

2003 *Proceeds of Crime* SRO. 22
(*Anti-Money Laundering*) Regulations

GRENADA

STATUTORY RULES AND ORDERS NO. 22 OF 2003

REGULATIONS MADE BY THE MINISTER OF FINANCE PURSUANT TO SECTION 50 (3) OF THE PROCEEDS OF CRIME ACT, 2003 (NO. 3 OF 2003).

(Gazetted 12th September, 2003).

1. Citation and commencement: These Regulations may be cited as the

PROCEEDS OF CRIME (ANTI-MONEY LAUNDERING)
REGULATIONS, 2003

and shall come into force on the 1st September, 2003.

2. —(1) Interpretation: For the purpose of these Regulations, “money laundering”, and other expressions used in the Proceeds of Crime Act 2003, shall have the meaning given by that Act.

(2) In these Regulations—

- (a) “regulated institution” and “relevant business activity” means
- (i) a financial institution and “relevant business activity” as defined in schedule 1 of the Proceeds of Crime Act 2003;
 - (ii) a person authorised by the Supervisory Authority to offer currency exchange services;
 - (iii) a voluntary regulated institution;
- (b) “voluntary regulated institution” means a person or entity whose application to be a voluntary regulated institution has been approved under regulation 3;
- (c) “foreign regulated institution” means a person or entity subject to regulation in any other jurisdiction with a regulatory standard which is at least equivalent to this jurisdiction;
- (d) “employee”, in relation to a regulated institution, includes

an officer or director of the institution and any person appointed to manage its business.

3.—(1) Voluntary regulated institutions: Any person or entity who does not fall within the definition of regulated institution in regulation 2(2)(a) as specified in paragraphs (i) to (iii) may apply in writing to the Minister to become a voluntary regulated institution for the purposes of these Regulations.

(2) Before granting or refusing such an application, the Minister shall consult the Supervisory Authority and shall consider the ability of the applicant to comply with these Regulations.

(3) In any case where the Minister—

(a) receives written notice from a voluntary regulated institution that it no longer wishes to be regulated and, having consulted the Supervisory Authority, he is satisfied that it is appropriate that it should no longer be a voluntary regulated institution; or

(b) having consulted the Supervisory Authority, no longer considers that a voluntary regulated institution is able to comply with these Regulations,

he shall notify the institution that from the date of the notice it shall cease to be a voluntary regulated institution but must continue to keep, in accordance with regulation 5, all records relating to its business before that date.

(4) The Minister shall from time to time issue a list of voluntary regulated institutions.

4.—(1) Identification procedures: A regulated institution shall establish and maintain identification procedures which require—

(a) that any applicant for business of a type mentioned in paragraph (2) shall produce satisfactory evidence of his identity as soon as practicable after first making contact with the regulated institution; and

(b) that where such satisfactory evidence is not obtained the business in question shall not proceed any further or, in

relation to business mentioned in paragraph (2)(d), shall only proceed in accordance with any directions that may be given for the purpose by a police officer.

(2) This regulation applies to the following types of business—

- (a) the forming of a business relationship;
- (b) a one-off transaction where payment is to be made by or to the applicant of \$10,000 or more;
- (c) two or more one-off transactions which—
 - (i) appear to any person handling the transaction on behalf of the regulated institution to be linked, and
 - (ii) in respect of which the total amount payable by or to the applicant is \$10,000 or more;
- (d) where in respect of any one-off transaction any person handling the transaction on behalf of the regulated institution knows or suspects—
 - (i) that the applicant is engaged in money laundering; or
 - (ii) that the transaction is carried out on behalf of another person engaged in money laundering.

(3) Where an applicant for business is introduced to a regulated institution by another regulated institution or foreign regulated institution, a written assurance from the introducing institution to the effect that evidence of the identity of the applicant has been obtained and recorded under procedures maintained by the introducing institution shall be satisfactory evidence of identity for the purposes of paragraph (1) .

(4) A regulated institution shall establish and maintain identification procedures which require that, in any case where an

applicant for business appears to be acting otherwise than as principal, reasonable measures shall be taken for the purpose of establishing the identity of the person on whose behalf the applicant for business is acting.

(5) Where the applicant for business in a case mentioned in paragraph (4) is another regulated institution or a foreign regulated institution, it shall be reasonable for the regulated institution to accept a written assurance from the applicant for business to the effect that evidence of the identity of the principal has been obtained and recorded under procedures maintained by the applicant for business.

