

**SAINT VINCENT AND THE GRENADINES
2001:
FINANCIAL INTELLIGENCE UNIT ACT 2001**

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SAINT VINCENT AND THE GRENADINES

ACT NO. 38 OF 2002

I ASSENT

CHARLES J. ANTROBUS

Governor-General

18th December, 2001

AN ACT to provide for the establishment of a Financial Intelligence Unit which will be the national centralised unit in Saint Vincent and the Grenadines for the collection, analysis and dissemination of suspicious transaction information to competent authorities.

[18th December, 2001]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the House of Assembly of Saint Vincent and the Grenadines and by the authority of the same, as follows:

Short title and commencement

1. This Act may be cited as the Financial Intelligence Unit Act, 2001 and shall come into operation on such day as the Governor-General may appoint by notice published in the *Gazette*.

Interpretation

2. (1) In this Act, unless the context otherwise requires

"Director" means the director of the Financial Intelligence Unit, appointed pursuant to section 3;

"Financial Intelligence Unit" means the Financial Intelligence Unit established pursuant to section 3;

"Foreign Financial Intelligence Unit" means such body or bodies outside of Saint Vincent and the Grenadines as may be designated by the order of the Minister and which performs functions similar to those of the Financial Intelligence Unit;

"Minister" means the Minister responsible for Finance.

(2) The terms financial institutions, relevant offence and relevant business activity shall have the same meaning given to them under the Proceeds of Crime and Prevention of Money Laundering 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.

Passed in the House of Assembly this 13th day of November 2001.

J. THERESA ADAMS
Clerk of the House of Assembly

OBJECTS AND REASONS

This Bill seeks to establish the Financial Intelligence Unit Act, 2001.

The object of the Act is to create a national centralised unit in Saint Vincent and the Grenadines for the collection, analysis and dissemination of suspicious transaction information to competent activities.

The reasons for the Act are to bring the legislative framework in Saint Vincent and the Grenadines to international standards with respect to the collection and sharing of information concerning money laundering. The Act also seeks to address the obligations under the forty revised recommendations of the Financial Action Task Force, the nineteen revised recommendations of the Caribbean Financial Action Task Force and the twenty-five point criteria for assessing Non-Cooperative Countries and Territories of the Financial Action Task Force.

Dr. The Right Honourable Ralph E. Gonsalves
Prime Minister, Minister of Finance,
Planning, Economic Development, Labour,
Information, Grenadines and Legal Affairs

