

2013 *Proceeds of Crime (Anti-Money Laundering
and Terrorism Financing) (Amendment)
Guidelines, 2013*

SRO. 24

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GRENADA

STATUTORY RULES AND ORDERS NO. 24 OF 2013

THE COMMISSION IN EXERCISE OF THE POWERS CONFERRED ON IT BY SECTION 32(1) OF THE PROCEEDS OF CRIME ACT NO. 6 OF 2012, AFTER CONSULTATIONS WITH THE JOINT ANTI-MONEY LAUNDERING AND TERRORISM FINANCING ADVISORY COMMITTEE, ISSUES THESE GUIDELINES—

(Gazetted 8th November, 2013).

1. Citation. These Guidelines may be cited as the

PROCEEDS OF CRIME (ANTI-MONEY LAUNDERING
AND TERRORISM FINANCING) (AMENDMENT)
GUIDELINES, 2013.

2. In these Guidelines—

“principal Guidelines” means the Proceeds of Crime (Anti-money Laundering and Terrorism Financing) Guidelines S.R.O. No. 6 of 2012.

3. Amendment of section 9 of the principal Guidelines. Subsection (1) of section 9 of the principal Guidelines is hereby repealed and the following substituted therefor—

“(1) The Commission shall monitor compliance to these Guidelines and any other enactment relating to money laundering and terrorist financing by an entity, professional or person who is subject to these Guidelines.”

4. Insertion of new sub-paragraph in section 15 of the principal Guidelines. Sub-section (2) sub-paragraph (h) of section 15 of the principal Guidelines is hereby amended by inserting the following paragraph:

“(ha) examine all transactions that have no apparent economic or possible lawful purpose, including the background and purpose of such transactions, from all jurisdictions which do not apply or insufficiently applies the FATF recommendations, as far as possible, and written findings should be available to assist the competent authorities.”

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5. Amendment of section 20 of the principal Guidelines. Subsection (7) of section 20 of the principal Guidelines is hereby amended by inserting after the words “Reporting Officer” the words “who shall then report the transaction to the Financial Intelligence Unit.”

6. Amendment of section 21 of the principal Guidelines. Section 21 of the principal Guidelines is hereby amended as follows—

- (a) by inserting the words “or professionals” after the word “entity” wherever the word “entity” appears without the words “or professionals” after it;
- (b) in subsection 3 by deleting paragraph (a) and substituting therefor the following—
 - “(a) to enquire into and identify the applicant for business, or the intended customer, verify the identity and determine who are the natural persons that ultimately own or control the applicant or intended customer, particularly in the case of legal persons or legal arrangements”;
- (c) by inserting immediately after paragraph (f) the following new paragraph:
 - “(g) to ensure that all transactions are scrutinized and all customer due diligence documents and information are kept up to date.”
- (d) in subsection (4) as follows:
 - (i) in paragraph (d) by deleting the “semi-colon” after the word “scenario” and by deleting the word “and” after the “semi-colon”;
 - (ii) in paragraph (e) by deleting the “full stop” after the word “data” and by inserting a “semi-colon” after the word “data”; and the word “and” after the semi-colon; and
 - (iii) by inserting immediately after paragraph (e) the following new paragraph—
 - “(f) where there is an existing client or business relationship, at appropriate times.”
- (e) in subsection (5) paragraph (d)—
 - (i) by inserting immediately after the word “ownership” wherever it appears, the words “and control structure”;

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- (ii) by deleting the word “and” where it appears after the words “legal persons”; and
 - (iii) by inserting the words “legal arrangements” after the words “legal person” where it appears.
- (f) by inserting immediately after subsection (8) the following new subsections–
- “(9) An entity or professional may only use the provisions of subsection (6) in relation to a local customer or a customer from a country listed in Schedule II, provided it satisfies itself that the customer is of such a risk level that qualifies for this treatment.
 - (10) An entity or professional may not use the provisions of subsection (6) where it or he suspects that a customer is engaged in money laundering or terrorist financing.”

7. Amendment of section 24 of the principal Guidelines. Paragraph (d) of subsection (1) of section 24 of the principal Guidelines is hereby amended by deleting the word “regular” where it appears and substituting therefor the words “enhanced ongoing.”

