

	<p>squads for ET Joshua Airport and the main seaport.</p> <p>Law Judiciary:</p> <ul style="list-style-type: none"> • Consider longer term contracts for magistrates of at least five and up to ten years be used. <p>R.32</p> <p>Supervisors:</p> <ul style="list-style-type: none"> • Inadequate and untimely statistics obtained by insurance supervisors with respect to e.g. life and investment linked insurance policies; • Insufficient financial statistics received and generated by financial sector supervisor to assist them in risk-profiling FIs for ML/FT risks, including with respect to their money remittance business, back-to-back loans, etc. <p>FIU/Police:</p> <ul style="list-style-type: none"> • The FIU and Police should maintain statistics on trends, vulnerabilities and typologies of ML and FT offenses, and predicate offenses that analyze and synthesize the information obtained separately by each agency.
7.2 Other relevant AML/CFT measures or issues	
7.3 General framework – structural issues	

Authorities' Response to the Assessment

The Government and people of St. Vincent and the Grenadines (SVG) extend its sincerest gratitude to the team of evaluators of the IMF for their untiring efforts in the Mutual Evaluation process of SVG. The process was a rigorous undertaking for both the team and the country but one which we recognize as a necessity.

We, the Government and people of this country remain committed and ready to do all within our powers and resources to build and sustain a strong anti money laundering (AML)/ counter financing of terrorism (CFT), and financial regulatory regime. To this end, we remain ever cognizant that this Mutual Evaluation process is designed as an objective measure of our efficacy in implementing an AML/CFT regime, and as an indicator to the international community of the status of enforcement initiatives to money laundering and terrorist financing.

Given the significance and potential international and domestic implications, it is imperative that the report of our IMF Assessors, as far as possible, is an accurate and objective representation of the state of affairs of our country in respect to our AML/CFT regime. In this regard, we were given assurances that the country situation would be given adequate consideration. However, at times it remained unclear whether such assurances were sufficiently reflected in the Assessors' work.

We intend to consider the recommendations provided in the report to enhance our efforts while at the same time collaborating with the IMF and other stakeholders to progress the execution of such plans. Plans are already in motion to implement some of the recommendations while others require further consultations with the various stakeholders. We wish to emphasize a few of the important areas to which we intend to give utmost priority in 2010 and the near future:

- Amend the two primary pieces of legislation: POCA and UNATMA to achieve full compliance with the FATF 40 plus Nine Special Recommendations. Other pieces of legislation speaking to the operations of the FIU, IFSA and other regulatory bodies are being reviewed and shall be amended where appropriate.
- Issue a legally enforceable and comprehensive set of guidance notes to cover both AML and CFT as an aid in providing clear direction to all FIs and Regulated entities.
- Continue to build greater human resources capacity at key governmental organizations, particularly at regulatory agencies, as this has already commenced since the evaluation.
- Implement the most effective regulatory oversight systems in keeping with the recommendations of the Detailed Assessment Report (DAR).

One of our overarching goals is to enhance and accelerate current measures in St. Vincent and the Grenadines targeted towards strengthening the existing financial regulatory regime.

We intend to achieve this goal through a strategy of prioritization within the context of our available resources. The key manifestation of this would be the discernible improvements in legislation, guidance and regulatory oversight for all sectors governed under the AML/CFT regime.

Not surprisingly, contained within the IMF's DAR are a number of points of differences between the Assessors and the examined country. Above all, St. Vincent and the Grenadines considers that it has managed to achieve, maintain and implement an effective AML/CFT regime, commenced since December 2001, whereby significant human, financial and technical efforts have been expended to obtain this result. Considerable progress has been made in establishing an AML/CFT regime that actually works and produces desired results. This is especially relevant in our historical and country context of such legislative and administrative practices being wholly unfamiliar prior to 2001/2002. Bearing in mind the overarching objectives of the FATF 40 plus Nine Special Recommendations, there can be little doubt that SVG has indeed curtailed the activities of the money launderers, as evidenced by the fact that the years following the setting up and operation of its FIU, the biggest drug dealers and money launderers have been and are being brought to justice – due to the implementation of an effective, working AML/CFT regime.

St. Vincent and the Grenadines is however fully cognizant of the need to make further and greater progress and to enhance both our laws and systems so that they accord fully with the requirements of the FATF 40 plus Nine Special Recommendations. Though it is understood that the objective of the Report is to highlight deficiencies and weaknesses, it is respectfully submitted that in the country's view, the Assessors have not effectively reflected in the Report the very positive achievements of the country over the past several . In addition, in our view there remain in the DAR a number of subjective judgments, which we believe do not accord with the known facts, particularly in respect of what is believed to be actions that demonstrate effective implementation.

Notwithstanding, St. Vincent and the Grenadines will henceforth focus on improving its AML/CFT regimes in a manner guided by the recommendations of this Report. We reiterate our commitment to the mutual evaluation process and to ensuring that our AML/CFTAML regime is in compliance with the FATF 40 plus Nine Special Recommendations.

Details of Key Bodies and Persons Met During the On-Site Visit

Government and Public Sector Authorities

Hon. Prime Minister, Minister of Finance, Legal Affairs and National Security

Attorney General

Ministry of Legal Affairs

Ministry of Foreign Affairs

DPP

Commissioner and Deputy Commissioner of Police

Supreme Court Judges

Chief Magistrates

Financial Intelligence Unit

Permanent Secretary of National Security

Director General, Ministry of Finance & Planning

Budget Director, Ministry of Finance & Planning

Comptroller, Customs & Excise Dept.

Comptroller, Inland Revenue Dept.

International Financial Services Authority (IFSA)

Registrar, International Business Companies (IBCs)

Supervisory and Regulatory Unit (Ministry of Finance)

Co-operatives Department/Registrar of Cooperatives

Eastern Caribbean Central Bank: Banking Supervision Dept.

