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**GRENADA****ACT NO. 14 OF 2012****I assent,**

4th April, 2012.

CARLYLE ARNOLD GLEAN
Governor-General.

AN ACT to make provision for the establishment of a Department of Government to be known as the Financial Intelligence Unit, for the investigation, detection, prevention and control of financial crimes; and for connected matters.

[By Order].

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Representatives, and by the authority of the same as follows—

PART I**PRELIMINARY****1.—(1)** This Act may be cited as the**FINANCIAL INTELLIGENCE UNIT ACT, 2012.**Short title
and com-
mencement.

(2) This Act shall come into force on a date to be fixed by the Minister by Order in the *Gazette*.

Interpretation.

2. In this Act, unless the context otherwise requires—

“benefit” includes any property, service or advantage, whether directly or indirectly;

“Director” means the person appointed as the director of the Unit pursuant to section 14;

“Commission” means the Anti-money Laundering and Combating Terrorism Financing Commission established pursuant to the provisions of the Proceeds of Crime Act;

“document” includes information recorded in any form and in relation to information recorded otherwise than in a legible form, reference to its production include references to producing a copy of the information in legible form;

“financial crimes” means any offence involving money or other benefits and includes any offence involving fraud, dishonesty, money laundering pursuant to the provisions of the Proceeds of Crime Act or the financing of terrorism, pursuant to the provisions of the Terrorism Act;

“financial institution” has the meaning assigned to it under the Proceeds of Crime Act;

“foreign financial intelligence unit” means an international organization, or an institution, agency or a body of a country or territory outside of Grenada, which performs in a country or

territory, functions corresponding to the functions of the Unit;

“Judge” means a Judge of the Supreme Court;

“Minister” means the Minister responsible for national security;

“money laundering offence” means an offence under the Proceeds of Crime Act, and includes any act which would constitute such an offence if done in Grenada;

“politically exposed person” has the meaning assigned to it under the Proceeds of Crime Act;

“property” includes money and all other property, real or personal, including things in action and other intangible or incorporeal property;

“public body” means—

- (a) any Ministry, Department or other agency of Government;
- (b) a Government company or statutory body;
- (c) an entity that provides services of a public nature, specified by the Minister, by Order, subject to affirmative resolution, as a public body for the purposes of this Act;

“Terrorism” has the meaning assigned to it under the Terrorism Act;

“terrorist offence” means an offence under the Terrorism Act, and includes any act which would constitute such an offence if done in Grenada;

“Unit” means the Financial Intelligence Unit, established pursuant to Part II.

Primary
purposes of Act.

3. The purposes of this Act is to establish a department of Government that is sufficiently independent and has the authority to effectively deal with the multidimensional and complex problem of financial crimes and confer upon it the responsibility to—

- (a) investigate all categories of financial crimes;
- (b) collect information and maintain intelligence databases in relation to financial crimes;
- (c) collect, analyse, assess and disseminate reports and information to bodies with similar objectives;
- (d) develop and maintain a relationship with regional and international associations or organizations, with which it is required to share information;
- (e) exercise its functions with due regard for the rights of citizens; and
- (f) ensure compliance with the Proceeds of Crime Act, the Terrorism Act and any other related enactment.

Savings
for mutual
assistance and
exchange of
information.

4. Nothing in this Act affects the provision of assistance under the Mutual Legal Assistance in Criminal Matters Act, or the exchange of information under the Exchange of Information Act or any regulations made thereunder.

PART II**ESTABLISHMENT OF FINANCIAL INTELLIGENCE
UNIT**

5. The Financial Intelligence Unit established pursuant to the provisions of the Financial Intelligence Unit Act No. 1 of 2003 is hereby continued, subject to the provisions of this Act.

Establishment
of Financial
Intelligence
Unit.

6.— (1) Subject to subsection (2), the Unit shall be the primary institution in Grenada with responsibility for the conducting of investigations concerning financial crimes.

Functions of
Unit.

(2) Without limiting the foregoing and notwithstanding any other law to the contrary, the Unit shall have the power to—

- (a) conduct investigations relating to financial crimes pursuant to the provisions of the Proceeds of Crime Act, the Terrorism Act or any other related enactment;
- (b) collect, request, receive, process, analyse and interpret—
 - (i) information relating to financial crimes;
 - (ii) transaction reports and any other reports made to or received by the Unit under this Act or any other enactment;
 - (iii) trends and typologies for the combating of financial crimes;

- (c) subject to section 12, take such action as it considers appropriate in relation to information and reports referred to in paragraph (b);
- (d) inform persons and bodies, (including foreign financial intelligence departments), that have made reports or provided information for the purposes of the Proceeds of Crime Act, the Terrorism Act or any other enactment, about measures that have been taken with respect to the report or information;
- (e) where the Director considers it necessary in relation to the investigation of a financial institution, disseminate the reports or information referred to in paragraph (b) to—
 - (i) the Commission;
 - (ii) the Attorney-General;
 - (iii) the Commissioner of Police;
 - (iv) the Comptroller of Inland Revenue;
 - (v) the Comptroller of Customs;
 - (vi) the Director of Public Prosecutions; or
 - (vii) any other public body, law enforcement authorities or foreign financial intelligence unit;
- (f) investigate, or cause to be investigated—
 - (i) at the request of the Director of Public Prosecutions, the Commissioner of Police or any other public body; or