8. Amendment of section 25 of the principal Guidelines. Subsection (5) of section 25 of the principal Guidelines is hereby repealed and the following substituted therefor–

- “(5) Where an entity or a professional establishes a business relationship pursuant to subsection (2) and it or he–
- (a) discovers or suspects, upon subsequent verification, that the applicant for business or customer is or may be involved in money laundering or terrorist financing;
 - (b) fails to secure the full cooperation of the applicant for business or customer in carrying out or completing its or his verification of the applicant for business or customer; or
 - (c) is unable to carry out the required customer due diligence or, as the case may be, enhanced customer due diligence, requirements in respect of the applicant for business,

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the entity or professional shall–

- (i) terminate the business relationship and close all existing accounts;
- (ii) submit, in relation to paragraph (a), a report to the FIU outlining its or his discovery or suspicion; and
- (iii) submit, in relation to paragraph (b) or (c), a report to the FIU if it or he forms the opinion that the conduct of the applicant for business or customer raises concerns regarding money laundering or terrorist financing regardless of the amount or whether they are thought among things to involve tax matters.”

9. Amendment of section 31 of the principal Guidelines. Section 31 of the principal Guidelines is amended by inserting after subsection (4) the following new subsection as follows–

“(5) All entities and professionals shall have specific written policies and procedures, including effective customer due diligence procedures, to address risks associated with non face to face transactions.”

10. Amendment of section 33 of the principal Guidelines. Section 33 of the principal Guidelines is hereby amended–

(a) by inserting after subsection (2) the following new subsection–

“(2a) An entity or a professional relying on sub-section (1), shall immediately obtain from the introducer elements of the customer due diligence or enhanced customer due diligence process undertaken.”

(b) by inserting after subsection (5) the following new subsection–

“(6) Despite reliance on this section, an entity or a professional has the ultimate responsibility to

- (a) establish and review the customer due diligence information of an applicant for business or a customer following the establishment of the business relationship; and
- (b) be satisfied that third parties are regulated in accordance with FATF recommendations.”

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11. Amendment of section 35 of the principal Guidelines. Section 35 of the principal Guidelines is amended—

- (a) in paragraph (b), by inserting after the words “one bank” where they appear and after the words “overseas bank” where it appears, the words “or financial institution”; and
- (b) in paragraph (c), by inserting after the words “a bank” where they appear, the words “or financial institution.”

12. Amendment of section 37 of the principal Guidelines. Section 37 of the principal Guidelines is amended by inserting the words “or financial institution” after the words “a bank” wherever it appears.

13. Amendment of section 42 of the principal Guidelines. Sub-section (5) of section 42 of the principal Guidelines is hereby repealed and the following substituted therefor:

“(5) A payment service provider of a payee shall adopt the effective risk-based measures for identifying and handling all transfers of funds that are not accompanied by complete originator information. The lack of complete originator information may be considered as a factor in assessing whether a transfer of funds or related transactions should be reported to the Financial Intelligence Unit as a suspicious transaction or an activity with respect to money laundering or terrorist financing.”

14. Amendment of section 54 of principal Guidelines. Section 54 of the principal Guidelines is amended by inserting after subsection (4) the following new subsection—

“(4a) An entity or a professional shall use the list of jurisdictions listed in Schedule 2 to evaluate third parties operating in foreign jurisdiction.”

15. Amendment of section 55 of the principal Guidelines. Sub-section (2) of Section 55 of the principal Guidelines is amended by:

- (a) removing the “full stop” after the word “Guidelines” and replacing it with a comma;
- (b) by inserting immediately after the word “Guidelines” the following words:

“and shall ensure that they observe measures consistent with Grenada’s requirements and the FATF anti-money laundering and terrorist financing recommendations.”

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16. Amendment of Schedule I. Schedule I of the principal Guidelines in Part B headed “Guiding Principles” is amended in paragraph 1 by deleting the word “the” where it appears before the word “Grenada.”

17. Amendment of Schedule IV. The table headed Offences and Administrative Penalties of Schedule IV is repealed and replaced as follows–

“SCHEDULE IV

[Section 59 (1)]

OFFENCES AND ADMINISTRATIVE PENALTIES

COLUMN 1 OFFENCES AND ADMINISTRATIVE PENALTIES	COLUMN 2	COLUMN 3	COLUMN 4
Section of the Guidelines creating offence	General nature of offence	Penalty (Corporate body)	Penalty (Individual)
5 (3), (5), (6) and (8)	Failure to comply with requirements of section 5 or carry out customer due diligence and record keeping measures, or accepting donations linked to money laundering or terrorist financing	40,000.00	25,000.00
13	Failure to maintain appropriate policies, procedures and other measures to prevent misuse of technological developments	25,000.00	18,000.00

