



GOVERNMENT OF THE REPUBLIC OF TRINIDAD AND TOBAGO

FINANCIAL INTELLIGENCE UNIT
MINISTRY OF FINANCE AND THE ECONOMY



GUIDANCE NOTE

PROCEDURES FOR REPORTING TERRORISTS' FUNDS

Anti-Terrorism Act, Chap. 12:07

INTRODUCTION

The *Anti -Terrorism Act* (the ATA) is designed to assist in combating terrorism and the financing of terrorism. To achieve these aims the ATA places obligations on Financial Institutions and on Businesses and Professionals (Listed Businesses, defined in section 2 of the Proceeds of Crime Act), so that they do not unwittingly hide or move terrorists' funds.

This guidance note is intended to provide assistance to Financial Institutions and Listed Businesses (Reporting Entities) regarding their obligations under section 22AB of the ATA as amended to report Terrorists' Funds immediately and without delay to the Financial Intelligence Unit (the FIUTT).

LEGAL OBLIGATIONS

The FATF's Recommendation 6 of the revised 40 Recommendations requires each country to implement measures to freeze, without delay, funds or other assets of terrorists, those who finance terrorism and terrorist organisations in accordance with the United Nations resolutions relating to the prevention and suppression of the financing of terrorist acts.

Each country must also adopt and implement measures, inclusive of legislative reform, which would enable the competent authorities to seize and confiscate property that is the proceeds of, or used in, or intended or allocated for use in the financing of terrorism, terrorist acts or by terrorist organisations.

To this end, section 22AB (a) and (b) of the ATA as amended requires a Reporting Entity to report to the FIUTT when it knows or has reasonable grounds to believe there are funds¹ in the Reporting Entity or in Trinidad and Tobago which belong to an individual or entity:

¹ Under section 2 of the ATA "property" or "funds" means assets of any kind, whether tangible or intangible, moveable or immovable, however acquired and legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, such assets, including but not limited to bank credits, travellers cheques, bank cheques, money orders, shares, securities, bonds, drafts, letters of credit whether situated in Trinidad and Tobago or elsewhere, and includes a legal or equitable interest, whether full or partial, in any such property;"

- a. that is designated as a terrorist entity by the Security Council of the United Nations (“a designated entity”); or
- b. that is listed on the consolidated list circulated by the FIUTT (“listed entity”).

This guidance note sets the procedure a Reporting Entity must follow under section 22AB. This guidance note does not address obligations on Quarterly Terrorists Reports (QTR) under section 33 (3) or Suspicious Transaction/Activity Reports (STR/SAR) under sections 22AB (d) and 22C (3).

Step1

REPORTING ENTITY’S OBLIGATION

A Reporting Entity is required to consult the UN 1267 List and the Consolidated List to verify whether any designated entity or listed entity has funds in the financial institution or listed business.

1. After consulting the Lists, if the Reporting Entity knows or has reasonable grounds to believe that a designated entity or listed entity has funds in Trinidad and Tobago, the Reporting Entity **MUST IMMEDIATELY WITHOUT DELAY** take the following action:
 - a. Orally, via telephone inform the FIUTT, that they have funds belonging to an individual or legal entity falling into a category identified above; and
 - b. Complete the [TERRORIST FUNDS REPORT](http://www.fiu.gov.tt/) (the “FIU TFR form”) [available on the website <http://www.fiu.gov.tt/>]; and
 - c. Submit the completed **FIU TFR form** electronically, by the secure reporting system established by the FIUTT; or
 - d. Submit the completed **FIU TFR form** in hard copy by hand in a sealed envelope.
2. If a designated entity or listed entity attempts to enter into a transaction or continue the business relationship, the Reporting Entity :
 - a. **MUST NOT** enter into or continue the business transaction or the business relationship; and
 - b. **MUST** submit a **SUSPICIOUS TRANSACTION/ACTIVITY REPORT (STR/SAR)** to the FIUTT.

UNDER NO CIRCUMSTANCES SHOULD A REPORTING ENTITY ENTER INTO OR CONTINUE A BUSINESS TRANSACTION OR BUSINESS RELATIONSHIP WITH A DESIGNATED OR LISTED ENTITY.

Step 2

FIUTT’S ACTION

1. The FIUTT will immediately and without delay verify that the name submitted by the Reporting Entity is currently recorded on the United Nations Security Council List of designated entities or the consolidated List and communicate its findings to the Reporting Entity in the following manner:
 - a. orally via telephone; and,
 - b. electronically, by the secure reporting system established by the FIUTT, or
 - c. by submitting a report in writing by facsimile, or registered mail or hand delivery.

2. The FIUTT **MAY INSTRUCT** the Reporting Entity in writing to suspend the processing of the transaction in accordance with section 22E of the ATA for a period not exceeding five (5) working days.
3. The Reporting Entity may apply to the Court to discharge the FIUTT's instructions but until such time the FIUTT's instructions remain in force.
4. The FIUTT will immediately and without delay inform the Attorney General of the name submitted by the Reporting Entity which will be recorded on the United Nations Security Council List of designated entities or the consolidated List.

Step 3

ORDER OF THE COURT

1. Immediately after being informed by the FIUTT of the name submitted by the Reporting Entity the Attorney General would make an application to the Court for an Order in accordance with section 22B (2) of the ATA.
2. The Court may by Order under section 22B (3) of the ATA declare the entity to be a listed entity under the ATA and freeze the funds of the listed entity.
3. Immediately after declaring the entity to be a listed entity, the Registrar of the Court will cause the Order to be served on the Reporting Entity and the FIUTT.
4. **Immediately**, upon service of the Order, the Reporting Entity **MUST** take action to freeze the funds in accordance with the terms of the Order.
5. The Attorney General will publish the Order in the Gazette and in two (2) daily newspapers.
6. The FIUTT would maintain a consolidated list of all Orders and circulate same to all Reporting Entities. The list will be circulated via email, on the FIUTTs' website and by other electronic means.

Step 4

REVIEW AND REVOCATION OF THE COURT ORDERS

1. The entity in respect of which an Order has been made under section 22B (3) of the ATA may apply for a review of the Order within sixty days after the date of publication and shall also notify the Attorney General of the application.
2. The Court would determine on the basis of the information available whether or not the Order should be revoked, and may make an Order for revocation.
3. Every six months the Attorney General will:
 - a. review all Orders made under section 22B(3) of the ATA;

- b. apply to the Court for the revocation of the Order if he determines that the circumstances under which the Order was made no longer exist; and
- c. publish the Order for the revocation in the Gazette and in two (2) daily newspapers.

ADDITIONAL RESOURCES

A list of known terrorist individuals and entities are available on the following web sites:

- www.un.org/sc/committees/1267/ag_sanctions_list.shtml,
- www.un.org/sc/committees/1267/pressreleases.shtml, or
- www.fiu.gov.tt

Guidance on detecting terrorist activity is available at:

- <http://www.fatf-gafi.org/documents/guidance/guidanceforfinancialinstitutionsindetectingterroristfinancing.html>