- (ii) on the initiative of the Director;

any person who is reasonably suspected of being involved in the commission of a financial crime;

- (g) promote public awareness and understanding of financial crimes and the importance of their elimination from society;
- (h) undertake measures to educate and inform public bodies, relevant authorities and supervisory authorities with respect to—
 - (i) its obligations under this Act;
 - (ii) the nature and extent of activities relating to financial crimes in Grenada; and
 - (iii) action taken to combat activities relating to financial crimes and the effectiveness of these actions;
- (i) formulate and implement management guidelines and policies and an annual plan approved by the Minister, for the control and prevention of financial crimes;
- (j) establish a database and databank for the purpose of detecting and monitoring financial crimes;
- (k) maintain, compile and publish comprehensive statistics on—
 - (i) reports that are made to it under this Act or any other enactment;

- (ii) investigations carried out by the Unit;
 - (iii) the prosecution and conviction of persons for financial crimes generally, and as a result of investigations carried out by the Unit;
 - (iv) judicial orders in connection with proceedings relating to financial crimes;
 - (v) requests for mutual legal assistance or other co-operation, the exchange of information with foreign financial intelligence units, bodies or persons, in Grenada or elsewhere; and
 - (vi) such other matters as the Director considers appropriate;
- (l) manage, safeguard and maintain control over property seized or restrained under this Act or seized, restrained or forfeited under any other enactment, in connection with proceedings relating to financial crimes;
 - (m) carry out such other investigations, perform such functions and enter into any transactions as are assigned to it under this Act or any other enactment or which in the opinion of the Director are necessary or incidental to the proper performance of the functions of the Unit with this Act or any other enactment.

(3) Subject to the provisions of this Act, the Unit may, for the purpose of carrying out its functions—

-
- (a) provide and receive information relating to the commission of a financial crime;
 - (b) provide information on typologies, statistics and other materials relating to financial crimes to public bodies and such other persons as the Director considers appropriate; and
 - (c) consult with and seek assistance from such persons as the Director considers appropriate.

7. The conferral of powers of investigation upon the Unit by this Act, shall not be construed as affecting the exercise of any investigatory powers conferred upon any other authority, whether such powers are similar to these powers or not.

Other investigatory powers not affected.

8. For the due administration and the performance of its functions under this Act or any other Act, the staff of the Unit shall consist of—

Administration and staff.

- (a) a Director, who shall be responsible for the day to day administration of the Unit;
- (b) a Deputy Director;
- (c) financial intelligence unit officers; and
- (d) such other officers and agents as may be necessary for the efficient operation of the Unit.

9. The Director, Deputy Director and financial intelligence unit officers appointed in accordance with the provisions of section 8, shall have powers of arrest, search and seizure, as police officers and customs officers pursuant

Powers of arrest, search and seizure.

to the provisions of the Police Act and the Customs Act respectively, in relation to the carrying out of their duties and functions under this Act or any other Act.

Delegation. **10.**—(1) The Director may delegate in writing, the exercise of any function conferred upon him by or under this Act except the power of delegation, to such person or persons (hereinafter called “the delegate”) as he thinks fit.

(2) A delegation under subsection (1) shall not affect the exercise of such function by or the responsibility of the Director in relation to acts of the delegate carried out in the lawful exercise of the delegated function.

(3) Any act done by or in relation to the delegate pursuant to the delegated function shall have the same effect as if done by or in relation to the Director.

(4) Every delegation under subsection (1) is revocable by the Director and the delegation of a function shall not preclude the performance of that function by the Director.

(5) For the avoidance of doubt, a declaration under subsection (1) shall, in addition to conferring authority to exercise the delegated function, also subject the delegate to the same obligations as would apply under this Act to the Director’s exercise of such function, and accordingly, the delegate shall be liable for any wrongful act or omission of the delegate occurring in the exercise of that authority.

Issuance of
identification
card.

11.—(1) The Minister shall issue to the Director, Deputy Director and each financial unit officer performing functions assigned to the Unit under this Act, with an identification card containing such information as may be prescribed and the officer shall, on entering any place for the purpose of

carrying out any functions pursuant to the provisions of this Act or any other enactment, produce the identification card to the owner or the person in charge of such place.

(2) Where a person is no longer employed with the Unit, he shall return forthwith the identification card provided to him under subsection (1).

(3) A person who contravenes the provisions of subsection (2) commits an offence and is liable on summary conviction to a fine not exceeding ten thousand dollars or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

12.—(1) Every person having an official duty or being employed in the administration of this Act shall—

Obligation of
secrecy and
oath.

- (a) regard and deal with as secret and confidential, all information, books, records or documents relating to the functions of the Unit; and
- (b) upon assuming such duty or employment shall make and subscribe an oath or affirmation before the Governor-General, in the Form set out in the Schedule to this Act.

(2) Every person who had an official duty or was employed in the administration of this Act shall regard and deal with as secret and confidential, all information, books, records or documents relating to the functions of the Unit.

