

2. (1) In this Act

"account" means any facility or arrangement by which a financial institution does one or more of the following:

- (a) accepts deposits of currency;
- (b) allows withdrawals of currency or transfers of currency between accounts;
- (c) pays cheques or payment orders drawn on a financial institution by, or collects cheques or payment orders on behalf of a person;
- (d) supplies a safety deposit box;

"authorised officer" means a person authorised to conduct an inspection pursuant to section 31(1);

"Authority" means the Anti-Money Laundering Authority appointed by the Minister pursuant to section 8;

Cap. 143. "benefit" has the meaning assigned to it by section 4 of the *Proceeds of Crime Act*;

"business arrangement"

- (a) means an arrangement, between 2 or more parties, the purpose of which is to facilitate a financial or other relevant transaction between the parties; and
- (b) includes
 - (i) any related transaction between any of the parties and another person;
 - (ii) the making of a gift; and
 - (iii) the opening of an account;

"business transaction" includes a business arrangement and an occasional transaction;

"business transaction record" includes

- (a) the identification records of parties to a business transaction and parties on whose behalf or for whose ultimate benefit a transaction is conducted;
- (b) the method used by a financial institution to verify the identity of the parties referred to in paragraph (a);
- (c) the date of the transaction;
- (d) a description of the transaction sufficient to identify the nature, purpose and method of execution of the transaction;
- (e) the total value of the transaction including the type and amount of currency involved;
- (f) where the transaction involves a negotiable instrument, the name of the drawer of the instrument, the name of the institution on which it was drawn, the name of the payee, if any, the amount and date of the instrument, the number, if any, of the instrument and details of any endorsements appearing on the instrument;
- (g) the type and identifying number of any account with the financial institution involved in the transaction;
- (h) the details of any account used for the transaction including bank, branch and sort code;
- (i) account files in respect of the transaction;
- (j) business correspondence in respect of the transaction; and
- (k) the name and address of the financial institution and of the officer, employee or agent of the financial institution who prepared the record;

"Commissioner" means the Commissioner of Police;

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"Court" means the High Court;

"customer" means a person who

- (a) seeks to enter or enters into a business arrangement with a financial institution; or
- (b) seeks to conduct or conducts an occasional transaction with a financial institution;

"customer identification data" includes an identification record;

"Director" means the Director of the Financial Intelligence Unit referred to in section 9;

"document" means any record of information and includes

- (a) anything on which there is writing;
- (b) anything on which there are marks, figures, symbols or perforations having a meaning for persons qualified to interpret them;
- (c) anything from which sounds, images or writings can be reproduced with or without the aid of anything else; and
- (d) a map, plan, drawing or photograph;

"financial institution" means

- (a) a person who conducts as a business one or more of the activities listed in the *First Schedule* and includes
 - (i) a trustee of an international trust within the meaning of the *International Trusts Act*, who is resident in Barbados within the meaning of that Act; First Schedule.
Cap. 245.
 - (ii) an exempt insurance company within the meaning of the *Exempt Insurance Act*; Cap. 308A.
 - (iii) a person who operates an insurance business within the meaning of the *Insurance Act*; Cap. 310.
 - (iv) a market actor, self-regulatory organisation, participant and issuer of securities within the meaning of the *Securities Act*; Cap. 318A.
 - (v) a mutual fund and mutual fund administrator within the meaning of the *Mutual Funds Act* or any person who manages a mutual fund; Cap. 320B.
 - (vi) a licensee under the *Financial Institutions Act*; Cap. 324A.
 - (vii) a person who provides an international financial service within the meaning of the *International Financial Services Act*; Cap. 325.
 - (viii) a building society within the meaning of the *Building Societies Act*; Cap. 377.
 - (ix) a credit union within the meaning of the *Co-operative Societies Act*; and Cap. 378A.
 - (x) a friendly society within the meaning of the *Friendly Societies Act*; Cap. 379.

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Cap. 59C. (b) a foreign sales corporation within the meaning of the *Barbados Foreign Sales Corporation Act*;

Cap. 77. (c) an international business company within the meaning of the *International Business Companies Act*; and

Cap. 318B. (d) a society with restricted liability within the meaning of the *Societies With Restricted Liability Act*;

Cap. 158. "financing of terrorism" means an offence set out in section 4 of the *Anti-Terrorism Act*;

"freeze" means to restrain any transaction in respect of or dealing in property;

"guideline" means a guideline issued pursuant to section 26;

"identification record" means

(a) in the case of a body corporate, society or other legal person

(i) certified copies of the certificate of incorporation, organisation, registration or continuance, as the case may be, or any other certificate that is evidence of the creation, registration or continuance of the body corporate, society or other legal person as such, officially authenticated where the body corporate, society or other legal person was created in another country, and any other relevant documents, and any amendments thereto, filed with the Registrar of Corporate Affairs and Intellectual Property, the Registrar of Co-operatives or the Registrar of Friendly Societies, as the case may be; and

- (ii) the name, address, nationality, occupation and business or principal activity, as the case may be, of the directors, shareholders, managers and members of the body corporate, society or other legal person, as the case may be, and such other evidence as may satisfy a financial institution that those persons are the persons they claim to be; and
- (b) in the case of an individual, the name, address, nationality, occupation and business or principal activity, as the case may be, of the individual and such other evidence as may satisfy a financial institution that the individual is who the individual claims to be;

"licence" includes a certificate of registration;

"Minister" means the Attorney-General;

"money laundering" has the meaning assigned to it by section 5;

"money or value transmission service" means the business of accepting cash, cheques or any other monetary instrument or other means of storing value and paying a corresponding sum in cash or in another form to a beneficiary, by means of a communication, message or transfer or through a clearing system to which the money or value transmission service belongs;

"non-financial business entity or professional" means an entity or professional referred to in the *Second Schedule*;

Second
Schedule.

"occasional transaction" means a financial or other relevant transaction other than one conducted or to be conducted in the course of an existing business arrangement and includes a wire transfer;

"primary enabling enactment" has the meaning assigned to it in Part I of the *Third Schedule*;

Third
Schedule.

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"proceeds of crime" means any property or benefit derived, obtained or realised directly or indirectly by any person from unlawful activity wherever committed and any other property or benefit that is mingled with such property or benefit;

"property" includes money and all other property, real or personal, including things in action and other intangible or incorporeal property wherever situate and includes any interest in such property;

"public authority" means the head of a government department, regulatory authority or other public institution;

Third
Schedule.

"regulatory authority" has the meaning assigned to it in Part II of the *Third Schedule*;

Second
Schedule.

"relevant transaction" means an activity referred to in the *Second Schedule*;

"transaction" includes an attempted or aborted transaction;

"unlawful activity" means

(a) any activity that by the law of Barbados or any other country is a crime and is punishable by death or imprisonment for a period of not less than 12 months; and

Cap. 143.

(b) a scheduled offence as defined in section 3 of the *Proceeds of Crime Act*;

"wire transfer" means a transaction conducted or to be conducted on behalf of a person through a financial institution by electronic means with a view to making an amount of money available to the person or another beneficiary at another financial institution.

(2) A reference in this Act to a document includes a reference to

(a) any part of a document;

(b) any copy, reproduction or duplicate of the document or of any part of the document; and

(c) any part of such copy, reproduction or duplicate.

3. The purposes of this Act are to

Purposes of
Act.

(a) establish and implement measures for the detection and prevention of money laundering and financing of terrorism consistent with the obligations of Barbados as a member of the Caribbean Financial Action Task Force;

(b) protect persons whose businesses may be vulnerable to abuse by money launderers and persons who finance terrorism and train such persons to develop and implement measures to detect and prevent such abuse; and

(c) maintain the reputation of Barbados as a financially sound and stable jurisdiction for investment.

4. (1) This Act applies to the non-financial business entities and professionals set out in the *Second Schedule*, as it applies to financial institutions.

Application
of Act.
Second
Schedule.

(2) The Minister may, by Order subject to affirmative resolution of Parliament, amend the *Second Schedule*.

Second
Schedule.

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PART II

MONEY LAUNDERING

Money
laundering.

5. (1) A person engages in money laundering where

- (a) the person engages, directly or indirectly, in a transaction that involves money or other property or a benefit that is proceeds of crime; or
- (b) the person receives, possesses, conceals, disposes of, or brings into or sends out of Barbados any money or other property or a benefit that is proceeds of crime.

(2) For the purposes of this section, a person engages in money laundering where he knows or has reasonable grounds to suspect that the property or benefit is derived or realised directly or indirectly from some form of unlawful activity or, where the person is

- (a) an individual other than a person referred to in paragraph (b), where he fails without reasonable excuse to take reasonable steps to ascertain whether or not the property or benefit is derived or realised, directly or indirectly, from some form of unlawful activity; or
- (b) a financial institution or a non-financial business entity or professional, where the financial institution or non-financial business entity or professional fails to take reasonable steps to implement or apply procedures to control or combat money laundering.

Offence of
money
laundering.

6. (1) A person who engages in money laundering is guilty of an offence and is liable on

- (a) summary conviction, to a fine of \$200 000 or to imprisonment for 5 years or to both; or
- (b) conviction on indictment, to a fine of \$2 000 000 or to imprisonment for 25 years or to both.

(2) A person who aids, abets, counsels or procures, the commission of, or conspires to commit, the offence of money laundering is guilty of an offence and is liable on

- (a) summary conviction, to a fine of \$150 000 or to imprisonment for 4 years or to both; or
- (b) conviction on indictment, to a fine of \$1 500 000 or to imprisonment for 15 years or to both.

(3) Where a person is charged with an offence under this section and the Court is satisfied that the property in his possession or under his control was not acquired from income derived from a legitimate source, it shall be presumed, unless the contrary is proved, that the property was derived from the proceeds of crime.

(4) For the purposes of subsection (3), the standard of proof required by the person referred to in that subsection, shall be on a balance of probabilities.

(5) For the avoidance of doubt, section 18(2) of the *Constitution* is amended in paragraph (a) to any extent necessary to give effect to subsection (3).

7. Any act done by a person outside Barbados which would be an offence if done within Barbados, is an offence for the purpose of this Act. Jurisdiction.

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PART III

ANTI-MONEY LAUNDERING AUTHORITY

Anti-
Money
Laundering
Authority.

8. (1) The Minister shall appoint a body to be known as the “Anti-Money Laundering Authority” to monitor and supervise financial institutions in accordance with this Act.

(2) The Authority shall comprise such persons as the Minister may determine who have a sound knowledge of banking, financial and legal matters.

(3) The Authority may regulate its own procedure.

Administration
and staff.

Act 2007-
41.

9. (1) The office of the Authority shall comprise the Financial Intelligence Unit, which shall consist of a director and other public officers, whose offices shall be established in accordance with the *Public Service Act*.

(2) The Director shall, subject to the directions of the Authority, be responsible for the general administration of this Act.

Remuneration.

10. Members of the Authority shall be paid such remuneration by way of fees or allowances as the Minister determines.

Funds.

11. The funds of the Authority shall consist of

- (a) such sums as are appropriated to the Authority by Parliament; and
- (b) any other funds that are available to the Authority, whether by way of grants or otherwise.

Accounts.

12. The Authority shall

- (a) keep proper accounts of its transactions in relation to the administration of the resources of the Authority in accordance with the directions of the Auditor-General; and

- (b) submit to the Auditor-General, within 3 months of the end of a financial year, a statement of accounts in respect of the financial year.

13. (1) The Authority shall have such functions as are necessary to give effect to this Act. General functions of Authority etc.

(2) Without prejudice to the generality of subsection (1), the Authority shall have the functions set out in Part V.

(3) The Authority may delegate to the Director any of its functions under this Act except the functions set out in section 26.

(4) For the avoidance of doubt, notwithstanding subsections (1) and (2), the Director shall discharge the functions under this Act in respect of the receipt, analysis and dissemination of reports and information and in particular, the functions given to the Director under sections 23, 24, 28, 29, 30, 32 and 48.