Gaming Commission

Commerce and Intellectual Property Office

Private Sector Organizations and Entities

Financial Institutions

9 Banks: Domestic 4; Offshore 5

5 Insurance Companies & Intermediaries

3 Investment Companies, Intermediaries and Mutual Fund Administrators

1 Credit Union

1 Building Society

4 Money Remitter (some were part of other FIs)

1 Bureau de Change

Designated Non-Financial Businesses and Professions

Bar Association

1 Law Firm

Accountants Association

1 Accounting Firm

2 NGOs

1 Jeweler

1 Real Estate Broker

1 Casino

3 Trust and Company Services Providers

1 Car Dealer

Annex 3. List of All Laws, Regulations, and Other Material Received

The International Business Companies (Amendment and Consolidation) Act, 2007
Offshore Finance Authority (Reenacting Act)/International Finance Authority Act
Uniform Banking Act
Eastern Caribbean Central Bank Act
Insurance Act
Money Services Business Act
Co-operative Societies Act
Co-operative Societies Regulations
Building Societies Act
The International Banks Act 2004
International Banks (Amendment Act)
Mutual Funds Act, 1997
Mutual Funds (Amendment) Act
Mutual Funds Regulation
The International Insurance (Amendment and Consolidation) Act, 1998
The International Trust Act
The International Trust (Amendment) Act, 2002
The International Trust (Amendment) Regulations, 2002
The International Trust Regulations, 1996
The Exchange of Information Act, 2008
Registered Agent & Trustee Licensing (Amendment) Act
Chapter 382 – Public Trustee Act
Proceeds of Crime and Money Laundering (Prevention) Act 2001
To amend the Proceeds of Crime and Money Laundering (Prevention) Act 202
Prevention of Money Laundering, Guidance Notes
UN Anti-Terrorism Measures Act, 2002
UN Anti-Terrorism Measures Amendment Act of 2006
Statutory Rules and Orders, Proceeds of Crime Regulations

Financial Intelligence Unit Act 2001

Acts to amend the Financial Intelligence Unit Act 2001

Gaming, Lotteries and Betting Act Cap 276

Companies Act No. 8 of 1994

Registration of Business Names Act Cap 111

Partnership Act Cap 109

Environmental Services Act No.14 of 1991

Convention on Oil Pollution Damage No. 6 of 2002

Management of Ship- Generated Solid Waste Act No: 15 of 2002

Dumping at Sea Act No: 53 of 2002

Mutual Legal Assistance in Criminal Matters No: 46 of 1993.

Exchange of Information Bill 2008

Customs (Control and Management) Act No: 14 of 1999

Customs and (Control and Management) Amendment order, 2001

Police Act Cap 280

Drugs (Prevention of Misuse) Act Cap 219

Immigration (Restriction Act) Cap 78

Firearms Act No. 12 of 1995

Drug Trafficking Offences Act No: 45 of 1993

CC Cap 124

Copies of Key Laws, Regulations, and Other Measures

SAINT VINCENT & THE GRENADINES

ANNEX IV: Key Laws, Regulations, and Other Measures

**DETAILED ASSESSMENT REPORT ON ANTI-MONEY
LAUNDERING AND COMBATING THE FINANCING OF
TERRORISM**

JUNE, 2010

INTERNATIONAL MONETARY FUND
LEGAL DEPARTMENT

ANNEX IV

Key Laws, Regulations, and Other Measures

8. PROCEEDS OF CRIME AND MONEY LAUNDERING (PREVENTION) ACT 2001

(Amended in 2002 and 2005, see below.)

PART V
MONEY LAUNDERING
Offences

**Concealing or
transferring
proceeds of
criminal conduct**

41. (1) A person commits an offence if he

(a) conceals or disguises any property which is, or in whole or in part directly or indirectly represents, his proceeds of criminal conduct, or

(b) converts or transfers that property, brings it into or removes it from Saint Vincent and the Grenadines;

for the purpose of avoiding prosecution for a drug trafficking or relevant offence or the making or enforcement in his case of a confiscation order.

(2) A person commits an offence if, knowing or having reasonable grounds to suspect that any property is, or in whole or in part directly or indirectly represents, another person's proceeds of criminal conduct, he

(a) conceals or disguises that property, or

(b) converts or transfers that property, brings it into or removes it from Saint Vincent and the Grenadines;

for the purpose of assisting any person to avoid prosecution for a drug trafficking or relevant offence or the making or enforcement of a confiscation order.

(4) [note: original text of law omitted (3)] In this section the references to concealing or disguising any property include references to concealing or disguising its nature, source, location, disposition, movement or ownership or any rights with respect to it.

**Arranging with
another to retain**

**the proceeds of
criminal conduct**

42. (1) Subject to subsection (3), a person commits an offence if he enters into or is otherwise concerned in an arrangement whereby

(a) the retention or control by or on behalf of another person ("A") of A's proceeds of criminal conduct is facilitated (whether by concealment, removal from the jurisdiction, transfer to nominees or otherwise); or

(b) A's proceeds of criminal conduct

(i) are used to secure that funds are placed at A's disposal; or

(ii) are used for A's benefit to acquire property.

and he knows or suspects that A is a person who is or has been engaged in or has benefited from criminal conduct.

(2) In this section, references to any person's proceeds of criminal conduct include a reference to any property which in whole or in part directly or indirectly represented in his hands his proceeds of criminal conduct.

(3) Where a person discloses in good faith to a police officer a suspicion or belief that any funds or investments are derived from or used in connection with criminal conduct, or any matter on which such a suspicion or belief is based

(a) the disclosure shall not be treated as a breach of any restriction upon the disclosure of information imposed by statute or otherwise and shall not give rise to any civil liability; and

(b) if he does any act in contravention of subsection (1) and the disclosure relates to the arrangement concerned, he does not commit an offence under this section if

(i) the disclosure is made before he does the act concerned and the act is done with the consent of a police officer; or

(ii) the disclosure is made after he does the act, but is made on his initiative and as soon as it is reasonable for him to make it.

(4) In proceedings against a person for an offence under this section, it is a defence to prove

(a) that he did not know or suspect that the arrangement related to any person's proceeds of criminal conduct;

(b) that he did not know or suspect that by the arrangement the retention or control by or on behalf of A of any property was facilitated or, as the case may be,

that by the arrangement any property was used as mentioned in subsection (1)(b); or

(c) that

(i) he intended to disclose to a police officer such a suspicion, belief or matter as is mentioned in subsection (3) in relation to the arrangement, but

(ii) there is reasonable excuse for his failure to make any such disclosure in the manner mentioned in subsection (3)(b).

(5) In the case of a person who was in employment at the time in question, subsections (3) and (4) shall have effect in relation to disclosures and intended disclosures to the appropriate person in accordance with any procedure established by his employer for the making of such disclosures as they have effect in relation to disclosures, and intended disclosures, to a police officer.

**Acquisition,
possession or use of
proceeds of criminal
conduct**

43. (1) A person commits an offence if, knowing that any property is, or in whole or in part directly or indirectly represents, another person's proceeds of criminal conduct, he acquires or uses that property or has possession of it.

(2) Subject to subsection (4) it is a defence to a charge of committing an offence under this section that the person charged acquired or used the property or had possession of it for adequate consideration.

(3) For the purposes of subsection (2) –

(a) a person does not acquire property for adequate consideration if the value of the consideration is significantly less than the value of the property; and

(b) a person does not use or have possession of property for adequate consideration if the value of the consideration is significantly less than the value of his use or possession of the property.

(4) The provision for any person of services or goods which are of assistance to him in criminal conduct shall not be treated as consideration for the purposes of subsection (2).

