

CHAPTER 125A
GRENADA AUTHORITY FOR THE REGULATION OF
FINANCIAL INSTITUTIONS ACT

• Act • Subsidiary Legislation •

ACT

Act No. 1 of 2008

Amended by

Act No. 22 of 2008

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CHAPTER 125A
GRENADA AUTHORITY FOR THE REGULATION OF FINANCIAL
INSTITUTIONS ACT

An Act to establish the Grenada Authority for the Regulation of Financial Institutions (GARFIN).

[Act No. 1 of 2008 amended by Act No. 22 of 2008.]

[14th March, 2008.]

1. Short title

This Act may be cited as the Grenada Authority for the Regulation of Financial Institutions Act.

2. Interpretation

In this Act—

“Authority” means the Grenada Authority for the Regulation of Financial Institutions established under section 3(1);

“Board” means the Board of Directors of the Authority;

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

(a) the business plan approved under section 24; and

(b) all amendments to the business plan approved under that section,

for the financial year;

“Executive Director” means the Executive Director of the Authority appointed under section 8(1);

“external director” means a director who is not a citizen or resident of Grenada;

“financial year” means the financial year referred to in section 24;

“licence” means any person who has been granted a licence under this Act or any enactment referred to in the First Schedule;

“Minister” means the Minister responsible for finance;

“money services business” means—

(a) the business of providing as a principal business any or all of the following services—

(i) money transmission,

(ii) cheque cashing,

(iii) currency exchange,

(iv) the issuance, sale or redemption of money orders or travellers cheques, and

- (v) such other services as the Minister may specify by notice published in the *Gazette*; or
- (b) the business of operating as an agent or franchise holder of a business mentioned in paragraph (a);

“Overseas Regulatory Authority” means an authority which, in a country or territory outside Grenada, exercises functions corresponding to any functions of the Authority;

“regulatory functions” means functions of the Authority under this Act or any of the enactments listed in the First Schedule.

3. Authority established

(1) There is hereby established a body to be known as the Grenada Authority for the Regulation of Financial Institutions.

(2) The Authority shall be a body corporate having perpetual succession and a common seal and may sue and be sued in its corporate name.

4. Head Office

The head office of the Authority shall be at such location as determined by the Minister and published in the *Gazette*.

5. Board of Directors

(1) There shall be a Board of Directors of the Authority which shall consist of—

- (a) the Permanent Secretary of the Ministry of Finance or his or her nominee;
- (b) the Chairperson of the Supervisory Authority appointed under the Proceeds of Crime Act, Chapter 256A, or any Act replacing it;
- (c) one external director appointed by the Minister; and
- (d) four other directors appointed by the Minister, one of which shall be appointed on the advice of the business community.

(2) A director appointed under subsection (1)(c) or (d) shall be a fit and proper person to be a director of the Authority and a person of recognised standing and experience in one or more of the following areas—

- (a) Banking;
- (b) Insurance;
- (c) Financial Co-operatives;
- (d) Law;
- (e) Economics;
- (f) Finance and Accounting; or
- (g) any other related field.

(3) In determining whether a person is a fit and proper person to be appointed a director under subsection (1)(c) or (d), the Minister shall have regard to all matters that the Minister considers relevant to the appointment including—

- (a) that person’s probity, competence and soundness of judgement for fulfilling the responsibilities of director; and
- (b) the diligence with which that person is likely to fulfil the responsibilities of director.

(4) Notwithstanding subsection (3), regard may be had to the previous conduct and activities in business or financial matters of the person and, in particular, to any evidence that that person has—

- (a) committed an offence involving fraud or other dishonesty or violence;
- (b) contravened any provision made by or under an enactment designed for protecting members of the public against financial loss due to dishonesty, incompetence or malpractice by persons concerned in the provision of banking, insurance, investment or other financial services or the management of companies or against financial loss due to the conduct of a discharged or undischarged bankrupt;
- (c) engaged in any business practices appearing to the Minister to be deceitful or oppressive or otherwise improper or which otherwise reflect discredit on that person's method of conducting business;
- (d) an employment record which leads the Minister to believe that that person carried out an act of impropriety in the handling of his or her employer's business; or
- (e) engaged in or been associated with any other business practice or otherwise conducted himself or herself in such a way as to cast doubt on his or her competence and soundness of judgement.

