

GLOBAL FORUM ON TRANSPARENCY AND EXCHANGE
OF INFORMATION FOR TAX PURPOSES

Peer Review Report
Phase 1
Legal and Regulatory Framework

GRENADA



Global Forum on Transparency and Exchange of Information for Tax Purposes Peer Reviews: Grenada 2012

PHASE 1

June 2012
(reflecting the legal and regulatory framework
as at March 2012)

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About the Global Forum

The Global Forum on Transparency and Exchange of Information for Tax Purposes is the multilateral framework within which work in the area of tax transparency and exchange of information is carried out by over 100 jurisdictions which participate in the Global Forum on an equal footing.

The Global Forum is charged with in-depth monitoring and peer review of the implementation of the international standards of transparency and exchange of information for tax purposes. These standards are primarily reflected in the 2002 OECD *Model Agreement on Exchange of Information on Tax Matters* and its commentary, and in Article 26 of the OECD *Model Tax Convention on Income and on Capital* and its commentary as updated in 2004, which has been incorporated in the UN *Model Tax Convention*.

The standards provide for international exchange on request of foreseeably relevant information for the administration or enforcement of the domestic tax laws of a requesting party. Fishing expeditions are not authorised but all foreseeably relevant information must be provided, including bank information and information held by fiduciaries, regardless of the existence of a domestic tax interest or the application of a dual criminality standard.

All members of the Global Forum, as well as jurisdictions identified by the Global Forum as relevant to its work, are being reviewed. This process is undertaken in two phases. Phase 1 reviews assess the quality of jurisdictions' legal and regulatory framework for the exchange of information, while Phase 2 reviews look at the practical implementation of that framework. Some Global Forum members are undergoing combined – Phase 1 plus Phase 2 – reviews. The Global Forum has also put in place a process for supplementary reports to follow-up on recommendations, as well as for the ongoing monitoring of jurisdictions following the conclusion of a review. The ultimate goal is to help jurisdictions to effectively implement the international standards of transparency and exchange of information for tax purposes.

All review reports are published once approved by the Global Forum and they thus represent agreed Global Forum reports. For more information on the work of the Global Forum on Transparency and Exchange of Information for Tax Purposes, and for copies of the published review reports, please refer to www.oecd.org/tax/transparency and www.eoi-tax.org.

Executive Summary

1. This report summarises the legal and regulatory framework for transparency and exchange of information in Grenada. The international standard, which is set out in the Global Forum’s *Terms of Reference to Monitor and Review Progress Towards Transparency and Exchange of Information*, is concerned with the availability of relevant information within a jurisdiction, the competent authority’s ability to gain timely access to that information, and whether that information can be effectively exchanged with the jurisdiction’s exchange of information partners.

2. Grenada is a small island located in the southern Caribbean Sea, north of Trinidad and Tobago. Grenada’s economy mainly relies on agriculture, construction and tourism. Its main economic partners are the United States, other Caribbean jurisdiction and European countries. While Grenada developed an international financial centre, with a peak of almost 4 000 international companies incorporated in 2002, this sector has downsized since then and now comprises 68 international companies. Although Grenada’s laws allow for the creation of offshore banks, international insurance companies and international trusts, no such entities are currently registered in Grenada and Grenada’s government does not intend to re-develop Grenada’s financial centre unless its legal framework is remodelled.

3. Grenada committed to the international standard in 2002 and renewed this commitment in 2009. Further, 14 tax information exchange agreements (“TIEAs”) were concluded in 2010-2011 leading to a network of exchange of information (EOI) arrangements comprising 15 TIEAs, 3 double tax conventions (“DTCs”) and 1 multilateral instrument (the CARICOM Treaty). This network allows for EOI with 27 jurisdictions but EOI to the standard can only take place with 15 of them and Grenada should renegotiate those treaties that do not comply with the standard.

4. Grenada has completed its ratification process for the 14 TIEAs signed since 2010 with the newly introduced Mutual Exchange of Information on Taxation Matters Act 2011 (passed in November 2011) and an associated Order (passed on 23 December). All its TIEA partners were notified of this ratification in January 2012 and three of these TIEAs are currently in force.

Under this Act, Grenada's competent authority, the Comptroller of the Inland Revenue, can ask anyone to provide any information notwithstanding secrecy provisions contained in other pieces of existing legislation. This Act includes a prior notification process that does not provide for any exceptions and so, in this respect, is not consistent with the international standard.

5. To answer inbound requests made under the CARICOM Agreement, Grenada's competent authorities rely on their domestic information gathering powers provided by Grenada's Income Tax Act. As EOI is not part of the matters covered by this Act, access to information when Grenada has no domestic interest in gathering the information may not be allowed. No effect has been given to the DTCs signed with Switzerland and South Africa. Grenada should have the powers to access information in order to respond to a request from all of its treaty partners.

6. Availability of ownership information is ensured in Grenada in relation to domestic companies and international companies. External companies (*i.e.* foreign companies) have obligations to make ownership information available upon registration with the Inland Revenue. Domestic companies are not allowed to issue bearer shares and, although international companies are allowed to do so, legal requirements ensure that information on holders of such shares is available. Ownership information on partnerships is available by virtue of information that must be provided to the Inland Revenue. As regards trusts, for both local trusts created under the common law and international trusts under the International Trusts Act 1996, ownership information is available in some instances in Grenada due to anti-money laundering requirements but not in all situations.

7. Obligations to maintain accounting records including underlying documentation for a minimum of five years in compliance with the standard are not in place in respect of all entities and arrangements that can be created under Grenada's laws. Grenada should improve its legal framework in this regard. Bank information is made available under Grenada's anti-money laundering legal framework.

8. Grenada's response to recommendations in this report as well as the application of the legal framework to the practices of its competent authority will be considered in detail in the Phase 2 Peer Review which is scheduled for the second half of 2013. In the meantime, a follow up report on the steps undertaken by Grenada to answer the recommendations made in this report should be provided to the PRG within one year after the adoption of this report. It should also provide an intermediary report within 6 months of this report.

Introduction

Information and methodology used for the peer review of Grenada

9. The assessment of the legal and regulatory framework of Grenada was based on the international standards for transparency and exchange of information as described in the Global Forum's *Terms of Reference to Monitor and Review Progress Towards Transparency and Exchange of Information*, and was prepared using the Global Forum's *Methodology for Peer Reviews and Non-Member Reviews*. The assessment was based on the laws, regulations, and exchange of information mechanisms in force or effect as at March 2012, Grenada's responses to the Phase 1 questionnaire and information supplied by partner jurisdictions.

10. The *Terms of Reference* breaks down the standards of transparency and exchange of information into 10 essential elements and 31 enumerated aspects under three broad categories: (A) availability of information; (B) access to information; and (C) exchange of information. This review assesses Grenada's legal and regulatory framework against these elements and each of the enumerated aspects. In respect of each essential element, a determination is made regarding Grenada's legal and regulatory framework that either: (i) the element is in place; (ii) the element is in place but certain aspects of the legal implementation of the element need improvement; or (iii) the element is not in place. These determinations are accompanied by recommendations for improvement where relevant.

11. The assessment was conducted by a team which consisted of two assessors and a representative of the Global Forum Secretariat: Advocate Laura de Lisle, Legislative Counsel for the Law Officers of the Crown in Guernsey; Mr. Miguel Ramiro, Ministry of Finance, Spain; and Mr. Rémi Verneau from the Global Forum Secretariat.

Overview of Grenada

12. The territory of Grenada consists of three islands – Grenada, Carriacou and Petit Martinique – situated between the Caribbean Sea and Atlantic Ocean, north of Trinidad and Tobago. Its total area is 340 square kilometres (133 square miles) and its coastline measures 121 kilometres (75 miles). Grenada’s population was estimated as being 109 000 as at 2010. 38% of Grenadians are under the age of 15. The capital of Grenada is the city of St. George which lies on the island’s southwest coast. English is the national language. The currency is the East Caribbean dollar (XCD) which has been pegged to the US dollar since 1976 at a rate of XCD 2.70 to USD 1.¹

13. Grenada is a small open economy with a total GDP of USD 674 million² and a per capita GDP of USD 6 200 in 2010. The economy has been traditionally dependent on export-based agricultural crops, especially nutmeg and spices. In recent years, construction, tourism, manufacturing, financial services and ICT (Information and Communication Technology) sectors have been identified as potentially important sources of economic growth. These sectors are expected to be the main growth drivers for the economy in the medium to long-term. Grenada’s trade is conducted primarily with Trinidad and Tobago, North America and Europe.

14. Grenada belongs to the Caribbean Community (CARICOM).³ These countries are signatories to regional and co-operative agreements and treaties. Further, Grenada is also a signatory to other international treaties, such as those of the United Nations, the Organisation of American States (OAS) and the Commonwealth of Nations. Grenada is a member of the Global Forum. It committed to the international standards for transparency and exchange of information for tax purposes in 2002 and renewed this commitment in 2009.

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1. USD 1 = EUR 1.34 as at 6 December 2011. In this report, all references will be in XCD with the conversion in USD except for laws that directly contain references in USD (*i.e.* International Company Act, International Trust Act and the AML framework).
 2. IMF, World Economic Outlook Database 2011.
 3. The CARICOM Members States are Antigua and Barbuda, The Bahamas, Barbados, Belize, Dominica, Grenada, Guyana, Haiti, Jamaica, Montserrat, Saint Lucia, St. Kitts and Nevis, St. Vincent and the Grenadines, Suriname, and Trinidad and Tobago. The CARICOM Associate Members are Anguilla, Bermuda, the British Virgin Islands, Cayman Islands, and the Turks and Caicos Islands.

General information on legal system and the taxation system

Legal system

15. Grenada is a parliamentary democracy and constitutional monarchy, with Queen Elizabeth II as Head of State, represented locally by a Governor General. There are three independent arms of government: the Judiciary, the Legislature, and the Executive, all subject to the supremacy of the Grenada Constitution Order 1973, which came into operation on 7 February 1974, the day that Grenada obtained its independence from the United Kingdom.

16. Grenada's parliament was convened in 1974, the same year that the island became a member of the Commonwealth. The Parliament is made up of the Queen, who is represented by the Governor General, the Senate and the House of Representatives. The 15 Members of the House of Representatives are elected for a five years term by the electorate whereas the 13 non-elected Senators are appointed by the Governor General on the advice of the Prime Minister, the Leader of the Opposition and represent national interest groups. Every bill must be passed through both the Lower and Upper Houses. The process of law making is contingent upon the contribution of all parts of the Parliament. While both the Senate and the House of Representatives have equal powers under the Constitution, only the House of Representatives can introduce financial legislation.

17. The judiciary is independent. The law provides for the right to a fair public trial, to a presumption of innocence, the right to remain silent, and to seek the advice of an attorney. Grenada is a member of the Eastern Caribbean Supreme Court (ECSC), which is headquartered in Saint Lucia and consist of a High Court of Justice and a Court of Appeal, the latter of which is itinerant with the other member states of the Organisation of Eastern Caribbean States (OECS) as well as the associate members of Anguilla and the British Virgin Islands. Three High Court judges of the ECSC, under the administration of the Chief Justice of the ECSC, are usually assigned to and resident in Grenada. There is no specific Court dealing with tax matters.

18. Grenada's legal system is based on English common law with most of its statute law originating from and or informed by the laws of the United Kingdom. The legal system relies on a single national law and covers all the islands which comprise the state of Grenada.

19. The hierarchy of laws is as follows: (i) the Constitution, to which all other laws are subject and must be tested for legality; (ii) Acts of Parliament; and (iii) Subsidiary Laws, Rules, Orders and Statutory Instruments, made in pursuance of Acts of Parliament. Treaties do not have automatic application in Grenada. By virtue of the Constitutional protection as to the role of each arm of government, treaties, which are concluded by executive action, cannot be implemented without the Legislature's sanction.

20. To the extent that an international treaty has been enacted as an Act of Parliament, or as a Subsidiary Law pursuant to an Act of Parliament, it will be subject to the hierarchy of laws set out above. If treaties are not incorporated into Grenada's domestic law, they cannot be considered as being part of the hierarchy of domestic laws. However, CARICOM Agreements (CARICOM Tax Treaty included) have direct effect in Grenada since the Caribbean Court of Justice (CCJ), the Caribbean regional judicial tribunal, was established on 14 February 2001 by the Agreement Establishing the Caribbean Court of Justice.

The tax system

21. In Grenada, assessment and collection of taxes is under the control and responsibility of the Inland Revenue.

22. Under Grenada's Income Tax Act, the following persons are considered to be resident (i) an individual that has his permanent place in Grenada or is physically present in Grenada for not less than 183 days (ii) all companies incorporated in Grenada and companies incorporated outside Grenada to the extent that they are managed and controlled in Grenada (iii) a trust or a body of persons established in Grenada. Residents are taxed on their worldwide income as it arises. Non-residents are subject to tax on income accruing directly or indirectly from Grenada.

23. Grenada's income tax system for earned income (Income Tax Act 1994) is based on a pay as you earn method. Individual income tax is levied at a rate of 30% on income above XCD 60 000 (USD 22 222) per annum and corporation tax is 30% on profit after allowable expenses. Entities (including professionals) doing business in Grenada are further subject to a stamp tax based on the gross annual receipts. Grenada introduced a VAT system in 2010 (Value Added Tax Act 2009). This tax is imposed on taxable activities, both delivery of goods and services, at a standard rate of 15% and a reduced rate of 10% for hotel accommodation and dive activities. A 20% rate specifically applies to mobile telecommunication services (voice and text). International financial offshore entities are subject to specific tax regimes and are usually non-taxable entities.