14. (1) The Authority shall submit to the Minister, no later than 3 months after the end of each calendar year, a general report on the discharge of its functions during the calendar year. Reports of Authority.

(2) The Minister shall

(a) lay a report submitted pursuant to subsection (1) before Parliament; and

(b) cause the report to be published in the *Official Gazette*.

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PART IV

DUTIES OF FINANCIAL INSTITUTIONS, NON-FINANCIAL
BUSINESS ENTITIES AND PROFESSIONALS AND
CERTAIN OTHER PERSONS

Identification
of
customers.

15. (1) A financial institution shall take reasonable measures to

- (a) establish the true identity of a customer; and
- (b) verify the identity of a customer by means of reliable documents, data or information from an independent source, where
 - (i) the customer requests the institution to enter into a business arrangement or conduct an occasional transaction with the customer;
 - (ii) doubt exists about the veracity or adequacy of customer identification data previously obtained in respect of the customer; or
 - (iii) there is a suspicion of money laundering or financing of terrorism in connection with the customer.

(2) A financial institution shall take reasonable measures to establish whether a customer is acting on behalf of another person.

(3) Where it appears to a financial institution that a customer is acting on behalf of another person, the institution shall take reasonable measures to

- (a) establish the true identity not only of the customer but also of the person on whose behalf or for whose ultimate benefit the customer may be acting;

- (b) verify the identity of both the customer and the person on whose behalf or for whose ultimate benefit the customer may be acting by means of reliable documents, data or information from an independent source; and
 - (c) establish whether the customer is authorised to act on behalf of the person in the capacity and in the proposed business arrangement or occasional transaction in which he acts or seeks to act.
- (4) Where a customer of a financial institution is not an individual, the institution shall take reasonable measures to
- (a) establish the true identity of the individual who is the beneficial owner of the customer; and
 - (b) verify the identity of the individual by means of reliable documents, data or information from an independent source.
- (5) A financial institution shall, for the purpose of taking reasonable measures to identify a person pursuant to this section, require the person to produce his identification record.
- (6) In determining what constitutes reasonable measures with respect to establishing and verifying the identity of a person for the purposes of this section, regard shall be had to all the circumstances of the case and in particular to
- (a) whether the person is a person based or incorporated in a country in which there are in force provisions applicable to the person to prevent the use of the financial system for the purpose of money laundering and the financing of terrorism; and
 - (b) such relevant custom and practice as may be current in the relevant business.

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Ongoing
due
diligence.

16. A financial institution shall exercise ongoing due diligence with respect to every business arrangement and closely examine the transactions conducted in the course of such an arrangement to determine whether the transactions are consistent with its knowledge of the relevant customer, his commercial activities, if any, and risk profile and, where required, the source of his funds.

Enhanced,
reduced or
simplified
identifica-
tion and due
diligence
procedures.

17. (1) The Authority may issue in accordance with section 26, guidelines as to the circumstances in which procedures for identification and verification of the identity of customers or for ongoing due diligence pursuant to sections 15 and 16, respectively

- (a) may be reduced or simplified by a financial institution; and
- (b) shall be enhanced.

(2) Notwithstanding subsection (1), where a suspicion of money laundering or financing of terrorism exists in connection with a customer, a financial institution shall not reduce or simplify its procedures for identification and verification of the identity of the customer nor its procedures for ongoing due diligence in respect of the customer pursuant to sections 15 and 16, respectively.

Duty to
keep
records.

18. (1) A financial institution shall establish and maintain

- (a) business transaction records of all business transactions; and
 - (b) where, as required by section 15, evidence of the identity of a person is obtained, a record that indicates the nature of the evidence obtained and comprises either a copy of the evidence or such information as would enable a copy of the evidence to be obtained.
- (2) Records established pursuant to
- (a) subsection (1)(a), shall be kept for a period of no less than 5 years from the termination of
 - (i) the business arrangement; or

- (ii) the transaction, where the transaction is an occasional transaction,

or such longer period as the Authority may, in any specific case, direct; and

- (b) subsection (1)(b), shall be kept

- (i) where evidence of the identity of a person is obtained pursuant to a business arrangement or the conduct of an occasional transaction, for as long as the records established in respect of the business arrangement or occasional transaction are kept; or
- (ii) in any other case, for a period of no less than 5 years from the making of the record.

(3) Customer accounts of a financial institution shall be kept in the true name of the holder of the account.

(4) A financial institution or a non-financial business entity or professional who does not maintain business transaction records as required under this section, and, in the case of a non-financial business entity or professional, by virtue of section 4, is guilty of an offence and is liable on conviction on indictment to a fine of \$100 000.

19. (1) A financial institution shall

- (a) develop and implement internal policies, procedures and controls to combat money laundering and the financing of terrorism;
- (b) develop audit functions to evaluate such policies, procedures and controls; and
- (c) develop a procedure to audit compliance with this Act.

Internal policies etc. to combat money laundering and financing of terrorism.

(2) Where a financial institution contravenes subsection (1), the Authority may impose on the institution a pecuniary penalty in accordance with section 36.

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Internal
reporting
procedures.

20. (1) A financial institution shall

- (a) identify a person to whom an employee is to report any information that comes to the attention of the employee in the course of his employment and gives rise to knowledge or suspicion by the employee that another person is engaged in money laundering or the financing of terrorism; and
- (b) enable the person identified in accordance with paragraph (a) to have reasonable access to information that may be relevant to determining whether a sufficient basis exists to report the matter pursuant to section 23(1).

(2) A report for the purposes of subsection (1) may be made by letter, facsimile or mechanical or electronic means.

(3) Where a financial institution contravenes subsection (1), the Authority may impose on the institution a pecuniary penalty in accordance with section 36.

Internal
employee
training and
awareness
programs.

21. (1) A financial institution shall

- (a) take appropriate measures for the purpose of making employees aware of the laws of Barbados relating to money laundering and the financing of terrorism, and the procedures and related policies established and maintained by the institution pursuant to this Part; and
- (b) provide employees with appropriate training in the recognition and handling of transactions involving money laundering or the financing of terrorism.

(2) Where a financial institution contravenes subsection (1), the Authority may impose on the institution, a pecuniary penalty in accordance with section 36.

Compliance
with
training
require-
ments and
guidelines.

22. A financial institution shall comply with the training requirements established and guidelines issued by the Authority in accordance with this Act.

23. (1) A financial institution shall monitor and report to the Director Reports to Director etc.

- (a) any business transaction where the identity of the person involved, the transaction or any other circumstance concerning the transaction gives the institution or any officer or employee of the institution reasonable grounds to suspect that the transaction
 - (i) involves proceeds of crime;
 - (ii) involves the financing of terrorism; or
 - (iii) is of a suspicious or an unusual nature; and
- (b) any exchange of currency or instruction for the transfer of international funds, whether by telegraph or wire, into and out of Barbados, where the transaction appears to be of a suspicious or an unusual nature.

(2) Notwithstanding section 47, a financial institution or a non-financial business entity or professional who does not make a report as required under this section, and in the case of a non-financial business entity or professional, by virtue of section 4, is guilty of an offence and is liable on conviction on indictment to a fine of \$100 000.

24. (1) Subject to subsections (2), (3) and (4), where

- (a) a person transfers Barbadian currency or foreign currency into or out of Barbados; and
- (b) the currency is more than \$10 000 in value,

Reports of transfers of currency into and out of Barbados.

the person shall make a report in respect of the transfer in accordance with this section unless permission for the transfer is obtained under the *Exchange Control Act*. Cap. 71.

(2) A commercial carrier is under no obligation to make a report in respect of currency in the possession of the passengers of the carrier.

(3) A commercial carrier of goods is under no obligation to make a report in respect of currency carried on behalf of another person unless the other person has disclosed to the carrier that the goods include currency.

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(4) A financial institution is under no obligation to make a report in respect of currency transferred on behalf of the financial institution by a commercial carrier of goods.

(5) Where a person other than a financial institution receives Barbadian currency or foreign currency transferred to the person from outside Barbados, and the amount of the currency received is more than \$10 000 in value, the person shall make a report in respect of

- (a) the transfer of the currency into Barbados in accordance with subsection (1), before the transfer; or
- (b) the receipt of the currency before the end of the period of 30 days commencing on the day of the receipt of the currency,

Cap. 71. unless permission was obtained under the *Exchange Control Act* for the transfer.

(6) A person who contravenes subsection (1) or (5) is guilty of an offence and is liable on

- (a) summary conviction, to a fine of \$10 000 or to imprisonment for 2 years;
- (b) conviction on indictment, to a fine of \$200 000 or to imprisonment for 5 years.

(7) A report under this section shall be

- (a) in such form as is approved by the Authority;
- (b) signed by the person making the report; and
- (c) given
 - (i) to the Comptroller of Customs, where the transfer is effected by a person taking the currency out of or bringing the currency into Barbados on his person, in his luggage or as cargo; or
 - (ii) to the Director or the Comptroller, in any other case.

(8) A report

- (a) under subsection (7)(c)(i), shall be given at the time the currency concerned is brought into or taken out of Barbados;
- (b) under subsection (5), shall be given at the time specified in that subsection; and
- (c) in any other case, shall be given at any time before the transfer takes place.

(9) For the purposes of subsection (8)(a), where currency is taken out of Barbados by a person by consignment of the currency

- (a) through the post to a place outside Barbados; or
- (b) to another person for carriage to a place outside Barbados by that other person or by a third person,

the time at which the currency is deemed to have been taken out of Barbados is the point when the currency is irrevocably committed to the postal service or committed to the other person for carriage to a place outside Barbados.

(10) For the purposes of subsection (8)(a), the time at which currency is deemed to be taken out of Barbados by a person is

- (a) where the person is leaving Barbados by an aircraft or a vessel and, before embarking, goes through an area that is set apart for customs officers to perform duties in respect of embarking passengers, the time at which that person reaches the area at which customs officers perform duties in respect of embarking passengers; or
- (b) in any other case, the time at which the person reaches the immigration officer who is to examine the passport of the person in relation to the departure of the person from Barbados.

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(11) For the purposes of subsection (8)(a), the time at which currency is deemed to be brought into Barbados by a person is

- (a) where the person arrives in Barbados by an aircraft or a vessel and after disembarking goes through an area set apart for customs officers to perform duties in respect of disembarking passengers, the time at which the person reaches the area at which customs officers perform duties in respect of disembarking passengers; or
- (b) in any other case, the first opportunity after arrival in Barbados that the person has to give the report under this section.

(12) Where a report under this section is given to a customs officer, the officer shall, as soon as practicable after receipt of the report, forward the report to the Director.

(13) For the purposes of this section, where a person

- (a) arranges to leave Barbados as a passenger on an aircraft or a vessel;
- (b) for the purpose of leaving Barbados, goes towards an aircraft or a vessel through an area described in subsection (10); and
- (c) either
 - (i) takes currency into that area; or
 - (ii) has currency in his personal luggage; and
- (d) does not give a report about the currency as required under this section,

the person is deemed to have transferred the currency out of Barbados.

PART V

ADMINISTRATIVE MEASURES

25. The Authority shall establish training requirements and provide any training necessary for financial institutions in respect of matters relevant to the purposes of this Act and in particular, the duties of financial institutions set out in Part IV.

Authority
to provide
training.

26. (1) The Authority may issue guidelines in respect of standards to be observed and measures to be implemented by financial institutions to

Authority
may issue
guidelines.

- (a) detect and prevent the abuse of the financial institutions for the purpose of money laundering and the financing of terrorism; and
- (b) detect proceeds of crime and funds allocated or used for the financing of terrorism.

(2) Where the Authority intends to make guidelines in respect of a person also regulated by a regulatory authority, the Authority shall first consult with the regulatory authority.

(3) The Authority shall make the guidelines and any amendments thereto available for inspection by the public, whether by electronic publication or otherwise.

(4) The Authority shall, at such intervals as the Authority determines, review the guidelines.