(3) Any person to whom information is communicated pursuant to the provisions of this Act, shall regard and deal with such information as secret and confidential.

(4) Every person referred to in subsection (1) or (2) having possession of or control of any information, book, record or other document commits an offence, if he at any time, communicates, or attempts to communicate, any such information or anything contained in such book, record or document to any person, otherwise than pursuant to—

- (a) powers under this Act or any other enactment;
- (b) a court order; or
- (c) an arrangement entered into for the exchange of information pursuant to the provisions of this Act.

(5) For the purposes of this section, “information” includes information from which a person can be identified, and which is acquired by the Unit in the course of carrying out its functions.

Protection
of persons
exercising
functions under
Act.

13.—(1) No civil or criminal action, suit or other proceedings from breach of confidentiality may be brought, nor any professional sanction for such breach may be taken, against any person, who in good faith, under this Act or any other enactment, provides or transmits information requested by the Unit or submits a report to the Unit.

(2) No suit or other proceedings may be brought or instituted personally against—

- (a) the Director;
- (b) the Deputy Director,
- (c) a financial intelligence unit officer,

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- (d) such other officer appointed pursuant to 8(d);
or
 - (e) a person to whom a function is delegated
under section 10;

in respect of any lawful act done or omission made in good faith, in the course of carrying out the provisions of this Act.

PART III

DUTIES OF DIRECTOR

14.—(1) Subject to section 16, the Director shall be appointed by the Governor-General, acting in accordance with the advice of the Public Service Commission. Appointment and qualification of Director.

(2) The Director shall be appointed from amongst persons who are knowledgeable or experienced in criminal or financial investigation, financial crimes, law, national security or finance.

15. A person is disqualified from being appointed as the Director, and shall not be appointed or continue to be appointed as the Director if he— Disqualification for appointment.

- (a) is or becomes a member of the Senate or of the House of Representatives;
- (b) has been adjudged or otherwise declared a bankrupt under any law in force in any part of the Commonwealth, and has not been discharged;
- (c) has been convicted of any offence involving dishonesty or moral turpitude;

(d) is or becomes a director, officer or servant of, or has a controlling interest in any financial institution;

(e) is or becomes a registered member of any political party, and holds any office and or position in such party; or

(f) is or becomes a politically exposed person.

Tenure of office. **16.** Subject to the provisions of this Act, a person appointed as a Director shall hold office for a period not exceeding five years, on such terms as may be specified in the instrument of appointment, and may be reappointed for periods not exceeding five years at a time.

Removal from office. **17.** The Director may be removed from office—

(a) where any of the circumstances under section 15 arises; or

(b) in accordance with the Public Service Commission Regulations, 1969.

Responsibilities of Director. **18.—(1)** The Director shall be the chief executive officer and accounting officer of the Unit.

(2) As the chief executive officer of the Unit, the Director shall be responsible for the—

(a) formation and development of an efficient and performance-driven administration;

(b) performance of the functions of the Unit under this Act and any other enactment.

(3) The Director has the rank and all the powers of a head of a department within the public service.

19. The Director shall initiate, develop or impose ^{Training.} specific training programmes for investigators, analysts, law enforcement and other personnel charged with responsibilities under this Act, and the programmes shall include—

- (a) methods used in the detection of financial crimes activities;
- (b) techniques used by persons involved in money laundering activities, and terrorist financing activities and appropriate counter-measures;
- (c) the detection and monitoring of the movement of proceeds and property derived from activities relating to financial crimes;
- (d) methods used for the transfer, concealment or disguise of such proceeds of financial crimes, property and instrumentalities;
- (e) the collection of evidence;
- (f) law enforcement techniques;
- (g) legal prosecution and defence; and
- (h) the dissemination of information on activities relating to financial crimes.

PART IV

REPORTS AND INFORMATION

Reports. **20.**—(1) The Director shall advise the Commission every month, on the work of the Unit and in particular, on matters that could affect public policy or the priorities of the Unit.

(2) The Director shall, within three months after the end of each financial year or within such longer period as the Minister may in special circumstances approve, cause to be made and transmitted to the Minister, a report dealing generally with the activities of the Unit during the preceding financial year.

(3) The Minister shall cause a copy of the report to be laid on the table of the House of Representatives and the Senate.

(4) The Director shall not disclose any information pursuant to this section, that would directly or indirectly identify any person who provided a report to the Unit, or a person about whom a report was provided under this Act.

Agreements and arrangements. **21.**—(1) Subject to the provisions of this Act, the Director may, with the approval of the Minister, enter into a contract, memorandum of understanding or other agreement or arrangement with a foreign financial intelligence unit or association of such units regarding the exchange of information or other cooperation with the Unit relevant to the investigation or prosecution of a financial crime.

(2) Agreements or arrangements entered into under this section shall—

- (a) provide that the information or other cooperation shall be shared on the basis of reciprocity or mutual agreement, and consistent with procedures understood by the party making the request, (hereinafter referred to as “the requesting party”);
- (b) restrict the use of the information or other cooperation to purposes relating to investigating or prosecuting of financial crimes; and
- (c) stipulate, that the information or other cooperation be treated in a confidential manner, and not be further disclosed or made use of without the express consent of the Unit.