24. Grenada imposes a withholding tax on income and certain other payments made to non-residents under the Income Tax Act 1994. Any person in Grenada who makes payments to a non-resident is responsible for deducting and paying withholding tax at the rate of 15% (or a lesser rate if so provided by the applicable DTC). This applies, amongst other things, to: salaries, dividends, interest (except from bank deposits), rents, royalties, commissions and fees.

25. In relation to offshore entities, Grenada's law provides that international business companies are exempt from the payment of taxes, duties and similar charges for a period of 20 years after the commencement of the

International Companies Act *i.e.* until 16 April 2016 (ICA s. 110). These companies are subject to the payment of an additional fee (see Schedule to the ICA). Section 49 of the International Trust Act provides that the income from an international trust that is received by a beneficiary who is not resident in Grenada is exempt from income tax.

26. Grenada's treaty network comprises 5 DTCs, 15 TIEAs and a multilateral convention covering 10 jurisdictions (CARICOM Treaty to which Antigua and Barbuda, Barbados, Belize, Dominica, Guyana, Jamaica, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, and Trinidad and Tobago are parties). Under section 4(1) of the Mutual Exchange of Information on Taxation Matters Act 2011, the Comptroller of Inland Revenue is designated as the Tax Co-operation Authority for the purposes of the Act and any scheduled agreement and in relation to any scheduled country. One of the Authority's principal functions is executing requests relating to the exchange of information for tax purposes.

Overview of the financial sector and relevant professions

27. Grenada has a very small domestic financial sector which is composed of 5 commercial banks, 23 registered domestic insurance companies, 12 credit unions and 2 money remitters.

28. There are three regulatory bodies for financial sector regulation in Grenada: the Eastern Caribbean Central Bank (ECCB), the Eastern Caribbean Securities Regulatory Commission (ECSRC) and the Grenada Authority for the Regulation of Financial Institutions (GARFIN). The ECCB and the ECSRC are multi-jurisdictional regulators with responsibility for regulation in the following jurisdictions comprising the Eastern Caribbean Currency Union (ECCU): Anguilla, Antigua and Barbuda, Dominica, Grenada, Montserrat, Saint Lucia, Saint Kitts and Nevis, and Saint Vincent and the Grenadines. The ECCB is responsible for the regulation of domestic banking business while the ECSRC is responsible for the regulation of domestic securities business within the ECCU. GARFIN is responsible for the prudential regulation of all other financial institutions in Grenada.

29. The offshore sector, which is also regulated by GARFIN, currently comprises only 68 international business companies (IBCs). There are no offshore banks, international insurance companies and/or international trusts currently registered in Grenada.⁴ Grenada previously had 47 offshore banks but they have all either left or have had their licences revoked. With regard to international companies, the following statistics have been provided which

4. This information has been confirmed by GARFIN after review of its records and records maintained by registered agents licensed with GARFIN.

show that the number of registrations increased until 2002, at which point, the numbers have dramatically decreased.

Year	Formations	Strike-Offs	Companies on Record	Year	Formations	Strike-Offs	Companies on Record
1996	17	0	17	2004	5	1 143	1 062
1997	53	0	70	2005	6	0	1 068
1998	874	0	944	2006	1	2	1 067
1999	1 239	0	2 183	2007	4	32	1 039
2000	936	0	3 119	2008	5	821	223
2001	593	0	3 712	2009	7	151	79
2002	81	0	3 793	2010	2	0	81
2003	68	1 661	2 200	2011	3	16	68

30. Grenada’s authorities have advised that there are no plans to register international financial service institutions in the near future, as the Government of Grenada has taken the decision to re-assess and re-model the legal and regulatory framework in Grenada for international financial services before re-commencing the registration of international financial services institutions. To this end, official information provided by Grenada’s Ministry of Legal Affairs indicates that a Committee has been established to review the entire compendium of offshore company and financial legislation. Whether this new legal and regulatory framework meets the standard will be assessed during the phase 2 review of Grenada.

Anti money laundering/combating financing of terrorism legislation

31. The Supervisory Authority is the committee responsible for advising the Minister of Finance on matters relating to the combating of money laundering and financing of terrorism. Other bodies of the anti-money laundering framework include the Ministry of Legal Affairs which is responsible for drafting laws pursuant to money laundering and financing of terrorism, the Financial Intelligence Unit (FIU) which is responsible for receiving, analysing, investigating and disseminating information which relates or may relate to the proceeds of criminal offences (see the Financial Intelligence Unit Act 2003), and the Office of the Director of Public Prosecutions (DPP) which is responsible for the prosecution of all criminal offences including money laundering and terrorist financing crimes.

32. Grenada introduced a new Proceeds of Crime Act (“POCA”), which came into effect on 20 January 2012. This Act also provides for new anti-money

laundering rules, the purpose of which is to answer the deficiencies highlighted by the CFATF⁵ in its 2009 mutual evaluation report. This Act aims at addressing the issues identified in Recommendations 5 (customer due diligence requirements), 12 (designated non-financial businesses and professions (DNFBPs) under the scope of the new AML framework), and 33 (to ensure that bearer shares are not misused for money laundering) in the 2009 report.⁶ The Anti Money Laundering/Combating the Financing of Terrorism (AML/CFT) framework now consists of separate pieces of legislation, namely: the Proceeds of Crime Act 2012, the Proceeds of Crime (Anti-Money Laundering and Terrorist Financing) Regulations, 2012 (“POCA Regulations”) and the Proceeds of Crime (Anti-money Laundering and Terrorist Financing) Guidelines, 2012 (“POCA Guidelines”). Under this legislative framework, financial institutions as well as designated non financial businesses and professions (DNFBPs)⁷ are required to perform customer due diligence when entering into relationship with new customers.

Recent developments

33. On 11 November 2011, Grenada enacted the Mutual Exchange of Information on Taxation Matters Act 2011 providing rules to give effect to all TIEAs signed since 2010 and access to information held by any person under the control of Grenada’s authorities, irrespective of any secrecy provisions in other pieces of legislation. An Order made on 23 December completed the ratification of these 14 TIEAs as scheduled agreements under the said Mutual Exchange of Information on Taxation Matters Act.

34. As mentioned above, Grenada adopted a new anti-money laundering framework in January 2012.

35. The Registrar of Companies (CAIPO) is going to team up with the Inland Revenue and National Insurance Scheme (NIS) to automatically register all new companies and businesses under both systems once an application is made for incorporation or registration at the Companies Registry. Upon incorporation of a domestic company, registration of an external company or registration of a business name, detailed information of these entities will be automatically captured by NIS and Inland Revenue and identifications numbers issued. This system is expected to be implemented on or before 1 July 2012.

5. Caribbean Financial Action Task Force.

6. [www.cfatf-gafic.org/downloadables/mer/Grenada_3rd_Round_MER_\(Final\)_English.pdf](http://www.cfatf-gafic.org/downloadables/mer/Grenada_3rd_Round_MER_(Final)_English.pdf).

7. Including registered agents licensed under the International Companies Act, trusts licensed under the International Trust Act, barristers at law and solicitors, accountants and notaries.

Compliance with the Standards

A. Availability of Information

Overview

36. Effective exchange of information requires the availability of reliable information. In particular, it requires information on the identity of owners and other stakeholders as well as information on the transactions carried out by entities and other organisational structures. Such information may be kept for tax, regulatory, commercial or other reasons. If such information is not kept or the information is not maintained for a reasonable period, a jurisdiction's competent authority⁸ may not be able to obtain and provide it when requested. This section of the report describes and assesses Grenada's legal and regulatory framework for availability of information.

37. Grenada's legal framework permits the creation of a wide range of entities: companies, partnerships, trusts as well as offshore entities such as international companies, international trusts, offshore banks or international insurance companies. Ownership information in relation to companies incorporated under the Companies Act 1994 is available due to the requirement to maintain a share register where the identity of shareholders must be reported. International companies incorporated under the International Companies Act 1996 are subject to a similar requirement though the obligation to keep this

8. The term "competent authority" means the person or government authority designated by a jurisdiction as being competent to exchange information pursuant to a double tax convention or tax information exchange.

register does not rely on the company itself but its registered agent. External companies (*i.e.* companies incorporated under a foreign law) have obligations to make ownership information available upon registration with the Inland Revenue.

38. Bearer shares are prohibited in Grenada for domestic companies and international companies conducting financial services business. Legal requirements ensure that information on holders of bearer shares in relation to other international companies is available. Partnerships, which for formation are only regulated by common law principles, have to report information on their partners to the Inland Revenue Department. As regards trusts, for both local trusts created under common law and international trusts formed under the International Trusts Act 1996, Grenada’s POCA Regulations and Guidelines require the maintenance of information on beneficiaries when the trust presents a higher level of risk. It is not possible to create foundations under Grenada’s laws.

39. Obligations to maintain accounting records including underlying documentation in compliance with the standard are not in place in respect of all entities and arrangement that can be created under Grenada’s laws. Grenada should ensure that accounting records are available in all circumstances. Necessary information on bank transactions and identifying information of bank customers is available pursuant to the POCA Regulations and Guidelines.

A.1. Ownership and identity information

Jurisdictions should ensure that ownership and identity information for all relevant entities and arrangements is available to their competent authorities.

Companies (ToR 9 A.1.1)

40. It is possible under Grenada’s Companies Act 1994 (“CA”) to set up the following type of companies:

- ***companies limited by shares*** – sections 26 to 57 of the CA. This type of company has shareholders with limited liability. If it is private, only one shareholder and one director are needed. Public companies must have at least three directors and shares are freely transferable. The CA does not set any minimum level of capital. Different classes of shares are possible but bearer shares are prohibited. There were 6 180 companies limited by shares registered in Grenada in November 2011;

9. *Terms of Reference to Monitor and Review Progress Towards Transparency and Exchange of Information.*

- **companies without share capital (non-profit companies)** – sections 326 to 337 of the CA. A company without share capital (non-profit company) must limit its activities to purposes that are religious, philanthropic, educational, *etc.* There must be at least three directors. Rules for registration and keeping of ownership information that apply to companies limited by shares similarly apply to companies without share capital. Two hundred companies are registered as companies without share capital in Grenada as at November 2011;
- **external companies (i.e. foreign companies)** – sections 338 to 369 of the CA. An external company is any firm or body of persons, whether incorporated or unincorporated, that is formed under the laws of a country other than Grenada. An external company must be registered before it does any business in Grenada. 120 external companies are currently registered in Grenada; and
- **“former-act companies”** (all companies incorporated under previous legislation *i.e.* Companies Act Chapter 47 of the 1934 Edition of the Revised Laws of Grenada¹⁰ – Sections 360 to 369 of the CA.) The CA states in section 362 that within two years after the commencement date of the Act, every former-act company had to apply to the Registrar for a certificate of continuance. Grenada’s authorities advised that the provision for continuance under the CA brings former-act companies into obligation to comply with the terms of the CA.

41. Further, it is also possible to create companies under the International Companies Act 1990 (“ICA”). Companies incorporated under that Act cannot: (i) carry on business in Grenada with persons domiciled or resident in Grenada; (ii) own an interest in real property situated in Grenada; (iii) engage in offshore banking business, provide trust services or engage in investment brokerage unless licensed to do so; and (iv) engage in offshore insurance business unless licensed to do so (s.5). Companies limited by shares, restricted purpose companies (*e.g.* insurance, banking *etc.*) and private trust companies can be created under the ICA. Currently, 68 international business companies (IBCs) are registered in Grenada.

10. Former-Act companies had to keep a register of members containing the names, addresses and occupations of their members, the class of shares held and the date on which each person was entered as a member in the register or ceased to be a member (s. 26 of the Companies Act, 1934). These companies also had to provide a list of members (including names, addresses and occupations of all the past and present members) to the Registrar within 14 days after the general meeting of members.

Companies incorporated under the Companies Act (other than external companies)

Registration requirements

42. The authority in Grenada for the registration of companies incorporated under the Companies Act is the Registrar of the Corporate Affairs and Intellectual Property Office (CAIPO). CAIPO was established by the CAIPO Act 2009. Section 3 of this Act designates the Registrar of CAIPO as Registrar of Companies. The Registrar is appointed under contract by the Judicial and Legal Services Commission reporting to the Attorney General in the Ministry of Legal Affairs.

43. Companies are incorporated or registered with the Registrar of Companies (ss.4 and 328 CA). The Registrar maintains a register of companies in which the names of every body corporate is kept (s. 494). Documents kept by the Registrar are open for public examination, upon payment of a fee (s.495).

44. Pursuant to section 5 of the CA, articles of incorporation of companies must follow a prescribed form (see Third Schedule of the Companies Regulations 1995) and include: (i) the name of the company; (ii) the classes and any maximum number of shares that the company is authorised to issue; and (iii) the number of directors.

45. Pursuant to section 4 of the CA, one or more persons may incorporate a company by signing and sending articles of incorporation to the Registrar. In addition, under section 7 of the act, the Registrar must be provided with the names of the director(s) and the address of the registered office and the company's articles. Companies must at all time have a registered office in Grenada (s. 175). Upon receipt of the articles of incorporation, the Registrar issues a certificate of incorporation which provides proof of the incorporation of the company (s.8). A company comes into existence on the date shown on its certificate of incorporation (s.9). Further, any change in the registered office must be notified to the Registrar within 15 days of change (s. 176). In practice, all information received by the Registrar is permanently preserved in the Companies Registry but s. 507 of the CA states that the Registrar does not need to produce any document after six years from the date (s)he received it.

46. Companies are not specifically required under Grenada's law to make ownership information available upon registration with the Registrar of Companies. However, the identity of the incorporators, *i.e.* the persons who sign the articles of incorporation of the company (s. 543 CA), is available in the articles of incorporation, which must be provided by the company upon registration with CAIPO. Further, section 4 of the CA provides that the name of every incorporator must be entered in the company's register

of members as soon as may be after the company's registration, although no specific timeframe to do so is provided by Grenada's Laws. Further, shareholder information is disclosed in annual company returns to the Registrar of Companies (see below).