(5) Where a person discloses in good faith to a police officer a belief that any property is, or in whole or in part directly or indirectly represents, another person's proceeds of criminal conduct, or any matter on which such a belief is based

(a) the disclosure shall not be treated as a breach of any restriction upon the disclosure of information imposed by statute or otherwise and shall not give rise to any criminal, civil or administrative liability; and

(b) if he does any act in relation to the property in contravention of subsection (1), he does not commit an offence under this section if

(i) the disclosure is made before he does the act in question and the act is done with the consent of the police officer; or

(ii) the disclosure is made after he does the act, but is made on his initiative and as soon as it is reasonable for him to make it.

(6) For the purposes of this section, having possession of any property shall be taken to be doing an act in relation to it.

(7) In proceedings against a person for an offence under this section, it is a defence to prove that

(a) he intended to disclose to a police officer such a belief or matter as is mentioned in subsection (5), but

(b) there is reasonable excuse for his failure to make any such disclosure in the manner mentioned in subsection (5)(b).

(8) In the case of a person who was in employment at the time in question, subsections (5) and (7) shall have effect in relation to disclosures, and intended disclosures, to the appropriate person in accordance with any procedure established by his employer as they have effect in relation to disclosures, and intended disclosures, to a police officer.

(9) No police officer or other person commits an offence under this section in respect of anything done by him in the course of acting in connection with the enforcement, or intended enforcement, of any provision of this Act or of any other statutory provision relating to drug trafficking or relevant offences or the proceeds of criminal conduct.

**Disclosure of
knowledge or
suspicion of money
laundering**

44. (1) Where a person in good faith discloses to a police officer-

(a) his suspicion or belief that another person is engaged in money laundering, or

(b) any information or other matter on which that suspicion or belief is based,

the disclosure shall not be treated as a breach of any restriction upon the disclosure of information imposed by statute or otherwise and shall not give rise to any criminal, civil or administrative liability.

(2) A person commits an offence if

(a) he knows or suspects that another person is engaged in money laundering which relates to any proceeds of drug trafficking;

(b) the information, or other matter, on which that knowledge or suspicion is based came to his attention in the course of his trade, profession, business or employment; and

(c) he does not disclose the information or other matter to a police officer as soon as is reasonably practicable after it comes to his attention.

(3) Subsection (2) does not make it an offence for a professional legal adviser to fail to disclose any information or other matter which has come to him in privileged circumstances.

(4) It is a defence to a charge of committing an offence under this section that the person charged had a reasonable excuse for not disclosing the information or other matter in question.

(5) Any disclosure made by a person who was in employment at the time in question to the appropriate person in accordance with any procedure established by his employer shall be treated, for the purposes of this section, as a disclosure to a police officer.

(6) For the purposes of this section, any information or other matter comes to a professional legal adviser in privileged circumstances if it is communicated or given to him

(a) by, or by a representative of, a client of his in connection with the giving by the adviser of legal advice to the client;

(b) by, or by a representative of, a person seeking legal advice from the adviser;
Or

(b) by any person-

(i) in contemplation of, or in connection with, legal proceedings; and

(ii) for the purpose of those proceedings;

but no information or other matter shall be treated as coming to a professional legal adviser in privileged circumstances if it is communicated or given with a view to furthering any criminal purpose.

Tipping-off

45. (1) A person commits an offence if

(a) he knows or suspects that a police officer is acting, or is proposing to act, in connection with an investigation which is being, or is about to be, conducted into money laundering or the proceeds of criminal conduct; and

(b) he discloses to any other person information or any other matter which is likely to prejudice that investigation or proposed investigation.

(2) A person commits an offence if

(a) he knows or suspects that a disclosure has been made to a police officer or to an appropriate person under section 41, 42 or 43; and

(b) he discloses to any other person information or any other matter which is likely to prejudice any investigation which might be conducted following such a disclosure.

(3) Nothing in subsection (1) or (2) makes it an offence for a professional legal adviser to disclose any information or other matter

(a) to, or to a representative of, a client of his in connection with the giving by the adviser of legal advice to the client; or

(c) to any person

(i) in contemplation of, or in connection with, legal proceedings; and

(ii) for the purpose of those proceedings;

but this subsection does not apply in relation to any information or other matter which is disclosed with a view to furthering any criminal purpose.

(4) In proceedings against a person for an offence under subsection (1) or (2), it is a defence to prove that he did not know or suspect that the disclosure was likely to be prejudicial in the way there mentioned.

(5) No police officer or other person commits an offence under this section in respect of anything done by him in the course of acting in accordance with the enforcement, or intended enforcement, of any provision of this Act or of any other statutory provision relating to criminal conduct or the proceeds of criminal conduct.

**Record keeping
and reporting
suspicious
transactions**

46. (1) Every financial institution or person engaged in a relevant business activity shall keep and retain records relating to financial activities in accordance with the Regulations made under section 67 of this Act.

(2) Every financial institution or person engaged in relevant business activity shall pay special attention to all complex, unusual or large transactions, whether completed or not, and to all unusual patterns of transactions, and to insignificant but periodic patterns of transactions, which have no apparent economic or lawful purpose.

(3) Upon suspicion that the transactions described in subsection(2) could constitute or be related to money laundering or the proceeds of criminal conduct, a financial institution or person engaged in a relevant business activity shall report the suspicious transactions to the Financial Intelligence Unit in a form specified in the Regulations, as soon as reasonably practicable, and in any event, within fourteen days of the date the transaction was deemed to be suspicious as relating to money laundering or the proceeds of criminal conduct.

(4) Failure to report a suspicious transaction as required by subsection (3) is an offence.

(5) When the report referred to in subsection (3) is made in good faith, the financial institutions or persons engaged in relevant business activities and their employees, staff, directors, owners or other representatives as authorised by law, shall be exempted from criminal, civil or administrative liability as the case may be, for complying with this section or for breach of any restriction on disclosure of information imposed by contract or by any legislative, regulatory or administrative provision, regardless of the result of the communication.

(6) Every financial institution or person engaged in a relevant business activity shall develop and implement a written compliance programme reasonably designed to ensure and monitor compliance with Regulations made under this Act.

(7) A compliance programme referred to in subsection(4) shall include

(a) a system of internal controls to ensure ongoing compliance;

(b) internal or external independent testing for compliance

(c) training of personnel in the identification of suspicious transactions; and

(d) appointment of a staff member responsible for continual compliance with this Act and the Regulations.

**Penalties for money
Laundering**

47. (1) A person commits an offence under section 41,42 or 43 (money laundering) and is liable

(a) on summary conviction, to imprisonment for five years or a fine of \$500,000 or both; and

(b) on conviction on indictment, to imprisonment for twenty years or an unlimited fine or both.

(2) A person commits an offence under section 44, 45 or 46 (4) (failure to disclose knowledge or suspicion, tipping off failure to report a suspicious transaction and is liable

(a) on summary conviction, to imprisonment for three years or a fine of \$500,000 or both; or

(b) on conviction on indictment, to imprisonment for ten years or an unlimited fine or both.