(3) The Director may exchange information or provide other cooperation, with a foreign financial intelligence unit or an association of units to any of the authorities mentioned under subsection (1) and (2) only if the Director—

- (a) has reasonable grounds to believe that the information or other cooperation would be relevant to an investigation or a prosecution for a financial crime; and
- (b) has, in accordance with this section entered into a contract, memorandum of understanding or other agreement or arrangement with such foreign financial intelligence units or association of units in accordance with this section.

(4) For greater certainty, information may be disclosed to a foreign financial intelligence unit or association of units upon a request made by such unit.

(5) Pursuant to the provisions of this section, the Director may exchange with a foreign financial intelligence unit or an association of units, information necessary to enable such body to exercise regulatory functions, including the conduct of civil, criminal or administrative investigations and proceedings to enforce laws, regulations and rules administered by the said unit.

(6) The Director may decline to facilitate the exchange of information unless the foreign financial intelligence unit or an association of such units undertakes to make such contribution towards the cost of the exercise as the Director considers appropriate.

(7) Nothing in the foregoing provisions of this section authorizes a disclosure by the Director unless—

- (a) the Director is satisfied that the foreign financial intelligence unit is subject to adequate legal restrictions or further disclosures, including the provision to the Director of—
 - (i) an undertaking of confidentiality on the part of the foreign financial intelligence unit or an association of units;
 - (ii) an undertaking by the foreign financial intelligence unit or an association of units not to disclose the information provided, without the consent of the Director; or

- (b) the Director is satisfied that the assistance requested by the foreign financial intelligence unit or an association of units is required for the purposes of the functions of the unit, including the conduct of civil, criminal or administrative investigations or proceedings to enforce laws administered by the unit.

(8) Where, in the opinion of the Director, it appears necessary, in relation to any request for information received from a foreign financial intelligence unit or an association of units, to invoke the jurisdiction of the Court, the Director shall—

- (a) immediately notify the Attorney-General of the particulars of the request; and
- (b) send to the Attorney-General, copies of all documents relating to the request;

and the Attorney-General shall be entitled to appear or take part in any proceedings, or in any appeal from such proceedings, arising directly or indirectly from such request.

(9) Where, pursuant to a request for the exchange of information, the Director in accordance with this Act, supplies information to a requesting party, the information supplied shall be deemed to be lawfully given under this Act; and no action, whether civil or criminal shall be brought against any person for the supplying of such information, on the ground that such information was unauthorized or unlawfully given, or that such person was otherwise acting illegally or improperly.

(10) Subject to the provisions of this Act, the Minister may enter into any agreement or arrangement in writing with—

- (a) the Government of a foreign State;
- (b) an international organisation; or
- (c) a foreign financial intelligence unit or an association of units;

regarding the exchange of information relevant to the investigation or prosecution of a financial crime.

(11) For the purpose of an agreement under subsection (10), the Minister shall be satisfied as to the like matters as those which the Director is required to be satisfied of in relation to an agreement or arrangement with a foreign financial intelligence unit or an association of units under this section.

(12) The Minister may make regulations concerning the exchange of information relevant to the investigation or prosecution of a financial crime.

PART V

PRODUCTION AND OBTAINING OF INFORMATION

Obtaining
information.

22.—(1) For the purposes of this Part, “authorized officer” means—

- (a) the Director;
- (b) Deputy Director; or

- (c) a financial intelligence unit officer who is authorized by the Director for the purposes of this Part.

(2) Where an authorized officer has reasonable grounds for suspecting that a person has possession or control of any information, book, record or document which is relevant to an investigation of a financial crime, the authorized officer may serve a notice in writing, on such person requiring that person to provide him with such information as he may reasonably require, within the time limit stated in the notice, for the purposes of the investigation.

(3) A notice served under sub-section (1) may require the person upon whom it is served, in relation to the investigation of a financial crime, to—

- (a) produce to the authorized officer named in the notice, any information, book, record or document of the kind referred to in subsection (1) that is in the person's possession or control;
- (b) make any such information, book, record or document that is in the person's possession or control available to the authorized officer, as the case may be, for inspection; or
- (c) answer questions either at once or, at such time and place as may be specified in the notice.

(4) A notice issued pursuant to subsection (1) shall not;

- (a) be made for production in respect of accounting records used in the ordinary business of a

financial institution, including ledgers, day-books, cash books and account books; or

- (b) require a person to produce, give access to or answer questions relating to any information, book, record or document which a person would be entitled to refuse to produce, give access to or answer questions in relation thereto on the grounds of legal professional privilege.

(5) Where any book, record or document is produced by virtue of a notice issued pursuant to subsection (1); and is in the possession of the authorized officer pursuant to this section,—

- (a) the person upon whom notice was served shall, during any period in which the book, record or document are in the custody of the authorized officer, be permitted upon request, to make copies thereof or to take extracts therefrom at such times as may be agreed between that person and the authorized officer; and
- (b) the authorized officer shall—
 - (i) give to the person to whom the notice is issued, a receipt for the book, record or document and a copy of the document certified by a Justice of the Peace as a true copy of that book, record or document;
 - (ii) take such steps as may be necessary to ensure the safe keeping of such book, record or document; and

- (iii) return such book, record or document to the person concerned within thirty days after the date on which such book, record or document was received by virtue of the notice.