Information held by companies

47. Section 177 of the CA provides that the register of members, which is to be maintained by a company at its registered office in Grenada, must contain: (i) the names and the latest known address of each person who is a member; (ii) a statement of the shares held by each member; and (iii) the date on which each person was entered on the register as a member and the date on which any person ceased to be a member.

48. Notice of change in ownership are required by substantial shareholders (*i.e.* a shareholder who holds at least ten per cent of the voting rights, either by himself or in the name of a nominee), who are required to notify the company within 14 days once they are aware that they have become or ceased to be a substantial shareholder (s. 183). Every company shall keep a register of substantial shareholders and failure to do so is an offence under the legislation. Other shareholders do not have any statutorily prescribed timeframe to inform the company of any changes occurred in shareholdings but these changes are revealed in the annual returns which companies are obliged to file with the Registrar (s. 194).

49. Companies are required to provide before the first day of April of each year after their incorporation an annual return to the Registrar detailing the number of shares issued or redeemed over the last financial period and the name of the persons holding shares in the company (including any persons who have held shares at any time since the provision of the last return) (see s. 194 of the CA in conjunction with the Companies (Amendment) Regulations 2009). Failure to do so is an offence under the legislation.

Tax requirements

50. Pursuant to section 3 of the Annual Stamp Tax Act 1992, all persons who are engaged in a business in Grenada are obliged to pay annual stamp tax. "Business" is defined in section 2 of the same Act to include calling, vocation, occupation, profession, trade, industry, service enterprise, manufacture, commercial activity or undertaking of any kind and has a broad scope. Pursuant to section 3A of the Act, every person liable for the payment of stamp tax must register with the Comptroller of Inland Revenue and provide the Comptroller with such information as may be required to give effect to such registration.

51. Grenada’s authorities also advised that by virtue of section 65 of the Income Tax Act, any domestic or external business is required to register with the Inland Revenue Department for income tax purposes and receive upon registration a Taxpayer Identification Number (TIN). The allocation of a TIN is a prerequisite for registration for stamp tax and VAT purposes.

52. For registration with revenue authorities, business entities must present the certificate of incorporation from the Registrar of Companies along with the articles of incorporation. The articles of incorporation must contain the following: (i) name of company; (ii) number (or minimum and maximum number) of directors (iii) names of directors; (iv) address of the registered office. The “Non-Individual Enterprise Registration Form” that must be submitted by non-individual businesses upon registration requires the provision of ownership information including the last names and first names of shareholders/members, the date on which these persons became shareholders/members and the percentage of capital owned.

53. Under section 9 of the Value Added Tax Act 2009 (“VAT Act”), persons who are engaged in an activity which involves or is intended to involve the supply of taxable goods or services (subsection 2) where the total value of such supply is equal to or greater than XCD 120 000 (USD 44 444) (“registration threshold”) must register with the Comptroller of the Inland Revenue. Persons who do not meet the registration threshold may apply for registration (s. 13) but approval and registration will be based on a number of conditions and is discretionary. Suppliers of public entertainment, government entities and investors are required to register, irrespective of whether or not they meet the registration threshold (ss.10, 11 and 12).

54. Any person liable to stamp tax must file an annual return of the gross receipts of their business to the Comptroller of Inland Revenue by the 31 March of the year following that year to which the return relates (s. 6 Stamp Tax Act). Gross receipts include sale or disposal of goods and services, investment income, rental income, interest income, dividends, cost of material from stock, royalties and any other income of a capital nature (Second Schedule to the Stamp Tax Act).

55. Pursuant to section 4 of the Income Tax (Amendment) Act of 1999, any person liable to furnish a return of income in respect of any year of assessment must provide this return within 90 days after the basis period (fiscal year end). This obligation includes individuals, a trust, the estate of a deceased person, a company, a body of persons, a partnership and every other juridical person (s. 2). The tax return must take the form prescribed by the Comptroller of Inland Revenue (s. 125). There is a corporation income tax return in respect of companies, partnerships and body of persons where the names and addresses of partners and joint owners must be reported, but not shareholders. Individual shareholders are also obliged to report all income

earned in Grenada from all sources, including investment in companies (see s.32 of the Income Tax Act which provides that the assessable income of every resident person shall include the gross amount of any dividend accrued to that person).

Companies incorporated under the International Companies Act

Registration requirements

56. The authority in Grenada for the registration of international companies is the Grenada Authority for the Regulation of Financial Institutions (GARFIN). GARFIN is a body corporate, created by the Grenada Authority for the Regulation of Financial Institutions Act 2008. It is also responsible for the registering of trusts under the International Trusts Act 1996 (see below).

57. Amongst other things, section 12 of the ICA provides that the memorandum of an international company must include: (i) the name of the company; (ii) the address in Grenada of the registered office of the company; (iii) the name and address in Grenada of the registered agent of the company; and (iv) the objects or purposes for which the company is to be incorporated. In addition to the memorandum, international companies must have articles of association (s. 13) although the ICA does not contain any requirements regarding the information that these articles must contain.

58. Under sections 38 and 39 ICA, an international company must have a registered office and a registered agent in Grenada at all times. Only the following persons can act as registered agents: (i) an attorney-at-law; (ii) a chartered accountant; (iii) a trust administration company practicing or incorporated in Grenada;¹¹ (iv) a company registered under the Company Act that is authorised under its memorandum to act as a trustee;¹⁰ or (v) a company licensed under the Company Management Act 1996.

59. The memorandum and articles of association of an international company must be submitted to GARFIN who must retain and register them in the Register of International Companies (s. 14 ICA). Upon registration, the Registrar issues a certificate of incorporation. There is no legislative requirement to make ownership information in relation to international companies available upon registration.

60. Pursuant to section 16(2), a company incorporated under the ICA must inform GARFIN of all amendments made to its memorandum or articles of association within 14 days of alteration. This information is retained

11. That has an authorised and paid up capital of not less than XCD 1 5000 000 (USD 555 555).

and registered in the Register of International Companies by GARFIN. Any amendment takes effect from the date on which it is registered by GARFIN.

Information held by companies

61. Under section 28 of the ICA, international companies are required to maintain share registers containing full details on owners of registered shares including the names and addresses of shareholders, when they became a shareholder and the number of shares held. This section further requires that the register includes the date when a person ceases being a shareholder and to whom, if any, their shares were transferred. The law does not provide for any express timeframe to update the register of shares and Grenada's laws do not provide penalties for failure to do so. The company is not required to treat a transferee of a registered share in the company as a shareholder until the transferee's name is entered in the share register (s. 30(3)).

62. Section 28 of the ICA provides that this share register must be kept at the registered office of the company in Grenada (which must be reported in the company's memorandum). The ICA mandates that Registered Agent to keep and maintain such a register. Sections 39(A) and 39(B) obligate the Registered Agent to produce such books records, minutes, register and other documents for examination within seven days of such a request from GARFIN.

Tax requirements

63. International companies are currently not subject to any tax obligations with Grenada's Inland Revenue Department as they are not liable to taxes in Grenada until 20 years after the commencement of the ICA (s. 110 ICA). This tax exempt period will expire on 16 April 2016.

External companies (i.e. foreign companies)

Registration requirements

64. An external company can maintain a branch with its seat of effective management within or outside of Grenada.

65. The CA provides that no external company can do business in Grenada without being registered with the Registrar of Companies (s. 340(1)). To this extent, a company must file with the Registrar of Companies (*i.e.* CAIPO) a statement setting out, *inter alia*: (i) the name of the company; (ii) the jurisdiction within which it has been incorporated; (iii) the date on which it intends to start its business in Grenada; (iv) the full address of the registered or head office of the company outside Grenada; (v) the full address

of the principal office of the company in Grenada; and (vi) the full names, addresses and occupations of the directors of the company. This statement must be accompanied by a copy of the corporate instruments of the company (s. 344). Upon receipt of the documentation, the Registrar issues a certificate of registration for the external company. No ownership information has to be provided upon registration unless this information would be detailed in the company's articles of incorporation.

66. Section 356(1) of the CA provides that an external company must, no later than the first day of April in each year after the day of its registration, send to the Registrar an annual return in the prescribed form containing the prescribed information made up to the preceding the thirty-first day of December. The Companies Regulations 1995 detail the forms external companies must file with the Registrar to comply with the obligations set out in the CA. None of them requires the provision of ownership information on external companies.

67. Grenada's authorities advised that external companies are also covered by the Companies (Amendment) Regulations 2009 and the obligation imposed by these Regulations to file an annual return detailing companies' ownership information. However, the annual form prescribed by the Regulation is to be submitted pursuant to s. 194 of the CA and this section does not appear to apply to external companies. Therefore, the extent to which external companies are obliged to annually provide ownership information is uncertain. New Companies Regulations requiring ownership information to be provided to the Registrar were published in December 2011. Although Grenada clarified it was its intention to make these Regulations applicable to external companies, these Regulations still do not clearly apply to these entities. The Grenada authorities have advised that these Regulations will be amended.

Tax requirements

68. Tax requirements above described for domestic companies incorporated under the CA similarly apply to external companies. Grenada's authorities clarified that by virtue of section 65 of the Income Tax Act, all external companies operating in Grenada are required to register for income tax purposes with the Inland Revenue Department. For registration for tax purposes, external companies must also submit a Non-Individual Enterprise Registration Form which contains the following information: trade name, start date, mailing address, business activities, representative information, enterprise ownership including the last the last names and first names of shareholders/members, the date on which these persons became shareholders/members and the percentage of capital owned.

Ownership information held by service providers and nominee ownership

Anti-money laundering requirements

69. Under the Proceed of Crimes Act 2012 (“POCA”), section 64, Regulations may be made by the Minister of Finances for the purpose of detecting and preventing money laundering, in particular to establish and maintain procedures relating to the identification of clients and the keeping of records. Such Regulations have been in place as of 10 February 2012 and apply to relevant persons defined in its regulation 2 as to include:

- banking business within the meaning of the Banking Act or the Offshore Banking Act;
- insurance business within the meaning of the Insurance Act or the International Insurance Act;
- company management within the meaning of the Company Management Act 1996;
- trust service providers or company service providers including when:
(i) acting as: a formation agent of legal person; (ii) acting (or arranging for another person to act) as a director or partner of a partnership; (iii) providing a registered office; (iv) acting (or arranging for another person to act) as a trustee of a trust; and (v) acting (or arranging for another person to act) as a nominee shareholder for another person; and
- the provision of services to clients by attorneys-at-law, firms, notaries public, accountants, accounting firms and auditors in particular when participating in the creation, operation, or management of legal persons or arrangements, or buying and selling of business entities.

70. Further, Regulations 4, 5 and 6 of the Proceed of Crimes (Anti-Money Laundering) Regulations (“POCA Regulations”) stipulate that all regulated persons and business entities must establish and maintain identification procedures which require any person seeking: (i) to form a business relationship; (ii) to enter into a one-off transaction above XCD 10 000 (USD 3 704); (iii) to carry out two or more transactions that appear to be linked which have a total value of XCD 10 000 (USD 3 704) or more; or (iv) to enter into a one-off transaction (where the regulated institution knows or suspects money laundering) with a regulated institution to produce satisfactory evidence of their identity after first making contact. Under Regulation 10 of the POCA Regulations and section 47 of the POCA Guidelines, the relevant person must maintain records of verification of identity and nature of business transacted for at least five years from the time the business relationship was ended or, for one-off transaction or a series of linked transactions, from the time the transaction(s) was completed.

71. Paragraph 29 of the POCA Guidelines, 2012 makes clear that where there are underlying “principals”, *e.g.* beneficial owners, controlling shareholders, director, or beneficiary who are entitled to ten or more percent in the legal person, professionals and entities subject to customer due diligence (CDD) must verify the underlying principal and establish the true nature of the relationship between such principals and the person doing business on behalf of said principals.

Nominees

72. Grenada recognises the concept of nominee. The POCA imposes obligations on person acting as nominee shareholders. As noted above, when someone acts as a nominee shareholder for another person, they are deemed engaging in the business of company service provision and are thus subject to AML obligations. Company service providers acting (or arranging for another person to act) as a nominee shareholder for another person are included in the definition of “relevant business” under Regulation 2 of the POCA Regulations and are therefore required to perform CDD and to have knowledge of the identity of the real holder of shares.

Companies incorporated under the International Companies Act

73. In addition to the general obligation described in the previous paragraph, holders of bearer share certificates are, under the ICA, required to lodge these certificates with a registered agent (ss.27A and 27B). All registered agent are subject to CDD obligations and therefore required to know the beneficial owners of such certificates in all situations (irrespective of the number of shares held in the company).

Companies incorporated under the Companies Act

74. Section 182 of the CA provides that a person who is a substantial shareholder of the company (*i.e.* a shareholder who holds at least 10% of the voting rights, either by himself or in the name of a nominee, see s. 181) must notify in writing the company stating his(her) name and address and giving full particulars of the shares held by him(her) or his(her) nominee¹² by virtue of which (s)he is a substantial shareholder. This must be done within 14 days after that person becomes aware that (s)he is a substantial shareholder. When this shareholder ceases to be a substantial shareholder in a company, (s) he must also inform the company within 14 days of the date in which (s)he ceases to be a substantial shareholder (s. 183).

12. Only the identity of the nominee must be provided although in practice, his (her) address will be provided as well.

75. A company must keep a share register where the information on substantial shareholders is entered (s. 184). The Registrar can ask any company to provide this register within 14 days after the day on which the request is received (s. 184).

76. When a person does not act as a nominee in a professional capacity or where the shareholder holds less than 10% of the voting rights in a company incorporated under the Companies Act, the provision of nominee shareholders is not regulated. Whether the gaps in relation to non-professional nominee shareholders of international companies or companies incorporated under the Companies Act prevent effective EOI in practice will be examined in the course of Grenada's Phase 2 Review.