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14	Failure to carry out money laundering and terrorist financing risk assessments	40,000.00	20,000.00
16	Failure of senior management to comply with the measures required under this section	20,000.00	16,000.00
17(1)	Failure by an employee to comply with internal control systems of an employer, or to disclose a suspicion	-	15,000.00
18(3)	Failure to comply with the prescribed obligations in relation to a Reporting Officer	25,000.00	15,000.00
20(1)	Failure by an employee to report a suspicious activity or transaction	-	15,000.00
21(2), (4) and (5)	Failure to engage in or undertake customer due diligence, or additional customer due diligence in the case of a trustee of a trust or a legal person	30,000.00	15,000.00
22	Failure to engage in enhanced customer due diligence	25,000.00	15,000.00
23	Failure to review and keep up-to- date customer due diligence information in the required manner	25,000.00	18,000.00
31(2) and (4)	Failure to adopt relevant measures or additional measures or checks in non-face to face relationships	25,000.00	15,000.00

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32(1) and (3)	Failure to ensure proper certification of document, or accepting certified document contrary to this section	15,000.00	10,000.00
32(4)	Failure to verify existence of certifier of document	15,000.00	10,000.00
33(2) and (5)	Failure to record an introduction of an applicant for business or a customer, or to ensure that an introducer reviews and maintains customer due diligence information as required	25,000.00	12,000.00
34	Failure to take post verification steps required under this section	17,000.00	10,000.00
38	Failure by a correspondent bank to satisfy itself regarding necessary customer due diligence measures required to be undertaken by a respondent bank	25,000.00	15,000.00
41(1) and (3)	Failure to ensure transfer of funds accompanied by full originator information, or to verify full originator information	20,000.00	10,000.00
41(6)	Failure to keep records of full originator information on payer	30,000.00	15,000.00

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43(2) and (5)	Failure to keep information received on payer with the transfer of funds, or to provide upon request within the specified time information on payer that the intermediary payment service provider has received	30,000.00	15,000.00
43(6)	Failure to keep records of information on payer for the specified period	25,000.00	20,000.00
44(2)	Failure to maintain records in the required form	15,000.00	8,000.00
45(1) and (2)	Failure to ensure required contents of record, or to ensure that the manner of keeping records does not hinder monitoring of business relationships and transactions	10,000.00	7,000.00
46	Failure to maintain transaction records	15,000.00	10,000.00
48(2)	Entering into outsourcing arrangement for the retention of records whereby access to such records is impeded by confidentiality or data protection restrictions, or the outsourcing prevents or impedes the implementation of the Anti Money Laundering and Terrorist Financing Regulations, these Guidelines or other enactment relating to money laundering or terrorist financing	20,000.00	15,000.00

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49(1)	Failure to train employees	25,000.00	-
50(1) and (2)	Failure to provide training at appropriate frequencies or to the desired level and standard	15,000.00	10,000.00
54	Failure to pay special attention to business relationships or transactions connected to a jurisdiction that does not apply or insufficiently applies FATF Recommendations, or to perform obligations in relation to a jurisdiction that is no longer recognized	25,000.00	15,000.00
57(1) and (2)	Failure to make or submit a report in the proper form	12,000.00	7,000.00

Amendment of Schedule V

16. Schedule V of the Guidelines is amended as follows—

(a) in Form 2, Part III—

- (i) in item number 17, by deleting the figure “16” and substituting therefor the figure “15”;
- (ii) in item number 19j, by deleting the figure “21” and substituting therefor the figure “20”;
- (iii) in item number 20, by deleting the figure “20” and substituting therefor the figure “19”;

(b) in Form 6, in paragraph A headed “Grenadian companies”—

- (i) by deleting “1-7” and substituting therefor “1- 6”;

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(ii) by deleting “8-11” and substituting therefor “7- 13”

(iii) by deleting “12-13” and substituting therefor “14-17”;

(c) by inserting immediately after Form 8 the following new form–

“FORM 9

(Sections 21(3)(d))

DECLARATION OF SOURCE OF FUNDS

Name of Customer:	Branch Date:..... / / 20--		
	Type of Transaction	Currency	Amount
	<input type="text"/>	<input type="text"/>	<input type="text"/>
Address:	Account Number		
Telephone Number:	Identification I.D. Card/ Driver’s Licence/ Passport No: State..... Country..... Date of Issue / / Date of Birth / / Status: Resident Non Resident		

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I hereby declare the source of the above funds

is:
.....
.....

Pursuant to the provisions of the Proceeds of Crime (Anti-Money Laundering and Terrorism Financing) Guidelines issued by the Anti-Money Laundering and Combating Terrorism Financing Commission, it is the policy of this institution that it must be satisfied as to the source of funds prior to accepting deposits, or funds for transfer, or the purchase of any currency or instrument. The source of funds over US \$10,000 or its equivalent must also be declared to this institution.

.....
Customer Signature Transaction taken by Transaction authorized by

Official Use:

Transaction Accepted	Transaction Declined
	Reason: No / unacceptable explanation..... Customer uncooperative Other"

Made this 4th day of November, 2013

CAJETON HOOD
Anti-Money Laundering & Combating
Terrorism Financing Commission.