(6) Where a book, record or document is produced or made available to an authorized officer pursuant to a notice issued under subsection (1), the authorized officer may—

- (a) in the case of a book, record or document produced—
 - (i) inspect it;
 - (ii) take extracts from it; or
 - (iii) make copies of it; or
- (b) in the case of a book, record or document made available—
 - (i) inspect it;
 - (ii) take extracts from it; or
 - (iii) make copies of it;

save and except that such book, record or document or information, or document obtained as a direct or indirect consequence of the production or making available of the book, record or document, shall not be admissible against the person in any criminal proceedings, except for an offence under subsection (8) (b).

(7) An obligation to maintain secrecy or any restriction on the disclosure of information or the production of a book, record or document imposed on any person shall not—

- (a) be relied upon as a bar to complying with a notice issued under subsection (1); or
- (b) excuse any person from producing or making available any book, record or document when required to do so under this section on the grounds that the production or the making available of the book, record or document would be in breach of an obligation, whether imposed by law or otherwise, on the person not to disclose the existence or contents of the book, record or document.

(8) A person who—

- (a) refuses to comply with a notice issued under subsection (1); or
- (b) knowingly provides false or misleading information in purported compliance with such notice,

commits an offence and is liable on summary conviction to a fine not exceeding fifty thousand dollars, or to a term of imprisonment not exceeding two years or to both such fine and imprisonment.

Search warrant.

23.—(1) Where an authorized officer has reasonable grounds for suspecting that a person has committed or is likely to commit a financial crime and that a book, record or other document to which section 22 relates is in any

premises, the authorized officer may apply under subsection (2) to a Magistrate or Judge in Chambers for a warrant to search the premises.

(2) Subject to subsections (3) and (4), a Magistrate or Judge in Chambers may, on an application made under subsection (1), issue a warrant authorizing the authorized officer named in the warrant with such assistance as may be necessary and reasonable to—

- (a) enter the premises;
- (b) search the premises for such book, record or other document; and
- (c) seize and detain any book, record or other document found in the course of the search which, in the opinion of the authorized officer, is likely to be of substantial value (whether by itself or together with other documents) to the investigation in respect of which the application is made.

(3) A Magistrate or Judge in Chambers shall not issue a warrant under subsection (2) unless he is satisfied that—

- (a) a notice has been issued under section 22 and has not been complied with;
- (b) a notice under section 22 in respect of the book, record or other document would be unlikely to be effective because there are reasonable grounds for suspecting that such notice would not be complied with;

- (c) it is not practicable to communicate with any person having the power to grant entry to the premises;
 - (d) entry to the premises will not be granted unless a warrant is produced; or
 - (e) the relevant investigation might be seriously prejudiced unless the authorized officer is granted immediate access to the book, record or other document without notice to any person.
- (4) A search warrant shall not be issued under subsection (2) unless—
- (a) the authorized officer has given the Magistrate or Judge in Chambers, either orally or by affidavit, any further information that the Magistrate or Judge in Chambers requires concerning the grounds on which the warrant is sought; and
 - (b) the Magistrate or Judge in Chambers is satisfied that the warrant should be issued.
- (5) A search warrant issued under subsection (2) shall state—
- (a) the purpose for which it is issued, including a reference to the financial crime that has been, or is likely to be committed;
 - (b) whether entry is authorized to be made at any time of the day or night or during specified hours of the day or night;

- (c) a description of the kind of book, record or other document authorized to be seized; and
- (d) the date, not being later than twenty-eight days after the day of issue of the warrant upon which the warrant ceases to have effect.

(6) A warrant issued pursuant to subsection (2) shall be deemed to authorize an authorized officer to seize and retain—

- (a) any book, record or other document although not of the kind specified in the warrant referred to in subsection (1), which is likely to be of substantial value (whether by itself or together with other books, records or documents) to the investigation for the purpose of which the warrant was issued; and
- (b) any book, record or other document that the authorized officer believes, on reasonable grounds, will afford evidence as to the commission of a financial crime.

(7) An authorized officer shall not seize—

- (a) any accounting records used in the ordinary business of a financial institution, including ledgers, day books, cash books and accounts books; or
- (b) any document which is subject to legal professional privilege.

(8) An authorized officer may, upon request, make copies of any book, record or other document referred to in subsection (7) or take extracts therefrom.

(9) Any book, record or other document seized under the authority of a warrant may be retained for as long as it is necessary to retain it, in its original form, in connection with the investigation for the purposes of which, the warrant was issued – Provided that the Director has reasonable grounds for believing that the book, record or other document–

- (a) may need to be produced for the purposes of any legal proceeding; and
- (b) might otherwise be unavailable for those purposes,

the book, record or other document may be retained until the proceedings are concluded.

(10) In this section “premises” includes any place, and in particular any building, receptacle or vehicle.

Freezing Order.

