

SAINT VINCENT AND THE GRENADINES

STATUTORY RULES AND ORDERS

2002 NO 7

(GAZETTED 22nd January, 2002)

IN EXERCISE of the powers conferred by section 67 of the Proceeds of Crime and Money Laundering (Prevention) Act, 2001(No. 39 of 2001) the Minister makes the following Regulations:

PROCEEDS OF CRIME (MONEY LAUNDERING) REGULATIONS, 2001

Citation and commencement

1. These Regulations may be cited as the Proceeds of Crime (Money Laundering) Regulations, 2002 and shall come into force on the 22nd day of January 2002.

Interpretation

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2. (1) For the purpose of these Regulations, “money laundering”, and other expressions used in the Proceeds of Crime and Money Laundering (Prevention) Act, shall have the meaning given under that Act.

(2) In these Regulations

“employee”, in relation to a regulated institution, includes an officer or director of the institution and any person appointed to manage its business;

“foreign regulated institution” means a person or entity subject to regulation in any other jurisdiction that is at least equivalent to these Regulations;

“Financial Intelligent Unit” means the Financial Intelligent Unit established under the Financial Intelligent Unit Act 2001;

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“regulated institution” means a “financial institution” and “relevant business activity” as stated in Schedule 1 of the Proceeds of Crime and Money Laundering (Prevention) Act 2001 and includes a trust settlement ;

“voluntary regulated institution” means a person or entity whose application to be a voluntary regulated institution has been approved under regulation 3.

Voluntary regulated institution

3. (1) A person or entity who does not fall within the definition of regulated institution may apply in writing to the Minister to become a voluntary regulated institution for the purposes of these Regulations.

(2) The Minister shall, before granting or refusing an application under sub-regulation (1), consult the National Anti-Money Laundering Committee and shall consider the ability of the applicant to comply with these Regulations.

(3) In a 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 National Anti-Money Laundering Committee, he is satisfied that it is appropriate that it should no longer be a voluntary regulated institution; or
- (b) having consulted the National Anti-Money Laundering Committee, 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.

**Identification
procedures**

4. (1) A regulated institution must establish and maintain identification procedures that require

- (a) an applicant for business of a type mentioned in sub-regulation (2) to produce satisfactory evidence of his identity, in accordance with the particulars in the Schedule, as soon as practicable after first making contact with the regulated institution; and
- (b) if satisfactory evidence is not obtained, that the business in question must not proceed any further or, in relation to a business mentioned in sub-regulation (2)(d), shall only proceed in accordance with any direction, by the Financial Intelligence Unit.

(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 ten thousand dollars or more;
- (c) two or more one-off transactions that
 - (i) appear to a 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 ten thousand dollars or more;

(d) where in respect of a one-off transaction a 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) If 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 sub-regulation (1).

(4) Where an applicant for business is introduced to a regulated institution by another regulated institution a written assurance must be given that information as to identity will be exchanged in the event that either the Offshore Finance Authority or the Financial Intelligence Unit requests that information to assist in a criminal investigation.

(5) A regulated institution shall establish and maintain identification procedures which require that, in a 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.

(6) If the applicant for business in a case mentioned in sub-regulation (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.

(7) The requirements in this regulation for an applicant for business to produce satisfactory evidence of his identity does not apply in the case of an established business relationship.

(8) In this regulation

“ten thousand dollars” means ten thousand dollars Eastern Caribbean Currency or any foreign currency equivalent;

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

“business relationship” means an 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.

(9) 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 guidance notes appended to these Regulations.

Record-keeping procedures

5. (1) If 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 any information that would enable a copy of it to be obtained.

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

(3) A regulated institution shall keep all its records or copies in a form 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 the Financial Intelligence Unit has notified a regulated institution in writing that particular records are or may be relevant to an investigation that 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 guidance notes appended to these Regulations.

**Continued
verification of
accounts**

6. (1) Once a regulated institution has verified the identity of an applicant for business no further verification of identity is necessary as long as the applicant for business maintains a business relationship on a regular basis.

(2) A regulated institution shall at all times monitor a business relationship for consistency with the stated account purposes and business and the identified potential account activity.

(3) Where there has been no recent contact with the person and the regulated institution or no transaction within a period of five years, the regulated institution shall confirm the identity of the account holder.

**Internal reporting
procedures**

7. (1) A regulated institution shall institute and maintain internal reporting procedures that include provisions

(a) identifying a person, in this regulation referred to as “the reporting officer”, to whom a report is to be made of any information or other matter that comes to the attention of a person handling relevant financial business and that in the opinion of that person handling relevant financial business gives rise to a knowledge or suspicion that another person is engaged in money laundering;

(b) requiring that a report in paragraph (a) 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 a knowledge or suspicion;

- (c) allowing the reporting officer to have access to any other information that may be of assistance to him considering the report; and
- (d) requiring the reporting officer to disclose to the Financial Intelligence Unit the information or other matter contained in a report, if the reporting officer knows or suspects that a person is engaged in money laundering.

Training procedures

8. (1) A regulated institution shall take appropriate measures from time to time for the purpose of making all relevant employees aware

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- (a) of the Proceeds of Crime and Money Laundering (Prevention) Act 2001, 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 that may be relevant in determining whether a person is engaged in money laundering.