Conclusion

77. Grenada's legal framework ensures the availability of the following ownership information in relation to companies:

- all domestic companies must keep registers of members where details of all shareholders are recorded. This information must under the law be kept updated on an ongoing basis in relation to substantial shareholders. Ownership information in relation to all shareholders must be further provided on an annual basis and under sanction to registration authorities, making ownership information in relation to these companies available in Grenada;
- international companies must keep registers of shareholders or members where all particulars must be registered. The responsibility for ensuring that the register is updated lies with the company's registered agent, though there are no requirements ensuring that this register will be kept updated in a timely fashion. This register must be kept at the company's registered office in Grenada;
- external companies (*i.e.* foreign companies) must register with the Registrar of Companies and are subject to reporting obligations with the registration authorities although the type of information that must annually be submitted is not clearly provided by the legislation currently in place;
- all companies, both domestic or external, must register with the Inland Revenue Department when starting to operate in Grenada and provide upon registration the identity of their shareholders/members as well as the percentage of capital owned but this information does not have to be further updated; and

- information held by nominees and the persons for whom these nominees act is available pursuant to the legal requirements under the POCA Regulations and POCA Guidelines.

Bearer shares (ToR A.1.2)

78. With respect to domestic companies, section 29(2) of the CA expressly forbids the issue of bearer shares. International companies incorporated under the ICA were initially allowed to issue bearer shares and no ownership information in relation to such shares had to be noted on the share registers maintained by these companies.

79. The International Financial Services (Miscellaneous Amendments) Act 2002 amended the ICA by inserting new section 27(A) and 27(B) which now requires that:

- every bearer share certificate issued by a company on or after 30 April 1996 must be delivered to a bearer share agent (s.27A) which must keep the bearer share certificate in a safe place and hold the same to the benefit of the owner of the share. Under Grenada's law, only persons licensed as registered agents under section 39 of the International Company Act can be bearer share agents (s. 27A(4)).¹³ All current IBCs registered in Grenada were established after 1999 and are covered by these rules. A review of these companies performed by GARFIN has shown that of the 68 companies currently registered, GARFIN is able to confirm that none of these companies have issued bearer shares; and
- all companies to which paragraph *m* of section 12 of the Act applies¹⁴ had to recall and cancel all bearer shares and replace them with registered shares. Any bearer shares not recalled and cancelled within six months after commencement of the Act were declared null and void (s. 27B(2)).

80. As previously indicated, bearer share agents can only be persons licensed as registered agent under the ICA. Registered agents are required to perform customer due diligence and consequently have to identify their clients, including beneficial owners, and to maintain this information for five years. These CDD obligations, under the POCA Guidelines, ensure that

13. There are currently 15 registered in Grenada. All registered agents can act as bearer share agents. They are all under the supervision of GARFIN.

14. Companies involved in the following business activities: offshore banking, international insurance, company management, trusts business or international betting business.

bearer share agents will have knowledge of the identity of all shareholders for whom they are required under the law to keep bearer share certificate.

Partnerships (ToR A.1.3)

81. There are no statutory rules regulating the formation of partnerships in Grenada and partnership formation is governed only by legal precedent. Partnerships do not constitute entities separate from their partners.

Registration requirements

82. Only a partnership wishing to operate under a business name which does not reflect the names of the owners, must register this business name with the Registrar of Companies and the name is recorded in the Business Name Register. Otherwise, partnerships are not subject to any registration requirements for commercial purposes.

Information held by partnerships

83. Partnerships are regulated by common law principles in Grenada and there are no statutory requirements for partnerships to keep information in relation to their members.

Tax requirements

84. While the Income Tax Act levies Income Tax directly on the partners, partnerships must register with revenue authorities under the Stamp Tax Act and the Income Tax Act. For registration under the Stamp Tax Act, partnerships must present a Registration of Business Name Certificate from the Supreme Court Registry when this name has been registered. By virtue of section 65 of the Income Tax Act, all partnerships, either domestic or foreign, are required to register with the Inland Revenue Department for income tax purposes and receive upon registration a Taxpayer Identification Number (TIN). The allocation of a TIN is a prerequisite for registration for Stamp Tax and VAT purposes.

85. Section 74(1) of the Income Tax Act also specifies that every partnership carrying on business in Grenada must at all times be represented by a resident individual who can be the precedent partner (the first mentioned in the partnership agreement) or the agent of the partnership in Grenada. Section 74(3) states that every partnership must notify the Comptroller of the Inland Revenue of the name of the precedent partner or the representative within one month of commencement of business. Every partnership must, within the same timeframe, provide information on its address. Any

amendment made to the partner, the representative or the registered address must be notified within 15 days of amendments to the Inland Revenue Department.

86. Pursuant to section 65 of the Income Tax Act 1994 any person that has to furnish a return of income in respect of any year of assessment must provide this return on or before 31 March in the year following that year of assessment. This obligation covers any person liable to pay tax under the Income Tax Act and includes individuals, a trust, the estate of a deceased person, a company, a body of persons, a partnership and every other juridical person (s. 2).

87. Partnerships fall under the definition of a person in the interpretation provision, section 2 of the Income Tax Act. The Income Tax Act at section 21(1) states that a partnership shall not be charged to tax in its own name but all income accrued thereto in the basis period for a year of assessment shall be charged on the partners for that year of assessment in accordance with this section. However, partnerships are required to lodge a tax return with the Inland Revenue declaring both “partnership income” and the share of the partnership assessable income between each partners. These tax returns contain detailed information on the partners, including their names, addresses and whether or not they are resident in Grenada. Section 21 of the Income Tax Act provides for the taxation of partnerships through its partners and information on ownership must consequently be recorded.

Information held by service providers

88. Regulation 2 of the POCA Regulations provides that relevant persons for AML purposes include financial institutions and company service providers¹⁵ In such cases, the POCA Guidelines (s. 27(5)) stipulate that for purposes of verification in relation to a legal person that is a partnership, the following information shall be required from the partnership:

- the partnership agreement;
- the full name and current residential address of each partner and manager relevant to the application for business; and
- the date, place of birth, nationality, telephone number, facsimile number, occupation, employer and specimen signature of each partner or other senior officer who has the ability to give directions, sign cheques or otherwise act on behalf of the partnership.

15. *I.e.* those who provide services including: (i) acting as a partner of a partnership; and (ii) providing a registered office for partnership.

89. Thus, whenever a partnership in Grenada is a customer of a financial institution or a company service provider, or any other businesses which have AML obligations, these service providers will identify the partnership and all its partners.

Conclusion

90. Partnerships are subject to registration requirements with the Inland Revenue Department and have to provide the name of the partner representing the partnership and to keep this information updated. Further, partnerships must lodge an annual return with revenue authorities and provide, on that return, detailed information on their partners. Consequently, ownership information in relation to partnerships is available in Grenada.

Trusts (ToR A.1.4)

91. Grenada recognises the concept of trusts and trusts are usually created under common law. Common law principles are supplemented by the provisions of the Trustee Act 1897, which sets out rules about the appointment of trustees, their powers and limitations. It is also possible to create trusts under the International Trusts Act 1996 (“ITA”) to the extent that such trusts do not relate to property located in Grenada and that both settlors and beneficiaries¹⁶ reside outside Grenada (s. 2). At least one of the trustees of an international trust must be a trust corporation *i.e.* a company incorporated under the ICA for the purpose of managing international trusts.

Registration requirements/information held by government authorities

92. There are no legal requirements for local trusts to be registered. In relation to international trusts, section 6 of the ITA provides that an international trust may only be created by an instrument in writing. The Registrar (*i.e.* GARFIN) is responsible for maintaining a Register of Trusts (s. 50(1)) where a settlor of an international trust may apply (but is not obliged) to be entered on the Register (s. 50(2)). The Registrar, on receipt of the trust instrument and fee, will enter in the Register the name of the trust, settlor and either the names of the beneficiaries or the purpose for which the trust is established (s. 50(4)). In case of variation or termination of the trust instrument, the trustee must notify the Registrar and the Register is amended accordingly (s. 50(5) and (6)). At the time of this review, and according to information provided by both the Registrar and the 15 registered agents who

16 Except an international insurance company, an off-shore bank or an international business company.

are licensed to act as trustees of international trusts in Grenada, there were no trusts formed under the ITA. Grenada's Ministry of Legal Affairs has also confirmed that no such entities will be registered in the near future.

Information maintained by trustees or other persons

Local trusts

93. The Trustee Act does not state who can be a trustee but it does govern the conduct of trustees under domestic trusts. This Act does not explicitly provide that the trustee must maintain ownership information in relation to a local trust – including the identity of settlors and beneficiaries -. These trustees may however be subject to common law obligations although it has not been possible to ascertain the extent of their fiduciary duties. An in-depth examination of these requirements will be part of the phase 2 review of Grenada.

International trusts

94. Under section 17 of the ITA, the trustee shall keep in Grenada a register of the trust specifying: (i) the name of the settlor; (ii) summary of the purposes of the trust; and (iii) the name of the protector of the trust. The trustee must also keep such documents as are necessary to show the true financial position of the trust at the end of the trust's financial year, together with details of the application of principal and income during the financial year.

95. Sections 27 to 43 of the ITA detail the statutory duties of the trustee of an international trust. For instance, pursuant to section 28, upon request of certain parties (including the court, the settlor or any beneficiary of the trust) a trustee has the duty to provide as far as is reasonable full and accurate information as to state and amount of the trust property and the conduct of the trust administration. To fulfil this duty, this trustee would be expected to have knowledge of the different parties to an international trust.

Tax requirements

96. Local trusts are subject to the tax requirements provided by section 15 (1) of the Income Tax Act 1994, under which “any income accruing to a trust, where there is no beneficiary entitled to the immediate benefit thereof is included in the assessable income of the trust and the chargeable income ascertained therefrom is charged to tax in the name of the trustee”. Where a beneficiary is entitled to the immediate benefit, this income is deemed to have accrued to the beneficiary and shall be included in his assessable income. These provisions may not ensure that ownership information in

relation to local trusts will be available in all circumstances. No tax requirements apply to trusts created under the ITA or to their trustees in their fiduciary capacity (s. 49 ITA).

Identity information maintained by service providers

97. Under the POCA, Regulations may be made by the Minister of Finance for the purpose of detecting and preventing money laundering, in particular to establish and maintain procedures relating to the identification of clients and the keeping of records. Financial institutions are covered by the POCA and are defined as including a registered agent licensed under the ICA or a trust licensed under the ITA. The following relevant business activities, without any regard to the person conducting them, fall under the provisions of POCA: trust and other fiduciary services, company formation and management services, and services performed by barristers-at-law, solicitors, accountants and notaries.

98. Regulation 4 of the POCA Regulations stipulates that a relevant person shall establish and maintain identification procedures after contact is first made between that person and an applicant for business concerning any particular business relationship or one-off transaction. A relevant person includes the business of acting as a trust service provider for the purpose of acting, *inter alia*, as a trustee of a trust. These persons must establish and maintain identification procedures which requires any person seeking (i) to form a business relationship; (ii) to enter into a one-off transaction above XCD 10 000 (USD USD 3 703); or (iii) to carry out two or more transactions that appear to be linked which have a total value of XCD 10 000 (USD 3 703) or more; or (iv) to enter into a one-off transaction (where the regulated institution knows or suspects money laundering) with a regulated institution to produce satisfactory evidence of their identity. Under Regulation 10 of the POCA Regulations, all such information must be recorded and kept for five years.

99. Further provisions have been made under section 30 of the POCA Guidelines 2012 which make it clear that trustees acting by way of business are subject to CDD. Section 30 provides rules for identification and verification of ownership information in relation to trusts and details that a trustee should obtain information on: (i) the name of the trust; (ii) the date and country of establishment of the trust; (iii) when there is an agent acting for the trust, the name and address of the agent; (iv) the nature and purpose of the trust; and (v) identifying information in relation to any person appointed as trustee, settlor or protector of the trust. Beneficiaries of trusts must be identified only where the trust present a higher level of risk.¹⁷

17. With regard to “higher level of risk”, the explanatory note to section 30 of the POCA Guidelines specifies that “it should be noted that in circumstances where

Conclusion

100. Grenada’s AML/CFT framework also provides rules to make identity and ownership information available in relation to local trusts and international trusts. Under the POCA regulations and POCA Guidelines, trustees acting by way of business together with professionals who provide fiduciary services are required to have knowledge of the identity of the settlor and beneficiaries of the trust where the trust presents a higher level of risk. Ownership information is nevertheless not available in all instances.

101. It is conceivable that a trust could be created which has no connection with Grenada other than that the settlor chooses the trust to be created under or governed by Grenada’s common law, with the settlors, beneficiaries, trustees and trust assets all located outside Grenada. In that event, there may be no information about the trust available in Grenada.

Foundations (ToR A.1.5)

102. Grenada’s laws do not allow for the creation of foundations.

Enforcement provisions to ensure availability of information (ToR A.1.6)

Sanctions tied to registration requirements

103. An entity that fails to register with the Registrar of Companies as a company is not considered to be a company and is not eligible for any protection under the Companies Act. This entity would not have an independent legal identity apart from that of its owner(s).

104. An international company that fails to inform the Registrar of Companies of any amendment made to its memorandum or articles of incorporation is liable to a penalty of USD 500 in respect of each day during which the contravention continues (s. 15(4) ICA). A director who knowingly permits the contravention is liable to the same sanction (s. 15(4)). A USD 500 sanction is also applied when a company does not have a registered office or a registered agent in Grenada (s. 41).

an entity or a professional makes a determination that, having regard to its or his risk assessment, a relationship with a trust or any product or service channel relative to the trust presents a higher risk, additional information may be obtained with respect to the trust. The nature of the identification to be made or verification to be effected is a matter of judgment for the entity or the professional. However, at the barest minimum, the entity or professional is required to obtain identification information in relation to all the beneficiaries with a vested right in the trust.”