24.—(1) Where during the investigation of a financial crime, an authorized officer has reasonable grounds for suspecting that a person–

- (a) has committed, or is about to, or is likely to commit a financial crime;
- (b) was involved in the commission, or is about to be involved in the commission, of a financial crime; or
- (c) has benefited directly or indirectly, or is about to benefit directly or indirectly, from the commission of a financial crime;

and that the proceeds in the bank account of such person relate to any of the circumstances provided for in paragraphs (a) to (c), the Director may make an application to a Judge in Chambers for an order, (hereinafter referred to as a “freezing order”) mandating a financial institution to restrain from carrying out any financial transaction or financial dealings of any kind in relation to such account or other financial dealings of any kind with the person.

(2) An application for a freezing order may be made without notice and shall be in the prescribed manner.

(3) Subject to the provisions of this section, a freezing order shall only be made if the Judge is satisfied that a person referred to under subsection (1)–

- (a) has committed, or is about to, or is likely to commit a financial crime;
- (b) was involved in the commission, or is about to be involved in the commission, of a financial crime; or
- (c) has benefited directly or indirectly, or is about to benefit directly or indirectly, from the commission of a financial crime.

(4) A freezing order granted under this section may be for such period as the Judge may stipulate in the order and may be subject to such conditions as the Judge thinks fit; save and except that the Director may make an application before the expiration of such period, pursuant to subsection (1), for an extension of the period of operation of the order.

(5) A copy of the freezing order shall be served on the person affected by the order in such manner as the Court directs or as may be prescribed by rules of Court.

(6) A person who is aggrieved by a freezing order issued under this section may make an application, to a Judge in Chambers to vary or discharge the order and shall within twenty four hours after making the application, serve notice on the Director to be a party to the proceedings.

(7) A freezing order remains in force until—

- (a) it ceases to be in force in accordance with subsection (4); or
- (b) it is varied or discharged by a Judge pursuant to an application made under subsection (7).

(8) Where the Director, in the investigation of a financial crime has reasonable grounds to believe that—

- (a) a financial crime has been committed or is likely to be committed by a person;
- (b) urgent action needs to be taken to freeze the bank account of such person to prevent the immediate transfer of funds from the bank account of such person; and
- (c) the relevant investigation will be prejudiced if he does not act with immediate effect;

he may by notice in writing, mandate a financial institution to freeze the bank account of such person in the manner provided for under subsection (9).

(9) The maximum period for which notice issued by the Director pursuant to subsection (8) shall remain in effect is seventy two hours and if the Director does not obtain from the Court within such time a freezing order pursuant to subsection (1), the notice shall expire and cease to have effect at the end of the seventy two hour period.

(10) A financial institution, which fails to comply with the provisions of this section, commits an offence and is liable, on summary conviction, to a fine not exceeding two hundred and fifty thousand dollars.

(11) In this section, “funds” means monies, or any monetary or negotiable instrument deposited or held in an account.

25.—(1) Where during the investigation of a financial crime, the Director has reasonable grounds for suspecting that a person— Restraint Order.

- (a) has committed, or is about to, or is likely to commit a financial crime;
- (b) was involved in the commission of, or is about to be involved in the commission of, a financial crime;
- (c) has benefited directly or indirectly, or is about to benefit directly or indirectly, from the commission of a financial crime,

the Director may apply to a Judge in Chambers for an order (hereafter called a “restraint order”) to restrain the person from completing any transaction or dealing relating to the property of any person.

(2) An application for a restraint order may be made without notice and should be in writing.

(3) A restraint order may be made if the Judge is satisfied that a person referred to in sub-section (1)–

- (a) has committed, or is about to, commit a financial crime;
- (b) was involved in the commission, or is about to be involved in the commission of, a financial crime;
- (c) has benefited directly or indirectly, from the commission of a financial crime.

(4) A restraint order granted under this section may be for such period as the Judge may stipulate in the Order and may be subject to such conditions as the Judge thinks fit save and except that the Director may make an application before the expiration of such period for an extension of the period of operation of the order.

(5) Before making a restraint order, the court may require the State to give such undertakings as the Court considers appropriate with respect to the payment of damages or costs or loss, in relation to the making and extension of the order.

(6) For the purposes of this section, the Director may, after consultation with the Attorney-General, on the behalf of the State, give to the Court such undertakings with respect to the payment of damages or costs, or both, as are required by the Court.

(7) Before making a restraint order, the Court may require notice to be given to, and may hear, any person who, in the opinion of the Court, appears to have an interest in any property to which the order relates, unless the Court is of the opinion that giving such notice before making the order would result in the transfer, disposal, dissipation or reduction in the value of the property.

(8) A copy of a restraint order shall be served on a person affected by the order in such manner as the Court directs or as may be prescribed by rules of court.

(9) A person who knowingly contravenes a restraint order by disposing of or otherwise dealing with property that is subject to the restraint order commits an offence and shall be liable, on summary conviction, to a fine not exceeding two hundred and fifty thousand dollars.

(10) Where a restraint order is made against property and—

- (a) a transaction or dealing in contravention of the restraint order takes place; and
- (b) the transaction or dealing was not for sufficient consideration or in favour of a person who acted in good faith and without notice,

the Director may apply to the Court for an order that the transaction or dealing be set aside.