(5) The guidelines and any amendments thereto shall be published in the *Official Gazette*.

Authority
may
compile
statistics
and
disseminate
information.

27. The Authority may

- (a) compile statistics and records;
- (b) disseminate information within or outside Barbados; and
- (c) make recommendations arising out of any information received

in respect of matters relevant to the purposes of this Act.

Communica-
tion of
informa-
tion to
foreign
states.

28. The Director may, in accordance with the directions of the Authority, communicate information that is relevant to the purposes of this Act to any national financial intelligence unit of a foreign state, by whatever name called, where the Director is satisfied that

- (a) the unit is located in a state that is a party to any agreement with Barbados in respect of the exchange of information under this Act; and
- (b) the state has given appropriate undertakings for protecting the confidentiality of the information and controlling the information and the use that will be made of the information.

Information-
sharing
among
public
authorities.

29. (1) Subject to section 48, any report or information received by or on behalf of or disclosed to the Director under this Act may be provided by the Director to a public authority for the purposes of this Act.

(2) Notwithstanding any law to the contrary but subject to section 49, a public authority may provide information to the Director for the purposes of this Act, if the information is not subject to legal professional privilege.

Powers in
respect of
informa-
tion-
gathering
and
investigations.

30. (1) The Director shall receive

- (a) reports made by financial institutions pursuant to section 23(1); and
- (b) disclosures of information, from any source, that is relevant to the administration and enforcement of this Act.

(2) The Director

- (a) shall conduct such investigations as are necessary for the purposes of this Act;
- (b) may instruct financial institutions to take such steps within such time as may be appropriate to facilitate any investigation by the Director;
- (c) may require from a financial institution the production of any information, except information subject to legal professional privilege, that the Director considers relevant to fulfil his functions; and
- (d) shall retain a record of all information that the Director receives under this section for a period of no less than 5 years from the date that the information is received.

(3) Where the Director has reasonable grounds to believe that

- (a) an investigation in relation to a person should be conducted for the purposes of this Act; and
- (b) information or a document from the records of a public authority is necessary for the purposes of the investigation,

subject to section 49, the public authority shall, at the request of the Director, provide the information or document to the Director.

(4) For the avoidance of doubt, a financial institution shall, within such time as may be specified by the Director, or in the absence of a specified time, within a reasonable time, comply with any instruction issued or request made to the institution by the Director under this section.

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(5) Where a financial institution contravenes subsection (4), the licence of the financial institution may be suspended until the institution complies with the instruction or request.

On site
inspections.

31. (1) The Authority may, in writing, authorise any member of its staff or such other person as may be trained for the purpose to conduct an inspection in accordance with this section to determine whether a financial institution is in compliance with this Act.

(2) A financial institution shall permit an authorised officer to enter, during normal working hours or at any other reasonable time, any premises or place belonging to, or in the possession or control of the financial institution or any place where anything is done in respect of the business of the financial institution or documents relating to the business of the financial institution are kept, for the purpose of conducting an inspection.

(3) An authorised officer may

- (a) inspect the operation of the business of the financial institution and any documents relating to the business of the financial institution;
- (b) require a director, officer, auditor, manager, member or employee of the financial institution, as the case may be, to
 - (i) attend at premises or a place referred to in subsection (2) with the authorised officer;
 - (ii) give the authorised officer reasonable assistance with the inspection; and
 - (iii) answer any question relating to the business of the financial institution or the administration and enforcement of this Act, orally or in writing;
- (c) take a note of or make a copy of any document relating to the business of the financial institution or relevant to the administration and enforcement of this Act; and

- (d) where the authorised officer has reasonable grounds to believe that this Act has been contravened, seize and take away any document or other article that may afford evidence of the contravention.

(4) Where an authorised officer seizes a document or other article under subsection (3), the authorised officer shall provide the person from whom any document or other article was seized with a list of the documents or articles seized and subsections (2) to (6) of section 41 shall apply with such modifications and adaptations as may be necessary in respect of the seizure.

(5) A financial institution shall, within such time as may be specified by an authorised officer, or in the absence of a specified time, within a reasonable time, comply with any instruction issued or request made by the authorised officer under this section, and where a financial institution fails to do so, the licence of the financial institution may be suspended until the institution complies with the instruction or request.

(6) An authorised officer is not required to notify a financial institution of an intended inspection prior to the conduct of the inspection.

(7) For the avoidance of doubt “documents relating to the business of the financial institution” includes business transaction records.

32. Where after considering any report or information received by or on behalf of or disclosed to the Director under this Act and in particular

Director to report suspected offences to Commissioner.

(a) a report received under sections 23 and 30; and

(b) information received by or disclosed under section 30 or 31,

the Director has reasonable grounds to believe that a transaction involves criminal activity or proceeds of crime, the Director shall furnish the report or information to the Commissioner.

Authority
may give
directives.

33. (1) Notwithstanding sections 34, 35 and 36, where it appears to the Authority that a financial institution is in contravention of this Act but the circumstances are not such as to justify the taking of action under section 34, 35 or 36, the Authority may, by written notice, give such directives to the financial institution as the Authority considers appropriate.

(2) Without prejudice to the generality of subsection (1), the Authority may direct a financial institution, within such period as the Authority specifies, to cease engaging in any activity, behaviour or practice or to take such remedial measures or action as the Authority considers necessary for the financial institution to be in compliance with this Act.

(3) A financial institution shall comply with a directive given to the institution by the Authority under this section.

Administrative
sanctions.

34. (1) Where the Authority is satisfied as to any of the following circumstances in respect of a financial institution, the Authority may take, as it considers appropriate, any action specified in subsection (2):

- (a) the directors, managers and senior officers or any other individuals who manage or control the financial institution are not fit and proper persons to manage or control the financial institution;
- (b) the financial institution has failed to comply with or contravened a guideline issued in accordance with section 26;
- (c) the financial institution has failed to comply with a directive given in accordance with section 33; or
- (d) the financial institution is otherwise contravening or has contravened this Act.

(2) The Authority may, pursuant to subsection (1)

- (a) issue a warning or reprimand to the financial institution;

- (b) give such directives as seem appropriate;
- (c) impose on the financial institution, in accordance with section 36, a pecuniary penalty; or
- (d) recommend, in accordance with section 35
 - (i) the suspension of any or all of the activities that the financial institution may have otherwise conducted pursuant to the licence of the financial institution; or
 - (ii) the suspension or revocation of the licence of the financial institution.

(3) A person who is aggrieved by a decision of the Authority or, pursuant to section 37, of a regulatory authority or other public authority under this section or section 35 or 36 may appeal to a Judge in Chambers against the decision.

35. (1) Where the Authority is satisfied as to any of the circumstances referred to in section 34(1) in respect of a financial institution, the Authority may, by written notice, recommend to the relevant regulatory authority or other public authority responsible for issuing to the financial institution the licence under which the financial institution carries on business, that the regulatory authority or other public authority

Suspension
of activities
and
suspension
and
revocation
of licence.

- (a) suspend any or all of the activities that the financial institution may have otherwise conducted pursuant to the licence; or
- (b) suspend or revoke the licence of the financial institution.

(2) Where the Authority makes a recommendation pursuant to subsection (1), the Authority shall

- (a) specify the reasons for the recommendation; and
- (b) at the same time that the recommendation is sent to the relevant regulatory authority or other public authority, send a copy of the recommendation to the financial institution.

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(3) Notwithstanding any other law to the contrary, the relevant regulatory authority or other public authority has the power to

- (a) suspend any or all of the activities that the financial institution may have otherwise conducted pursuant to the licence; or
- (b) suspend or revoke the licence of the financial institution,

on any of the grounds specified in section 34(1), provided that the financial institution is first given an opportunity to be heard and to show cause as to why the recommended action should not be taken.

Pecuniary
penalties.

36. (1) Where the Authority is satisfied as to any of the circumstances referred to in section 34(1) in respect of a financial institution, the Authority may, by written notice, impose on the financial institution, a penalty of \$5 000.

(2) Where by this Act or a guideline made or directive given under this Act, a financial institution is required, by a specified time

- (a) to take a certain measure or action; or
- (b) to cease a particular activity, behaviour or practice,

and the Authority is satisfied that the financial institution has failed to do so, the Authority may impose on the institution, in addition to the penalty specified in subsection (1), an additional penalty of \$500 for every day or part of a day that the institution failed to take the measure or action or cease the particular activity, behaviour or practice.

(3) The penalty referred to in subsection (2)

- (a) may be imposed from the day following the day by which the financial institution was supposed to have taken the measure or action or ceased the particular activity, behaviour or practice; and
- (b) shall not be imposed in respect of a period of more than 30 days.

(4) Notwithstanding subsection (3), where the financial institution

(a) takes the measure or action; or

(b) ceases the particular activity, behaviour or practice,

the penalty referred to in subsection (2) shall cease to be imposed on the day preceding the day on which the financial institution took the measure or action or ceased the particular activity, behaviour or practice.

(5) A penalty shall not be imposed on a financial institution under this section unless the institution is first given an opportunity to be heard and to show cause as to why the action should not be taken.

(6) Pecuniary penalties imposed and collected under this section shall be paid into the Consolidated Fund.

37. (1) Notwithstanding anything to the contrary in this Act and without prejudice to the functions of the Authority under this Act, a regulatory authority has the primary responsibility to monitor and supervise the persons that it regulates to determine whether the persons are in compliance with this Act.

Functions
of
regulatory
authorities.

(2) Without prejudice to the functions of a regulatory authority under any other law, for the purpose of discharging its responsibility under subsection (1) in respect of persons that the regulatory authority regulates, sections 29, 31 and 33 to 36 apply to the regulatory authority, with such modifications and adaptations as may be necessary, as those sections apply to the Authority.

(3) Where a person is regulated by more than one regulatory authority, the regulatory authorities shall consult and identify from among them, the regulatory authority to assume the primary responsibility under subsection (1).

- (4) For the avoidance of doubt, notwithstanding
 - (a) any other enactment and in particular, any primary enabling enactment; and
 - (b) any function of a regulatory authority under any primary enabling enactment,

where it is suspected that a financial institution is contravening or has contravened this Act, any action to be taken by a regulatory authority in respect of the financial institution shall be so taken under this Act.

Power to
freeze
assets.

38. On receipt of information under this Act and on being satisfied that it is necessary to do so, the Director may apply to a Judge in Chambers for an order to

- (a) prohibit any person from completing any transaction for a period not exceeding 72 hours; or
- (b) freeze a bank account of a person for a period not exceeding 5 days.

PART VI

ENFORCEMENT

39. A magistrate may, in accordance with section 84 of the *Magistrate's Courts Act*, issue to any member of the Police Force or other person named in the warrant, a warrant to enter any premises belonging to, or in the possession or control of, a financial institution or any officer or employee of such institution and to search the premises and remove any document, material or other thing therein, where the magistrate is satisfied by evidence on oath that there are reasonable grounds to believe that

Search and seizure with respect to financial institutions. Cap. 116A.

- (a) a financial institution has failed to keep a business transaction record as required by section 18;
- (b) a financial institution has failed to comply with section 23(1); or
- (c) an officer or employee of a financial institution is committing, has committed or is about to commit a money laundering or financing of terrorism offence.

40. Where a magistrate is satisfied by information on oath that there are reasonable grounds to believe that

Search and seizure generally.

- (a) an offence under this Act is being or has been committed; and
- (b) a document or other article that may afford evidence of the commission of the offence is likely to be found in any premises or other place, vehicle, vessel, aircraft, receptacle or other thing,

the magistrate may, at any time, issue a warrant under his hand authorising any member of the Police Force or other person named in the warrant to enter and search, by day or by night and if necessary by force, such premises or other place, vehicle, vessel, aircraft, receptacle or other thing, for any document or other article that may afford evidence of the commission of the offence and to seize and take away such document or other article.

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Custody of
seized
articles.