(6) In this regulation—

“\$10,000” means \$10,000 United States currency or any foreign currency equivalent;

“applicant for business” means any person, seeking to form a business relationship, or carry out a one-off transaction, with a regulated institution;

“business relationship” means any arrangement between any person and a regulated institution, the purpose of which is to facilitate the carrying out of financial and other related transactions on a regular basis;

“established business relationship” means a business relationship in relation to which the regulated institution has obtained satisfactory evidence of identity of the applicant for business as required by this regulation;

“one-off transaction” means a transaction carried out other than in the course of an established business relationship.

(7) For the purposes of this regulation, the question as to what constitutes—

(a) satisfactory evidence of identity, or

(b) reasonable measures for establishing the identity of a principal,

may be determined in accordance with the Anti-Money Laundering Guidelines issued by the Supervisory Authority.

5. —(1) Record-keeping procedures: Where a regulated institution obtains evidence of a person's identity as required by regulation 4 it shall keep for the minimum retention period—

- (a) a copy of that evidence; or
- (b) a record indicating the nature of that evidence and providing such information as would enable a copy of it to be obtained.

(2) A regulated institution shall also keep for the minimum retention period such records or copies of records containing such details relating to its business as may be necessary to assist an investigation into suspected money laundering.

(3) A regulated institution shall keep all such records or copies in such a way as to allow for their retrieval in legible form within a reasonable period of time.

(4) For the purposes of this regulation, the minimum retention period in relation to a record held by a regulated institution is—

- (a) if the record relates to the opening of an account with the institution, the period of seven years after the day on which the account is closed;
- (b) if the record relates to the renting by a person of a deposit box held by the institution, the period of seven years after the day on which the deposit box ceases to be used by the person; or
- (c) in any other case, the period of seven years after the day on which the transaction recorded takes place;

but in any case where a police officer has notified a regulated institution in writing that particular records are or may be relevant to an investigation which is being carried out, records shall be retained pending the outcome of the investigation.

(5) For the purposes of this regulation, the question as to what records may be necessary to assist an investigation into suspected money laundering may be determined in accordance with the Anti-Money

Laundrying Guidelines issued by the Supervisory Authority

6.—(1) Internal reporting procedures: A regulated institution shall institute and maintain internal reporting procedures which include provision—

- (a) identifying a person (“the reporting officer”) to whom a report is to be made of any information or other matter which comes to the attention of an employee and which in the opinion of that employee gives rise to a knowledge or suspicion that another person is engaged in money laundering;
- (b) requiring that any such report be considered by the reporting officer in the light of all other relevant information for the purpose of determining whether or not the information or other matter contained in the report does give rise to such a knowledge or suspicion;
- (c) allowing the reporting officer to have access to any other information which may be of assistance to him in considering the report; and
- (d) requiring the reporting officer to disclose to the Financial Intelligence Unit established under the Financial Intelligence Unit Act 2003 the information or other matter contained in a report, where the reporting officer knows or suspects that a person is engaged in money laundering.

7.—(1) Training procedures: A regulated institution shall take appropriate measures from time to time for the purpose of making all relevant employees aware:

- (a) of the Proceeds of Crime Act 2003, these Regulations and any other statutory provision relating to money laundering; and
- (b) of the procedures maintained by the institution in compliance with the duties imposed under these Regulations.

(2) A regulated institution shall provide all relevant employees from time to time with appropriate training in the recognition and handling of transactions carried out by or on behalf of any person who is,

or appears to be, engaged in money laundering.

(3) Training under this regulation shall in addition be given to all new relevant employees as soon as practicable after their appointment.

(4) For the purposes of this regulation, an employee is a relevant employee if, at any time in the course of his duties, he has, or may have, access to any information which may be relevant in determining whether any person is engaged in money laundering.

8. Anti-Money Laundering Guidelines: A regulated institution shall comply with the Anti-Money Laundering Guidelines issued by the Supervisory Authority and any other supplemental Guidelines thereto issued in accordance with section 50(1)(b) of the Proceeds of Crime Act 2003.

9.—(1) Offences: A person who carries on business without complying with the requirements of these Regulations shall be guilty of an offence and liable—

(a) on summary conviction up to a fine of \$50,000 or up to one year imprisonment or both; and an additional fine of \$500 for each day or part thereof that the offence continues after conviction for the offence

(b) on conviction on indictment—

(i) for a first offence, up to a fine of \$250,000;

(ii) for a second or subsequent offence, up to a fine of \$500,000;

(iii) or up to five years imprisonment or both;

an additional fine of \$500 is applicable for each day or part thereof that the offence continues after conviction for the offence.

(2) In determining whether a person has complied with the requirements of these Regulations, the trial court may take account of any relevant guidance issued by the Supervisory Authority.