Offences

9. (1) A person who carries on business without complying with the requirements of these Regulations commits an offence and is liable

(a) on summary conviction to a fine of ten thousand dollars;

(b) on conviction on indictment

(i) for a first offence, to a fine of five hundred thousand dollars or to a term of one year imprisonment or both;

(ii) for a second or subsequent offence, to a fine of one million dollars or to a term of three years imprisonment or both.

(2) In determining whether a person has complied with the requirements of these Regulations, the trial court may take account of the guidance notes appended to these Regulations.

(3) In proceedings for an offence under these Regulations it shall be a defence to prove that a person took all reasonable steps and exercised due diligence to comply with the requirements of these Regulations.

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(4) Section 57 of the Proceeds of Crime and Money Laundering (Prevention) Act, 2001 shall apply in relation to offences under these Regulations as it applies to offences under that Act.

Transitional provisions

10. (1) The beneficial ownership of all existing anonymous accounts and account in obviously fictitious names shall be established by all regulated institutions as soon as reasonably practicable and in any event within one year of the coming into force of these Regulations.

(2) An account where the beneficial owner is not established within one year of the coming into a force of these Regulations shall be reported to the Financial Intelligence Unit by the regulated institution.

SCHEDULE

A. Procedure for verification of individuals

1. Where a regulated institution is required to verify the identity of a person, the following information is required:
 - (a) full and correct name of person;
 - (b) permanent address;
 - (c) telephone and fax number (if any);
 - (d) date and place of birth;
 - (e) nationality;
 - (f) occupation and name of employer (if self employed, the nature of the self employment);
 - (g) copy of first four pages of passport or copy of national identity card showing the following details:
 - i. number and country of issuance;
 - ii. issue and expiry date;
 - iii. signature of the person;
 - (h) signature;
 - (i) purpose of the account and the potential account activity;
 - (j) written authority to obtain independent verification of any information provided;
 - (k) source of income or wealth; and
 - (l) written confirmation that all credits to the account are and will be beneficially owned by the regulated institution holder;
 - (m) any documentary or other evidence reasonably capable of establishing the identity of that person.

2. Paragraph 1 shall apply to the verification of identity of the beneficial owners of all regulated institutions.

B. Procedures for verification of corporate entities

Where a regulated institution is required to verify the identity of a corporate entity whether incorporated in Saint Vincent and the Grenadines or elsewhere, the following information is required:

- (a) certified copy of the certificate of incorporation;
- (b) certified copy of the Memorandum and Articles of Association of the entity;
- (c) location of the registered office or registered agent of the corporate entity;
- (d) resolution of the Board of Directors authorising the opening of the account and conferring authority on the person who will operate the account;
- (e) confirmation that the corporate entity has not been struck off the register or is not in the process of being wound up;
- (f) names and address of all officers and directors of the corporate entity;
- (g) names and addresses of the beneficial owners of the corporate entity, except a publicly traded company;
- (h) description and nature of the business including:
 - i. date of commencement of business;
 - ii. products or services provided;
 - iii. location of principal business;
- (i) purpose of the account and the potential parameters of the account including:
 - i. size, in the case of investment and custody accounts;
 - ii. balance ranges, in the case of deposit accounts;
 - iii. the expected transaction volume of the account;

- (j) written authority to obtain independent verification of any information provided;
- (k) written confirmation that all credits to the account are and will be beneficially owned by the regulated institution holder;
- (l) any other official document and other information reasonably capable of establishing the structural information of the corporate entity.

C. Verification of identity of partnerships or unincorporated businesses

Where a regulated institution is required to verify the identity of partnerships or other unincorporated businesses, the following information is required:

- (a) verification of all partners or beneficial owners in accordance with the procedure for the verification of individuals;
- (b) copy of partnership agreement (if any) or other agreement establishing the unincorporated business;
- (c) description and nature of the business including:
 - i. date of commencement of business;
 - ii. products or services provided;
 - iii. location of principal place of business
- (d) purpose of the account and the potential parameters of the account including:
 - i. size in the case of investment and client accounts;
 - ii. balance ranges, in the case of deposit and client accounts;
 - iii. the expected transaction volume of the account;
- (e) mandate from the partnership or beneficial owner authorising the opening of the account and conferring authority on those who will operate the account;
- (f) written confirmation that all credits to the account are and will be beneficially owned by the regulated institution holder;

- (g) any documentary or other evidence reasonably capable of establishing the identity of the partners or beneficial owners.

D. Verification of facilities established by telephone or Internet

1. Where a request is made to a regulated institution, by telephone, Internet, or written communication for a person, corporate entity or partnership to become a regulated institution holder, the regulated institution shall verify the identity of that person, corporate entity or partnership as provided in the relevant verification procedures in items A to C as appropriate.

2. Where the regulated institution has obtained in writing confirmation from a foreign regulated institution located in a country determined by the Offshore Financial Authority as having acceptable due diligence procedures, that the other regulated institution has verified the identity of the person or of the corporate entity specified in paragraph 1, no further verification of identity is necessary.

Dated this 17th day of January 2002.

Dr. the Hon. Ralph Gonsalves
Minister of Finance, Planning,
Economic Development, Labour,
Information, Grenadines and Legal
Affairs