41. (1) Where a member of the Police Force or other person has seized a document or other article under section 39 or 40, the person shall take it to the Commissioner.

(2) The Commissioner may retain a document or other article given to him pursuant to subsection (1), taking reasonable care to ensure that it is preserved, until the conclusion of any investigation into the offence in relation to which the document or other article was seized and any trial or appeal relating to the offence.

(3) Where a document or other article has been seized under section 39 or 40 a magistrate may, on application of an interested party, order that the document or other article be returned to the person from whom it was seized or the person who is otherwise legally entitled to it if the magistrate is satisfied that the document or other article will not be required for the purposes of an investigation, trial or appeal relating to an offence under this Act.

(4) The person from whom any document or other article is seized under section 39 or 40 is entitled, at all reasonable times and subject to such reasonable conditions as may be imposed by the Commissioner, to inspect the document or other article and, in the case of a document, to obtain a copy thereof.

(5) The Commissioner shall be given at least 7 days' notice of an application made under subsection (3).

(6) The Commissioner shall send to the Authority and the Director of Public Prosecutions a copy of any document or any information derived from anything seized under this section if he has reasonable grounds to suspect that the same may afford evidence of a business transaction involving proceeds of crime or funds allocated for the financing of terrorism.

Interference
with
members of
Authority,
Police
Force etc.

42. Any person who obstructs, hinders, molests or assaults a member of the Authority or of the staff of the Authority, an authorised officer, a member of the Police Force or any other person in the execution of his duty under this Act is guilty of an offence and is liable on summary conviction to a fine of \$50 000 or to imprisonment for 2 years or to both.

43. A person who knows or suspects that an investigation into money laundering or financing of terrorism has been, is being or is about to be made, or that an order has been made or may be made requiring the delivery or production of any document and

Offences of
tipping off
etc.

- (a) divulges that fact or other information to another person whereby the investigation is likely to be prejudiced; or
- (b) falsifies, conceals, destroys or otherwise disposes of, or causes or permits the falsification, concealment, destruction or disposal of, any matter or thing that is or is likely to be material to the investigation is guilty of an offence and is liable on summary conviction to a fine of \$50 000 or to imprisonment for 2 years or to both.

44. Where an offence under section 6 is committed by a body of persons, whether corporate or unincorporated, every person who, at the time of the commission of the offence, acted in an official capacity for or on behalf of such body of persons, whether as a director, manager, secretary or other similar officer, or was purporting to act in such capacity, is guilty of that offence and shall be tried and punished for that offence in accordance with that section.

Offence
committed
by a body
of persons.

45. (1) For the purposes of this Act, any conduct engaged in on behalf of a body corporate by

Liability of
officers of
bodies
corporate
etc.

- (a) a director, servant or agent of that body corporate within the scope of his actual or apparent authority; or
- (b) any other person at the direction or with the consent or agreement whether expressed or implied, of a director, servant or agent of that body corporate where the giving of the direction, consent or agreement is within the scope of the actual or apparent authority of the director, servant or agent,

shall be deemed to have been engaged in by the body corporate.

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(2) Where it is necessary, for the purposes of this Act, to establish the state of mind of a person in relation to conduct deemed by subsection (3) to have been engaged in by that person, it is sufficient to show that a servant or agent of that person, being a servant or agent by whom the conduct was engaged in and acting within the scope of his actual or apparent authority, had that state of mind.

(3) Conduct engaged in on behalf of a person, other than a body corporate, by

- (a) a servant or agent of that person within the scope of his actual or apparent authority; or
- (b) any other person at the direction or with the consent or agreement, whether expressed or implied, of a servant or agent of the first-mentioned person, where the giving of the direction, consent or agreement is within the scope of the actual or apparent authority of the servant or agent,

shall be deemed, for the purposes of this Act, to have been engaged in by the first-mentioned person.

(4) A reference in this section to the state of mind of a person includes a reference to the knowledge, intention, opinion, belief or purpose of that person and the reasons of the person for his intention, opinion, belief or purpose.

Liability of
financial
institutions.

46. (1) A person who has been convicted of an indictable offence under this Act or any other law may not be licensed to carry on the business of a financial institution; and where the person is a financial institution, its licence may be revoked.

(2) For the purposes of this section “indictable offence” shall be deemed to include any similar offence committed abroad.

47. (1) The officers and employees of a financial institution shall take all reasonable steps to ensure the compliance by the financial institution with its obligations under this Act. Mandatory injunction.

(2) The Court may, where it is satisfied upon application by the Director of Public Prosecutions that a financial institution has failed without reasonable excuse to comply wholly or in part with any obligation imposed on the institution by sections 18, 23(1), 30(4), 31(2) and (5) and 33(3), issue a mandatory injunction against any or all of the officers or employees of the financial institution in such terms as the Court deems necessary to enforce compliance with such obligation.

PART VII

MISCELLANEOUS

48. (1) The Authority, any person who receives reports or information under this Act and any person involved in the administration and enforcement of this Act shall regard as secret and confidential all documents, information or matters disclosed and received in the course of the administration and enforcement of this Act. Confidentiality.

(2) A person shall not publish or disclose to another person, otherwise than in accordance with this Act or as is necessary in the course of his duties, the contents of any document or any communication or information whatsoever which relate to, and have come to his knowledge in the course of, his duties under this Act.

(3) A person who contravenes subsection (2) is guilty of an offence and is liable on conviction on indictment to a fine of \$100 000 or to imprisonment for 5 years or to both.

(4) Any disclosure of information

(a) made by the Authority or a person in proceedings for an offence under subsection (3); or

(b) that the Authority considers necessary in the discharge of its functions

shall not be deemed inconsistent with any duty imposed under this section.

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- (5) Where
- (a) a public authority has information about a suspicious or an unusual transaction; or
 - (b) a financial institution has information about an account held with the institution, and the public authority or financial institution has reasonable grounds to believe that the information
 - (i) may be relevant to an investigation of, or the prosecution of, a person for an offence; or
 - (ii) would otherwise be of assistance in the enforcement of this Act or any regulations made thereunder,

the public authority may and the financial institution shall, give the information to the Director.

- (6) An action, suit or proceeding does not lie against
- (a) a financial institution;
 - (b) an officer, employee or agent of the institution acting in the course of his employment or agency; or
 - (c) a public authority

in relation to an action taken by the public authority, financial institution or person pursuant to subsection (5) or section 23 or 30.

(7) Except for the purposes of the administration and enforcement of this Act, no person shall disclose any information that will identify or is likely to identify the person who prepared or made a report on a suspicious or unusual transaction, or handled the transaction in respect of which the report was made.

(8) A person shall not be required to disclose a report on a suspicious or unusual transaction or any information contained in the report or provided in connection with the report, or the identity of the person who prepared or made the report or handled the transaction in respect of which the report was made in any judicial proceeding unless the Judge or magistrate, as the case may be, is satisfied that the disclosure of the information is necessary in the interest of justice.

49. (1) Where a public authority objects to the disclosure of any information or document required to be disclosed under section 30, the public authority may certify in writing that the information or document should not be disclosed on the ground that

Objections
to dis-
closures of
information.

- (a) the public authority is prohibited from disclosing the information or document by any relevant bilateral or international treaty, convention or other agreement to which Barbados is a signatory;
- (b) a privilege is attached by law to the information or document;
- (c) the information or document has been placed in a sealed package pursuant to law or an order of a court of competent jurisdiction;
- (d) disclosure of the information or document would not for any other reason be in the public interest.

(2) Where an objection to the disclosure of information or a document is made under subsection (1), the objection may be determined on application by the public authority or the Director to a Judge in Chambers made not later than 14 days from the date of objection.

(3) A Judge who hears an application pursuant to subsection (2) may, if the Judge considers it necessary, examine the information or document in relation to which the objection is made and where the Judge is satisfied as to any of the grounds mentioned in subsection (1), grant the objection and order that disclosure of the information or document be refused.

(4) An appeal lies from a decision under subsection (3) to the Court of Appeal and shall be brought within 14 days from the date of the decision or within such further time as the Court of Appeal considers appropriate in the circumstances.

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Immunity
from suit.

50. No action or other proceeding for damages shall be instituted against the Authority, the Financial Intelligence Unit or a member of the Authority or officer, employee or agent of the Financial Intelligence Unit for any act done in good faith in the performance of a duty or in the exercise of a power under this Act.

Regulations.

51. The Minister may make such regulations as may be necessary for giving effect to the provisions of this Act.

Consequen-
tial
amend-
ments.
Fourth
Schedule.

52. The enactments set out in Column 1 of the *Fourth Schedule* are amended in the manner specified opposite thereto in Column 2 of the *Fourth Schedule*.

Repeal of
Cap. 129.

53. The *Money Laundering and Financing of Terrorism (Prevention and Control) Act* is repealed.

Saving.

54. (1) Notwithstanding section 53,

(a) the Anti-Money Laundering Authority established under the former Act shall be deemed to have been established under section 8 of this Act; and

(b) any person who, immediately before the commencement of this Act, was employed in the service of the Anti-Money Laundering Authority established by the former Act, shall be deemed to have been employed in the service of the Authority and shall continue to be employed on terms and conditions that are the same or no less favourable than those on which he was employed immediately before the commencement of this Act.

Cap. 129.

(2) In this section "former Act" means the *Money Laundering and Financing of Terrorism (Prevention and Control) Act* that was in force immediately before the commencement of this Act.

Commence-
ment.

55. This Act comes into operation on a day to be fixed by Proclamation.

FIRST SCHEDULE

(Section 2)

Activities of Financial Institutions

1. Acceptance of deposits and other repayable funds from the public, including private banking.
2. Lending, including consumer credit, mortgage credit, factoring (with or without recourse), and financing of commercial transactions, including forfeiting.
3. Financial leasing other than with respect to arrangements relating to consumer products.
4. Money or value transmission services.
5. Issuing and managing means of payment, including credit and debit cards, travellers' cheques, money orders and bankers' drafts, and electronic money.
6. Issuing financial guarantees and commitments.
7. Trading in
 - (a) money market instruments, including cheques, bills, certificates of deposit and derivatives;
 - (b) foreign exchange;
 - (c) exchange, interest rate and index instruments; and
 - (d) transferable securities.
8. Commodity futures trading.
9. Participation in securities issues and the provision of financial services related to such issues.
10. Individual and collective portfolio management.
11. Safekeeping and administration of cash or liquid securities on behalf of other persons.

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FIRST SCHEDULE - *Cont'd*

12. Investing and administering or managing funds or money on behalf of other persons.
13. Underwriting and placement of life insurance and other investment-related insurance, including insurance intermediation by agents and brokers.
14. Money and currency changing.
15. Any other service of a financial nature.

SECOND SCHEDULE

(Sections 2 and 4)

Non-financial Business Entities and Professionals

1. A real estate agent involved in transactions concerning the purchase, sale or other disposal of real property.

2. A dealer in precious metals or precious stones engaged in financial transactions equal to or above the value set out in guidelines of the Authority.

3. An independent attorney-at-law or accountant engaged in any of the following:

- (a) the purchase, sale or other disposal of real property;
- (b) the management of the money, securities or other assets of a customer;
- (c) the management of bank savings or securities accounts;
- (d) the organisation of contributions for the creation, operation or management of bodies corporate;
- (e) the creation, operation or management of legal persons or arrangements; or
- (f) the purchase or sale of business entities.

4. A corporate or trust service provider engaged in any of the following:

- (a) acting as a formation, registration or management agent of legal persons;
- (b) acting or arranging for another to act as a director or secretary of a company, partner of a partnership or in similar position in relation to other legal persons;
- (c) providing a registered office, business address or accommodation or a correspondence or administrative address for a body corporate, partnership or other legal person or arrangement;
- (d) acting or arranging for another to act as a trustee of an express trust; or
- (e) acting or arranging for another to act as a nominee shareholder for another person.

5. A person who operates a gaming institution engaged in financial transactions equal to or above the value set out in guidelines of the Authority.

