

CHAPTER 102A
FINANCIAL INTELLIGENCE UNIT ACT

• Act • Subsidiary Legislation •

ACT

Act No. 1 of 2003

Amended by

Act No. 20 of 2008

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CHAPTER 102A
FINANCIAL INTELLIGENCE UNIT ACT

An Act to provide for the establishment of a Financial Intelligence Unit, which will be the national centralised unit in Grenada for the collection, analysis and dissemination of suspicious transaction information to competent authorities.

[Act No. 1 of 2003 amended by Act No. 20 of 2008.]

[31st January, 2003.]

1. Short title

This Act may be cited as the Financial Intelligence Unit Act.

2. Commencement

This Act comes into force on the 31st day of January, 2003.

3. Interpretation

In this Act—

“business plan”, for a financial year, means—

- (a) the business plan approved under section 11A; and
- (b) all amendments to the business plan approved under that section,

for the financial year;

“Director” means the director of the Financial Intelligence Unit, appointed pursuant to section 4;

“Financial Intelligence Unit” means the Financial Intelligence Unit pursuant to section 4;

“financial year” means the financial year referred to in section 11;

“Foreign Financial Intelligence Unit” means such body or bodies outside of Grenada as may be designated by the order of the Minister and which performs functions similar to those of the Financial Intelligence Unit;

“Minister” means the Minister responsible for the administration of national security.

4. Establishment of the Financial Intelligence Unit

- (1) There is hereby established a body to be known as the Financial Intelligence Unit.
- (2) The Financial Intelligence Unit shall consist of—
 - (a) a director appointed in writing by the Minister who shall be the chief executive officer of the Financial Intelligence Unit;
 - (b) such number of police officers selected by the Commissioner of Police and Customs Officers appointed by the Comptroller of Customs on the recommendation of the Director and of the Commissioner of Police and the Comptroller of Customs;
 - (c) such consultants having suitable qualifications and experience to provide services when necessary to the Financial Intelligence Unit, appointed in writing by the Minister;
 - (d) such other personnel as the director considers necessary.

5. Powers of arrest

Police officers seconded to the Financial Intelligence Unit shall retain their powers of arrest search and seizure under the Police Act, Chapter 244, and customs officers shall retain their powers of arrest search and seizure under the Customs Act, Chapter 75A.

6. Functions of the Financial Intelligence Unit

(1) In the exercise of its functions under subsection (2), the Financial Intelligence Unit shall act as the agency responsible for receiving, analysing, obtaining and disseminating information which relates to or may relate to the proceeds of the offences created by the Proceeds of Crime Act, Chapter 256A.

(2) Without limiting the foregoing and notwithstanding any other law to the contrary the Financial Intelligence Unit—

- (a) shall receive all suspicious transaction reports as are required to be made pursuant to the provisions of the Proceeds of Crime Act, Chapter 256A, which are relevant to its functions, including information from any Foreign Financial Intelligence Unit;
- (b) may require the production of such information that the Financial Intelligence Unit considers necessary to fulfil its functions;

- (c) shall retain a record of all information that it receives for a minimum of five years after the information is received;
- (d) shall provide information, subject to such conditions as may be determined by the Director, to the Commissioner of Police and to the Director of Public Prosecutions where the information may relate to the commission of an offence;
- (e) may provide information relating to the commission of an offence or information concerning suspicious transaction or suspicious activity reports to any Foreign Financial Intelligence Unit, subject to any conditions as may be considered appropriate by the Director;
- (f) may enter into any agreement or arrangement, in writing, with a Foreign Financial Intelligence Unit which the director considers necessary for the discharge of the functions of the Financial Intelligence Unit;
- (g) shall inform financial and business institutions of their obligations under measures that have been or might be taken to detect, prevent and deter the commission of offences under the Proceeds of Crime Act, Chapter 256A.

(3) Any person failing or refusing to provide such information as is required by subsection (2)(a) is guilty of an offence and shall be liable, on summary conviction, to a fine not exceeding fifty thousand dollars or to imprisonment for a term not exceeding two years, or to both such fine and imprisonment.

7. No liability

No action shall lie against the Minister, Director, officers or personnel of the Financial Intelligence Unit or any person acting under the direction of the director for anything done or omitted to be done in good faith and in the administration or discharge of any functions, duties or powers under this Act.

8. No criminal or civil liability for information

(1) No proceedings for breach of banking or professional confidentiality may be instituted against any person or against directors or employees of a financial institution who in good faith submit suspicious transaction or suspicious activity reports to the Financial Intelligence Unit in accordance with the Proceeds of Crime Act, Chapter 256A.

(2) No civil or criminal liability action may be brought nor any professional sanction may be taken against any person or against directors or employees of a financial institution who in good faith transmit information or submit reports to the Financial Intelligence Unit.

9. Confidentiality

(1) Any person who obtains information in any form as a result of his or her connection with the Financial Intelligence Unit shall not disclose that information to any person except so far as it is required or permitted under this Act or other written law.

(2) Any person who wilfully discloses information to any person in contravention of subsection (1) above shall be guilty of an offence and shall be liable, on summary conviction, to a fine not exceeding fifty thousand dollars or to imprisonment for a term not exceeding two years, or to both such fine and imprisonment.