Sanctions tied to information to be kept by other persons

105. Any person who is found not complying with the obligation to maintain a register of substantial shareholders as provided for by section 184 of the CA is guilty of an offence and liable to a fine of XCD 3 000 (USD 1 111) or to imprisonment for a term of 12 months or to both. The same sanction would apply to a substantial shareholder who failed to notify the company of its position in the company (s. 533) Grenada's authorities advised that companies incorporated under the Former-Companies Act are subject to the same fines.

106. In the event that a company fails to detail its shareholders in its annual return with the Registrar of Companies, the company is liable to a fine of XCD 5 000 (USD 1 852) (s. 530(1) CA). Directors and officers of the company knowingly permitting this default are guilty of an offence and liable upon summary conviction to a fine of XCD 5 000 (USD 1 852) or to imprisonment for a term of 18 months or both. If the annual return is not filed with CAIPO as required under section 194 of the CA, this company and its directors are guilty of an offence and liable on summary conviction to a fine of XCD 3 000 (USD 1 111) or imprisonment for a term of 12 months or both (s. 533 CA).

107. An international company not keeping its share register is liable to a penalty of USD 25 in respect of each day or part of day during which the contravention continues. Directors are subject to the same sanction (s. 28(6)). A company that does not keep its share register up to date would be liable to sanctions provided under section 28(6). However, there are no specific timeframes within the legislation which specify the period within which a company must update its share registers. In addition, Grenada's law does not provide for any specific sanctions in the event that the obligations in section 30 of the International Companies Act in relation to the transfer of shares are not respected. A registered agent which fails to produce any document it has to keep under the International Companies Act is liable to a fine of XCD 50 000 (USD 18 519) and a further XCD 5 000 (USD 1 852) fine for every day during which the contravention continues. Destruction or falsification of such documents is also sanctioned by a XCD 50 000 (USD 18 519) fine.

108. Any person who contravenes their obligation under section 17 of the International Trust Act to maintain a register of trusts commits an offence and can be liable to a fine of USD 10 000 or two years imprisonment or both.

109. When a bearer share agent does not properly keep information on bearer shares he holds, this agent is liable to a fine of USD 20 000 and to imprisonment for two years (s. 27(5) of the International Company Act).

Sanctions tied to tax requirements

110. A person who is required to be registered with the Inland Revenue Department for VAT purposes and does not apply for registration within the required time, commits an offence and is liable to a fine not exceeding XCD 10 000 (USD 3 704) or to a term of imprisonment not exceeding two years (s. 73 VAT Act).

111. Failure to file an annual income tax return results in sanctions. Section 111 Income Tax Act provides that taxpayers have 90 days after the end of their accounting period to file their returns. If they fail to furnish a return on time they will incur a penalty of XCD 100 (USD 37) or 10% of the taxes unpaid, whichever is greater. Further sanctions are provided by section 112 in the event that the taxpayer fails to furnish a correct return. For example, where the incorrectness of the return was attributable to fraud or wilful default he is liable to a penalty of up to three times the amount of tax which would have been lost.

112. The Income Tax Act (ss.115 – 124) provides further criminal sanctions in the most serious offences. For example in the event that the return is not furnished, the penalty is a fine of XCD 2 000 (USD 741) and an imprisonment for one year (s. 117). In a case of tax evasion, the penalty is a fine of XCD 4 000 (USD 1481) and imprisonment for two years (s. 118).

113. Under section 6 of the Stamp Tax Act, any person who fails to file his annual return or files a false return is guilty of an offence and is liable to a fine not exceeding XCD 2 000 (USD 741). If this return is still not submitted after notice delivered by the Comptroller, that person is liable to a fine of XCD 50 (USD 19) for each day during which the offence continues.

Sanctions provided by AML/CFT legislation

114. Under the POCA Regulations, a person carrying on a business in Grenada without complying with the requirements set out by the Regulations is guilty of an offence and is liable on conviction to a fine of XCD 15 000 (USD 5 556). In addition, s. 59(1) of the POCA guidelines states that when a body corporate is guilty of an offence and that it is proved that a director, manager, secretary or any other similar officer is responsible, this person is also guilty of an offence and be punished accordingly. Schedule IV of the Guidelines sets out the offences and the corresponding range of penalties (see further details under section A.3).

Conclusion

115. When relevant entities are required to make ownership information available under Grenada’s laws, these requirements are supplemented by sanctions in cases where these obligations are not complied with. The effectiveness of enforcement provisions which are in place in Grenada is an issue of practice and will be considered as part of its Phase 2 Peer Review.

Determination and factors underlying recommendations

Phase 1 determination	
The element is in place, but certain aspects of the legal implementation of the element need improvement.	
Factors underlying recommendations	Recommendations
In relation to external companies that are resident in Grenada, there is no legal requirement to make updated ownership information available.	Grenada should ensure that updated ownership information in relation to external companies that are resident in Grenada is available.
Grenada’s law do not contain any mechanisms to ensure that the share registers maintained by international companies will be kept updated.	Grenada’s law should provide for mechanisms ensuring that the share registers maintained by international companies will be kept updated.
Ownership information in relation to both local and international trusts is not available in all circumstances.	Grenada should ensure that ownership information in relation to both local and international trusts is available in all circumstances.

A.2. Accounting records

Jurisdictions should ensure that reliable accounting records are kept for all relevant entities and arrangements.

116. The *Terms of Reference* sets out the standards for the maintenance of reliable accounting records and the necessary accounting record retention period. It provides that reliable accounting records should be kept for all relevant entities and arrangements. To be reliable, accounting records should: (i) correctly explain all transactions; (ii) enable the financial position of the entity or arrangement to be determined with reasonable accuracy at any time; and (iii) allow financial statements to be prepared. Accounting records should further include underlying documentation, such as invoices, contracts, *etc.* Accounting records need to be kept for a minimum of five years.

General requirements (ToR A.2.1)/Underlying documentation (ToR A.2.2)/Document retention (ToR A.2.3)

Companies under the scope of the Companies Act

Companies Act

117. Section 149 of the CA provides that the directors of a company, non-profit companies included, must present the company's financial statements to shareholders during the annual meeting as well as the report of auditor, if any, and further information in respect of the financial position of the company and the results of its operations in certain circumstances. Further, section 151(1) states that a copy of the financial statements of each of its subsidiary bodies corporate shall be kept at the company registered office in Grenada.

118. Pursuant to section 187 of the CA, all domestic companies must prepare and maintain accounting records, which must be kept at the registered office of the company in Grenada. When these records are kept outside Grenada, accounting records that are adequate to enable the directors to ascertain the financial position of the company with reasonable accuracy must be kept at the company's registered office in Grenada on a quarterly basis (s. 187(3)). Former-act companies are *de facto* covered by the CA and consequently subject to the same record keeping requirements.

119. Part V of the Companies Regulations 1995 requires the financial statements and auditor's report referred to in sections 149 and 171 of the CA to be prepared in accordance with standards approved by the Institute of Chartered Accountants (Regulation 9). The financial statements must contain at least: (i) a balance sheet; (ii) a statement of retained earnings; (iii) a statement of income; and (iv) a statement of changes in financial position (Regulation 10).

120. The CA does not provide for underlying documentation to be kept and does not prescribe that accounting records should be retained for at least five years. Grenada's authorities have advised that these requirements also apply to external companies. However, the CA does not contain any explicit obligations requiring external companies to keep accounting records.

Tax laws

121. Section 71(1) of the Income Tax Act provides that every person carrying on any business must keep records or books of accounts necessary to reflect the true and full nature of transactions of the business regard being had to the nature of activities concerned. Section 71(4) of the Income Tax Act further provides that all books and accounts and other records which are

essential to the explanation of any entry in such books of accounts must be kept. This would therefore include the underlying documentation. Pursuant to section 71(4), any person required to keep accounting records for the purpose of the Act must retain such records for seven years after the end of the year to which these records relate. These records must be kept in Grenada (s. 71(3)) unless the Comptroller of Inland Revenue would approve them to be kept at some other place. Grenada's authorities have advised that no such requests have ever been received. In addition, irrespective of the place where such records are kept, the Grenada's authorities have the necessary powers to access this information (see section B.1 of the report below).

122. Anyone who fails to keep a proper record of his transactions or to preserve any books of account or document required under section 71 is guilty of an offence and liable to a fine of XCD 2 000 (USD 741) and to imprisonment for one year (s. 117).

123. For tax purposes, pursuant to section 4 of the Income Tax (Amendment) Act of 1999, any business liable to tax in Grenada, whatever its form and irrespective of the place where it has been set up, must file on an annual basis and within 90 days following the year of assessment a tax return with the Inland Revenue. Both companies incorporated in Grenada and external companies having their seat of effective management in Grenada must then declare their worldwide income. In addition to the annual return, any business must provide a copy of the final accounts of the business together with a reconciliation of the income shown in the account with the assessable income disclosed in the return in relation to the accounts (s. 72). This obligation covers domestic companies, external companies, and partnerships.

124. For VAT purposes, under section 43 of the VAT Act businesses must maintain underlying documentation such as invoices, credit notes, and debit notes whether issued or received as well as customs documentation relating to imports and exports of goods by the person. Any business subject to this tax must maintain accounts, documents and records for seven years after the end of the tax period to which they relate (s. 110). A person who contravenes section 43 commits an offence and is liable on summary conviction to a fine not exceeding XCD 5 000 (USD 1 852) or a term of imprisonment not exceeding eighteen months (s. 81).

International companies

125. For companies registered under the ICA, section 66 provides that the company must keep such accounts and records as the directors consider necessary or desirable to reflect the financial position of the company. These books must be kept at the registered office of the company or at such other place as the directors determine (s. 66(3)). A company that contravenes to

these requirements is liable to a penalty of USD 100 in respect of each day during which the contravention continues. Directors are liable to the same sanction (s.66(4)). These records are open to the members for inspection (s. 67). The ICA does not provide neither for the underlying documentation to be kept nor for accounting records to be retained for at least five years.

126. International insurance companies are required, under section 14(1) of the International Insurance Companies Act to keep business records. “Business records” includes working papers and other documents as are necessary to explain the methods and calculations by which its *accounts* are made up. “Accounts” are defined as profit and loss accounts, balance sheets and explanatory notes. These business records must correctly explain the company’s financial position and transactions and enable true and fair accounts to be prepared (s. 14(2)). International insurance companies must keep all business documents include working papers and other documents as are necessary to explain the methods and calculations by which annual accounts are made up (s. 14 International Insurance Act 1996. These records must be kept in Grenada (s. 14(2)). Any person who refuses to provide such accounts and documents during an inspection by the supervisory authorities would commit an offence (s. 24) and be liable to a fine of XCD 50 000 (USD 18 519) or imprisonment of two years or both (s. 38). If the offender is a legal person, the fine is XCD 100 000 (USD 37 037).

127. Offshore banks are required under the Offshore Banking Act to provide quarterly accounts (statement of assets and liabilities and profit and loss) to the Central Bank (s. 41(1)). The Central Bank may require any document it thinks necessary for the proper understanding any statement and return furnished (s. 41(2)). Under section 42, it must provide to the supervisory authorities, within three months after the end of the financial year, a balance sheet, a profit and loss account as well as cash flow statements. The balance sheet must be approved by an auditor. Anyone who contravenes this obligation commits an offence and is liable to a fine of XCD 5 000 (USD 1 852) and a further XCD 1 000 (USD 370) for each day during which the offence continues after a first or subsequent offence (s. 41(5) and s. 42(4)).

Partnerships

128. Tax requirements previously described similarly apply to partnerships, which are relevant entities for tax purposes. Partnerships are therefore required to keep, under sanction, books and accounts reflecting the true and full nature of transactions of the business regard being had to the nature of activities concerned (s. 71 and s. 117 Income Tax Act). Further, partnerships are subject in all situations to the provision of an annual return with revenue authorities (s. 4 of the Income Tax (Amendment) Act 1999) and when

submitting their annual return, partnerships have to attach a copy of the final accounts of the business (s. 72).

Trusts

129. Section 2 of the Income Tax Act defines “person” and “resident in Grenada” as including, amongst others, “a trust”. Under section 15(1) “any income accruing to a trust, where there is no beneficiary entitled to the immediate benefit thereof, shall be included in the assessable income of the trust and the chargeable income ascertained therefrom shall be charged to tax in the name of the trustee”. Where there is a beneficiary entitled to the immediate benefit of the income, this income is deemed to have accrued to the beneficiary and shall be included in his assessable income (s. 15(2)). Further, section 65 requires every person who derives any income which would be charged to tax under the Act to submit an annual tax return. This requirement encompasses trustees and beneficiaries covered by section 15 of the Act. Where any person who is required to furnish a return of income for any year of assessment fails to do so within the prescribed timeframe, this person is liable to a penalty not exceeding 10% of the amount of tax charged for that year of assessment or XCD100 (USD 37), whichever is greater.

130. Trustees acting by the way of business are required, as professionals, to keep accounting records in compliance with section 71 of the Income Tax Act (see above paragraphs 121 and 122). This obligation covered any trustee established in Grenada to the extent that this trustee acts by way of business. These obligations ensure that accounting records will be kept in compliance with the standard in relation to the trusts they manage. However, this statutory duty does not extend to legal persons or arrangements who act as trustees but who are not carrying out a business (*i.e.* the provision of trust services).

131. All trustees may also be subject to common law obligations to keep accurate accounts and records although the extent of such requirements could not be ascertained during the Phase 1 Peer Review. The effectiveness of these common law obligations will be considered as part of the Phase 2 Peer Review.