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THIRD SCHEDULE

(Section 2)

Part I

Primary Enabling Enactments

“Primary enabling enactment” means in respect of

- | | |
|------------|--|
| Cap. 59C. | (a) a foreign sales corporation within the meaning of the <i>Barbados Foreign Sales Corporation Act</i> , the <i>Barbados Foreign Sales Corporation Act</i> ; |
| Cap. 77. | (b) an international business company, the <i>International Business Companies Act</i> ; |
| Cap. 245. | (c) an international trust, the <i>International Trusts Act</i> ; |
| Cap. 308A. | (d) a person licensed under the <i>Exempt Insurance Act</i> , the <i>Exempt Insurance Act</i> ; |
| Cap. 310. | (e) a person registered under the <i>Insurance Act</i> , the <i>Insurance Act</i> ; |
| Cap. 318A. | (f) a person registered under the <i>Securities Act</i> , the <i>Securities Act</i> ; |
| Cap. 318B. | (g) a society with restricted liability, including an international society, the <i>Societies With Restricted Liability Act</i> ; |
| Cap. 320B. | (h) a person licensed under the <i>Mutual Funds Act</i> , the <i>Mutual Funds Act</i> ; |
| Cap. 324A. | (i) a financial institution licensed under the <i>Financial Institutions Act</i> , the <i>Financial Institutions Act</i> ; |
| Cap. 325. | (j) a licensee under the <i>International Financial Services Act</i> , the <i>International Financial Services Act</i> ; |
| Cap. 377. | (k) a building society within the meaning of the <i>Building Societies Act</i> , the <i>Building Societies Act</i> ; |
| Cap. 378A | (l) a credit union registered under the <i>Co-operative Societies Act</i> , the <i>Co-operative Societies Act</i> ; |
| Cap. 379. | (m) a friendly society within the meaning of the <i>Friendly Societies Act</i> , the <i>Friendly Societies Act</i> ; and |
| Act 2011-5 | (n) an international service provider licensed under the <i>International Corporate and Trust Service Providers Act, 2011</i> , the <i>International Corporate and Trust Service Providers Act, 2011</i> . |

THIRD SCHEDULE – *Cont'd*

Part II

Regulatory Authorities

“Regulatory authority” means in respect of

- (a) a foreign sales corporation within the meaning of the *Barbados Foreign Sales Corporation Act*, the Minister responsible for foreign sales corporations; Cap. 59C.
- (b) an international business company, under the *International Business Companies Act*, an international trust under the *International Trusts Act* or an international society under the *Societies With Restricted Liability Act*, the Minister responsible for International Business, International Trusts and International Societies or any person to whom the Minister has delegated the function of
 - (i) issuing licences to international business companies and international societies; and
 - (ii) registering international trusts;
- (c) a person licensed under the *Exempt Insurance Act* or registered under the *Insurance Act*, the Supervisor of Insurance; Cap. 308A. Cap. 310.
- (d) a person registered under the *Securities Act* or licensed under the *Mutual Funds Act*, the Securities Commission; Cap. 318A. Cap. 320B.
- (e) a society with restricted liability under the *Societies with Restricted Liability Act*, other than an international society, the Registrar of Corporate Affairs and Intellectual Property; Cap. 318B.
- (f) a financial institution licensed under the *Financial Institutions Act*, the Minister responsible for the licensee; Cap. 324A.
- (g) a licensee under the *International Financial Services Act*, the Minister responsible for the licensee; Cap. 325.
- (h) a building society within the meaning of the *Building Societies Act*, the Registrar of Friendly Societies; Cap. 377.
- (i) a credit union registered under the *Co-operative Societies Act*, the Registrar of Co-operative Societies; Cap. 378A.
- (j) a friendly society within the meaning of the *Friendly Societies Act*, the Registrar of Friendly Societies; and Cap. 379.
- (k) an international service provider licensed under the *International Corporate and Trust Service Providers Act, 2011*, the Director of International Business. Act 2011-5

MONEY LAUNDERING AND FINANCING OF TERRORISM
(PREVENTION AND CONTROL) ACT, 2011 – 23

FOURTH SCHEDULE

(Section 52)

Column 1	Column 2
<i>Enactments</i>	<i>Amendments</i>
1. <i>International Business Companies Act</i> , Cap. 77.	1. In section 3(1), insert in alphabetical order, the following definition:
Act 2011-5.	" "international service provider" has the meaning assigned to it by section 2 of the <i>International Corporate and Trust Service Providers Act, 2011</i> ;"
	2. In section 7,
	(a) delete subsection (1) and substitute the following:
	"(1) Subject to subsections (2) and (3), a company or person who intends to incorporate a company may apply to the Minister for a licence for the company or proposed company to carry on business as an international business company where
	(a) the company is carrying on; or
	(b) it is the intention to have the company or proposed company carry on,
	from within Barbados, the business of international manufacturing or international trade and commerce.";

FOURTH SCHEDULE – *Cont'd*

Column 1	Column 2
<i>Enactments</i>	<i>Amendments</i>
1. <i>International Business Companies Act, Cap. 77 – Cont'd</i>	(b) in subsection (2), delete paragraph (e) and substitute the following: "(e) as a licensee under the Cap. <i>Financial Institutions</i> 324A. <i>Act</i>"; and (c) insert after subsection (2), the following: "(3) An application to be made pursuant to subsection (1) or section 9(3), (3A) or (3C), shall be made by an international service provider on behalf of the company or person who intends to incorporate a company, as the case may be."
Cap. 324A.	3. In section 8(2), delete the words "hereof other than a licensed bank referred to in paragraph (e) of that subsection" and substitute the words "other than a bank licensed under the <i>Financial Institutions Act</i>".
	4. In section 10(3), (a) delete the word "105" and substitute the word "96"; and (b) delete the words "an off-shore bank" and substitute the words "a licensee under the <i>International Financial Services Act</i>".
Cap. 325.	
	5. In section 16, in (a) subsection (1), delete the words "<i>Banking Act</i>" and substitute the words "<i>Financial Institutions Act</i>";
Cap. 324A.	

MONEY LAUNDERING AND FINANCING OF TERRORISM
(PREVENTION AND CONTROL) ACT, 2011 – 23

FOURTH SCHEDULE – *Cont'd*

Column 1	Column 2
<i>Enactments</i>	<i>Amendments</i>
1. <i>International Business Companies Act, Cap. 77 – Cont'd</i> Cap. 324A.	(b) subsection (2), delete the words "licensed bank within the meaning of the <i>Banking Act</i>" and substitute the words "bank licensed under the <i>Financial Institutions Act</i>"; and (c) subsection (3), delete the words "the business of off-shore banking" and substitute the words "business as a licensee".
6. Insert after section 24, the following:	24A. Without prejudice to any other provision of this Act, a licensee shall (a) deliver to the Minister at such times as the Minister may require, any of the books, records and documents that are required to be kept by the licensee under this Act; and (b) provide the Minister with such information as the Minister may require for the proper administration and enforcement of this Act."
Act 2011-23.	7. In section 25(3), insert after the word "or", the words "<i>the Money Laundering and Financing of Terrorism (Prevention and Control) Act, 2011 or</i>".

FOURTH SCHEDULE – *Cont'd*

Column 1	Column 2
<i>Enactments</i>	<i>Amendments</i>
1. <i>International Business Companies Act, Cap. 77 – Concl'd</i>	8. In section 28(1), (a) in paragraph (a), delete the word "or"; (b) in paragraph (b), delete the words "regulations," and substitute the words "regulations; or"; and (c) insert after paragraph (b), the following: "(c) establishes a subsidiary or branch outside Barbados,".
2. <i>Drug Abuse (Prevention and Control) Act, Cap. 131.</i>	1. In section 19, delete subsection (1) and substitute the following: "(1) Subject to subsection (2), if a person enters into or is otherwise concerned in an arrangement whereby (a) the retention or control by or on behalf of another "X", of X's benefits of drug trafficking is facilitated (whether by concealment, removal from the jurisdiction, transfer to nominees or otherwise); or (b) X's benefits of drug trafficking are used to secure that funds are placed at X's disposal or are used for X's benefit to acquire property by way of investment,

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(PREVENTION AND CONTROL) ACT, 2011 – 23

FOURTH SCHEDULE – *Cont'd*

Column 1	Column 2
<i>Enactments</i>	<i>Amendments</i>
2. <i>Drug Abuse (Prevention and Control) Act, Cap. 131 – Cont'd</i>	either (i) knowing or having reasonable grounds to suspect that X is a person who carries on or has carried on drug trafficking; (ii) being an individual, failing without reasonable excuse to take reasonable steps to ascertain whether X is a person who carries on or has carried on drug trafficking; or (iii) being a financial institution or a non-financial business entity or professional within the meaning of the <i>Money Laundering</i>
	Act 2011-23.

FOURTH SCHEDULE – *Cont'd*

Column 1	Column 2
<i>Enactments</i>	<i>Amendments</i>
2. <i>Drug Abuse (Prevention and Control) Act, Cap. 131 – Concl'd</i>	<i>and Financing of Terrorism (Prevention and Control) Act, 2011, failing to take reasonable steps to implement or apply procedures to control or combat money laundering,</i> the person is guilty of an indictable offence under this Act."
Cap. 143.	2. In section 35(4), in paragraph (b), insert after the word "Act", the words "or the <i>Proceeds of Crime Act</i>". 3. Delete section 47.
3. <i>Mutual Assistance in Criminal Matters Act, Cap. 140A.</i>	1. In section 2, (a) in the definition of "serious offence", delete the word "5" wherever it appears and substitute the word "4"; and (b) in subsection (6), delete the word "used" and substitute the words "including instrumentalities, used in or intended for use".

MONEY LAUNDERING AND FINANCING OF TERRORISM
(PREVENTION AND CONTROL) ACT, 2011 - 23

FOURTH SCHEDULE - *Cont'd*

Column 1	Column 2
<i>Enactments</i>	<i>Amendments</i>
3. <i>Mutual Assistance in Criminal Matters Act, Cap. 140A - Cont'd</i>	2. Insert after section 16, the following: "Assistance in obtaining order in nature of forfeiture or confiscation order. 16A. Where in Barbados (a) a person has been convicted of a serious offence; and (b) property or benefits derived or obtained directly or indirectly from the commission of the serious offence or which would be available to satisfy a pecuniary penalty under a confiscation order are suspected on reasonable grounds to be in a Commonwealth country, a request may be transmitted requesting that an order be made, in accordance with the law of the Commonwealth country, forfeiting or confiscating the property, and that, to that end, the country give appropriate assistance." 3. In section 27(3), insert after the word "section", the words "and section 27A".

FOURTH SCHEDULE - *Cont'd*

Column 1

Column 2

Enactments

Amendments

3. *Mutual Assistance in
Criminal Matters Act,
Cap. 140A - Cont'd*

4. Insert after section 27, the following:

"Assist-
ance to
country
in obtain-
ing forfei-
ture order
or confis-
cation
order.

27A. (1) This section
applies where

(a) the central authority
for a Commonwealth
country transmits to
the central authority
for Barbados, a
certificate given, for
the purposes of a
request for assistance
under this section, by
a person legally
qualified in the
Commonwealth
country, to the effect
that a named person
has been convicted
of a specified serious
offence;

(b) property or benefits
derived or obtained
directly or indirectly
from the commission
of the serious offence
or which would be
available to satisfy a
pecuniary penalty
under a confiscation
order are suspected
on reasonable
grounds to be in
Barbados;

MONEY LAUNDERING AND FINANCING OF TERRORISM
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FOURTH SCHEDULE – *Cont'd*

Column 1

Column 2

Enactments

Amendments

3. *Mutual Assistance in
Criminal Matters Act,
Cap. 140A – Cont'd*

(c) a request is trans-
mitted requesting
that an order be made,
in accordance with
the law of Barbados,
forfeiting or con-
fiscating the property
and that, to that end,
Barbados give appro-
priate assistance; and

(d) the request is
accepted.