10. Reporting

- (1) The Director shall—

- (a) every month advise the Supervisory Authority of the work of the Financial Intelligence Unit and in particular on matters that could affect public policy or the priorities of the Financial Intelligence Unit;
- (b) *Repealed*
- (c) prepare and submit interim reports every three months reviewing the work of the Financial Intelligence Unit.

(2) The Minister shall lay or cause to be laid a copy of every annual report on the table of the House of Parliament.

11. Financial year

The financial year of the Financial Intelligence Unit is the twelve months period beginning on the first day of January and ending on the thirty-first day of December.

11A. Annual business plan

(1) The Board shall, no later than four months before commencement of each financial year and in such form as the Minister requires, prepare in respect of the financial year, and submit to the Minister, a proposal for a business plan for the financial year that must contain—

- (a) a statement of the Financial Unit's objectives and priorities in carrying out its responsibilities for the financial year and the following two financial years;
- (b) a comprehensive business plan that—
 - (i) shows how resources, including but not limited to financial resources, will be allocated to meeting the objectives and priorities of the Financial Unit for the financial year, and
 - (ii) includes *pro forma* financial statements as required by the Minister;
- (c) a comparison of the *pro forma* financial statements with the actual financial statements for the previous financial year;
- (d) a statement as to how the Board proposes to measure its performance in carrying out its responsibilities in the financial year; and
- (e) any other information required by the Minister by written notice to the Board.

(2) The Minister may, on request of the Board, extend the time for submitting a proposal for a business plan.

(3) The Minister shall, as soon as practicable, consider the proposal for a business plan and may, after consulting with the Minister of Finance—

- (a) approve the proposal as submitted;
- (b) with the approval of the Board, amend the proposal and approve it as amended; or
- (c) refer the proposal back to the Board with directions that the Board take any further action with respect to it that the Minister considers appropriate.

(4) Where the Minister refers the proposal for a business plan back to the Board under subsection (3)(c), he or she shall provide the Board with his or her reasons for not approving it.

(5) A proposal for a business plan that is referred back to the Board under subsection (3)(c) shall be resubmitted to the Minister as directed by the Minister and, when it is resubmitted, subsections (3) and (4) apply.

(6) When a proposal in relation to a financial year is approved by the Minister, it becomes the business plan for that financial year.

(7) The Board—

- (a) may, of its own motion, submit to the Minister a proposal to amend an approved business plan; and
- (b) shall on request of the Minister and within the time required by the Minister, submit to the Minister a proposal to amend an approved business plan.

(8) Subsections (3), (4), (5) and (6) apply to proposal submitted to the Minister under subsection (7).

11B. Board obligated to implement business plan

The Board shall—

- (a) in each financial year implement the business plan for the financial year; and
- (b) establish a mechanism for monitoring the implementation of the business plan.

12. Accounts

(1) The Board shall—

- (a) keep proper books of account of its income and other receipts and expenditures; and
- (b) ensure that—
 - (i) all monies received are promptly brought to account,
 - (ii) all payments out of its money are correctly made and properly authorised, and
 - (iii) adequate control is maintained over its property and over the incurring of liabilities by the Financial Unit.

(2) The books of account kept under subsection (1) shall—

- (a) be sufficient to record and explain the Financial Unit's transactions;
- (b) enable the Financial Unit's financial position to be determined with reasonable accuracy at any time; and
- (c) be sufficient to enable financial statements to be prepared and audited in accordance with this section.

(3) Within three months after the end of each financial year, the Board shall cause to be prepared—

- (a) the following financial statements together with proper and adequate explanatory notes—
 - (i) a statement of the assets and liabilities of the Financial Unit at the end of the financial year,
 - (ii) a statement of the revenue and expenditure of the Financial Unit during the financial year,
 - (iii) such other financial statements for the financial year as may be specified in writing by the Minister; and
- (b) an annual report of the Financial Unit on the implementation of the business plan and such other matters as the Board considers advisable or the Minister directs.

(4) Without delay after the completion of the financial statements and the annual report, the Board shall furnish a copy of each to the Supervisory Authority and the Director of Audit.

12A. Audit by Director of Audit and report to the House of Representatives

(1) Not later than three months after receipt of the financial statements and annual report from the Board, the Director of Audit shall audit the financial statements in accordance with the Audit Act, Chapter 22A.

(2) Without delay after the completion of his or her audit of the Financial Unit, the Director of Audit shall submit a copy of his or her report together with the financial statements and annual report to the Minister of Finance and the Board.

(3) The Minister of Finance shall, not later than seven days after the House of Representatives first meets after he or she has received the report together with the financial statements and the annual report of the Financial Unit, lay it before the House of Representatives.

(4) If the Minister of Finance fails to lay the report together with the financial statements and the annual report of the Financial Unit before the House of Representatives in accordance with subsection (3), the Director of Audit shall transmit the report, the financial statements and the annual report to the Speaker who shall, as soon as practicable, present them to the House of Representatives.

(5) As soon as reasonably practicable after the report together with the financial statements and the annual report of the Financial Unit have been laid before the House of Representatives, the Board shall cause the report, the financial statements and the annual report of the Financial Unit to be published in the *Gazette*.

13. Regulations

The Minister may make regulations prescribing all matters—

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary to be prescribed for carrying out or giving effect to this Act.

CHAPTER 102A FINANCIAL INTELLIGENCE UNIT ACT

SUBSIDIARY LEGISLATION

No Subsidiary Legislation