(5) A person is not eligible to be appointed to the Board under subsection (1)(c), or having been appointed, to continue as a member of the Board if that person is a director, officer, employee, agent or professional service provider of an entity in respect of which the Authority performs regulatory functions.

(6) Subject to section 12(3), a vacancy on the Board does not impair the right of the remaining directors to act or make decisions.

(7) Where a director is incapacitated due to illness or any temporary absence from Grenada, the Minister may appoint some other person to act as a temporary director for the period such incapacity or absence continues.

(8) A director may be paid by the Authority out of the funds of the Authority on account of his or her position as director remuneration and an allowance as may be determined by the Minister.

6. Ineligibility as director

(1) No person may be appointed as or be a director of the Authority who is at the same time a Member of Parliament.

(2) The Minister may at any time revoke the appointment of a director appointed under section 5(1)(c) or (d) if he or she considers it in the interest of the Authority to do so.

(3) Notwithstanding subsection (2), where the director is the nominee of the business community, the Minister shall request a suitable replacement from the business community.

7. Chairperson

(1) The Minister shall designate a Chairperson and a Deputy Chairperson from among the directors appointed under section 5(1).

(2) The Chairperson shall preside at all meetings of the Board but where at any meeting the Chairperson is absent the Deputy Chairperson shall preside and have all the powers of the Chairperson.

(3) The Minister may, at any time, revoke a designation made under subsection (1).

8. Executive Director

(1) The Authority may, with the approval of the Minister, appoint a suitably qualified person to be the Executive Director of the Authority on such terms and conditions as may be agreed on.

(2) The Executive Director shall be an employee of the Authority and an *ex officio* member of the Board.

(3) Except in the case of a person appointed as Executive Director under subsection (4), the Executive Director shall render his or her services exclusively to the Authority and shall be answerable to the Board for his or her acts and decisions.

(4) Where the office of Executive Director is vacant or the Executive Director is absent or incapacitated, the Minister may appoint, for a period not exceeding ninety days or for the duration of the absence or incapacitation, a person, who may be a director, as Executive Director.

(5) The person appointed in accordance with subsection (4) shall, while so acting, be the administrative head of the Authority subject to the directions of the Board.

9. Legal Counsel

The Board may appoint a fit and proper person to be the Legal Counsel of the Authority.

10. Publication of appointment

The making of a designation or an appointment under section 5, 7(1), 8(1) or 9 shall be published in the *Gazette*.

11. Written directions

The Minister may, from time to time, after consultation with the Board, give written directions of a general nature to the Authority as appear to the Minister to be necessary in the public interest and the Authority shall act in accordance with those directions within a reasonable time.

12. Responsibility of directors

(1) The Board shall be responsible for the policy and general administration of the affairs and business of the Authority.

(2) Subject to subsection (3), the Board may make by-laws—

- (a) for the administration, management and control of the property, affairs and business of the Authority;
- (b) governing the functions, duties and remuneration of all officers, agents and employees of the Authority;
- (c) concerning conflicts of interest in respect of directors, officers and employees of the Authority;
- (d) governing the time and place for the holding of meetings of the Board and the procedure in all things at those meetings; and
- (e) governing the conduct in all other particulars of the business and affairs of the Authority.

(3) The number of directors constituting a quorum at any meeting of the Board shall be five.

13. Objects of Authority

The objects of the Authority are—

- (a) the maintaining of public confidence in the financial system operating in Grenada;
- (b) the promoting of public understanding and awareness of the financial system operating in Grenada including the awareness of the benefits and risks associated with different kinds of investments or other financial dealings and the provision of appropriate information and advice; and
- (c) the securing of the appropriate degree of protection for consumers having regard to—
 - (i) the differing degrees of risk involved in different kinds of investments or other transactions,
 - (ii) the differing degrees of experience and expertise that different consumers may have in relation to different kinds of regulated activity,
 - (iii) the needs that consumers may have for advice and accurate information, and
 - (iv) the general principle that consumers should take responsibility for their decisions.

14. Power of Authority

The Authority shall have the power to do all things necessary or incidental to the objects of the Authority including, without limitation, the power to—

- (a) acquire, hold and dispose of real and personal property;
- (b) enter into contracts; and
- (c) do all such other things as may be necessary or incidental to the performance of its powers, duties and functions.