9. PROCEEDS OF CRIME AND MONEY LAUNDERING (PREVENTION) (AMENDMENT) ACT 2005

(Sections 41–47 only to coincide with the above)

Section 41

(a) In subsection (1) -

(i) delete the semi-colon after the word “Grenadines” and insert a fullstop.

(ii) delete the words “for the purpose of avoiding prosecution for a drug trafficking or relevant offence or the making or enforcement in his case of a confiscation order”

(b) in subsection (2)

(i) insert after the word “knowing” the word “suspecting”;

(ii) delete the semi-colon after the word “Grenadines” and insert a fullstop; and

(iii) delete the words “for the purpose of assisting any person to avoid prosecution for a drug trafficking or relevant offence or the making or enforcement of a confiscation order”.

Section 42

(c) Renumber subsection (4) as subsection (3).

(a) In subsection (1) paragraph (b) delete the words “or suspect” and insert the words “,suspects or has reasonable grounds to suspect”.

(b) In subsection (4)(a) and (b) delete the words “or suspect” and insert the words “,suspect or have reasonable grounds to suspect”.

Section 43

In subsection (1), insert after the word “knowing” the words “,suspecting or having reasonable grounds to suspect”.

Section 44

In subsection (2) paragraph (a) -

- (a) delete the words “or suspects” and insert the words “,suspects or has reasonable grounds to suspect”.
- (b) delete the words “drug trafficking” and insert the words “criminal conduct”.

Section 45

In subsection (1)(a) and (2)(a) insert the words “or has reasonable grounds to suspect” after the word “suspect”.

Section 46

In subsection (7) -

- (i) delete “(4)” and insert “(6)”;
- (ii) delete paragraph (d) and insert the following:

“(d) appointment of a senior staff member or a staff member at management level to be responsible for continual compliance with this Act and the regulations made hereunder.”

10.PROCEEDS OF CRIME AND MONEY LAUNDERING (PREVENTION) (AMENDMENT) ACT 2002.

Amendment of section 46 of No. 39 of 2001

Subsection (3) of section 46 of the Proceeds of Crime and Money Laundering (Prevention) Act 2002 is amended by inserting immediately after the word “described in subsection (2)” the following:

“or any other transaction or financial activity”.

11.PROCEEDS OF CRIME (MONEY LAUNDERING) REGULATIONS, 2002

(Regulations 4-10)

Identification procedures

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

(a) an applicant for business of a type mentioned in sub-regulation (2) to produce satisfactory evidence of his identity, in accordance with the particulars in the Schedule, as soon as practicable after first making contact with the regulated institution; and

(b) if satisfactory evidence is not obtained, that the business in question must not proceed any further or, in relation to a business mentioned in sub-regulation (2)(d), shall only proceed in accordance with any direction, by the Financial Intelligence Unit.

(2) This regulation applies to the following types of business:

(a) the forming of a business relationship;

(b) a one-off transaction where payment is to be made by or to the applicant of ten thousand dollars or more;

(c) two or more one-off transactions that

(i) appear to a person handling the transaction on behalf of the regulated institution to be linked, and

(ii) in respect of which, the total amount payable by or to the applicant is ten thousand dollars or more;

(c) where in respect of a one-off transaction a person handling the transaction on behalf of the regulated institution knows or suspects

(i) that the applicant is engaged in money laundering, or

(ii) that the transaction is carried out on behalf of another person engaged in money laundering.

(3) If an applicant for business is introduced to a regulated institution by another regulated institution or foreign regulated institution, a written assurance from the introducing institution to the effect that evidence of the identity of the applicant has been obtained and recorded under procedures maintained by the introducing institution shall be satisfactory evidence of identity for the purposes of sub-regulation (1).

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

(5) A regulated institution shall establish and maintain identification procedures which require that, in a case where an applicant for business appears to be acting otherwise than as principal, reasonable measures shall be taken for the purpose of establishing the identity of the person on whose behalf the applicant for business is acting.

(6) If the applicant for business in a case mentioned in sub-regulation (4) is another regulated institution or a foreign regulated institution, it shall be reasonable for the regulated institution to accept a written assurance from the applicant for business to the effect that evidence of the identity of the principal has been obtained and recorded under procedures maintained by the applicant for business.

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

(8) In this regulation

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

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

“business relationship” means an arrangement between any person and a regulated institution, the purpose of which is to facilitate the carrying out of financial and other related transactions on a regular basis;

“established business relationship” means a business relationship in relation to which the regulated institution has obtained satisfactory evidence of identity of the applicant for business as required by this regulation;

“one-off transaction” means a transaction carried out other than in the course of an established business relationship.

(9) For the purposes of this regulation, the question as to what constitutes

- (a) satisfactory evidence of identity, or
- (b) reasonable measures for establishing the identity of a principal,

may be determined in accordance with the guidance notes appended to these Regulations.

Record-keeping Procedures

1. (1) If a regulated institution obtains evidence of a person’s identity as required by regulation 4 it shall keep for the minimum retention period

- (a) a copy of that evidence; or
- (b) a record indicating the nature of that evidence and providing any information that would enable a copy of it to be obtained.

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

(3) A regulated institution shall keep all its records or copies in a form to allow for their retrieval in legible form within a reasonable period of time.

(4) For the purposes of this regulation, the minimum retention period in relation to a

record held by a regulated institution is

- (a) if the record relates to the opening of an account with the institution, the period of seven years after the day on which the account is closed;
- (b) if the record relates to the renting by a person of a deposit box held by the institution, the period of seven years after the day on which the deposit box ceases to be used by the person; or
- (c) in any other case, the period of seven years after the day on which the transaction recorded takes place,

but in any case where the Financial Intelligence Unit has notified a regulated institution in writing that particular records are or may be relevant to an investigation that is being carried out, records shall be retained pending the outcome of the investigation.

(5) For the purposes of this regulation, the question as to what records may be necessary to assist an investigation into suspected money laundering may be determined in accordance with the guidance notes appended to these Regulations.

**Continued
verification of
accounts**

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

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

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

**Internal reporting
procedures**

3. (1) A regulated institution shall institute and maintain internal reporting procedures that include provisions
- (a) identifying a person, in this regulation referred to as “the reporting officer”, to whom a report is to be made of any information or other matter that comes to the attention of a person handling relevant financial business and that in the opinion of that person handling relevant financial business gives rise to a knowledge or suspicion that another person is engaged in money laundering;

(b) requiring that a report in paragraph (a) be considered by the reporting officer in the light of all other relevant information for the purpose of determining whether or not the information or other matter contained in the report does give rise to a knowledge or suspicion;

(c) allowing the reporting officer to have access to any other information that may be of assistance to him considering the report; and

(d) requiring the reporting officer to disclose to the Financial Intelligence Unit the information or other matter contained in a report, if the reporting officer knows or suspects that a person is engaged in money laundering.