132. As part of its duties, a trustee of an international trust must keep the trust property separate from his(her) own property and maintain accurate accounts and records of his(her) trusteeships (s. 27(7) and (8) ITA). In addition, section 17 of the ITA provides that the trustee of an international trust must keep in Grenada, such documents as are necessary to show the true financial position of the trust at the end of the trust’s financial year together with details of the application of principal and income during the financial year. Any trustee that would not respect its statutory duty to keep accounting

records under section 17 of the ITA commits an offence and is liable to a fine of USD 10 000 or two years imprisonment or both. There are no legal obligations under the ITA for trustees of international trustees to keep underlying documentation and retain accounting records for at least five years.

Accounting records to be kept by AML-regulated entities.

133. AML-regulated entities are required under regulation 9 of the POCA Regulations to maintain transactions and reports. Sections 44 and 46 of the POCA guidelines elaborate on what must be included in these records. Essentially, every transaction carried out on behalf of or with a customer in the course of relevant business must be recorded. Transaction records include the name of the customer, the kind of currency and amount involved, the beneficiary of the transaction, the date of the transaction, the nature of the transaction, account files and business correspondence with respect to a transaction, and sufficient details for the transaction to be understood.¹⁸ The records must be retained for a period of at least five years from the date on which the transaction is completed or after the business relationship has ceased (Regulation 10). However, while the standard requires accounting records to correctly explain all transactions, which is the case in Grenada, they must also enable the financial position of the relevant entity to be determined with reasonable accuracy at any time. Under the POCA Regulations and POCA Guidelines, there is no express requirement for the financial position of the entity to be determined.

Conclusion

134. The following record keeping requirements are in place in Grenada:

	Record keeping requirement	Underlying documentation	Five years
Domestic companies	Ss.71(1) and 72 Income Tax Act	Ss.71(4) Income Tax Act Ss.43 VAT Act	Ss.71(4) Income Tax Act Ss.110 VAT Act
External companies	Ss.71(1) and 72 Income Tax Act	Ss.71(4) Income Tax Act Ss.43 VAT Act	Ss.71(4) Income Tax Act Ss.110 VAT Act
IBCs	S.66 ICA	No express statutory requirement	No express statutory requirement

18. As further detailed in the explanatory note to section 46 of the POCA Guidelines, “the transaction records required under section 46 must be viewed as the minimum obligated under the guidelines. The responsibility is on the relevant professional to ensure that sufficient information is obtained with respect to every transaction.”

	Record keeping requirement	Underlying documentation	Five years
Offshore banks	S.41 and 42 of the Offshore Bank Act	No express statutory requirement	No express statutory requirement
International insurance companies	S.14 of the International Insurance Act	S.14 of the international Insurance Act	No express statutory requirement
Partnerships	Ss.71(1) and 72 Income Tax Act	Ss.71(4) Income Tax Act Ss. 43 VAT Act	Ss.71(4) Income Tax Act Ss. 110 VAT Act
Trusts	Ss.71(1) and 65 Income Tax Act Regulation 9 of the POCA Regulation and s.44 and 46 POCA Guidelines (in relation to service providers acting as trustees only)	Ss.71 (4) and 65 Income Tax Act Regulation 9 of the POCA Regulation and s.44 and 46 POCA Guidelines (in relation to service providers acting as trustees only)	Ss.71(4) and 65 Income Tax Act Regulation 9 of the POCA Regulation and s.44 and 46 POCA Guidelines (in relation to service providers acting as trustees only)
International trusts	Regulation 9 of the POCA Regulation and s.44 and 46 POCA Guidelines (in relation to service providers acting as trustees only)	Regulation 9 of the POCA Regulation and s.44 and 46 POCA Guidelines (in relation to service providers acting as trustees only)	Regulation 9 of the POCA Regulation and s.44 and 46 POCA Guidelines (in relation to service providers acting as trustees only)

135. It is clear that companies incorporated under the CA together with external companies, partnerships and trusts falling under the provisions of the Income Tax Act are required in Grenada to keep accounting records correctly explaining all transactions, enabling the financial position of the entity to be determined and allowing financial statements to be prepared. Obligations are not sufficient for IBCs, international insurance companies and international trusts. However, only 68 IBCs are currently registered in Grenada and there are no offshore banks, international insurance companies and international trusts. Trustees of local trusts may also be subject to a fiduciary duty to keep accurate accounts and records, the effectiveness of which will be considered as part of the Phase 2 peer review.

Determination and factors underlying recommendations

Phase 1 determination	
The element is not in place.	
Factors underlying recommendations	Recommendations
Obligations to maintain reliable accounting records for five years, including underlying documents, in line with the <i>Terms of Reference</i> are not in place for international companies, offshore banks, international insurance companies, and international trusts.	Grenada should introduce consistent obligations for all relevant entities and arrangements to maintain reliable accounting records, including underlying documents in line with the <i>Terms of Reference</i> .

A.3. Banking information

Banking information should be available for all account-holders.

136. In Grenada, obligations for financial institutions to keep customer and transaction records are dealt with in the Anti-Money Laundering/Combating the Financing of Terrorism (AML/CFT) framework which consists of separate pieces of legislation, namely: the Proceeds of Crime Act 2012 (“POCA”); the Proceeds of Crime (Anti-Money Laundering and Terrorist Financing) Regulations 2012 (“POCA Regulations”); and the Proceed of Crime (Anti-Money Laundering and Terrorist Financing) Guidelines 2012 (“POCA Guidelines”).

137. Pursuant to Regulation 3 of the POCA Regulations 2012, in conducting relevant business, a relevant person (which includes a bank and offshore bank) shall not form a business relationship or carry out a one off-transaction (above XCD 10 000 (USD 3 704)) with or for another person unless that person maintains identification and record keeping procedures. Identification procedure requires satisfactory evidence of identity and is defined under Regulation 4 of the POCA Regulation as identifying the customer whether the customer enters in a business relationship or a one-off transaction. The POCA Guidelines further detail the CDD and record keeping requirements.

138. In verifying this identity, the relevant person must establish and maintain in Grenada a record that (i) indicates the nature of the evidence obtained; and (ii) comprises a copy of that evidence, or where this is not reasonably practicable, contains such information as would enable a copy of the evidence to be obtained (Regulation 8). Further obligations regarding the verification of a customer’s identity are provided by the POCA Guidelines (s. 26 for individuals; s. 27 for legal persons).

139. Where a relevant person is required to verify the identity of a person, the relevant person shall maintain a record of all transactions carried out by or on behalf of that person (such as records sufficient to identify the source and recipient of payments) (Regulation 9). Sections 44 and 46 of the POCA Guidelines elaborate on what must be included in these records. Essentially, all transactions carried out on behalf of or with a customer in the course of relevant business must be recorded. Transaction records include the name and address of the customer, the kind of currency and amount involved, the beneficiary of the transaction, the date of the transaction, the nature of the transaction, account files and business correspondence with respect to a transaction, and sufficient details for the transaction to be understood.

140. All records required to be maintained must be kept for at least five years from the date when: (i) all transaction relating to a one-off transaction or a series of linked transactions were completed; or (ii) when the business relationship was formally ended (Regulation 10).

141. A person who fails to comply with the requirements of the POCA Regulations or any directive issued pursuant to Regulation 14(2), commits an offence and is liable (Regulation 17): (a) on summary conviction, to a fine of XCD 10 000 (USD 3 704); and (b) on conviction on indictment, to a fine of XCD 15 000 (USD 5 555). Section 15 of the AML Guidelines sets out the roles and duties of an entity and professional under the POCA. An entity or a professional that fails to comply with the requirements of section 15 commits an offence and is liable under section 32(4) of the POCA (fine not exceeding XCD 25 000 (USD 9 259) or a term of imprisonment not exceeding two years or both. Directors and partners are subject to the same sanction. Section 59 of the POCA Guidelines sets out a wide range of offences and penalties ranging from XCD 1 500 (USD 556) to XCD 10 500 (3 889) in the event that the Guidelines are not complied with

Conclusion

142. The requirements set out in the AML/CFT framework, POCA, POCA Regulations and POCA Guidelines ensure that financial institutions keep accurate records pertaining to bank accounts.

Determination and factors underlying recommendations

Phase 1 determination
The element is in place.

B. Access to Information

Overview

143. A variety of information may be needed in a tax enquiry and jurisdictions should have the authority to obtain all such information. This includes information held by banks and other financial institutions as well as information concerning the ownership of companies or the identity of interest holders in other persons or entities, such as partnerships and trusts, as well as accounting information in respect of all such entities. This section of the report examines whether Grenada’s legal and regulatory framework gives the authorities access powers that cover all relevant persons and information and whether rights and safeguards are compatible with effective exchange of information.

144. The Comptroller of Inland Revenue is Grenada’s competent authority for EOI purposes under the Mutual Exchange of Information on Taxation Matters Act 2011 (“EOI Act”).¹⁹ Under this Act, the Comptroller has broad powers to request anyone to provide information which is the subject of an EOI request notwithstanding the existence of confidentiality provisions in other laws in force in Grenada. Information can be obtained in a variety of forms: questionnaire, copies of documents or interview, whether Grenada has an interest in obtaining this information for its own domestic purposes or not.

145. Under the EOI Act, Grenada’s competent authority is also required to notify the person who is the subject of the request to the extent that the whereabouts of this person are known. If a prior notification procedure is to comply with the requirements set out by the *Terms of Reference*, it should provide for exceptions particularly in cases where prior notification may undermine the chance of success of the investigation undertaken by the requesting party. This is not the case with the prior notification procedure introduced in Grenada.

19. Grenada’s competent authority under the United States-Grenada TIEA is the Permanent Secretary (Finance) or his authorised delegate (see Art. 2(2) U.S.A.-Grenada Taxes (Information Exchange) Act).”

146. By Order adopted on 23 December 2011, Grenada declared all TIEAs signed since 2010 as scheduled agreements under the EOI Act. Grenada has since informed its treaty partners of its completion of all the necessary steps to bring the agreements into force in Grenada. For its partners covered by the CARICOM Treaty, Grenada must rely on its domestic information gathering powers to access information and further exchange it. EOI cannot take place under the DTCs with South Africa and Switzerland as effect has not been given to these treaties by Grenada. Although these powers are wide, their use is restricted to obtaining information when Grenada has a domestic interest in obtaining the requested information. Grenada's wide ranging authority to access information as it relates to other agreements does not enable it to fully access information in compliance with the standard to answer incoming requests made by these partners.

B.1. Competent Authority's ability to obtain and provide information

Competent authorities should have the power to obtain and provide information that is the subject of a request under an exchange of information arrangement from any person within their territorial jurisdiction who is in possession or control of such information (irrespective of any legal obligation on such person to maintain the secrecy of the information).

Bank, ownership, and identity information (ToR B.1.1) and accounting records (ToR B.1.2)

Agreements falling under the Mutual Exchange of Information on Taxation Matters Act 2011

147. The EOI Act gives effect to the most recent EOI arrangements signed by Grenada (s. 3). Section 3(5) specifies that the Minister of Finance may by order add a schedule to the EOI Act for the purpose of setting out and giving effect to any agreement for the provision of information in taxation matters. Section 3(6) further states that the Minister of Finance may by order add a schedule to the EOI Act for the purpose of specifying the countries that are entitled to make information requests under the EOI Act. The Order detailing the countries to which the newly introduced Act is applicable was taken on 23 December 2011.

148. The scheduled countries encompass Australia, Belgium, Denmark, the Faroe Islands, Finland, France, Germany, Greenland, Iceland, Ireland, the Netherlands, Norway, Sweden and the United Kingdom. Each of these countries has entered into a TIEA with Grenada. Grenada has informed each of these jurisdictions of the completion of the necessary steps in Grenada to bring the agreements into force in Grenada.

149. Section 4 of the EOI Act designates the Comptroller of Inland Revenue as the competent authority for EOI purposes. Section 5 of the EOI Act provides that Grenada’s competent authority “has the powers to do all things necessary or convenient to be done for, or in connection with, the performance of his functions under this or any other Act or any scheduled agreement, or in relation to any scheduled country”.

150. Section 5 also details the principal functions of the competent authority to include executing requests, including, but not limited to, providing assistance in relation to:

- taking the testimony or statement of any person;
- providing information²⁰ and articles of evidence;
- serving documents; and
- executing searches and seizures.

151. The degree of specificity required to consider the incoming request as valid is determined by each individual agreement signed by Grenada but also by the Schedule to the EOI Act detailing the Rules for the Exchange of Information on Tax Matters (“the Rules”) which mirrors the 2002 OECD TIEA Model Agreement. In particular, pursuant to rule 5 of the Schedule, the competent authority of the requesting State must provide the following information when making a request for information in order to demonstrate the foreseeable relevance of the information to the request:

- the identity of the person under examination or investigation;
- as statement of the information sought including its nature and the reasons for in which the applicant country wishes to receive the information from the requested country;
- the tax purpose for which the information is sought;
- grounds for believing that the information requested is held in the requested country or is in the possession or control of a person within the jurisdiction of the requested country;
- to the extent known, the name and address of any person believed to be in possession or control of the information requested;

20. Pursuant to section 2 of the Act, “information” means any fact, statement, document or record in whatever form and includes: (i) any fact, statement, document or record held by any bank, other financial institution, or any person, including any nominee and trustee, acting in an agency or fiduciary capacity; and (ii) any fact, statement, document or record regarding the beneficial ownership of any company, partnership and any other person.

- a statement that the request is in conformity with the law and administrative practices of the applicant country, that if the requested information were within the jurisdiction of the applicant country that the competent authority of the applicant country then the competent authority would be able to obtain the information under the laws of the applicant country or in the normal course of administrative practice and that it is in conformity with those Rules; and
- a statement that the applicant country has pursued all means available in its own territory to obtain the information, except those that would give rise to disproportionate difficulties.