15. Duties, functions of Authority

(1) The Authority shall be responsible for the administration of this Act and the enactments referred to in the First Schedule and shall have the duties and functions assigned to it by this Act and the enactments referred to in the First Schedule.

(2) The Authority without limiting the generality of subsection (1) shall—

- (a) maintain a general review of the operations of all entities pursuant to this Act and the enactments referred to in the First Schedule;
- (b) wherever it thinks fit, examine the affairs or business of any licensee for the purpose of satisfying itself that the provisions of this Act and the enactments referred to in the First Schedule are being complied with and that a licensee is in a sound financial position and is managing its business in a prudent manner;
- (c) assist any authorised authority in the investigation of any offence against the laws of Grenada which it has reasonable grounds to believe has or may have been committed by a licensee or any of its directors or officers in their capacity as directors or officers; and
- (d) co-operate with the Eastern Caribbean Central Bank and the Financial Intelligence Unit in the supervision of a licensee.

(3) For the purpose of discharging its functions and duties under subsection (2), the Authority shall, as it reasonably requires, be entitled—

- (a) to inspect any books, records, vouchers documents, cash and securities of a licensee;
- (b) to call upon the manager of a licensee or similar person, or any officer designated by either of them, to produce anything requested under this section and to provide such information or explanation as required; and
- (c) to request any information, matter or thing from any person the Authority has reasonable grounds to believe is carrying on business without a licence.

(4) Any person who fails to comply with any request of the Authority under subsection (3), commits an offence and shall be liable, on summary conviction.

(5) The Authority shall—

- (a) make written recommendations to the Minister with respect to all applications, requests and the like pursuant to any of the enactments referred to in the First Schedule; and
- (b) issue certificates of incorporation to international companies under the International Companies Act, Chapter 152.

16. Guidelines for money services businesses

(1) The Authority may make guidelines concerning the operating of a money services business.

(2) A person engaged in the money services business shall, in carrying on that business, comply with guidelines made under this section.

(3) The Authority shall publish all guidelines made under this section in the *Gazette*.

17. Licence for money services business

(1) Subject to subsection (2) and the Banking Act, Chapter 26A, a person shall not carry on a money services business in Grenada without a licence granted by the Authority.

(2) A person authorised to carry on a money services business in Grenada at the time of the coming into force of this section shall be deemed to be the holder of a licence issued under this section and such licence shall be valid for a period of ninety days.

(3) On application by a person, the Authority may issue a licence authorising that person to carry on a money services business in Grenada.

(4) An application for a licence to carry on a money services business in Grenada must be filed with the Authority together with such other information, material and evidence that the Authority may require.

(5) The Authority shall without delay after receiving an application under this section send a receipt to the applicant certifying the date on which the application was received.

(6) Subject to subsection (7), the Authority shall, within a period of thirty days after the receipt of an application and all information, material and evidence required under subsection (4), grant the licence or refuse to grant the licence.

(7) If the Authority is of the opinion that it would be undesirable in the public interest to grant a licence, it may refuse to grant the licence and shall inform the applicant of its refusal to grant the licence.

(8) If the Authority is unable to complete the consideration of the application within the period referred to in subsection (6), the Authority shall, within that period, send a

notice to the applicant informing the applicant that the Authority has extended the period for a further period set out in the notice.

(9) The Authority may not, under subsection (8), extend the period referred to in subsection (6) for a period greater than thirty days.

(10) A licence granted under this section shall be valid for a period of one year from the day on which it is granted or such lesser period as the Authority may determine.

(11) In respect of a licence granted under this section, the Authority may at any time—

- (a) make the licence subject to conditions or limitations that relate to the money transfer business of the person as the Authority considers expedient; or
- (b) amend or revoke any authorisation contained in the licence or any condition or limitation to which the licence is subject.

(12) The Authority shall before acting in accordance with subsection (11)(b), provide the licence holder with an opportunity to make written representations in respect of the action proposed by the Authority.

(13) A licensee shall display or cause to be displayed a copy of its licence granted under this Act in a conspicuous place accessible to the public in each location where activity approved in its licence is conducted.