(11) The Court may, on the application of the Director under subsection (2)—

- (a) order the immediate repayment of any funds released; or

- (b) order that the transaction or dealing be set aside as from the date of the order under this subsection, and declare the respective rights of any persons who acquired interests on or after the day on which the transaction or dealing took place, and before the date of the order under this subsection.

(12) A person who is aggrieved by the making of a restraint order may apply to a Judge in Chambers to vary or discharge the order and shall within 24 hours after making the application, serve notice on the Director to join the proceedings.

(13) A restraint order remains in force until—

- (a) it ceases to be in force under subsection (4);
or
- (b) it is varied or discharged by a Judge pursuant to an application made under section (1)

Monitoring
Orders.

26.—(1) A Judge in Chambers may, on an application made to him by an authorized officer, make an account monitoring order (hereinafter referred to as a “monitoring order”) if the Judge is satisfied that each of the requirements specified in subsection (2) for making the order is fulfilled.

(2) The requirements for making a monitoring order are that—

- (a) there are reasonable grounds for suspecting that the person specified in the application for the order—

- (i) has committed or is about to commit a financial crime; or
 - (ii) was involved in the commission, or is about to be involved in the commission of, such an offence; and
 - (iii) has benefited directly or indirectly, or is about to benefit directly or indirectly, from the commission of that offence;
- (b) the account information which may be provided in compliance with the order is likely to be of substantial value, whether or not by itself, to the investigation for the purposes of which the order is sought; and
 - (c) it is in the public interest for the account information to be provided, having regard to the benefit likely to accrue to the investigation if the information is obtained.

(3) An application for a monitoring order shall state that the order is sought—

- (a) for the purposes of an investigation into a financial crime, being carried on in relation to a person specified in the application; and
- (b) against a financial institution specified in the application in relation to the account information of the description so specified.

(4) For the purposes of this section, account information includes information relating to an account held at, or a financial transaction or other financial dealing conducted

with, the financial institution specified in the application, by the person specified in the order, whether solely or jointly with another.

(5) A monitoring order—

- (a) is an order that the financial institution specified in the application for the order shall, for the period stated in order, provide account information of the description specified in the order to an authorized officer, in the manner and at or by the time or times stated in the order; and
- (b) shall specify accounts held, or financial transactions or other financial dealings conducted within a specified period, by the person specified in the order at the financial institution so specified.

(6) The period referred to in subsection (5) (a) shall not exceed the period of ninety days beginning with the day on which the order is made—

Provided that the Judge may extend the period for a further ninety days, upon the application of an authorized officer, if satisfied that the circumstances so warrant.

(7) A financial institution that is notified of a monitoring order and knowingly—

- (a) contravenes the order; or
- (b) provides false or misleading information or documents in purported compliance with the order;

commits an offence and is liable on summary conviction to a fine not exceeding five hundred thousand dollars..

27—(1) A financial institution that is, or has been, subject to a monitoring order shall not disclose the existence or the operation of the order to any person except—

Non disclosure
of monitoring
orders.

- (a) an officer or agent of the institution, for the purpose of ensuring that the order is complied with; or
- (b) an attorney-at-law, for the purpose of obtaining legal advice or representation in relation to the order.

(2) Subject to subsection (3), a person referred to in subsection (1)(a) or (b) to whom disclosure of the existence or operation of a monitoring order has been made shall not-

- (a) disclose the existence or operation of the order, except to another person referred to in subsection (1), for the purpose of—
 - (i) ensuring that the order is complied with or obtaining legal advice or representation in relation to the order, if the disclosure is made by an officer or agent of the institution; or
 - (ii) giving legal advice or making representations in relation to the order, if the disclosure is made by an attorney-at-law; or

- (b) make a record of, or disclose the existence or the operation of, the order in any circumstance even when he ceases to be a person referred to in subsection (1).

(3) Nothing in subsection (2) prevents the disclosure by a person referred to in subsection (1)(a) of the existence or operation of a monitoring order—

- (a) for the purposes of, or in connection with, legal proceedings; or
- (b) in the course of proceedings before a court.

(4) A person referred to in subsection (1)(b) shall not be required to disclose to any court the existence or operation of a monitoring order.

(5) An authorized officer shall not—

- (a) disclose the existence or operation of a monitoring order to any person except—
 - (i) an officer or agent of the institution on which the order is served, for the purpose of ensuring compliance with the order; or
 - (ii) an attorney-at-law, for the purpose of obtaining legal advice or representation in relation to the order;
- (b) make a record of, or disclose the existence or the operation of the order in any circumstance

when he ceases to be a person referred to in section 26(1).

(6) A person who contravenes subsection (1), (2) or (5) commits an offence and is liable on conviction to a fine not exceeding one hundred thousand dollars or to a term of imprisonment not exceeding two years.

(7) A reference in this section to disclosing the existence or operation of a monitoring order to a person includes a reference to disclosing information to the person from which that person could reasonably be expected to infer the existence or operation of the monitoring order.