(2) Where this section applies,
the Attorney-General shall cause an
application to be made to the Supreme
Court in accordance with the rules of
the Supreme Court to secure the making
of an order of the kind requested."

5. Insert after section 31, the following:

"Appli-
cation
of
certain
provi-
sions of
Cap.
143.

31A. Without prejudice to
any other provision of this Act,
the following provisions of the
Proceeds of Crime Act, shall
apply, *mutatis mutandis*, in
respect of a serious offence under
this Act:

(a) sections 42 to 46
(production and
inspection orders);

b) section 47 (search
warrant to facilitate
investigations); and

(c) sections 48 and 49
(monitoring orders)."

FOURTH SCHEDULE – *Cont'd*

Column 1

Column 2

Enactments

Amendments

4. *Proceeds of Crime Act*,
Cap. 143.

1. In section 2, in paragraph (b), delete the word "used" and substitute the words ", including instrumentalities, used in or intended to be used".

2. In section 3,

(a) in the definition of "proceeds", insert after the word "property", the words "or benefit";

(b) in the definition of "tainted property", in paragraph (a), delete the word "used" and substitute the words ", including instrumentalities, used in or intended to be used"; and

(c) delete the definition of "unlawful activity".

3. In section 10(2)(a),

(a) insert after the word "used", the words "in or intended to be used"; and

(b) insert after the words "immediately", the words "before or".

4. In section 17, insert after subsection (2), the following:

"(3) Any question of fact to be decided by the Court in proceedings pursuant to section 9 and this section shall be decided on a balance of probabilities.".

5. In section 48, delete subsection (7).

MONEY LAUNDERING AND FINANCING OF TERRORISM
(PREVENTION AND CONTROL) ACT, 2011 – 23

FOURTH SCHEDULE – *Cont'd*

Column 1

Column 2

Enactments

Amendments

4. *Proceeds of Crime Act,*
Cap. 143 – Cont'd

6. In section 52(1), delete the word "may" in the second place where it occurs and substitute the word "shall".

7. Delete sections 53 and 54 and substitute the following:

"Inter-
preta-
tion of
finan-
cial insti-
tution.
Act
2011-23.

54. For the purpose of sections 48 to 52 "financial institution" has the meaning assigned to it by section 2 of the *Money Laundering and Financing of Terrorism (Prevention and Control) Act, 2011.*".

8. In section 60,

- (a) renumber section 60 as section 60(1); and
- (b) insert after section 60(1) as renumbered, the following:

"(2) Section 57 shall, with such modifications and adaptations as the circumstances may require, apply in respect of an order made under subsection (1)."

FOURTH SCHEDULE – *Cont'd*

Column 1	Column 2
<i>Enactments</i>	<i>Amendments</i>
4. <i>Proceeds of Crime Act</i> , Cap. 143 – <i>Cont'd</i>	9. Delete the Schedule and substitute the following: "SCHEDULE (Sections 3 and 65) List of Scheduled Offences Part I Statutory Offences An offence under Cap. 44. (a) section 14 of the <i>Health Services Act</i> ; Cap. 64. (b) section 5 of the <i>Counterfeit Currency (Convention) Act</i> ; (c) sections 10 to 12, 65, 93, 100, 104, 146, 156, 185, 194, 208, 214, 246 or 249 of the <i>Customs Act</i> ; Cap. 66. Cap. 124. (d) sections 3 to 12, 14 or 18 of the <i>Coinage Offences Act</i> ; (e) sections 4 to 11, 13 to 23, 25 to 27, 30 to 33, 35, 38 or 44 of the <i>Drug Abuse (Prevention and Control) Act</i> ; Cap. 131. Cap. 133. (f) sections 2 to 24 or 27 of the <i>Forgery Act</i> ; (g) sections 9 to 12, 15 to 27, 30 to 38, 40 to 43, 45 or 46 of the <i>Offences Against the Persons Act</i> ; Cap. 141.

MONEY LAUNDERING AND FINANCING OF TERRORISM
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FOURTH SCHEDULE – *Cont'd*

Column 1	Column 2
<i>Enactments</i>	<i>Amendments</i>
4. <i>Proceeds of Crime Act</i> , Cap. 143 – <i>Cont'd</i>	Cap. 155. (h) section 3, 8 to 20 or 22 to 28 of the <i>Theft Act</i> ;
	Cap. 158. (i) sections 3 to 6 of the <i>Anti-Terrorism Act</i> ;
	Cap. 179. (j) section 3, 7 to 9, 11, 13, 14, 16 to 22, 24 to 27, 29, 30, 32 or 33 of the <i>Firearms Act</i> ;
	Cap. 300. (k) section 46, 132 or 134 of the <i>Copyright Act</i> ;
	Cap. 318A. (l) section 8, 10, 46, 82, 116, 118, 142 or 143 of the <i>Securities Act</i> ;
	Cap. 320B. (m) section 3, 8, 14 to 16, 18, 26, 35, 37, 38, 47, 50 or 54 of the <i>Mutual Funds Act</i> ;
	Cap. 390. (n) section 9 or 10 of the <i>Cultivation of Trees Act</i> ;
	Cap. 391. (o) sections 8 to 11, 18, 21, 22, 24, 27, 29 to 33, 37 or 38 of the <i>Fisheries Act</i> ;
	Cap. 392A. (p) section 3 or 17 of the <i>Marine Pollution Control Act</i> ;
	Cap. 393. (q) section 31 of the <i>National Conservation Commission Act</i> ;
	Cap. 394. (r) section 22, 26 to 29 or 40 of the <i>Coastal Zone Management Act</i> ;
	Cap. 395. (s) section 7 of the <i>Pesticides Control Act</i> ;
	Cap. 395A. (t) section 9 of the <i>Returnable Containers Act</i> ;

FOURTH SCHEDULE – *Cont'd*

Column 1	Column 2
<i>Enactments</i>	<i>Amendments</i>
4. <i>Proceeds of Crime Act</i> , Cap. 143 – <i>Concl'd</i>	Cap. 396. (u) section 8, 23 or 24 of the <i>Soil Conservation (Scotland District) Act</i> ;
	Cap. 397. (v) section 13 of the <i>Trees (Preservation) Act</i> ;
	Cap. 398. (w) section 3, 4 or 5 of the <i>Wild Birds Protection Act</i> ;
	(x) section 6, 18, 23, 24, 42 to 44 or 48 of the <i>Money Laundering and Financing of Terrorism (Prevention and Control) Act</i> ;
Act 2011-23.	
	(y) section 10, 12, 13, 15, 17, 18, 20, 21, 29, 30, 32 to 40, 48, 60 or 64 of the <i>Prevention of Corruption Act, 2011</i> ;
Act 2011-	
3.	(z) section 3, 6, 8 or 9 of the <i>Transnational Organized Crime (Prevention and Control) Act, 2011</i> .

Part II

Common Law Offences

The offence of murder."

MONEY LAUNDERING AND FINANCING OF TERRORISM
(PREVENTION AND CONTROL) ACT, 2011 – 23

FOURTH SCHEDULE – *Cont'd*

Column 1

Column 2

Enactments

Amendments

5. *Charities Act, Cap. 243.*

1. In section 5, insert after subsection (6), the following:

"(6A) Where there is a change in the composition of trustees of a charity registered under this section, the trustees shall, within 15 days of the date of the change, file with the Registrar a notice containing particulars of the change.

(6B) Where charity trustees fail to comply with subsection (6A), the Registrar may impose on the charity trustees a penalty of \$100."

2. Delete section 6 and substitute the following:

"Effect of failure to register charity.

6. (1) A charity trustee of a charity who, without reasonable excuse, fails to register the charity in accordance with section 5 is guilty of an offence and is liable on summary conviction to a fine of \$ 5 000 or to imprisonment for 6 months or to both and to an additional fine of \$500 for everyday or part thereof that the offence continues after a conviction is first obtained.

FOURTH SCHEDULE – *Cont'd*

Column 1

Column 2

Enactments

Amendments

5. *Charities Act, Cap. 243*
– *Cont'd*

(2) Without prejudice to subsection (1), where a charity trustee of a charity fails to register the charity in accordance with section 5, the charity trustee shall not be entitled to claim any tax exemptions under any enactment in respect of the charity for the income year during which the charity remained unregistered."

3. In section 8, delete the words "Income Tax Commissioner" and substitute the words "Commissioner of Inland Revenue".

4. In section 19(4), delete the words "\$250" and "\$25" and substitute the words "\$5 000" and "\$500", respectively.

5. In section 38,

(a) insert after subsection (2), the following:

"(2A) Notwithstanding subsection (2), where an examination or inquiry referred to in subsection (1) is to be carried out for the purpose set out in subsection (1A), the Attorney-General shall require the Director of the Financial Intelligence Unit to carry out the examination or inquiry."; and

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FOURTH SCHEDULE – *Cont'd*

Column 1	Column 2
<i>Enactments</i>	<i>Amendments</i>
5. <i>Charities Act, Cap. 243</i> – <i>Cont'd</i>	(b) in subsection (4) (i) delete the word "\$500" and substitute the word "\$5 000"; (ii) delete the word "3" and substitute the word "6"; and (iii) delete the word "\$50" and substitute the word "\$500".
	6. In section 41(1), delete the word "15" and substitute the word "12".
	7. In section 42, delete subsection (6) and substitute the following:
	"(6) Any person who fails to (a) transmit to the Registrar any statement of account required by subsection (1); (b) afford an auditor any facility to which he is entitled under subsection (4); or (c) make full disclosure to the Registrar of all material facts required to be disclosed under this Act or knowingly makes a false statement of a material fact or makes

FOURTH SCHEDULE – *Cont'd*

Column 1	Column 2
<i>Enactments</i>	<i>Amendments</i>
5. <i>Charities Act</i> , Cap. 243 – <i>Concl'd</i>	a statement containing information that is misleading in light of the circumstances in which it was made, is guilty of an offence and is liable on summary conviction to a fine of \$5000 or to imprisonment for 6 months or to both and to a further fine of \$500 for every day or part thereof that the offence continues after a conviction is first obtained."
	8. In section 47(2), insert after the word "received", the words "and penalties imposed and collected".
6. <i>International Trusts Act</i> , Cap. 245.	1. Insert after section 28, the following: "Disclosure for purposes of Act 2011-23. 28A. Notwithstanding sections 13 and 28, information in respect of an international trust may be disclosed for the purposes of the <i>Money Laundering and Financing of Terrorism (Prevention and Control) Act, 2011</i> in accordance with that Act."
	2. In section 32, insert after the word "any", the word "other".

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(PREVENTION AND CONTROL) ACT, 2011 – 23

FOURTH SCHEDULE – *Cont'd*

Column 1	Column 2
<i>Enactments</i>	<i>Amendments</i>
7. <i>Exempt Insurance Act</i> , Cap. 308A	1. In section 4, insert after subsection (2), the following: "(2A) No licence may be issued to a body corporate under this Act unless the Supervisor is satisfied that the managing director, chief executive officer or principal representative, chairman, directors and senior officers of the body corporate are fit and proper persons to hold their respective offices."
Cap. 324A. Cap. 325.	2. In section 17(4), delete the words " <i>the Banking Act</i> , or <i>the Off-shore Banking Act</i> " and substitute the words " <i>the Financial Institutions Act</i> or the <i>International Financial Services Act</i> ".
Cap. 325.	3. In section 24(4), in sub-paragraph (ix) of paragraph (a), delete the words " <i>the Off-shore Banking Act</i> " and substitute the words " <i>the International Financial Services Act</i> ".
Cap. 325.	4. In section 27, in paragraph (a), delete the words "off-shore banking business as defined by section 4 of the <i>Off-shore Banking Act</i> " and substitute the words "international financial services as defined in section 4 of the <i>International Financial Services Act</i> ".
	5. In section 28(7), delete the words "and (c)" and substitute the words ", (c) and (d)".
Cap. 325.	6. In section 33, delete the words "a person licensed under the <i>Off-shore Banking Act</i> " and substitute the words "a qualified foreign bank licensed under the <i>International Financial Services Act</i> ".