18. Supervision of money services businesses

(1) Notwithstanding any other law, whenever the Authority is of the opinion that a licensee—

- (a) is or appears likely to become unable to meet its obligations as they fall due;
- (b) has contravened any provision of this Act or any Act dealing with the proceeds of crime;
- (c) has failed to comply with any condition of its licence; or
- (d) has been granted a licence upon a wrong assumption or suppression of a material fact,

the Authority may forthwith do all or any of the following—

- (i) require such action to be taken by the licensee as it considers necessary in the circumstances,
- (ii) insert new conditions in the licence or amend or revoke any existing condition,
- (iii) revoke the licence.

(2) Any person who fails to comply with any directions of the Authority given under subsection (1) commits an offence and shall be liable, on summary conviction.

(3) Before making a revocation order under this section the Authority shall give the licensee notice in writing of its intention to revoke the licence specifying therein the grounds on which it proposes to revoke the licence and shall afford the licensee fourteen days to submit to it a written statement of objection.

(4) On receipt of the notice referred to in subsection (3), the licensee shall cease to effect any transactions save those which are necessary to meet the day-to-day expenditure of the business including the payment of any salary or wages.

(5) Any person who effects any transaction in contravention of subsection (4) commits an offence and shall be liable, on summary conviction.

(6) If the licence of the licensee to which a notice is issued under subsection (3) is not revoked within a period of ninety days from the date of the notice the notice issued shall be deemed to have been cancelled on the expiry of the period of ninety days.

19. Revocation of licence upon liquidation, etc.

Notwithstanding anything contained in this Act, the Authority may revoke a licence if the licensee—

- (a) has ceased to carry on its money services business;
- (b) goes into liquidation or is wound up or otherwise dissolved.

20. Revocation of licence to be published

Where the Authority revokes a licence under this Act, the revocation shall be made by Order and published—

- (a) once in the *Gazette*; and
- (b) in one newspaper in circulation in Grenada.

21. Staff of the Authority

(1) The Authority may employ, at such remuneration and on such terms and conditions as may be approved from time to time by the Board, such persons as the Authority considers necessary for the performance of the powers, duties and functions of the Authority.

(2) Notwithstanding the National Insurance Act, Chapter 205, the Authority may, with the approval of and subject to any general direction given by the Minister, provide for the establishment and maintenance of a pension plan and medical insurance for the benefit of its officers and employees.

22. Expenses of Authority

All expenses incurred by the Authority shall be paid out of—

- (a) monies appropriated by Parliament for the purpose;
- (b) money paid to the Authority by way of fees; and
- (c) any other money lawfully received by the Authority pursuant to any Act of Parliament.

23. Financial year

(1) The financial year of the Authority shall end on the thirty-first day of December in each year.

(2) Not later than two months before the commencement of a financial year, the Authority shall send to the Minister estimates of the Authority's receipts and expenditures for that financial year.

24. 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 Grenada Authority for the Regulation of Financial Institutions objectives and priorities in carrying out 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 Grenada Authority for the Regulation of Financial Institutions 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 Grenada Authority for the Regulation of Financial Institutions 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 Authority.

(2) The Minister may, on request of the Authority, 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—

- (a) approve the proposal as submitted;
- (b) with the approval of the Authority, amend the proposal and approve it as amended; or
- (c) refer the proposal back to the Authority 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 a proposal submitted to the Minister under subsection (7).

24A. Authority 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.

24B. 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 money 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 Grenada Authority for the Regulation of Financial Institutions.
- (2) The books of account kept under subsection (1) shall—
 - (a) be sufficient to record and explain the Grenada Authority for the Regulation of Financial Institutions transactions;
 - (b) enable the Grenada Authority for the Regulation of Financial Institutions 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 Grenada Authority for the Regulation of Financial Institutions at the end of the financial year,
 - (ii) a statement of the revenue and expenditure of the Grenada Authority for the Regulation of Financial Institutions 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 Grenada Authority for the Regulation of Financial Institutions on the implementation of the business plan and such other matters as the Authority 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 Director of Audit.