28. Where, pursuant to any provision of this Part, an authorized officer makes copies of any book, record or other document, such copies shall, if certified by a Justice of the Peace as true copies, be admissible in evidence as proof of the matter therein recorded, in any case in which the original document would have been so admissible.

Certification of copies of documents.

29. The Unit shall retain a record of all information that it receives for a minimum of eight years after the information is received.

Unit to retain records.

30. The Unit may initiate or continue any investigation and report thereon under this Act, notwithstanding any civil legal proceedings relating to the subject matter of the investigation.

Power to continue investigation despite legal proceedings.

PART VI**OFFENCES AND PENALTIES**

Offences and penalties.

31.—(1) A person commits an offence if that person—

- (a) willfully delays, threatens, assaults or obstructs a member of staff of the Unit acting in the execution of his duties or powers under this Act, or any regulations made hereunder;
- (b) without reasonable excuse, refuses or neglects to answer any question, or to furnish any information, or to produce any book, record or other document required by this Act or any regulations made hereunder, when required to do so by an authorized officer;
- (c) knowingly makes any false declaration or false statement of a material nature in relation to any information provided under this Act, or any regulations made hereunder;
- (d) in purported compliance with a requirement imposed on him under this Act, provides information which he knows to be false or misleading in a material particular, or recklessly provides information which is false or misleading in a material particular;
- (e) without reasonable excuse, fails to keep any record or other document required by this Act, or any regulations made hereunder.

(2) A person who commits an offence under subsection (1) is liable, on summary conviction, to a fine not exceeding two hundred and fifty thousand dollars, or to imprisonment for a term not exceeding one year, or to both such fine and imprisonment.

(3) Every offence under this Act or Regulations may be tried summarily before a Magistrate.

32.—(1) Where an offence under this Act committed by a body corporate is proved— Offence by body corporate.

- (a) to have been committed with the consent or connivance of any director, manager, secretary, or other similar officer of the body corporate or any person who was purporting to act in that capacity; or
- (b) to be attributable to the failure of any such director, manager, secretary, or other officer or person, to exercise all such reasonable diligence as he ought in the circumstances to have exercised to prevent the offence, having regard to the nature of his powers and all the circumstances,

the director, manager, secretary or other officer or person as aforesaid, as well as the body corporate commit that offence, and shall be liable to be proceeded against and punished accordingly.

(2) For the purposes of this section, a person shall be deemed to be a director of a body corporate if he occupies in relation thereto, the position of a director, by whatever name called, or is a person in accordance with whose directions or instructions (not being directions or instructions in a professional capacity only) the directors and the body corporate or any of them, act.

PART VII**GENERAL**

Director may
require records
to be kept.

33. The Director may require any person to keep such books, records, documents or things relating to the Unit, as may be prescribed.

Regulations.

34. The Minister may make regulations generally for giving effect to the provisions of this Act and, without prejudice to the generality of the foregoing, the Regulations may—

- (a) amend the Schedule;
- (b) provide for the practice and procedure to be adopted in relation to investigations under this Act;
- (c) require financial and other institutions as may be prescribed to establish and maintain procedures relating to the identification of clients, the keeping of records, the making of reports and training;
- (d) prescribe such other matters as may be required by this Act to be prescribed.

Repeal.

35. The Financial Intelligence Unit Act, 2003 is hereby repealed.

36.—(1) Notwithstanding the repeal of the Financial Intelligence Unit Act 2003 (hereinafter referred to as the “repealed Act”)— Transitional.

- (a) property purchased by, belonging to or vested in the Financial Intelligence Unit under the repealed Act and all interests, rights and easements into or out of that property shall, without conveyance, assignment or transfer, belong to and be vested in the Unit continued under this Act, subject to all and any trusts and to all debts, liabilities and obligations affecting the same and to any enactment regulating the management, maintenance, control, supervision and dealing with the property; and
- (b) any investigation which immediately before the date of commencement of this Act, is pending before or otherwise being dealt with by the Financial Intelligence Unit under the repealed Act, may as from that date be continued by the Unit.

(2) Every person who, immediately before the appointed day, was employed by the Financial Intelligence Unit under the repealed Act shall, with effect from that date, be deemed to be transferred to the Unit on the same terms and conditions as those on which that person was employed immediately before that date.

SCHEDULE

(Section 12)

Oath to be taken (Affirmation to be made) by Persons appointed to the Staff of the Unit.

I, A. B., having been appointed (title of post) do solemnly (swear) (affirm) that—

- (a) I shall bear true faith and allegiance to Grenada and will uphold the Constitution and the law;
- (b) I will conscientiously, impartially and to the best of my knowledge, judgment and ability, perform the functions assigned to me under the Financial Intelligence Unit Act; and
- (c) I will not, on any account, at any time whatsoever, except in so far as provisions of this Act authorize, directly or indirectly, reveal any information or the nature or contents of any documents communicated to me under this Act.

So help me God.

Passed by the House of Representatives on this 10th day of February 2012.

RAPHAEL DONALD
Acting Clerk to the House of Representatives.

Passed by the Senate this 28th day of February, 2012.

RAPHAEL DONALD
Acting Clerk to the Senate.

GRENADA