

**TABLE OF REGULATIONS**

**PART I**

**PRELIMINARY**

1. Citation
2. Application
3. Definitions
4. Definition of “reporting financial institution”
5. Definition of “reportable account”
6. Non-resident reporting financial institution’s Grenada representative

**PART II**

**OBLIGATIONS IN RELATION TO FINANCIAL ACCOUNTS**

7. Identification obligation
8. Modification of due diligence requirements
9. Reporting obligation
10. Modifications for calendar years 2014 to 2016

**PART III**

**PAYMENTS TO A NON-PARTICIPATING FINANCIAL INSTITUTION**

11. Identification and disclosure obligations
12. Reporting Obligation
13. Accounts with a negative value



## GRENADA

STATUTORY RULES AND ORDERS NO. 37 OF 2017

THE MINISTER IN EXERCISE OF THE POWERS CONFERRED ON HIM BY SECTION 21 OF THE UNITED STATES OF AMERICA – GRENADA FOREIGN ACCOUNT TAX COMPLIANCE ACT, NO. 4 OF 2017 HEREBY MAKES THE FOLLOWING REGULATIONS–

(Gazetted 10th November, 2017).

**PART I****PRELIMINARY**

**1. Citation.** These Regulations may be cited as the

UNITED STATES OF AMERICA – GRENADA FOREIGN ACCOUNT TAX  
COMPLIANCE REGULATIONS, 2017.

**2. Application.** These Regulations shall have effect for and in connection with the implementation of obligations arising under the Agreement.

**3. Definitions.** (1) In these Regulations–

“Act” means the United States of America – Grenada Foreign Account Tax Compliance Act, 2017;

“Agreement” means the Agreement between the Government of the United States of America and the Government of Grenada to Improve International Tax Compliance and to Implement the Foreign Account Tax Compliance Act, as set out in the Schedule to the Act;

“registered deemed-compliant financial institution” means a non-reporting Grenada Financial Institution to which a G.I.I.N. has been issued;

“reporting financial institution” means a Reporting Grenada Financial Institution as set out in the Agreement.

(2) Any expression which is defined in the Agreement but not in the Act or in these Regulations has the same meaning in these Regulations as in the Agreement.

**4. Definition of “reporting financial institution”.** (1) A non-reporting Grenada financial institution may qualify as a reporting financial institution for the purposes of these Regulations only if it is a registered deemed-compliant financial institution.

(2) For the purposes of these Regulations—

- (a) if a collective investment scheme is constituted by a person (other than a trustee), who carries on business in Grenada, that person (and no-one else) is a reporting financial institution in the case of the scheme and is to be regarded as the investment entity; and
- (b) if a collective investment scheme is constituted otherwise than as described in paragraph (a) and the manager, operator or trustee of the scheme is a person who carries on business in Grenada, the manager, operator or trustee of the scheme (and no-one else) is a reporting financial institution in the case of the scheme and is to be regarded as the investment entity.

(3) In subregulation (2) “collective investment scheme” means any arrangements that are a “collective investment scheme” for the purposes of the Securities Act, Chapter 299A.

(4) For the purposes of these Regulations a “relevant holding company” means—

- (a) a person whose business consists wholly or mainly of holding (directly or indirectly) any shares or securities issued by a related entity which is within paragraphs (a) to (d) of subregulation (1); or
- (b) a person whose business consists wholly or mainly of holding shares or securities, and who has a qualifying relationship with a qualifying entity.

(5) For the purposes of this regulation a person has a “qualifying relationship” with a qualifying entity if the person provides services or holds investments on behalf of the entity.

**5. Definition of “reportable account”.** (1) Subject to subregulations (2) and (3), in these Regulations, a “reportable account”, in relation to a reporting financial institution, means a U.S. reportable account maintained by that institution in Grenada for the purposes of its business as—

2017

*United States of America – Grenada Foreign  
Account Tax Compliance Regulations*

---

SRO. 37

- (a) a custodial institution;
- (b) a depository institution;
- (c) an investment entity; or
- (d) a specified insurance company.