24C. 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 Authority, 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 Grenada Authority for the Regulation of Financial Institutions, the Director of Audit shall submit a copy of his or her report together with the financial statements and annual report to the Minister.
- (3) The Minister 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 Grenada Authority for the Regulation of Financial Institutions, lay it before the House of Representatives.
- (4) If the Minister fails to lay the report together with the financial statements and the annual report of the Grenada Authority for the Regulation of Financial Institutions 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 Authority have been laid before the House of Representatives, the Authority shall cause the report, the financial statements and the annual report of the Grenada Authority for the Regulation of Financial Institutions to be published in the *Gazette*.

25. Report to Minister

(1) The Authority shall submit annually to the Minister, not later than the thirtieth day of April, a report on its transactions during the previous financial year, together with an audited balance sheet and income and expenditure accounts as at the close of the previous financial year.

(2) The report and accounts under subsection (1) and the report of the auditor under section 24(5) shall be laid before both Houses of Parliament not later than the thirtieth day of June following the end of the year to which they relate.

26. Grenada International Financial Services Authority

The assets and liabilities of the Grenada International Financial Services Authority established under section 3(1) of the Grenada International Financial Services Authority Act, 1999 (repealed), are transferred to and vest in the Authority.

27. Information

Notwithstanding anything to the contrary in any enactment referred to in the First Schedule, an entity in respect of which the Authority performs regulatory functions shall provide the Authority with such information including audited financial statements, at such time and in such form as the Authority may consider necessary in connection with the exercise of the powers, duties and functions conferred on it under this Act or any enactment referred to in the First Schedule.

28. Fees

A person shall pay to the Authority, at the prescribed time, a prescribed fee on account for any act, matter or thing done or required to be done under this Act or any enactment referred to in the First Schedule.

29. Late filing penalty

(1) The Authority may require a person to pay a penalty of a prescribed amount where that person fails to—

- (a) file a return or other information required to be filed by that person under this Act or any enactment referred to in the First Schedule at the interval set out in, or within the time required by, that enactment;
- (b) provide complete and accurate information with respect to a return or other information required to be filed by that person under this Act or any enactment referred to in the First Schedule; or
- (c) pay the fee that is payable under section 28 at the prescribed time.

(2) A failure to file a return or other information under subsection (1)(a) is deemed to be a separate offence for each day during which the failure continues.

30. Debt due Authority

(1) A fee or penalty that is payable to the Authority Debt Due under section 28 or 29(1) constitutes a debt due to the Authority and may be recovered as a debt in any court of competent jurisdiction.

(2) Interest may be charged on the unpaid amount of a fee or penalty that is payable under section 28 or 29(1) at the rate of one and one half per cent per month or part thereof for the period during which it remains unpaid.

31. No liability

No action lies against the Crown, the Minister, the Authority, any director, officer or employee of the Authority or any person acting under the direction of the Authority for anything done or omitted to be done in good faith in the administration or discharge of any power, duty or function that under this or any other Act of Parliament is intended or authorised to be executed or performed.

32. Confidentiality

(1) Subject to subsection (2), a director, officer, employee, agent or adviser of the Authority shall not disclose any information relating to—

- (a) the business or affairs of the Authority;
- (b) any application made to the Authority under this Act or any enactment referred to in the First Schedule;
- (c) the business or affairs of a person in respect of which the Authority performs regulatory functions; or
- (d) the affairs of a customer, member, client or policyholder of a person referred to in paragraph (c),

that the director, officer, employee, agent or adviser has acquired in the course of his or her duties or in the exercise of the Authority's functions under this Act or any other law.

(2) Subsection (1) does not apply to a disclosure—

- (a) lawfully required or permitted by any court of competent jurisdiction in Grenada;
- (b) for the purpose of assisting the Authority to exercise any function conferred on it by this Act or any other law;
- (c) in respect of the business and affairs of a person referred to in subsection (1)(c) or of a customer, member, client or policyholder of a person referred to in subsection (1)(c), with the consent of the person or the customer, member, client or policyholder, as the case may be, which consent has been voluntarily given;
- (d) for the purpose of enabling or assisting the Minister to exercise any function conferred on him or her under this Act or in connection with any dealings between the Minister and the Authority when the Authority exercise a function under this Act or any other law;
- (e) if the information disclosed is or has been available to the public from any other source;
- (f) where the information disclosed is in a summary or in statistics expressed in a manner that does not enable the identity of any person referred to in subsection (1)(c) or of any customer, member, client or policyholder of a person referred to in subsection (1)(c), to which the information relates, to be ascertained;