152. Upon receipt of the request, the competent authority determines whether the request complies with the relevant agreement or the Rules as the case may be, and if the request complies with this agreement or the Rules (as the case may be), the Authority shall execute the request (s. 7).

153. Where, pursuant to a request, the competent authority considers it necessary to obtain specified information or information of a specified description from any person, the authority will:

- in the case of information required for proceedings in the territory of the requesting party or related investigations, apply to a judge for an order to produce such information (s. 8(4)(i)) (see discussion below, under section B.2.1); or
- in any case other than that referred to in the previous bullet point, issue a notice, in writing, requiring the production of such information within the timeframe and under the format specified by the authority (s. 8(4)(ii)). Information requested pursuant to section 8(4)(ii) of the EOI Act, can be taken in the form of copies or extracts.

154. Where, pursuant to a request, *any person is required to testify*, the competent authority will apply to a judge in order for the judge to receive such testimony as it appears to him to be appropriate for the purpose of giving effect to the request, and such testimony will be provided to the competent authority of the requesting party (s. 8(1)). A judge can also require a person to give evidence under oath but that person will not be required to give evidence which they could not be compelled to give in proceedings in Grenada (s. 8(2) and (3)).

155. Grenada's authorities also have the power to search and enter any premises to take specified information or information of a specified description (s. 16(3)). In such a case, the Competent Authority must apply to the High Court for the issue of a search warrant. The Court will determine whether the request is serious enough to justify the use of this procedure and if satisfied it will authorise the search. Any information seized under a warrant is brought immediately to the Authority to be dealt with according to the law (s. 16(5)).

USA-Grenada Taxes (Exchange of Information) Act

156. Grenada and the United States concluded a tax information exchange agreement in 1986. Specific provisions were enacted by Grenada on 15 May 1987 to give effect to this agreement. Pursuant to section 5 of this Act, when receiving a request from the United States, the competent authority in Grenada will, by notice in writing, ask the person subject to the request to provide the requested information within 28 days commencing on the day on which the notice was served (paragraphs 1 and 3 of s. 5). This information must be provided if it is in the possession, custody or control of the person subject to the request. This Act also gives to Grenada's authorities search and seizure powers and the ability to receive witness statements under oath (ss. 6 and 9 of the Act).

157. Once information has been collected either under sections 5 or 6 of the Act, the competent authority will not disclose this information to anyone for at least 20 days. Once this timeframe has expired, and if the competent authority is of the opinion that the information gathered comprises elements sought by the inbound request, this information is transmitted to the United States.

Agreements not falling under the Mutual Exchange of Information on Taxation Matters Act 2011

158. Grenada has advised that it intends, as far as the relevant jurisdiction are willing to participate, to place its other agreements (DTCs with South Africa and Switzerland, and the CARICOM Treaty) under the scope of the new EOI Act. Currently, to answer a request made under the CARICOM Agreement, Grenada's authorities must rely on their powers to access information for domestic purposes.

159. Section 68 of the Income Tax Act states that for the purpose of the administration or the further enforcement of the Act, including the obtaining of information in respect of the income of any person who is or may be liable to tax, the Comptroller of Income Tax may, by written notice require that person or any other person (s. 68(1)):

(i) to furnish the Comptroller within such time as may be specified in such notice such further return of income, statement of assets and liabilities or other information as may be required by him;

(ii) to produce, at such time and place as may be specified in such notice for examination by the Comptroller or for retention by him for such period as may be reasonable for their examination, any accounts, books of account, statement of assets and liabilities or other documents which the Comptroller may

consider necessary for such purpose and, if any such information is not available in the English language, to produce at the expense of the person who is or may be liable to tax a translation in English prepared and certified by an approved translator.

160. The Comptroller can also require any bank to furnish details of any banking account or other assets which may be held on behalf of any person, or to furnish a copy of bank statements of any such banking account, to permit the Comptroller or any officer authorised by him to inspect the records of the bank with respect to the banking account of any person (s. 68(2)).

161. Whilst these powers are broad, it is noted that they can only be used for the administration and further enforcement of the Income Tax Act and that this Act does not cover exchange of information. In addition, these powers do not encompass offshore entities as these are outside the scope of taxation rules in Grenada.

162. Grenada has not given effect to its DTCs with South Africa and Switzerland²¹ as they have not been incorporated into domestic laws.

Use of information gathering measures absent domestic tax interest (ToR B.1.3)

163. The EOI Act makes clear that the purpose of the Act is to give to the competent authority access to the necessary information powers to give effect to all EOI arrangements signed by Grenada. Similarly, the U.S.A.-Grenada Taxes (Exchange of Information) Act provides broad access powers to Grenada's competent authority for purposes of responding to a request under the United States-Grenada TIEA. Grenada's competent authority will collect information under these EOI agreements whether the information is of any interest for domestic purposes or not.

164. For countries covered by the CARICOM Agreement, as described above Grenada's authorities can only rely on their domestic gathering measures which can only be used to the extent that they have an interest for the information requested for domestic tax purposes.

Compulsory powers (ToR B.1.4)

165. In extreme cases, Grenada's authorities have the power to seize documents subject to the grant of a search warrant from the High Court further to a successful prior application from the competent authority.

21. These two treaties were actually signed with the United Kingdom and extended to some former UK territories and which remained in force after Grenada's independence.

166. Section 16 of the EOI Act clearly sets out that a person has to produce any information which is in his(her) possession or under his(her) control. An offence will be committed in the event that they: (i) without lawful excuse fail to do so, within such time as may be specified by a court order, or by the Authority by notice; or (ii) alter, destroy, mutilate, deface, hide or remove any information. That person will then be liable, on summary conviction, to a fine not exceeding XCD 20 000 (USD 7 407) or to a term of imprisonment not exceeding two years, or to both.

167. Section 5 of the U.S.A.-Grenada Taxes (Exchange of Information) Act provides the competent authority with compulsory powers to access information in response to a request made by the United States under the US-Grenada TIEA. Section 8 of this Act provides that an offence will be committed in the event a person: (i) wilfully disobeys or wilfully fails to comply with a request from the competent authority; or (ii) wilfully obstructs an officer executing a search warrant; or (iii) without reasonable excuse destroys or damages any information which he knows to be the subject of direction given in a notice. That person will then be liable, on summary conviction, to imprisonment for six months and to a fine of XCD 10 000 dollars (USD 3 704).

168. For domestic purposes, anyone who fails to comply with a notification sent pursuant to section 68 of the Income Tax Act is liable to a fine of XCD 1 000 (USD 370).

Secrecy provisions (ToR B.1.5)

Confidentiality provisions

169. There are several laws in Grenada containing secrecy provisions that prevent people, under sanction, of disclosing information. This may hinder the access to information for EOI purposes:

- Section 32 of the Banking Act 2005 prohibits the disclosure of information except if lawfully required by any court in Grenada or under the provisions of any law of Grenada (*i.e.* when information is requested under the POCA or the Income Tax Act) or under the agreement with the participating governments (as defined in the Banking Act)²²;
- the International Insurance Act provides that the Grenada's authorities in their supervisory duties can inspect any records kept or required to be kept under the law by offshore insurance companies, these records cannot be disclosed to any other authorities (s. 25);

22. Participating government include Antigua and Barbuda, Dominica, Montserrat, Saint Kitts and Nevis, Saint Lucia, and Saint Vincent and the Grenadines.

- under section 110 of the ICA, no person who has acquired information in relation to an international company can disclose information on these companies except: (i) with the written consent of the company; and (ii) when required to make disclosure by a court. Exceptions are provided under request of the Attorney General, or under the United State-Grenada (Exchange of Information) Act;
- Section 50(7) of the ITA provides that the Register of Trust maintained by the Registrar is not open for inspection, except if the trustee of an international trust may authorise in writing a person to inspect the entry of that trust in the Register. Further trustees are not generally allowed to disclose any information in relation to settlors and beneficiaries unless there is a court order or such action is permitted under the terms of the trust (s. 47); and
- under section 19 of the Company Management Act 1996 unless lawfully required to do so by the court or under the provisions of any other law, neither the Registrar nor any person acting under his authority can disclose any information which he has acquired in the performance or exercise of such duties or functions.

170. All of the above secrecy rules are waived in the case of a request made under the recently enacted EOI Act which makes it clear under section 11 that any person who divulges any confidential information or gives evidence in conformity with an order or a notice issued pursuant to a request will not be considered as committing any offence under any other law in force in Grenada. The USA-Grenada Taxes (Exchange of Information) Act contains a similar provision which waive any rule relating to confidentiality contained in another law or rule of law. Therefore, irrespective of the secrecy protections contained in other laws of Grenada, information can be accessed by the Comptroller of Inland Revenue for EOI under the schedule agreements. For the CARICOM agreement, these secrecy provisions cannot be waived for EOI purposes.

Legal professional privilege

171. With respect to legal professional privilege, section 8(6) of the EOI Act states that a court order or a notice issued by the competent authority will not confer any right to the production of, or access to “items subject to legal privilege”. Section 2 of the EOI Act defines “items subject to legal privilege” as:

(i) any communication between an attorney-at-law and his client, or any person representing his client, made in connection with the giving of legal advice to the client;

(ii) any communication between an attorney-at-law and his client, or any person representing his client or between such

attorney-at-law or his client, or any such representative and any other person made in connection with or in contemplation of legal proceedings, and for the purposes of such proceedings; and

(iii) any item enclosed with or referred to in such communications and made:

(a) in connection with the giving of legal advice; or

(b) in connection with or in contemplation of legal proceedings and for the purposes of such proceedings, when they are in the possession of a person who is entitled to possession of them;

except that any item held with the intention of furthering a criminal purpose, is not subject to legal privilege.

172. The scope of this definition goes beyond the exception for items subject to legal professional privilege contained in the 2002 OECD Model TIEA. Subsections (ii) and (iii) of the definition include elements of legal privilege that does not appear in Article 7(3) of the 2002 OECD Model TIEA. It is important to note that the extension of legal privilege to items made in contemplation of legal proceedings or in connection with the giving of legal advice does not mean that *any* document or piece of information provided to a legal adviser in contemplation of legal proceedings becomes an item subject to legal privilege. The document or piece of information itself must have been made in contemplation of those proceedings. The same would be the case with items enclosed with communications relating to the giving of legal advice. The effect of this rule on exchange of information in practice will be examined in the Phase 2 review of Grenada.

Determination and factors underlying recommendations

Phase 1 determination	
The element is in place, but certain aspects of the legal implementation of the element need improvement	
Factors underlying recommendation	Recommendation
Access to information in compliance with the standard is only granted to the 15 countries with which Grenada has signed a TIEA. Grenada does not have the necessary powers to access information in compliance with the standard in other cases due to a domestic tax interest requirement and several confidentiality provisions.	Grenada should ensure a full access to all types of information in respect of all its EOI arrangements, irrespective of the date when it entered into an EOI relationship with a treaty partner.

B.2. Notification requirements and rights and safeguards

The rights and safeguards (e.g. notification, appeal rights) that apply to persons in the requested jurisdiction should be compatible with effective exchange of information.

Not unduly prevent or delay exchange of information (ToR B.2.1)

173. Rights and safeguards should not unduly prevent or delay effective exchange of information. For instance, notification rules should permit exceptions from prior notification (e.g. in cases in which the information request is of a very urgent nature or the notification is likely to undermine the chance of success of the investigation conducted by the requesting jurisdiction).

174. As mentioned above under section B.1.1, where information must be obtained in order to respond to a request for information relating to a “proceeding in the territory of the requesting party or related investigations” then the competent authority for EOI must apply to a judge for an order to produce that information (s. 8(4)(i) EOI Act). The term “proceeding” is understood to mean any civil or criminal legal proceeding which takes place in any civil or criminal court, and which may include a tax appeal in the requesting State.

175. Where the judge is satisfied that certain conditions are met, the judge may make an order that the person who appears to him to be in possession or control of the information to which the application relates shall produce it to a police officer to take away or give to a police officer access to it within such period as the order may specify (s. 8(7)). The conditions that must be met are the following (s. 8(9)):

- the competent authority has certified that the request is valid under the relevant agreement;
- the information to which the request relates is under the possession or control of a person in Grenada;
- the information to which the request relates does not include items subject to legal privilege or items subject to protection as secret, as defined under the relevant agreement;
- the notification requirements have been complied with; and
- there are no reasonable grounds for not granting the request.

176. Where an order is granted the period for producing the information is 14 days unless the judge considers that a longer or shorter period would be appropriate in the particular circumstances of the application (s. 8(8)).

177. This procedure adds a level of judicial oversight for cases in which a proceeding is ongoing. This oversight is narrowly prescribed and the

conditions that must be met appear reasonable. The timeline for producing information pursuant to an order is short (14 days) and may be accelerated in certain cases. No appeal right is granted.

178. Nevertheless, where the judge is satisfied that the conditions are met, the judge “may” issue such an order, but is not bound to do so. Moreover, it is not clear what “reasonable grounds for not granting the request” would consist of, particularly where the competent authority has certified that the request is valid under the relevant agreement. The practical impact of these potential restrictions on the effectiveness of the competent authority’s access powers will be considered as part of the Phase 2 review of Grenada.

179. All other requests (*i.e.* not involving information required for proceedings in the territory of the requesting party) can be dealt with directly by the competent authority, without the court’s intervention.

180. For domestic tax purposes, Grenada’s Income Tax Act does not provide for a prior notification procedure associated with EOI. Similarly, the USA-Grenada Taxes (Exchange of Information) Act does not contain such rule. For requests received under a TIEA signed since 2010, section 10 of the EOI Act, however, provides that:

(1) Subject to subsection (2), a person who is the subject of a request for information solely in relation to a matter which is not a criminal matter or an alleged criminal matter, shall, if his whereabouts or address is made known to the Authority, be served with a notice by the Authority, advising of the existence of a request, specifying to that person, the jurisdiction making the request and the general nature of the information sought.