(2) A U.S. reportable account is not a reportable account if–

- (a) the account holder is deceased or is a personal representative;
- (b) the account is held to comply with an order or judgment made or given in legal proceedings; or
- (c) the funds held in the account are held solely as security for the performance of a party's obligation under a contract for the disposal of an estate or interest in land or of tangible moveable property.

(3) The following accounts are not reportable accounts for a calendar year if there is an election by the reporting financial institution in force for that year to treat the accounts as not being reportable accounts–

- (a) 30th-June-2014 individual accounts meeting the description at paragraph II.A of Annex I of the Agreement;
- (b) Post-June-2014 individual accounts meeting the description at paragraph III.A of Annex I of the Agreement (including an insurance contract that would be a cash value insurance contract for the purposes of these Regulations but for the fact that its value is less than or equal to U.S. \$50,000; and
- (c) 30th-June-2014 accounts meeting the description at paragraph IV.A of Annex I of the Agreement.

(4) In determining whether or not a financial account maintained by an institution meets any of the descriptions in subregulation (3), the institution must apply the account balance aggregation and currency translation rules at paragraph VI.C of Annex I of the Agreement.

(5) An election under subregulation (3)–

- (a) is to be made on or before the reporting date under regulation 12 and given to the Competent Authority;

- (b) must be in such form as may be determined by the Competent Authority; and
- (c) must be made on or before the reporting date under regulation 9 for the calendar year in question.

(6) For the purposes of these Regulations–

- (a) “30th-June-2014 account” means a financial account maintained on 30th June, 2014;
- (b) “entity account” means a financial account which is not an account the account holder of which (or, if more than one, each account holder of which) is an individual holding the account otherwise than as a partner of a partnership;
- (c) “individual account” means a financial account held in the name of an individual (whether solely or jointly with another) but not as a partner of a partnership; and
- (d) “post-June-2014 account” means a financial account opened after 30th June, 2014.

(7) In a case where a financial account is held jointly by two or more persons (but not where the account is held solely by a partnership), these Regulations are to be applied separately in relation to each account holder and as if the holder were entitled to the whole of the balance or value of the account.

**6. Non-resident reporting financial institution’s Grenada representative. (1)**

If a reporting financial institution is not resident in Grenada, the obligations of the institution under these Regulations are to be treated as if they were also the obligations of any person with responsibility for representing the institution in Grenada.

(2) For the purposes of this regulation–

- (a) a reporting financial institution which is a partnership is resident in Grenada if the control and management of the business of the partnership as a reporting financial institution takes place there; and
- (b) a reporting financial institution which is not a partnership is resident in Grenada if it is resident in Grenada for the purposes of the Income Tax Act, Chapter 149.

---

**PART II****OBLIGATIONS IN RELATION TO FINANCIAL ACCOUNTS**

**7. Identification obligation.** (1) In relation to all financial accounts which a reporting financial institution maintains, the institution shall establish and maintain–

- (a) arrangements that are designed to identify reportable accounts; and
- (b) arrangements that are designed to establish the territory in which any account holder is resident for income tax purposes.

(2) The institution is taken to comply with the obligation to establish and maintain arrangements within subregulation (1) (a) only if–

- (a) the arrangements meet the due diligence requirements as set out in this regulation; and
- (b) the arrangements secure that the evidence used in accordance with this regulation or regulation 8, or a record of the steps taken in accordance with this regulation or regulation 8, is kept for a period of six years beginning with the end of the year in which the arrangements applied to the financial accounts.