Training procedures
No. 39 of 2001

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

(a) of the Proceeds of Crime and Money Laundering (Prevention) Act 2001, these Regulations and any other statutory provision relating to money laundering; and

(b) of the procedures maintained by the institution in compliance with the duties imposed under these Regulations.

(2) A regulated institution shall provide all relevant employees from time to time with appropriate training in the recognition and handling of transactions carried out by or on behalf of any person who is, or appears to be, engaged in money laundering.

(3) Training under this regulation shall in addition be given to all new relevant employees as soon as practicable after their appointment.

(4) For the purposes of this regulation, an employee is a relevant employee if, at any time in the course of his duties, he has, or may have, access to any information that may be relevant in determining whether a person is engaged in money laundering.

Offences
No. 39 of 2001

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

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

(b) on conviction on indictment

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

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

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

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

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

Transitional Provisions

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

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

12.PROCEEDS OF CRIME (MONEY LAUNDERING) (AMENDMENT)

REGULATIONS, 2002

Amendment of Regulation 6 of No. 39 of 2001

Sub-paragraph (1) of paragraph 6 of the Proceeds of Crime (Money Laundering) Regulations is amended by deleting the full stop after the word “basis” and adding immediately thereafter the following:

“except where there are concerns regarding the identity of the client or the beneficial owner during the course of the business relationship”.

13.UNITED NATIONS (ANTI-TERRORISM MEASURES) ACT, 2002

Interpretation

2. In this Act unless the context otherwise requires –

“Commissioner” means the Commissioner of Police;

“Convention” means the International Convention for the Suppression of the Financing of Terrorism, adopted in New York on 9 December, 1999 the text of which is set out in the First Schedule;

“funds” means assets of every kind as defined in Article 1 of the Convention;

“Minister” means the Minister responsible for National Security;

“proceeds” means any funds derived from or obtained, directly or indirectly, through the commission of an offence under this Act;

“terrorist” means any person who-

(a) commits, or attempts to commit, any terrorist act; or

(b) participates in or facilitates the commission of any terrorist act;

“terrorist act” means the use or threat of action which constitutes –

(a) an offence within the scope of and as defined in one of the treaties listed in the Second Schedule; or

(b) any other act intended to cause death or serious bodily injury to a civilian, or to any

other person not taking an active part in the hostilities in a situation of armed conflict,

when the purpose of such act, by its nature or context, is to intimidate a population, or

to compel a government or an international organization to do or to abstain from doing any act;

“terrorist property” means money or other property however acquired which is likely to be

used for the purposes of committing a terrorist act and includes proceeds of acts carried out for the purposes of a terrorist act.

Other terms used but not specifically defined in this Act, which have been defined in the Convention, have the same meaning as in the Convention.

Prohibition against provision or collection of funds for terrorist acts

3. (1) Any person in Saint Vincent and the Grenadines or any citizen of Saint Vincent and the Grenadines outside Saint Vincent and the Grenadines who by any means, directly or indirectly, unlawfully and wilfully, provides or collects funds with the intention that they should be used or in the knowledge that they are to be used, in full or in part, in order to carry out a terrorist act or to facilitate the commission of any terrorist act commits an offence.

(2) For an act to constitute an offence under subsection (1), it shall not be necessary that the funds were actually used to carry out a terrorist act.

(3) Any person in Saint Vincent and the Grenadines or any citizen of Saint Vincent and the Grenadines outside Saint Vincent and the Grenadines who

(a) attempts to commit an offence as set forth in subsection (1); or

- (b) participates as an accomplice of anyone who commits or attempts to commit an offence as set forth in subsection (1); or
- (c) organises or directs others to commit or attempt to commit an offence as set forth in subsection (1);

shall likewise be guilty of an offence.

(4) Any person in Saint Vincent and the Grenadines or any citizen of Saint Vincent and the Grenadines outside Saint Vincent and the Grenadines who intentionally contributes to the commission of one or more offences set forth in subsection (1) or (3) by a group of persons acting with a common purpose either:

- (a) with the aim of furthering the criminal activity or criminal purpose of the group; or
- (b) in the knowledge of the intention of the group to commit an offence as set forth in subsection (1) or (3);

shall likewise be guilty of an offence.

Prohibition against provision of resources and services for benefit of terrorists

4. Any person in Saint Vincent and the Grenadines or any citizen of Saint Vincent and the Grenadines outside Saint Vincent and the Grenadines who makes any funds, financial assets, economic resources or financial or other related services available, directly or indirectly, for the benefit of-

- (a) any terrorist;
- (b) any entity owned or controlled by any terrorist;
- (c) any person or entity acting on behalf of or at the direction of any terrorist or any entity owned or controlled by any terrorist commits an offence

Prohibition against dealing with property of terrorists

5. Any person in Saint Vincent and the Grenadines or any citizen of Saint Vincent and the Grenadines outside Saint Vincent and the Grenadines who-

- (a) deals, directly or indirectly, in any property that is owned or controlled by or on behalf of any terrorist or any entity owned or controlled by any terrorist, including funds derived or generated from property owned or controlled, directly or indirectly, by any terrorist or any entity owned or controlled by any terrorist;
- (b) enters into or facilitates, directly or indirectly, any financial transaction related to a dealing in property referred to in paragraph (a); or
- (c) provides any financial services or any other related services in respect of any property referred to in paragraph (a), to or for the benefit of, or on the direction or order of, any terrorist or any entity owned or controlled by any terrorist commits an offence.

Prohibition against supporting terrorists in other ways

6. Any person in Saint Vincent and the Grenadines or any citizen of Saint Vincent and the Grenadines outside Saint Vincent and the Grenadines who provides any form of support, active or passive, to any terrorist or any entity owned or controlled by any terrorist or to any entity acting on behalf of or at the direction of any terrorist-

- (a) by recruiting or assisting in the recruitment of persons; or
- (b) by supplying or assisting in the supply of weapons

commits an offence.

Penalties

7. A person guilty of an offence under sections 3, 4, 5 or 6 of this Act shall be liable-

- (a) on conviction on indictment, to imprisonment for a term not exceeding twenty years, to an unlimited fine or both; or
- (b) on summary conviction, to imprisonment for a term not exceeding five years, to a fine not exceeding \$500,000 or both.

Forfeiture of terrorist property

8. (1) The court by or before which a person is convicted of an offence under sections 3, 4, 5 or 6 of this Act may order the forfeiture of any money or other property-

- (a) which at the time of the offence, the convicted person had in his possession or under his control, and
- (b) which, at that time, such person intended should be used, or knew or had reasonable cause to suspect would or might be used, for the purposes of a terrorist act.

