



ADVISORY

JANUARY 2020

ADVISORY ON AMENDMENT TO DEFINITION OF FINANCIAL INSTITUTION UNDER TPA

This Advisory is directed to:

Insurance Intermediaries (life insurance business)

The Financial Services Commission (“FSC”) advises that there has been an amendment to the Terrorism Prevention Act (“TPA”) effective November 15, 2019. Specifically, an amendment of Section 2 of this legislation has refined the definition of “financial institution”. The current definition includes:

“a person who-

- (i) carries on life insurance business within the meaning of the Insurance Act; or
- (ii) performs services as an insurance intermediary, in respect of life insurance business, within the meaning of the Insurance Act,

but does not include an insurance consultant or an adjuster”

It should be noted that prior to this amendment of the TPA, in so far as businesses in the insurance industry were concerned, the definition of financial institution was limited to “an insurance company registered under the Insurance Act”. Therefore, insurance intermediaries in respect of life insurance business were not captured under the TPA. It is also to be noted that in so far as the insurance intermediaries are concerned, the amendment limits the obligations under the TPA to those who are conducting life insurance business in particular.

REPORTING AND OTHER OBLIGATIONS

This amendment to the definition of financial institution will require insurance intermediaries who are engaged in life insurance business to conform to all counter-financing of terrorism (“CFT”) measures as prescribed in the TPA and its attendant regulations. These measures include the submission of prescribed reports to the Financial Investigations Division (“FID”).

Under the TPA, financial institutions are required to submit the following reports:

REPORT TYPE	CONTENT	REPORT PERIOD	SUBMISSION DATE
Listed Entity Report (“LER”)¹	Possession or control of property of listed entity	4 months intervals: January – April May – August September - December	Reports are due by: May 31 September 30 January 31
Suspicious Transaction Report (“STR”)²	Transaction involving property suspected to be connected to terrorist offence, listed entity or terrorist group.	N/A	As soon as is reasonably practicable, and in any event, within 15 days after the suspicion or reasonable cause for suspicion arises.

Where the due date for submission of either a Listed Entity Report or a Suspicious Transaction Report is on a weekend or a public holiday, then reports may be submitted on the first business day following the stipulated submission date.

LISTED ENTITY³

Under the TPA, a financial institution is required to determine on a continuing basis whether it is in possession or control of property owned or controlled by or on behalf of a Listed Entity, and report whether or not it is in possession or control of such property, to the FID at least once in every four (4) months or in response to a request made by the FID.

A Listed Entity is one which the court so designates upon an application by the Director of Public Prosecutions (“DPP”) in respect of:

- a) An entity designated as a terrorist entity by the United Nations Security Council “(UNSEC”);
or
- b) An entity which the DPP has reasonable grounds to believe has knowingly committed or participated in the commission of a terrorism offence or is knowingly acting on behalf of, at the direction of or in association with such an entity.

A complete list of all UNSEC designated Listed Entities may be accessed on the UNSEC’s website at www.un.org/sc. Alternately, persons may access this information via a link on the FSC’s website at www.fscjamaica.org.

¹ Form 1
² Form 2
³ TPA Section 15

SUSPICIOUS TRANSACTIONS⁴

Each financial institution shall report to the FID, all transactions, whether completed or not, which it suspects, or has reasonable cause to suspect:

- a) Involve property connected with, or intended to be used in, the commission of a terrorist offence; or
- b) Involve, or are for the benefit of, any Listed Entity or terrorist group.

REPORTING FORMS

The reporting forms are:

- Form 1 - Listed Entity Report
- Form 2 - Suspicious Transaction Report

These forms may be downloaded from the FID’s website at www.fid.gov.jm.

The FID has advised that it is currently reconfiguring its goAML online reporting solution to facilitate electronic submission of reports under TPA. The FID will instruct reporting entities accordingly as soon as this facility becomes available.

APPLICABLE PENALTIES

Offence	Penalty - Individual	Penalty – Body Corporate	Defence
Failure to submit a LER	A fine not exceeding \$1 million or to imprisonment for a term not exceeding 12 months, or to both such fine and imprisonment	A fine not exceeding \$3 million	It is a defence for the person charged that he had a reasonable excuse for not making the required report.
Failure to submit a STR			It is a defence for the employee charged that he disclosed the relevant information to the Designated Officer who is responsible for the implementation of the programmes, policies and controls as required by the TPA.

For Further Information

Please contact the Financial Services Commission at Telephone Numbers: 876-906-3010-2 or by Email to amlunit@fscjamaica.org

⁴ TPA Section 16