(3) The due diligence requirements for a calendar year for which an election under regulation 5 (3) is not in force are–

- (a) in the case of 30th June, 2014 individual accounts that are lower value accounts within paragraph II.B of Annex I of the Agreement or are 30th-June-2014 individual accounts that are reportable accounts meeting the description at paragraph II.A of that Annex, the procedures described at paragraph II.B and II.C of that Annex;
- (b) in the case of 30th-June-2014 individual accounts with a balance or value that exceeds U.S. \$1,000,000, as of 30th June, 2014, or 31st December, 2015 or 31st December in any subsequent year, the procedures described at paragraphs II.D and II.E of that Annex;
- (c) in the case of post-June-2014 individual accounts, the procedures described at paragraphs III.B to III.D of that Annex;
- (d) in the case of 30th-June-2014 entity accounts, the procedures described at paragraphs IV.D and IV.E (1) of that Annex; and

- (e) in the case of post-June-2014 entity accounts, the procedures described at paragraphs V.A to V.C of that Annex.

(4) The due diligence requirements for a calendar year for which an election under regulation 5 (3) is in force are—

- (a) in the case of 30th-June-2014 individual accounts that are lower value accounts within paragraph II.B of Annex I of the Agreement, the procedures described at paragraph II.B and II.C of that Annex;
- (b) in the case of 30th-June-2014 individual accounts that are lower value accounts within paragraph II.B of that Annex with a balance or value that exceeds U.S. \$1,000,000, as of 31st December 2015 or 31st December in any subsequent year, the procedures described at paragraphs II.D and II.E of that Annex;
- (c) in the case of 30th-June-2014 individual accounts within paragraph II.A of that Annex with a balance or value that exceeds U.S. \$1,000,000, as of 31st December 2015 or 31st December in any subsequent year, the procedures described at paragraphs II.D and II.E of that Annex;
- (d) in the case of 30th-June-2014 individual accounts within paragraph II.D of that Annex, the procedures described at paragraphs II.D and II.E of that Annex;
- (e) in the case of post-June-2014 individual accounts that are not within paragraph III.A of that Annex, the procedures described at paragraphs III.B to III.D of that Annex;
- (f) in the case of 30th-June-2014 entity accounts within paragraphs IV.B and IV.C of that Annex, the procedures described at paragraphs IV.D and IV.E (1) of that Annex;
- (g) in the case of 30th-June-2014 entity accounts with a balance or value that does not exceed U.S. \$250,000, as of 30th June, 2014, but with a balance or value that exceeds U.S.\$ 1,000,000, as of 31st December, 2015 or 31st December in any subsequent year, the procedures at paragraphs IV.D and IV.E (2) of that Annex; and



2017

*United States of America – Grenada Foreign  
Account Tax Compliance Regulations*

---

SRO. 37

- (h) in the case of post-June-2014 entity accounts, the procedures described at paragraphs V.A to V.C of that Annex.

(5) If in the case of an account within either subregulation (3) (a) or (4) (a)–

- (a) a reporting financial institution has established the account holder's U.S. status from documentary evidence mentioned in paragraph VI.D of Annex I of the Agreement; and
- (b) it has done so in order to meet its obligations under a qualified intermediary agreement as mentioned in that paragraph,

the due diligence requirements in the case of that account do not include the requirement to carry out the electronic search described in paragraph II.B (1) of that Annex of the Agreement.

(6) If in the case of an account within any of subregulation (3) (b) or (4) (a) to (c)–

- (a) a reporting financial institution has established the account holder's U.S. status from documentary evidence mentioned in paragraph VI.D of Annex I of the Agreement; and
- (b) it has done so in order to meet its obligations under a qualified intermediary agreement as mentioned in that paragraph,

the due diligence requirements in the case of that account do not include the requirement to carry out the electronic searches described in paragraph II.B (1) or II.D (1) of Annex I of the Agreement or the requirement to carry out the paper record search described in paragraph II.D (2) of that Annex.

(7) If, as a result of this regulation, a person is required to certify their U.S. status, a reporting financial institution may require the person to supply to the institution such documentary evidence mentioned in paragraph VI.D of Annex I of the Agreement as the institution considers appropriate in support of the certification.

(8) The due diligence requirements in this regulation must be applied by reference to the special rules and definitions at paragraph I.B (1) to (3) and section VI of Annex I of the Agreement.