(2) Where a person other than a convicted person claims to be the owner of or otherwise interested in any money or property which can be forfeited by an order under this section, the court shall give him an opportunity to be heard before making an order.

Jurisdiction

9. Notwithstanding anything in this or in any other Act, offences listed in sections 3, 4, 5 and 6 of this Act shall be deemed to have been committed in Saint Vincent and the Grenadines when

- (a) the offence is committed in the territory of Saint Vincent and the Grenadines, including on board ships and aircraft registered, licensed, or otherwise subject to the jurisdiction of Saint Vincent and the Grenadines;
- (b) regardless of where the offence was committed, the person who committed the offence is

- (i) a citizen of Saint Vincent and the Grenadines; or

(ii) a stateless person having his habitual or ordinary residence in Saint Vincent and the Grenadines;

(c) regardless of where the offence was committed, the offence was directed towards or resulted in the carrying out of a terrorist act –

(i) in the territory of or against a national of Saint Vincent and the Grenadines; or

(ii) against a State or government facility of Saint Vincent and the Grenadines abroad, including its

diplomatic or consular premises; or

(iii) in an attempt to compel Saint Vincent and the Grenadines to do or abstain from doing any act;

(d) regardless of where the offence was committed, the person who committed the offence is, after the commission thereof, present in the territory of Saint Vincent and the Grenadines.

Duty to provide Information

10. Every person in Saint Vincent and the Grenadines and any citizen of Saint Vincent and the Grenadines outside Saint Vincent and the Grenadines who-

(a) has possession, custody or control of any property belonging to any terrorist or any entity owned or controlled by any terrorist; or

(b) has information about any transaction or proposed transaction in respect of any property belonging to any terrorist or any entity owned or controlled by any terrorist,

shall immediately inform the Commissioner or such other person as the Minister may designate of the fact or information and provide such further information relating to the property, or transaction or proposed transaction, as the Commissioner or designated person may require.

Duty to investigate and rights of the alleged offender

11. (1) Upon receiving information that a person who has committed or who is alleged to have committed any offence under this Act may be present in Saint Vincent and the Grenadines, the Commissioner shall take all measures necessary under the laws of Saint Vincent and the Grenadines to investigate the facts contained in the information and upon being satisfied that the circumstances so warrant the Commissioner shall take all appropriate measures to ensure the presence of such person in Saint Vincent and the Grenadines for the purpose of prosecution or extradition.

(2) Every alleged offender in respect of whom measures referred to in subsection (1) are being taken shall be entitled

(a) to communicate without delay with his nearest appropriate diplomatic representative; and

(b) to be visited by that representative.

(3) Nothing in subsection (2) shall prejudice the right of the alleged offender to communicate with, and be visited by the International Committee of the Red Cross, when it has been invited to do so by his national State, or State of habitual residence when he is a stateless person.

(4) Nothing in this Act shall impair the alleged offender's enjoyment of all other rights and guarantees available.

Notification Requirements

12. (1) The result of all prosecutions under this Act shall be communicated to the Secretary General of the United Nations.

(2) If any person has been taken into custody or subjected to similar measures in contemplation of prosecution or extradition for any of the offences set out in this Act, the following parties shall be notified, either directly or through the Secretary General of the United Nations, of the fact that such person is in custody and of the circumstances which warrant that person's detention:

- (a) the State in the territory of which the offence was committed;
- (b) the State of registration of the vessel or aircraft on board which the offence was committed;
- (c) the State of which the alleged offender was a national or a habitual resident in the case of a stateless person;
- (d) the State against which the offence was directed or on whose territory or against whose national the terrorist act was carried out;
- (e) the State against whose State or government facility abroad, including diplomatic or consular premises of that State, the offence was directed or the terrorist act was carried out;
- (f) the State against which compulsion had been directed or attempted by the commission of the offence or the carrying out of the terrorist act, to get that State to do or abstain from doing any act;
- (g) the State whose Government was operating any aircraft on board which the offence was committed.

Upon the completion of the investigation for any of the offences set out in this Act, the above-mentioned State Parties shall also be notified about the findings of the investigation and the intention of the Government of Saint Vincent and the Grenadines to exercise its jurisdiction.

Seizure and detention of terrorist cash

13. (1) In this section "cash" means-
- (a) coins and notes in any currency,
 - (b) postal orders,
 - (c) travellers' cheques,
 - (d) bankers' drafts, and

(e) such other kinds of monetary instruments as the Attorney General General may specify by order.

(2) Any member of the Royal Saint Vincent and the Grenadines Police Force, any customs officer, or any immigration officer may seize and detain any cash to which this section applies if he has reasonable grounds for suspecting that-

- (a) it is intended to be used for the purposes of a terrorist act,
- (b) it is terrorist property within the meaning given in section 2 of this Act.

(3) This section applies to cash which-

- (a) is being imported into or exported from the Saint Vincent and the Grenadines,
- (b) is being brought to any place in the Saint Vincent and the Grenadines for the purpose of being exported from the Saint Vincent and the Grenadines,

(4) Subject to subsection (5), cash seized under this section shall be released not later than the end of the period of 48 hours beginning with the time when it is seized.

(5) Where an order is made under section 14 in relation to cash seized, it may be detained during the period specified in the order.

Continued Detention

14. (1) The Commissioner, Chief Immigration Officer or the Comptroller of Customs may apply to a magistrates' court for an order under this section in relation to cash seized under section 13.

(2) An order under this section

- (a) shall authorise the further detention under section 13 of the cash to which it relates for a period specified in the order,
- (b) shall specify a period which ends not later than the end of the period of three months beginning with the date of the order, and
- (c) shall require notice to be given to the person from whom the cash was seized and to any other person who is affected by and specified in the order.

(3) An application for an order under this section may be granted only if the court is satisfied-

- (a) that there are reasonable grounds to suspect that the cash is cash of a kind mentioned in section 13 (2) (a) or (b), and
- (b) that the continued detention of the cash is justified pending completion of an investigation of its origin or derivation or pending a determination whether to institute criminal proceedings (whether in Saint Vincent and the Grenadines or elsewhere) which relate to the cash.

(4) More than one order may be made under this section in relation to particular cash; but cash shall not be detained by virtue of an order under this section after the end of the period of two years beginning with the date when the first order under this section was made in relation to it.

Detained cash

15. (1) Cash detained under section 13 by virtue of an order under section 14 shall, unless required as evidence of an offence, be held in an interest bearing account; and the interest accruing on the cash shall be added to it on its release or forfeiture.

(2) Any person may apply to a magistrate's court, for a direction that cash detained under section 14 be released.

(3) A magistrate's court shall grant an application under subsection (2) if satisfied-

(a) that section 14 (3) (a) or (b) no longer applies, or

(b) that the detention of the cash is for any other reason no longer justified.