FOURTH SCHEDULE – *Cont'd*

Column 1	Column 2
<i>Enactments</i>	<i>Amendments</i>
7. <i>Exempt Insurance Act, Cap. 308A – Cont'd</i>	7. In section 35, insert after subsection (2), the following: "(3) Notwithstanding subsections (1) and (2), for the purposes of the <i>Money Laundering and Financing of Terrorism (Prevention and Control) Act, 2011</i>, the Supervisor may, disclose or communicate information acquired by him under this Act to (a) the Anti-Money Laundering Authority; (b) any other supervisory or regulatory authority of licensees under this Act; or (c) the appropriate supervisory or regulatory authority in another country, of persons carrying on business similar to that of licensees under this Act, at the request of the authority where (i) there is operating in that country a branch, holding company or affiliate of a licensee under this Act;
	Act 2011-23

MONEY LAUNDERING AND FINANCING OF TERRORISM
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FOURTH SCHEDULE – *Cont'd*

Column 1	Column 2
<i>Enactments</i>	<i>Amendments</i>
7. <i>Exempt Insurance Act,</i> Cap. 308A – <i>Concl'd</i>	(ii) the Supervisor is satisfied that the authority has given appropriate undertakings for protecting the confidentiality of the information and controlling the information and the use that will be made of the information; and (iii) there is in effect a reciprocal arrangement with that authority for the exchange of information."
8. <i>Insurance Act,</i> Cap. 310.	1. In section 12(1), (a) delete paragraph (f) and substitute the following: "(f) the managing director, chief executive officer or principal representative, chairman, directors and senior officers of the company are fit and proper persons to hold their respective offices;" and

FOURTH SCHEDULE – *Cont'd*

Column 1	Column 2
<i>Enactments</i>	<i>Amendments</i>
8. <i>Insurance Act,</i> <i>Cap. 310 – Cont'd</i>	(b) in paragraph (g), delete the word "is" and substitute the word "was". 2. In section 15(2), (a) in paragraph (g), delete the full stop and substitute a comma; and (b) insert after paragraph (g), the words: "the registration of the company may be cancelled.". 3. In section 50, insert after subsection (2), the following: "(3) For the purpose of this Part, information relating to any matter in connection with the insurance business carried on by a company includes information (a) in respect of the compliance of a company with; and (b) on any matter involving the company and relating to, Act 2011-23. the <i>Money Laundering and Financing of Terrorism (Prevention and Control) Act, 2011.</i>".

MONEY LAUNDERING AND FINANCING OF TERRORISM
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FOURTH SCHEDULE - *Cont'd*

Column 1	Column 2
Enactments	Amendments
8. <i>Insurance Act,</i> Cap. 310 - <i>Cont'd</i>	4. In section 54, insert after subsection (2), the following: "(2A) Notwithstanding subsections (1) and (2), for the purposes of the <i>Money Laundering and Financing of Terrorism (Prevention and Control) Act, 2011</i>, the Supervisor may divulge or communicate information acquired by him under this Act, to (a) the Anti-Money Laundering Authority; (b) any other supervi- sory or regulatory authority of persons registered under this Act; or (c) the appropriate supervisory or regulatory authority in another country, of persons carrying on business similar to that of persons registered under this Act, at the request of the authority where (i) there is operat- ing in that country a branch, hold- ing company or

FOURTH SCHEDULE – *Cont'd*

Column 1	Column 2
<i>Enactments</i>	<i>Amendments</i>
8. <i>Insurance Act,</i> Cap. 310 – <i>Cont'd</i>	affiliate of a person registered under this Act; (ii) the Supervisor is satisfied that the authority has given appropriate undertakings for protecting the confidentiality of the information and controlling the information and the use that will be made of the information; and (iii) there is in effect a reciprocal arrangement with that authority for the exchange of information."

5. In section 75(1), delete the word "174" and substitute the word "177".

MONEY LAUNDERING AND FINANCING OF TERRORISM
(PREVENTION AND CONTROL) ACT, 2011 – 23

FOURTH SCHEDULE – *Cont'd*

Column 1	Column 2
<i>Enactments</i>	<i>Amendments</i>
8. <i>Insurance Act</i> , Cap. 310 – <i>Concl'd</i>	6. In section 146G, delete paragraph (ii) and substitute the following: "(ii) a qualified foreign bank licensed under the <i>International Financial Services Act</i>;"
9. <i>Securities Act</i> , Cap. 318A.	Cap. 325. 7. In the Fourth Schedule, in subparagraph (x) of paragraph (5), delete the words "<i>Offshore Banking Act</i>" and substitute the words "<i>International Financial Services Act</i>". 1. In section 2, in the definition of "material change", delete the word "relationship" and substitute the word "relation". 2. In section 5(1), insert after paragraph (g), the following: "(gg) conduct such inspections and examinations of registrants under this Act including self-regulatory organisations, securities companies, brokers, dealers, traders, underwriters, issuers and investment advisers as may be necessary for giving effect to this Act;"

FOURTH SCHEDULE – *Cont'd*

Column 1	Column 2
<i>Enactments</i>	<i>Amendments</i>
9. <i>Securities Act</i> , Cap. 318A – <i>Cont'd</i>	3. In section 8, delete subsection (2) and substitute the following: "(2) No person specified in subsection (1) shall disclose confidential information obtained as a result of his relationship with the Commission to any person except in accordance with subsection (2A). (2A) Where it is necessary to do so for the purpose of or in connection with the administration or enforcement of this Act or the <i>Money Laundering and Financing of Terrorism (Prevention and Control) Act, 2011</i> or a similar law in another country or any other law of Barbados, a Commissioner or a person employed or retained by the Commission may disclose information acquired by him to (a) a public authority including another regulatory authority that supervises or regulates persons registered under this Act; (b) the Anti-Money Laundering Authority; (c) a self-regulatory organisation; or

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FOURTH SCHEDULE - *Cont'd*

Column 1	Column 2
<i>Enactments</i>	<i>Amendments</i>
9. <i>Securities Act</i> , Cap. 318A - <i>Cont'd</i>	(d) an appropriate authority in another country, that supervises or regulates persons carrying on business similar to that of persons registered under this Act or a self-regulatory organisation in another country similar to self-regulatory organisations registered under this Act, at the request of the authority or organisation where (i) the request for assistance is in a form approved by the Commission; (ii) the Commissioner or other person employed or retained by the Commission is satisfied that the authority or organisation has given appropriate undertakings for protecting the confidentiality of

FOURTH SCHEDULE – *Cont'd*

Column 1	Column 2
<i>Enactments</i>	<i>Amendments</i>
9. <i>Securities Act</i> , Cap. 318A – <i>Cont'd</i>	the information and controlling the information and the use that will be made of the information; and (iii) there is in effect a reciprocal arrangement with that authority or organisation for the exchange of information.”.
4. In section 42(1), insert after para- graph (b), the following:	
"(bb) no longer satisfies the requirements for regis- tration as a self- regulatory organisation set out in section 30 or satisfies any ground set out in section 31, upon which the Com- mission may refuse registration".	
5. Delete section 48.	
6. Delete section 50.	
7. Delete section 51(5).	
8. Delete section 52(5).	

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FOURTH SCHEDULE – *Cont'd*

Column 1	Column 2
<i>Enactments</i>	<i>Amendments</i>
9. <i>Securities Act</i> , Cap. 318A – <i>Cont'd</i>	9. In section 53, delete subsection (4) and substitute the following: "(4) In addition to the reasons set out in section 54, the Commission may suspend or revoke the registration of a securities company where the Commission is satisfied that (a) the company has defaulted in any obligation undertaken in its capacity as a securities company; or (b) a receiving order has been made against the company."
10. Delete section 54 and substitute the following:	"Suspension and revocation of registration of market actor. 54. (1) The Commission may suspend or revoke the registration of a market actor where the Commission is satisfied as to any of the following circumstances in respect of the market actor: (a) the market actor has ceased to carry on the business in respect of which he was registered;

FOURTH SCHEDULE – *Cont'd*

Column 1	Column 2
<i>Enactments</i>	<i>Amendments</i>
9. <i>Securities Act,</i> Cap. 318A – <i>Cont'd</i>	(b) the market actor obtained his registration under this Act or the former Act by the concealment or misrepresentation of any fact which is, in the opinion of the Commission, material to his application for registration or to his suitability to be registered; (c) the registration of the market actor under this Act or the former Act was made by mistake, whether the mistake was that of the market actor himself, the Commission, the Securities Exchange or any other person; (d) the market actor has ceased to meet any requirement necessary to be met for registration under this Act; (e) the market actor is contravening or has contravened or failed to comply with,

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FOURTH SCHEDULE – *Cont'd*

Column 1	Column 2
<i>Enactments</i>	<i>Amendments</i>
9. <i>Securities Act</i> , Cap. 318A – <i>Cont'd</i>	(i) a condition or restriction applicable in respect of his registration; (ii) an order of the Commission; or (iii) any provision of this Act; (f) the market actor has failed to supervise or to conduct adequately, the activities of any person acting on his instructions or on his behalf; (g) the market actor has failed to maintain the prescribed level of capitalisation; (h) the market actor has defaulted in the payment of any moneys due to a self-regulatory organisation, the Commission or any other market actor; (i) a levy of execution in respect of the market actor has not been satisfied; (j) the market actor is engaged in an unsound financial practice;

FOURTH SCHEDULE – *Cont'd*

Column 1	Column 2
<i>Enactments</i>	<i>Amendments</i>
9. <i>Securities Act,</i> Cap. 318A – <i>Cont'd</i>	(k) the market actor is otherwise financially unsound; (l) the market actor has been convicted of an offence involving fraud or dishonesty; (m) the market actor has been guilty of any other type of misconduct; or (n) the market actor is otherwise carrying on the business in respect of which he was registered in an unlawful manner. (2) Subject to subsections (3) and (4), the Commission shall not suspend or revoke the registration of a market actor without first giving the market actor an opportunity to be heard. (3) Notwithstanding subsection (2) (a) the Commission may suspend the registration of a market actor with immediate effect for a period of no more than 30 days where

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<i>Enactments</i>	<i>Amendments</i>
9. <i>Securities Act</i> , Cap. 318A – <i>Cont'd</i>	the Commission considers that the immediate suspension of the registration of the market actor is in the interest of investors or the public interest or that any delay in suspending the registration of the market actor may be prejudicial to the interest of investors or the public interest; (b) where criminal proceedings are instituted against a market actor in respect of an offence under this Act or involving fraud or dishonesty, the Commission may suspend the registration of the market actor from the date of the institution of the proceedings or at any time thereafter; and (c) the Commission may, subject to subsection (6), revoke the registration of the market actor upon conviction of the market actor for an offence referred to in paragraph (b).

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9. *Securities Act*,
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(4) Where the Commission has suspended the registration of a market actor in connection with an offence pursuant to subsection (3), the suspension shall automatically cease upon the withdrawal or dismissal of the charge or, where there is more than one charge, upon the withdrawal or dismissal of all the charges.

(5) Notwithstanding subsections (1) and (2), where it is alleged that a market actor has defaulted in the payment of moneys due to a self-regulatory organisation, the Commission or any other market actor, the Commission may, if it considers that it is in the public interest to do so, suspend the registration of the market actor pending the final determination of the allegation.

(6) The Commission shall not revoke the registration of a market actor unless it is satisfied that the financial obligations of the market actor to his clients have been discharged to the extent possible.

(7) In this section "misconduct" includes any act or omission relating to the conduct of the business requiring registration which, in the opinion of the Commission, is or is likely to be prejudicial to the interest of investors or the public interest.