(9) For the purposes of this regulation, references to the documentary evidence set out in paragraph VI.D of Annex I of the Agreement are to be treated as if the words “other than a Form W-8 or W-9” were omitted.

(10) Nothing in subregulation (1) (b) applies to accounts maintained before the day on which these Regulations come into force.

**8. Modification of due diligence requirements.** (1) This regulation modifies the due diligence requirements set out in regulation 7 in the case of a reporting financial institution but only if it makes an election applying those modifications.

(2) If the reporting financial institution obtains, or is in the process of obtaining, evidence of a person’s U.S. status in relation to any 30th-June-2014 account, it is entitled to rely on the evidence in relation to any post-June-2014 account, unless it has reasonable cause to believe that the person’s U.S. status has subsequently changed.

(3) Subregulation (2) has effect in the case of 30th-June-2014 individual accounts maintained by the institution for an account holder only if, for the purpose of establishing which of the procedures referred to in regulation 7 (3) (a) and (b) or regulation 7 (4) (a) to (c) are applicable to those accounts, the institution treats all those accounts as a single 30th-June-2014 individual account.

(4) If the institution or a related entity obtains, or is in the process of obtaining, evidence of a person’s U.S. status in relation to a financial account, the institution is entitled to rely on the evidence in relation to all financial accounts maintained by the institution for the account holder unless the institution has reasonable cause to believe that the person’s U.S. status has subsequently changed.

(5) The due diligence requirements set out in regulation 7 do not need to be met in relation to a financial account if—

- (a) the institution maintains the account as a result of a merger with, or acquisition of, a qualifying financial institution which had established the U.S. status of the account holder and any controlling person; and
- (b) the institution has no reasonable cause to believe that the U.S. status of the account holder or any controlling person has changed.

(6) For these purposes of subregulation (5), “qualifying financial institution”, in relation to a financial institution, means another financial institution—

- (a) which has not previously been a related entity of the institution; and
- (b) which immediately before the merger or acquisition was a partner jurisdiction financial institution but was neither a registered deemed-compliant financial institution nor a nonparticipating financial institution.

(7) An election under this regulation–

- (a) is to be made by giving notice to the Competent Authority;
- (b) must be in such form as may be determined by the Competent Authority; and
- (c) has effect in relation to all times on or after the day on which the election is made (unless subsequently withdrawn).

**9. Reporting obligation.** (1) A reporting financial institution must, in respect of 2014 and every following calendar year, prepare a return setting out–

- (a) the required information in relation to every reportable account that is maintained by the reporting financial institution at any time during the calendar year in question;
- (b) the institution's G.I.N.; and
- (c) a statement of whether paragraph 5 of Article 4 of the Agreement applies to the institution and, if it does, whether the requirements in sub-paragraphs (a) to (c) of that paragraph have been met.

(2) If during the calendar year in question the reporting financial institution maintains no reportable accounts the return must state that fact.

(3) The required information is–

- (a) the name and address of the account holder;
- (b) the account holder's U.S. federal taxpayer identifying number (but see regulation 10 (2));
- (c) if an account is identifiable by an account number, that number or, if not, its functional equivalent;

- (d) the balance or value of the account (including, in the case of a cash value insurance contract or annuity contract, the cash value or surrender value) as of the end of the calendar year or, if the account was closed during the year, the balance or value on the date that the reporting financial institution closes the account; and
- (e) the relevant total gross credits, or if there are none, a statement of that fact.

(4) The “relevant total gross credits” means–

- (a) in the case of a custodial account–
  - (i) the total gross amount of interest, the total gross amount of dividends and the total gross amount of other income generated with respect to assets held in the account which is paid into, or with respect to, the account during the calendar year; and
  - (ii) the total gross proceeds from the sale or redemption of property paid into the account during the calendar year if the institution acted as a custodian, broker, nominee or otherwise as an agent for the account holder;
- (b) in the case of a depository account, the total gross amount of interest paid to the account during the calendar year; and
- (c) in the case of any other account, the total gross amount of sums paid by the institution under a legal obligation to the account holder with respect to the account during the calendar year.