(4) Cash detained under section 14 shall not be released under this section-

(a) while proceedings on an application for its forfeiture under section 16 have not been concluded, or

(b) while proceedings, whether in the Saint Vincent and the Grenadines or elsewhere, which relate to the cash have not been concluded.

Forfeiture of detained cash

16. (1) The Director of Public Prosecutions may apply to a Judge in chambers of the High Court for an order forfeiting cash being detained under section 13 by virtue of an order under section 14.

(2) The Judge in chambers may grant an application only if he is reasonably satisfied that the cash is of a kind mentioned in section 13 (2) (a) or (b).

(3) Before making an order under this section, the Judge in chambers must give an opportunity to be heard by any person-

(a) who is not a party to the proceedings, and

(b) who claims to be the owner of or otherwise interested in any of the cash which can be forfeited under this section.

Restraint orders

17. (1) The High Court may make a restraint order to prohibit persons from dealing with funds and other financial assets or economic resources of:

(a) persons who commit, or attempt to commit, a terrorist act or participate in or facilitate the commission of a terrorist act;

(b) entities owned or controlled directly or indirectly by persons referred to at (a) above;

(c) persons and entities acting on behalf of, or at the direction of persons referred to at (a) above or entities referred to at (b) above.

(2) The High Court may also make a restraint order to prohibit persons from dealing with funds derived or generated from property owned or controlled directly or indirectly by persons referred to in subsection (1) (a) above or their associated persons and entities.

(3) A restraint order-

- (a) may be made only on an application by the Director of Public Prosecutions;
- (b) may be made on an ex parte application to a Judge in chambers; and
- (c) shall provide for notice to be given to persons affected by the order.

(4) A restraint order-

- (a) may, on the application of any person affected by the order, be discharged or varied in relation to any funds or financial assets; and
- (b) shall be discharged when proceedings for offences under this Act are concluded.

(5) For the purposes of this section, dealing with funds or financial assets held by any person or entity includes (without prejudice to the generality of the expression):

- (a) making any payment to any person from such funds or assets; and
- (b) removing such funds or assets from Saint Vincent and the Grenadines.

Extradition

18. (1) Offences under this Act shall be deemed to be included in the description of relevant offences set out in the First Schedule to the Fugitive Offenders Act.

(2) Notwithstanding anything contained in sections 3 and 4 of the Fugitive Offenders Act, the Fugitive Offenders Act shall apply to all countries State Parties to the Convention in respect of offences to which the Convention relates.

(3) For the purposes of the Fugitive Offenders Act any offence described in this Act, wherever committed, which is an offence against the law of any State Party to the Convention shall be deemed to be an offence committed within the jurisdiction of that country.

Mutual Legal Assistance

19. (1) In connection with criminal investigations or criminal or extradition proceedings in respect of offences under this Act, fullest measure of assistance shall be provided to other State Parties to the Convention in accordance with the Mutual Assistance in Criminal Matters Act, 1993 (No. 46 of 1993).

(2) A request for mutual legal assistance under subsection (1) shall not be refused on the ground of bank secrecy or on the sole ground that it concerns a political offence.

FIRST SCHEDULE

[section 2]

INTERNATIONAL CONVENTION FOR THE SUPPRESSION OF THE FINANCING OF TERRORISM, 1999

(Full Text)

SECOND SCHEDULE

[section 2]

1. Convention for the Suppression of Unlawful Seizure of Aircraft, done at The Hague on 16 December 1970.
2. Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 23 September 1971.
3. Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the General Assembly of the United Nations on 14 December 1973.
4. International Convention against the Taking of Hostages, adopted by the General Assembly of the United Nations on 17 December 1979.
5. Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 24 February 1988.
6. Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome on 10 March 1988.
7. Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf, done at Rome on 10 March 1988.

14. UNITED NATIONS (ANTI-TERRORISM MEASURES) (AMENDMENT) ACT 2006.

2. Section 2 of the United Nations (Anti-Terrorism Measures) Act 2002, referred to in this Act as the principal Act, is amended -
 - (a) by inserting after the section designation ‘2’, the subsection designation ‘(1)’; and
 - (b) by adding the following as subsection (2) –

‘(2) The terms “fi nancial institution” and “relevant business activities” shall have the meaning given to them under Schedule 1 to the Proceeds of Crime and Money Laundering (Prevention) Act 2001.’.
3. The principal Act is amended by inserting after section 10 following new sections as sections 10A, 10B and 10C-
 - 10A (1) If, in keeping and retaining records relating to financial activities in accordance with the Proceeds of Crime and Money Laundering (Prevention) Act

2001, a financial institution or person engaged in relevant business activities suspects that a transaction as described in section 46 of that Act or any other transaction or financial activity could constitute or be related to the commission of a terrorist act or the financing of a terrorist act, the financial institution or person engaged in relevant business activities shall report the suspicious transaction to the Financial Intelligence Unit in a form specified in the Regulations made under the Proceeds of Crime and Money Laundering (Prevention) Act

2001 as soon as reasonably practicable, and in any event, within fourteen days of the date the transaction was considered to be suspicious as relating to the commission of a terrorist act or the financing of a terrorist act.

(2) When the report referred to in subsection (1) is made in good faith, the financial institution or person engaged in relevant business activities and their employees, staff, directors, owners or other representatives as authorised by law, shall be exempted from criminal, civil or administrative liability as the case may be, for complying with this section or for breach of any restriction on disclosure of information imposed by contract or by any legislative, regulatory or administrative provision, regardless of the result of the communication.

10B. A person who fails to report a suspicious transaction under section 10A commits an offence and is liable-

(a) on summary conviction to imprisonment for three years or a fine of five hundred thousand dollars or to both; or

(b) on conviction on indictment, to imprisonment for ten years or an unlimited fine or to both.

10C. Where a body corporate commits an offence under this Act and that offence is proved

to have been committed with the consent or connivance of any director, manager, secretary or other similar officer of the body corporate or a person who was purporting to act in any such capacity, the director, manager, secretary or other similar officer, or person purporting to act in such capacity as well as the body corporate commits that offence and is liable to be proceeded against and punished accordingly.”.

15. FINANCIAL INTELLIGENCE UNIT ACT 2001

Establishment of the Financial Intelligence Unit

3. (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) an attorney appointed in writing by the Minister;
 - (c) a public accountant appointed in writing by the Minister;
 - (d) the assignment of such number of police officers appointed by the Minister on the recommendation of the Commissioner of Police and Customs Officers appointed by the Minister on the recommendation of the Comptroller of Customs;
 - (e) such consultants having suitable qualifications and experience to provide services to the Financial Intelligence Unit, appointed in writing by the Minister; and
 - (f) such other personnel as the Minister considers necessary.

Functions of the Financial Intelligence Unit

4. (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 and Money Laundering Prevention Act 2001 to competent authorities including the Royal Saint Vincent and the Grenadines Police Force and the Director of Public Prosecutions.