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FOURTH SCHEDULE – *Cont'd*

Column 1	Column 2
<i>Enactments</i>	<i>Amendments</i>
9. <i>Securities Act</i> , Cap. 318A – <i>Cont'd</i>	(8) Section 133 shall apply in respect of a hearing to be conducted pursuant to subsection (2).". 11. Delete section 60(3) and substitute the following: "(3) Where a material change occurs in the affairs of a reporting issuer, the reporting issuer shall (a) forthwith, and in any event within one day of the material change, issue a notice to the press that (i) is authorised by a senior officer of the reporting issuer; and (ii) discloses the nature and substance of the material change; and (b) within 7 days of the material change, file with the Commission a statement disclosing the nature and substance of the material change, the contents of which shall be certified by a senior officer.".

FOURTH SCHEDULE – *Cont'd*

Column 1	Column 2
<i>Enactments</i>	<i>Amendments</i>
9. <i>Securities Act</i> , Cap. 318A – <i>Cont'd</i>	12. In section 67(1), insert after the word "shall", the words ", within 7 days of the occurrence of the change,". 13. Insert after section 92, the following: "Record-keeping. 92A. Without prejudice to any other provision of this Act, a registrant shall keep such books, records and other documents as are necessary for the proper recording of the business transactions and financial affairs of the registrant and the transactions that the registrant executes on behalf of others and shall keep such other books, records and documents as may otherwise be required under this Act. 92B. Without prejudice to any other provision of this Act, a registrant shall deliver to the Commission at such time as the Commission or any member, employee or agent of the Commission may require (a) any of the books, records and documents that are required to be kept by the registrant under this Act; and
	Provision of information to the Commission.

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FOURTH SCHEDULE – *Cont'd*

Column 1	Column 2
<i>Enactments</i>	<i>Amendments</i>
9. <i>Securities Act</i> , Cap. 318A – <i>Cont'd</i>	(b) any filings, reports or other communications made to any other regulatory authority whether required under this Act or any other enactment."
14. In section 126(1), delete paragraph (d) and substitute the following:	
"(d) prescribing the format and content of filings and applications and the filing of copies of documents filed with any government agency, including with respect to electronic filing of matters;	
(dd) respecting applications for extensions of time and exemptions under this Act;"	
15. Insert after section 127, the following,	
"Other exemptions.	127A. (1) Without prejudice to any special power of exemption conferred by any other provision of this Act, the Minister may by Order subject to negative resolution of Parliament, after consultation with the Commission
	(a) declare that, with effect from a date specified in the Order, such of the

FOURTH SCHEDULE – *Cont'd*

Column 1	Column 2
<i>Enactments</i>	<i>Amendments</i>
9. <i>Securities Act</i> , Cap. 318 – <i>Cont'd</i>	provisions of this Act as may be so specified shall not apply in relation to such class of self-regulatory organisation, securities company, broker, dealer, trader, underwriter, issuer or investment adviser, or security as may be so specified; (b) exempt, subject to such conditions, if any, as seems appropriate, any self-regulatory organisation, securities company, broker, trader, underwriter, issuer or investment adviser from all or any of the provisions of this Act. (2) An exemption referred to in this section may be granted only where the Minister is satisfied, after consultation with the Securities Commission, that the exemption will not (a) prejudice the interests of investors or the public interest; or

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FOURTH SCHEDULE - *Cont'd*

Column 1	Column 2
<i>Enactments</i>	<i>Amendments</i>
9. <i>Securities Act</i> , Cap. 318A - <i>Cont'd</i>	(b) undermine the efficacy of the regulation and accountability of persons registered or to be registered under this Act.
Extensions of time.	127B. Where any provision of this Act requires anything to be done within a specified period and no provision is made for the extension thereto, that period may in any particular case be extended by the Commission."
16. In section 133, delete subsection (1) and substitute the following:	
(1) The Commission may, by instrument in writing, appoint a person to conduct such investigations as may be necessary for the proper administration of this Act and in particular to determine the validity of any allegation that	
(a) a person has contravened, is contravening or is about to contravene this Act; or	(b) any of the circumstances set out in section 54 exist in respect of a registrant."

FOURTH SCHEDULE – *Cont'd*

Column 1	Column 2
<i>Enactments</i>	<i>Amendments</i>
9. <i>Securities Act</i> , Cap. 318A – <i>Cont'd</i>	17. In section 135, (a) delete subsection (1) and substitute the following: "(1) The Commission may, by instrument in writing, appoint a person to examine the records and financial affairs of a registrant and to prepare such financial or other reports as the Commission requires (a) to ascertain whether the registrant is in compliance with this Act; (b) where it is of the view that the registrant may be in breach of this Act; (c) to determine whether the registrant is financially sound; or (d) where the Commission considers that an examination is otherwise necessary for the proper administration and enforcement of this Act."; and

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FOURTH SCHEDULE – *Cont'd*

Column 1	Column 2
<i>Enactments</i>	<i>Amendments</i>
9. <i>Securities Act</i> , Cap. 318A – <i>Cont'd</i>	(b) insert after subsection (5), the following: "(6) Without prejudice to any other provision of this Act, where an examination reveals that any of the circumstances set out in section 54 exists in respect of a registrant, the Commission may, where it considers it appropriate to do so, order the registrant, within such period as the Commission may specify, to take such remedial measures or action as the Commission directs." 18. In section 137(1), in paragraph (d), insert after the word "reprimanded", the words "any of the activities that the person is authorised to conduct pursuant to his registration be suspended". 19. In section 138, insert after subsection (2), the following: "(2A) Notwithstanding subsection (1) (a) a person who contravenes this Act or any rule solely by reason of his failure to file a document or instrument with the Commission within the time prescribed shall be liable to a penalty of \$1 000 for every

FOURTH SCHEDULE – *Cont'd*

Column 1	Column 2
<i>Enactments</i>	<i>Amendments</i>
9. <i>Securities Act</i> , Cap. 318A – <i>Concl'd</i>	month or part thereof that the document or instrument remains outstanding after the expiration of the time prescribed; and (b) the Commission may, without conducting a hearing, make an order imposing a penalty pursuant to paragraph (a) for the period beginning on the day following the expiration of the prescribed period and ending on the day that the document or instrument is filed."
20. In section 142(1), delete paragraph (a) and substitute the following:	
"(a) knowingly or recklessly makes	
(i) a misrepresentation in any filing, application, notification or other document required to be filed, delivered or notified to the Commission under this Act; or	
(ii) any other misrepresentation in contravention of this Act or any regulation;"	

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FOURTH SCHEDULE – *Cont'd*

Column 1	Column 2
<i>Enactments</i>	<i>Amendments</i>
10. <i>Societies With Restricted Liability Act, Cap. 318B.</i>	1. In section 2, insert in alphabetical order, the following definition: " "international service provider" has the meaning assigned to it by section 2 of the <i>International Corporate and Trust Service Providers Act, 2011</i>;" 2. In section 18(2), delete the word "member" in the first place where it occurs and substitute the word "manager". 3. In section 40, insert after subsection (4G), the following: "(4H) An application to be made pursuant to subsection (1), (4), (4A) or (4D) shall be made by an international service provider on behalf of the society or person who intends to organise a society, as the case may be." 4. In section 46(3), in paragraph (a), delete the words "an off-shore bank" and substitute the words "a qualified foreign bank licensed under the <i>International Financial Services Act</i>". 5. In section 49(3), insert after the word "or", the words "<i>the Money Laundering and Financing of Terrorism (Prevention and Control) Act, 2011</i> or".
	Act 2011-5.
	Cap. 325.
	Act 2011-23.

FOURTH SCHEDULE – *Cont'd*

Column 1	Column 2
<i>Enactments</i>	<i>Amendments</i>
11. <i>Mutual Funds Act</i> , Cap. 320B.	1. In section 9(4), in sub-paragraph (ii) of paragraph (a), delete the words "within 7 days of" and substitute the words "as soon as reasonably practicable after or in any event within 7 days of,". 2. In section 13, delete the words "within 7 days of" and substitute the words "as soon as reasonably practicable after or in any event within 7 days of,". 3. In section 50, delete subsection (3) and substitute the following: "(3) Where it is necessary to do so for the purpose of or in connection with the administration or enforcement of this Act or the <i>Money Laundering and Financing of Terrorism (Prevention and Control) Act, 2011</i> or a similar law in another country, the Securities Commission may disclose information acquired by the Commission to (a) the Anti-Money Laundering Authority; (b) any other public authority that supervises or regulates persons licensed under this Act; or

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FOURTH SCHEDULE – *Cont'd*

Column 1	Column 2
<i>Enactments</i>	<i>Amendments</i>
11. <i>Mutual Funds Act, Cap. 320B – Cont'd</i>	(c) an appropriate authority in another country that supervises or regulates persons carrying on business similar to that of persons licensed under this Act, at the request of the authority, where (i) the request for assistance is submitted in a form approved by the Commission; (ii) the Commission is satisfied that the authority has given appropriate undertakings for protecting the confidentiality of the information and controlling the information and the use that will be made of the information; and (iii) there is in effect a reciprocal arrangement with that authority for the exchange of information."

FOURTH SCHEDULE – *Cont'd*

Column 1	Column 2
<i>Enactments</i>	<i>Amendments</i>
11. <i>Mutual Funds Act, Cap. 320B – Cont'd</i>	4. Insert after section 55, the following: "General exemptions. 55A. (1) W i t h o u t prejudice to any special power of exemption conferred by any other provision of this Act, the Minister may by Order subject to negative resolution of Parliament, after consultation with the Securities Commission (a) declare that, with effect from a date specified in the Order, such of the provisions of this Act as may be so specified shall not apply in relation to such class of mutual funds or mutual fund administrators as may be so specified; (b) exempt, subject to such conditions, if any, as appropriate, any mutual fund or mutual funds administrator from all or any of the provisions of this Act.

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FOURTH SCHEDULE – *Cont'd*

Column 1	Column 2
<i>Enactments</i>	<i>Amendments</i>
11. <i>Mutual Funds Act, Cap. 320B – Concl'd</i>	(2) An exemption referred to in this section or section 56(2) shall be granted only where the Minister is satisfied, after consultation with the Securities Commission, that the exemption will not (a) prejudice the interests of holders of shares in mutual funds; or (b) undermine the efficacy of the administration and accountability of mutual funds.
	55B. Where any provision of this Act requires anything to be done within a specified period of time and no provision is made for the extension thereof, that period may in any particular case be extended by the Securities Commission."
	5. In section 56, delete subsection (3).
12. <i>Co-operative Societies Act, Cap. 378A.</i>	1. In section 7(1), insert after paragraph (a), the following: "(aa) unless the directors and other officers of the society are fit and proper persons to hold their respective offices;"

Extension
of time
limits.

FOURTH SCHEDULE – *Cont'd*

Column 1	Column 2
<i>Enactments</i>	<i>Amendments</i>
12. <i>Co-operative Societies Act, Cap. 378A – Cont'd</i>	2. In section 71, (a) in subsection (2), insert after the word "(3)", the words "and (3A)"; and (b) insert after subsection (3), the following: "(3A) Without prejudice to the generality of subsection (3)(a) and (d), notwithstanding subsection (2), for the purposes of the <i>Money Laundering and Financing of Terrorism (Prevention and Control) Act, 2011</i>, the Registrar may disclose or communicate information acquired by him under this Act to (a) the Anti-Money Laundering Authority; (b) any other supervisory or regulatory authority of societies registered under this Act; or (c) the appropriate supervisory or regulatory authority in another country, of persons carrying on business similar to that of societies registered under this Act, at the request of the authority where

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Column 1

Column 2

Enactments

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12. *Co-operative Societies
Act, Cap. 378A
- Concl'd*

(i) the Registrar is satisfied that the authority has given appropriate undertakings for protecting the confidentiality of the information and controlling the information and the use that will be made of the information; and

(ii) there is in effect a reciprocal arrangement with that authority for the exchange of information."

3. In section 164A(1), insert after the words "books,", the words "records,".