- (g) lawfully made to a person with a view to the institution of, or for the purpose of—
 - (i) criminal proceedings,
 - (ii) disciplinary proceedings, whether within or outside Grenada, relating to the exercise by an attorney-at-law, auditor, accountant, valuer or actuary of his or her professional duties, or
 - (iii) disciplinary proceedings relating to the discharge by a public officer or a member or employee of the Authority of his or her duties; or
- (h) for the purposes of any legal proceedings in connection with—
 - (i) the winding-up or dissolution of a person referred to in subsection (1)(c), or
 - (ii) the appointment or duties of a receiver of a person referred to in subsection (1)(c).

33. Attorney-General to be notified of request

(1) The Authority shall notify the Attorney-General, in writing, immediately of the request for assistance received from an overseas regulatory authority, with particulars of the request, and shall send him or her copies of all documents relating to the request, and the Attorney-General shall be entitled, in a manner analogous to *amicus curiae*, to appear or take part in any proceedings in Grenada, or in any appeal from such proceedings, arising directly from any such request.

(2) Subject to subsection (3), the Authority, after having sent a copy of a request for information to the Attorney-General in accordance with subsection (1), may disclose to an overseas regulatory authority information necessary to enable that overseas regulatory authority to exercise regulatory functions including the conduct of civil or administrative investigations and proceedings to enforce laws, regulations and rules administered by that authority.

(3) In deciding whether or not to exercise its power under subsection (2), the Authority shall take into account—

- (a) whether reciprocal assistance would be given by the overseas regulatory authority to the Authority;
- (b) whether the inquiry relate to the possible breach of a law or other requirement which has no close parallel in Grenada or involve the assertion of a jurisdiction not recognised by Grenada;
- (c) the seriousness of the matter to which the inquiry relate and the importance to the inquiry of the information sought in Grenada; and
- (d) whether, in the light of advice from the Attorney-General, it is in the public interest to give the assistance sought.

(4) For the purposes of subsection (3)(a), the Authority may require an overseas regulatory authority which requests assistance to give a written undertaking, in such form as the Authority may require, to provide reciprocal assistance to the Authority.

(5) Where an overseas regulatory authority fails to comply with a requirement of the Authority under subsection (3), the Authority may refuse to provide the assistance sought.

(6) The Authority may decline to exercise its power under subsection (2) unless the overseas regulatory authority undertakes to make such contribution towards the costs of the exercise as the Authority considers appropriate.

(7) Nothing in this section authorises a disclosure by the Authority unless—

- (a) the Authority has satisfied itself that the overseas regulatory authority is subject to adequate legal restrictions on further disclosures which shall include the provision of an undertaking of confidentiality;
- (b) the Authority has been given an undertaking by the overseas regulatory authority not to disclose the information provided without the consent of the Authority;
- (c) the Authority is satisfied that the assistance requested by the overseas regulatory authority is required for the purposes of the overseas regulatory authority's regulatory functions including the conduct of civil or administrative investigations or proceedings to enforce laws administered by that overseas regulatory authority; and
- (d) the Authority is satisfied that information provided following the exercise of its powers under subsection (2) will not be used in criminal proceedings against the person providing the information other than proceedings for an offence of perjury.

34. Schedule

The Minister may by Order amend a Schedule.

35. Regulations

The Minister may make regulations—

- (a) prescribing anything that is required or authorised by this Act to be prescribed; and
- (b) generally for carrying out the purposes and giving effect to the provisions of this Act.

36. Penalties

(1) Every person who, without reasonable cause, contravenes section 16(2), 17(1) or 32(1) is guilty of an offence.

(2) Every person who is guilty of an offence under this Act is—

- (a) in the case of a natural person, liable—
 - (i) on summary conviction, to a fine of one hundred thousand dollars or to imprisonment for a term of twelve months, or
 - (ii) on conviction on indictment, to a fine of five hundred thousand dollars or to imprisonment for a term of three years, or to both; and
- (b) in any other case, liable—
 - (i) on summary conviction, to a fine of two hundred thousand dollars, or
 - (ii) on conviction on indictment, to a fine of one million dollars.

37. Amendments to other enactments

The enactments specified in the first column of the Second Schedule are amended to the extent specified in the second column of the Second Schedule.