(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 and Money Laundering Prevention Act 2001, which are relevant to its functions, including information from any Foreign Financial Intelligence Unit;
- (b) where it appears to the Director that there are reasonable grounds to suspect that a relevant offence has been committed, the Director may require the production of such information (excluding information subjected to legal professional privilege) from financial institutions or a person engaged in a relevant business activity that the Financial Intelligence Unit considers necessary for the purpose of investigating the relevant offence;
- (c) shall retain a record which shall be kept confidential 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 Minister to the Commissioner of Police where the information may relate to the commission of an offence;

- (e) may provide information relating to the commission of an offence to any Foreign Financial Intelligence Unit, subject to any conditions as may be considered appropriate by the Director on the advice of the Minister;
- (f) may enter into any agreement or arrangement, in writing, with a Foreign Financial Intelligence Unit which the Director on the advice of the Minister 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 and Money Laundering Prevention Act 2001.

(3) Any person failing or refusing to provide such information as is required by paragraph (b) of subsection (2) 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.

No liability or order

5. (1) 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.

(2) Notwithstanding the provisions of any other Act, no order for the provision of information, documents, or evidence may be issued in respect of the Financial Intelligence Unit or against the Minister, Director, officers or personnel of the Financial Intelligence Unit or any person engaged pursuant to this Act.

No criminal or civil liability for information

6. (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 and Money Laundering Prevention Act 2001.

(2) No civil or criminal liability action may be brought nor any professional sanction 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.

Confidentiality

7. (1) Any person who obtains information in any form as a result of his 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 one hundred thousand dollars or to imprisonment for a term not exceeding three years or to both such fine and imprisonment.

Annual report

8. (1) The Director shall

- (a) advise the Minister 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) prepare and submit to the Minister on or before the 1st day of April in each year an annual report reviewing the work of the Financial Intelligence Unit;
- (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 Assembly.

Annual budget

9. (1) The Financial Intelligence Unit shall prepare for each financial year an annual budget of revenue and expenditure which shall be submitted to the Minister at least four months prior to the commencement of the financial year.

Accounts and Audit

10. (1) The Financial Intelligence Unit shall keep proper accounts and other records in relation thereto, and shall prepare in respect of each financial year a statement of accounts.

- (2) The accounts of the Financial Intelligence Unit for each year shall be audited by the Director of Audit.
- (3) As soon as the accounts have been audited the Financial Intelligence Unit shall submit a copy to the Minister and a copy of any report made by the Director of Audit.
- (4) The Minister shall lay a copy of the audited accounts on the table of the House of Assembly.

Regulations

11. (1) 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.

16. FINANCIAL INTELLIGENCE UNIT (AMENDMENT) ACT 2006

2. Section 4 of the Financial Intelligence Unit Act 2001, referred to in this Act as the principal Act, is amended-

(a) in subsection (1), by inserting after the words “Act 2001” the words “and offences under the United Nations (Anti-Terrorism Measures) Act 2002”; and

(b) in subsection (2), by inserting after the words “Act 2001” in each place where it occurs in the subsection the words “and the United Nations (Anti - Terrorism Measures) Act 2002”.

3. Section 6 of the principal Act is amended in subsection (1) by inserting the words “and the United Nations (Anti -Terrorism Measures) Act 2002” after the words “Act 2001” and before the fullstop.

17. FINANCIAL INTELLIGENCE UNIT (AMENDMENT) ACT, 2002

Subsection (2) (e) of section 4 of the Financial Intelligence Unit Act is amended by inserting immediately after the words “commission of an offence” the following words: “or a suspected offence or information relating to a suspicious transaction report”.

18. INTERNATIONAL BANKS ACT, 2004

8. (1) A licensee shall have a physical presence in the State which shall include the following:

(a) a physical place of business in the State where all books and records are kept;

(b) a minimum of two employees, one of whom shall be of senior management level;

(c) a designed registered agent, that the Authority has received notification of and who is not an officer of the licensee.

(2) A licensee that does not have a physical presence in the State at the commencement of this Act must within six months of this Act coming into force or any further period the Authority may in writing allow, establish a physical presence.

(3) It shall be a condition of every licence granted under this Act that the licensee shall immediately notify the Authority, in writing of any change in the location of its office in the State and of any change of its registered agent.

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And register
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19. (1) The Authority, under the supervision of the Minister, shall be responsible for ensuring the proper administration of this Act.

(2) The functions of the Authority in administering this Act include but are not limited to the following:

(a) to examine by way of the receipt of regular return, on site inspections or in any other manner it thinks fit the affairs or business of a licensee carrying on business within or outside the State for the purpose of determining that the licensee is in a sound financial position and is carrying on its business in a satisfactory manner;

(b) in respect of a holding company, parent company or any other company that holds shares in a licensee

- (i) to inspect the books of the company;
- (ii) to request any information from the appropriate authorities in any country where the company is located;

(c) to assist in the investigation of any contravention of the laws of the State or the laws of another state which has requested assistance on the basis that it has reasonable grounds to believe that an offence has or may have been committed by a licensee or by any of the licensee's directors or officers;

(d) to examine accounts, audited annual accounts and quarterly returns forwarded to it under section 13; and

(e) to examine and approve or deny the applications for licences under this Act.

Subsection
Licence

(3) The Authority may, in the exercise of its powers under subsection (2), call upon an auditor, director, officer or employee of a licensee

(a) to produce all books, minutes, cash, securities, vouchers and other documents

and records relating to its assets, liabilities and business generally at a time fixed by the Authority or the Executive Director; and

(b) to give the Authority or the Executive Director any information concerning its affairs and business as may be requested.

(4) An auditor director, officer, or employee of a licensee who is required under this Part to make any disclosure to the Authority shall not by reason of making the disclosure be regarded as being in breach of his duty to the licensee.

(5) In the performance of its functions under this Act and subject to the confidentiality provisions in this Act and elsewhere under the laws of the State, the Authority shall at all reasonable times

(a) have access to the books, records, vouchers, documents, cash and securities of any licensee;

(b) request any information, matter or thing from any person who the Authority has reasonable grounds to believe is carrying on international banking business without a licence;

(c) examine or cause an examination to be made of a licensee's affiliates abroad to the same extent that an examination may be made of the licensee,

for the purpose of enabling the Authority to perform its functions under the Act.

(6) The Executive Director or the Authority or any person or entity acting under or with either of them may remove, communicate, send or in any manner transmit any of the information, document or related material to another State in accordance with the Mutual Assistance in Criminal Matters Act and any other enactment.

(7) The Executive Director or the Authority or any person or entity acting under or with either of them may remove, communicate, send or in any manner transmit any of the information, document or related material to an approval agency of the government as listed in Schedule 3.

1.1.9. *Λ*
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