(5) For the purposes of this regulation–

- (a) references to the balance or value of an account include a nil balance or value; and
- (b) references to paying an amount include crediting an amount.

(6) If a reporting financial institution has an established practice for the periodic valuation of accounts of a particular description otherwise than at the end of a calendar year, the institution may report under subregulation (4) (a) or (c) by reference to a period of 12 months ending with the date (or, if more than one, the latest date) in

2017

*United States of America – Grenada Foreign  
Account Tax Compliance Regulations*

SRO. 37

the calendar year on which the institution values accounts of that description (instead of by reference to the calendar year).

(7) If a reporting financial institution does not hold a U.S. federal taxpayer identifying number that it is required to report under subregulation (3) (b) the institution must obtain that number from the account holder.

**10. Modifications for calendar years 2014 to 2016.** (1) In the case of custodial accounts—

- (a) there is no requirement to include in the return for the calendar year 2014 information about relevant total gross credits; and
- (b) there is no requirement to include in the return for the calendar year 2015 any information set out in regulation 9 (4) (a) (ii).

(2) In the case of 30th-June-2014 accounts—

- (a) there is no requirement to include in the return for calendar years before 2017 a U.S. federal taxpayer identifying number if the reporting financial institution does not hold that number; but
- (b) if the account holder is an individual whose date of birth the institution does hold, the institution must include the account holder's date of birth instead.

### **PART III**

#### **PAYMENTS TO A NON-PARTICIPATING FINANCIAL INSTITUTION**

**11. Identification and disclosure obligations.** (1) A reporting financial institution must establish and maintain arrangements that are designed to identify payments—

- (a) which are made by the reporting financial institution to a non-participating financial institution; and
- (b) which are made in the calendar year 2015 or 2016, whether the payment is made to a non-participating financial institution as an account holder or otherwise.

---

(2) For the purposes of subregulation (1), “payment” includes amounts credited to a non-participating financial institution but does not include consideration given by the reporting financial institution for the provision of goods or services to it.

(3) A reporting financial institution is entitled to regard a payment made by it to a financial institution as made to someone who is not a non-participating financial institution only if it has, in respect of the payment, taken the steps referred to at paragraph IV.D (3) of Annex I of the Agreement.

(4) For the purposes of subregulations (1) to (3), “nonparticipating financial institution” includes any person who is required to be treated as a nonparticipating financial institution as a result of sub-paragraph 5(a) of Article 4 of the Agreement.

(5) In respect of any case in the calendar years 2015 and 2016, when a reporting financial institution is within the terms of sub-paragraph 1(e) of Article 4 of the Agreement, the reporting financial institution must make a disclosure of information in accordance with the requirements of that sub-paragraph of the Agreement.

**12. Reporting Obligation.** (1) A reporting financial institution must in respect of each of the calendar years 2015 and 2016 prepare a return setting out–

- (a) the names of the non-participating financial institutions to whom payments identified in accordance with regulation 11 (1) have been made in the year in question; and
- (b) the total amount of those payments made to each of the non-participating financial institutions in question.

(2) In determining the total amount of those payments the special rules and definitions at paragraph I.B (1) and paragraph VI.C of Annex I of the Agreement must be applied.

(3) If for a calendar year no payments are identified as referred to in subregulation (1), the reporting financial institution must prepare a return for the calendar year stating that fact.

(4) The financial institution must send a return under this regulation to the Competent Authority on or before 15th January of the year following the calendar year to which the return relates.

**PART IV**

MISCELLANEOUS

**13. Accounts with a negative value.** For the purpose of applying paragraph VI.C of Annex I of the Agreement as required by these Regulations, an account balance that has a negative value is treated as having a nil value.

Made by the Minister this 7th day of November, 2017.

KEITH MITCHELL  
*Minister responsible for Finance.*

---

GRENADA