38. Repeal

The Grenada Authority for the Regulation of Financial Institutions Act, 2006, is repealed.

First Schedule

GRENADA AUTHORITY FOR THE REGULATION OF FINANCIAL INSTITUTIONS ACT

[Section 15(1).]

1. Building Societies Act, Chapter 38.
 2. Company Management Act, Chapter 58B.
 3. Co-operative Societies Act, 1996.
only as it relates to credit unions and as set out in sections 191 – 201.
 4. Friendly Societies Act, Chapter 118.
 5. Insurance Act, Chapter 150.
 6. International Betting Act, Chapter 151A.
 7. International Companies Act, Chapter 152.
 8. International Insurance Act, Chapter 152B.
 9. International Trusts Act, Chapter 152C.
 10. Offshore Banking Act, Chapter 217A.
 11. Grenada Development Bank Act, Chapter 129.
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Second Schedule

GRENADA AUTHORITY FOR THE REGULATION OF FINANCIAL INSTITUTIONS ACT

[Section 37.]

<i>Enactment</i>	<i>Extent of Amendment</i>
1. Building Societies Act, Chapter 38	The Building Societies Act, Chapter 38, is amended— (a) in section 2 by deleting the definition of “Registrar” and inserting in its appropriate alphabetical order the following: “ “Authority” means the Grenada Authority for the Regulation of Financial Institutions established under the Grenada Authority for the Regulation of Financial Institutions Act;” and (b) in the other provisions of the Act, by deleting the word “Registrar” wherever it appears and substituting the word “Authority”.
2. Company Management Act, 1996	1. The Company Management Act, 1996 (hereinafter called “the Principal Act”) is amended in section 2(1), by deleting the definition of “Authority” and replacing it with the following—

	<p>““Authority” means the Grenada Authority for the Regulation of Financial Institutions established under the Grenada Authority for the Regulation of Financial Institutions Act;”.</p> <p>2. Section 5(6) of the Principal Act is repealed and replaced as follows—</p> <p>“(6)An application made under this section must be submitted through the Executive Director appointed under the Grenada Authority for the Regulation of Financial Institutions Act.”</p>
<p>3. Co-operative Societies Act, 1996</p>	<p>The Co-operative Societies Act, 1996, is amended—</p> <p>(a) in section 2(1), by deleting the definition of “Registrar” and substituting the following—</p> <p>““Registrar” means (a) subject to paragraph (b), the Registrar of co-operative societies appointed under section 5; and includes any person authorised to exercise such powers of the Registrar as conferred upon him or her by this Act;” and</p>
	<p>(b) in relation to credit unions, the Grenada Authority for the Regulation of Financial Institutions established under the Grenada Authority for the Regulation of Financial Institutions Act;” and</p> <p>(b) by adding a new subsection (3) as follows—</p> <p>“(3)The Grenada Authority for the Regulation of Financial Institutions established under the Grenada Authority for the Regulation of Financial Institutions Act, shall be responsible for the administration of this Act in relation to credit unions.”</p>
<p>4. Friendly Societies Act, Chapter 118</p>	<p>1. The Friendly Societies Act, Chapter 118 (hereinafter called “the Principal Act”) is amended—</p> <p>(a) in section 2 by deleting the definition of “Registrar” and inserting in its appropriate alphabetical order the following—</p> <p>““Authority” means the Grenada Authority for the Regulation of Financial Institutions established under the Grenada Authority for the Regulation of Financial Institutions Act;” and</p> <p>(b) in the other provisions of the Act, by deleting the word “Registrar” wherever it appears and substituting the word “Authority”.</p>

	<p>2. Section 7 of the Principal Act is repealed and replaced as follows—</p> <p>“7. The Authority shall be entitled to demand and receive fees as set out in the Third Schedule.”.</p>
<p>5. Insurance Act, Chapter 150</p>	<p>1. The Insurance Act, Chapter 150 (hereinafter called “the Principal Act”) is amended—</p> <p>(a) in section 2(1), by deleting the definition of “Supervisor” and inserting in its appropriate alphabetical order the following—</p> <p>“ “Authority” means the Grenada Authority for the Regulation of Financial Institutions established under the Grenada Authority for the Regulation of Financial Institutions Act;” and</p> <p>(b) in the other provisions of the Act, by deleting the word “Supervisor” wherever it appears and substituting the word “Authority”.</p> <p>2. Section 4 of the Principal Act is repealed and replaced as follows:</p> <p>“4. The Authority shall be responsible for the general administration of this Act.”.</p> <p>3. Section 149 of the Principal Act is amended:</p> <p>(a) in subsection (3) by deleting the word “Registrar” and substituting the word “Authority”; and</p> <p>(b) by repealing and replacing subsection (7) as follows:</p> <p>“(7)All sums of money collected by the Authority under this Act shall be paid into accounts of the Authority.”</p>
<p>6. International Betting Act, 1998</p>	<p>1. Section 4(3) of the International Betting Act, 1998, (hereinafter called “the Principal Act”) is repealed and replaced as follows—</p> <p>“(3) For the purposes of this section—</p> <p>“ “Authority” means the Grenada Authority for the Regulation of Financial Institutions established under the Grenada Authority for the Regulation of Financial Institutions Act.”.</p> <p>2. Section 22 of the Principal Act is amended—</p> <p>(a) in subsections (1) and (2), by deleting the words “Grenada International Financial Services Authority” and substituting the words “Grenada Authority for the Regulation of Financial Institutions”; and</p> <p>(b) by repealing and replacing subsection 3 as follows—</p> <p>“(3)For the purposes of this section—</p>

	<p>“Authority” means the Grenada Authority for the Regulation of Financial Institutions established under the Grenada Authority for the Regulation of Financial Institutions Act.”.</p>
7. International Companies Act, Chapter 152	<ol style="list-style-type: none"> 1. The definition of “Authority” in section 2(1) of the International Companies Act, Chapter 152 (hereinafter called “the Principal Act”) is repealed and replaced as follows— <ul style="list-style-type: none"> “ “Authority” means the Grenada Authority for the Regulation of Financial Institutions established under the Grenada Authority for the Regulation of Financial Institutions Act”. 2. Section 112(1)(e) of the Principal Act is repealed and replaced as follows— <ul style="list-style-type: none"> “(e) the Grenada Authority for the Regulation of Financial Institutions Act.”
8. International Insurance Act, 1996	<ol style="list-style-type: none"> 1. The definition of “Authority” in section 2 of the International Insurance Act, 1996 (hereinafter called “the Principal Act”) is repealed and replaced as follows— <ul style="list-style-type: none"> “ “Authority” means the Grenada Authority for the Regulation of Financial Institutions established under the Grenada Authority for the Regulation of Financial Institutions Act.” 2. Section 4(5) of the Principal Act is repealed and replaced as follows— <ul style="list-style-type: none"> “(5) For the purposes of this section— <ul style="list-style-type: none"> “Authority” means the Grenada Authority for the Regulation of Financial Institutions established under the Grenada Authority for the Regulation of Financial Institutions Act.”. 3. Section 6(5) of the Principal Act is repealed and replaced as follows— <ul style="list-style-type: none"> “(5) An application made under this section must be submitted through the Executive Director appointed under the Grenada Authority for the Regulation of Financial Institutions Act.”.
9. International Trusts Act, 1996	<ol style="list-style-type: none"> 1. The International Trusts Act, 1996 is amended: <ol style="list-style-type: none"> (a) in section 2 by deleting the definition of “Registrar” and inserting in its appropriate alphabetical order the following— <ul style="list-style-type: none"> “ “Authority” means the Grenada Authority for the Regulation of Financial Institutions established under the Grenada Authority for the Regulation of Financial

	<p>Institutions Act;” and</p> <p>(b) in the other provisions of the Act, by deleting the word “Registrar” wherever it appears and substituting the word “Authority”.</p>
10. Offshore Banking Act, 2003	<p>The definition of “Authority” in section 2 of the Offshore Banking Act, 2003, is repealed and replaced as follows—</p> <p>“ “Authority” means the Grenada Authority for the Regulation of Financial Institutions established under the Grenada Authority for the Regulation of Financial Institutions Act.”.</p>

CHAPTER 125A
GRENADA AUTHORITY FOR THE REGULATION OF FINANCIAL
INSTITUTIONS ACT

SUBSIDIARY LEGISLATION

No Subsidiary Legislation