(2) Any person notified pursuant to subsection (1) may, within fifteen days from the date of receipt of the notice, make a written submission to the Authority, specifying any grounds which he wishes the Authority to consider in making its determination as to whether or not the request is in compliance with the Rules for the Exchange of Information on Tax Matters set out in the Schedule to this Act, or with provisions in any scheduled agreement as the case may be, including any assertions that the information requested is subject to legal privilege. [...]

(5) Nothing in this Act shall require the Authority to search for or conduct enquiries into the address or whereabouts of any person who is the subject of a request, in order to serve a notice to that person, pursuant to subsection (1).

181. The prior notification procedure applies in circumstances where the incoming case relates to civil tax matters and where the address or

whereabouts of the person who is subject of the request are made known to the Inland Revenue. The time for making a written submission by the subject of the request is short (15 days) and the fact of such submission does not trigger any prohibition on the disclosure of information to the Tax Cooperation Authority or its transmission to a requesting jurisdiction. However, there are no possibilities to avoid such prior notification procedure in civil tax matters where the information request is of a very urgent nature or the notification is likely to undermine the chance of success of the investigation conducted by the requesting jurisdiction. The prior notification procedure recently enacted in Grenada is therefore not completely in line with the Terms of Reference. The extent of this potential restriction will be monitored in the Phase 2 assessment of Grenada.

Determination and factors underlying recommendations

Phase 1 determination	
The element is in place.	
Factors underlying recommendations	Recommendations
The prior notification procedure in civil tax matters provided by the EOI Act only allows for an exception when the whereabouts of the taxpayer is not disclosed to the Inland Revenue Department.	It is recommended that wider exceptions from prior notification be permitted in civil tax matters under the EOI Act (e.g. in cases in which the information request is of very urgent nature or the notification is likely to undermine the chance of the success of the investigation conducted by the requesting jurisdiction)

C. Exchanging Information

Overview

182. Jurisdictions generally cannot exchange information for tax purposes unless they have a legal basis or mechanism for doing so. A jurisdiction's practical capacity to effectively exchange information relies both on having adequate mechanisms in place as well as an adequate institutional framework. This section of the report assesses Grenada's network of exchange of information agreements against the standards and the adequacy of its institutional framework to achieve effective exchange of information in practice.

183. Grenada's has a network of EOI agreements that covers 27 jurisdictions, 10 covered by the CARICOM²³ Treaty and the other by bilateral treaties. Since 2010, Grenada has been more active in negotiating EOI agreements and negotiations have led to the conclusion of 14 TIEAs which have been ratified in November 2011 with the introduced Mutual Exchange of Information on Taxation Matters Act 2011 and an associated Order (passed on 23 December). All its TIEAs partners were notified of this ratification in January 2012 and three of these TIEAs (with Denmark, France and the United Kingdom) are now in force. Negotiations are currently pending with two more jurisdictions.

184. With respect to the CARICOM Agreement, impediments in Grenada's Inland Revenue access to information powers for EOI purposes do not allow for EOI without restrictions. Effect has not been given by Grenada to the DTCs signed with Switzerland and South Africa. Grenada's network of EOI arrangements to the standard therefore covers 15 jurisdictions and Grenada should renegotiate the treaties not meeting the standard or be in position to exchange information to the standard with all its partners.

23. The CARICOM treaty covers Antigua and Barbuda, Barbados, Belize, Dominica, Guyana, Jamaica, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, and Trinidad and Tobago.

185. Grenada’s current EOI network covers its main partners and Grenada has never refused to enter into EOI negotiations with a partner seeking to do so. Finally, Grenada’s legal framework assures that information received will be kept confidential and that the rights and safeguards of the taxpayer will be protected.

C.1. Exchange-of-information mechanisms

Exchange of information mechanisms should allow for effective exchange of information.

186. Grenada’s network of EOI arrangements comprises 20 bilateral agreements covering 17 jurisdictions. 15 jurisdictions are covered by a TIEA (Australia, Belgium, Denmark, Faroe Islands, Finland, France, Germany, Greenland, Iceland, Ireland, the Netherlands, Norway, Sweden, the United Kingdom, and the United States) and 3 by a DTC (South Africa, Switzerland and the United Kingdom). In addition, Grenada is party to the CARICOM Treaty, which covers 10 jurisdictions (see footnote 23). Grenada has therefore 27 EOI relationships.

187. In addition, Grenada has three further DTCs which contain very limited provisions on exchange of information. These are the DTCs signed between the UK and Grenada, and the DTCs signed between the UK and the following countries, which were later extended by exchange of notes or amending protocols to apply to Grenada: South Africa and Switzerland. These DTCs although still in force, were concluded by the UK and extended to have effect for Grenada when it still formed part of the British Empire (either as an “associated state” of the UK or otherwise). The EOI provisions of these DTCs are generally restricted to information available under each party’s domestic tax laws which are relevant for the purposes of the Convention, and with the exception of the agreement with Switzerland, also permit information exchange necessary for the prevention of fraud or the administration of statutory provisions against legal avoidance in relation to the taxes covered by the Convention. As Grenada now has more expansive exchange of information agreements in place with the UK, only the agreements with South Africa and Switzerland are considered further.

Foreseeably relevant standard (ToR C.1.1)

188. The international standard for exchange of information envisages information exchange upon request to the widest possible extent. Nevertheless it does not allow “fishing expeditions,” *i.e.* speculative requests for information that have no apparent nexus to an open inquiry or investigation. The balance between these two competing considerations is captured in the standard of

“foreseeable relevance” which is included in Article 26(1) of the *OECD Model Tax Convention* set out below:

The competent authorities of the contracting states shall exchange such information as is foreseeably relevant to the carrying out of the provisions of this Convention or to the administration or enforcement of the domestic laws concerning taxes of every kind and description imposed on behalf of the contracting states or their political subdivisions or local authorities in so far as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by Articles 1 and 2.

189. All TIEAs signed by Grenada but the United States allow for the exchange of information foreseeably relevant to the administration and enforcement of the domestic laws concerning taxes covered by the agreement. The TIEA with the United States provides that “the competent authorities shall exchange information to administer and enforce their domestic law” which is broader than the foreseeably relevant standard. The CARICOM Treaty and the DTC concluded with South Africa refers to the exchange of information that is “necessary” instead of the information which is “foreseeably relevant”. The commentary to Article 26 of the *OECD Model Tax Convention* recognises that contracting states may agree to an alternative formulation of this standard if it is consistent with the scope of the Article. The term “necessary” is recognised as one of the alternative formulations allowing for the same scope of exchange of information as the term “foreseeably relevant”.²⁴

190. The DTC with Switzerland provides only for the exchange of “such information (being information which is at their disposal under their respective taxation laws in the normal course of administration) as is necessary...”. This DTC therefore does not meet the standard.

In respect of all persons (ToR C.1.2)

191. For exchange of information to be effective, it is necessary that a jurisdiction’s obligation to provide information is not restricted by the residence or nationality of the person to whom the information relates or by the residence or nationality of the person in possession or control of the information requested. For this reason, the international standard for exchange of information envisages that exchange of information mechanisms will provide for exchange of information in respect of all persons.

192. All Grenada’s TIEAs provide for exchange of information in respect of all persons. The DTCs with South Africa and Switzerland do not allow for

24. The word “necessary” in Article 26(1) of the 2003 *OECD Model Taxation Convention* was replaced by the phrase “foreseeably relevant” in the 2005 version.

the exchange of information in respect of all persons and this may hinder the provision of information in particular in relation to offshore entities, as these entities are not under the scope of Grenada’s taxation laws. The CARICOM agreement does not specify that EOI is not restricted by article 1, however its EOI provision applies to “carrying out the provisions of the Convention or the domestic laws of the Contracting States concerning taxes covered by the Convention insofar as the taxation thereunder is not contrary to the Convention”. Exchange of information in respect of all persons is thus possible under the terms of this agreement.

Obligation to exchange all types of information (ToR C.1.3)

193. Jurisdictions cannot engage in effective exchange of information if they cannot exchange information held by financial institutions, nominees or persons acting in an agency or a fiduciary capacity. The OECD *Model Tax Convention*, which is an authoritative source of the standards, stipulates that bank secrecy cannot form the basis for declining a request to provide information and that a request for information cannot be declined solely because the information is held by nominees or persons acting in an agency or fiduciary capacity or because the information relates to an ownership interest.

194. All of Grenada’s TIEAs specifically provide that a contracting state may not decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person. Effect has not been given by Grenada to both DTCs with South Africa and Switzerland and EOI cannot take place with these two jurisdictions.

195. In respect of the CARICOM Treaty, the obligation to exchange all types of information is only clearly available with respect to Saint Kitts and Nevis, Dominica and Saint Vincent and the Grenadines for the following reasons:

- the competent authorities of Belize and Saint Lucia have access to bank information in criminal tax matters only;
- there are loopholes in access to information powers of Antigua and Barbuda’s authorities;
- Trinidad and Tobago is only able to access further exchange information for the purpose of its TIEA with the United States; and
- information about the competent authority’s power to access bank information is not available with respect to Guyana, so it is not possible to confirm that the CARICOM Treaty with this jurisdiction meets the international standard.

196. It is recommended that Grenada work with the parties to the CARICOM Treaty to ensure that exchange of information complies with the required standard.

Absence of domestic tax interest (ToR C.1.4)

197. The concept of “domestic tax interest” describes a situation where a contracting party can only provide information to another contracting party if it has an interest in the requested information for its own tax purposes. An inability to provide information based on a domestic tax interest requirement is not consistent with the international standard. Contracting parties must use their information gathering measures even though they may be invoked solely to obtain and provide information to the other contracting party.

198. Grenada’s 15 TIEAs specifically allow information to be obtained and exchanged notwithstanding that the information is not required for any domestic tax purpose. The CARICOM Treaty does not contain such a provision and this creates restrictions for information to be exchanged with Jamaica as a domestic tax interest requirement exists in this country. Although Grenada’s Inland Revenue Department has broad powers to access information for domestic purposes, these powers can only be used for administering the Income Tax Act which does not include any EOI provisions. In addition, Grenada has not given effect to its DTCs signed with South Africa and Switzerland and no EOI can take place with these two countries. Exchange of information which meets the standard can therefore not take place with these different partners.

Absence of dual criminality principles (ToR C.1.5)

199. The principle of dual criminality provides that assistance can only be provided if the conduct being investigated (and giving rise to an information request) would constitute a crime under the laws of the requested country if it had occurred in the requested country. In order to be effective, exchange of information should not be constrained by the application of the dual criminality principle.

200. There are no dual criminality requirements in Grenada’s agreements for exchange of information in tax matters.

Exchange of information in both civil and criminal tax matters (ToR C.1.6)

201. Information exchange may be requested both for tax administration purposes and for tax prosecution purposes. The international standard is not limited to information exchange in criminal tax matters but extends to

information requested for tax administration purposes (also referred to as “civil tax matters”).

202. All Grenada’s TIEAs are based upon the OECD Tax Information Exchange Model Agreement and provides for exchange of information in both civil and criminal tax matters. Article 26 of the DTC with South Africa and the CARICOM agreement provides for exchange of information in civil tax matters. In addition, these treaties refer to fighting fiscal evasion as one of their objects and therefore allow for exchange in both civil and criminal tax matters to take place. The DTC with Switzerland restricts exchange of information to the avoidance of double taxation.

Provide information in specific form requested (ToR C.1.7)

203. Exchange of information mechanisms should allow for the provision of information in the specific form requested (including depositions of witnesses and production of authenticated copies of original documents) to the extent possible under a jurisdiction’s domestic laws and practices.

204. There are no restrictions in the exchange of information provisions in Grenada’s DTCs and TIEAs that would prevent Grenada from providing information in a specific form, as long as this is consistent with its own administrative practices. The newly introduced EOI Act allows for a wide range of access to information means: testimony, providing information and articles of evidence, serving documents and executing searches and seizures. Grenada’s competent authority is prepared to provide information in the specific form requested to the extent permitted under Grenada’s law and administrative practice.

In force (ToR C.1.8)

205. Exchange of information cannot take place unless a jurisdiction has exchange of information arrangements in force. Where exchange of information agreements have been signed, the international standard requires that jurisdictions must take all steps necessary to bring them into force expeditiously.

206. Grenada has a treaty network that covers 27 partners, 15 covered by a TIEA, 2 by a DTC and 10 by a multilateral tool. All the 14 TIEAs signed since March 2010 have been ratified with the EOI Act released on 11 November 2011 and it took between 6 and 20 months to Grenada to ratify these TIEAs. Grenada has since informed its partners that it has completed its ratification process, and three of these agreements are already in force.

In effect (ToR C.1.9)

207. For exchange of information to be effective, the contracting parties must enact any legislation necessary to comply with the terms of the agreement.

208. With the adoption of the EOI Act on the 11 November 2011 and the Order taken on 23 December 2011, Grenada has fully given effect to all the TIEAs it has signed since 2010. Likewise, Grenada has given full effect to its TIEA with the United States pursuant to the U.S.A-Grenada Taxes (Exchange of Information) Act. Full effect has not been given to the DTCs signed with South Africa and Switzerland and the CARICOM treaty.

Determination and factors underlying recommendations

Phase 1 determination	
The element is in place, but certain aspects of the legal implementation of the element need improvement	
Factors underlying recommendations	Recommendations
Of Grenada's 27 EOI relationships, 12 do not allow for exchange of information to the standard.	Grenada should update its agreements which presently do not meet the standard to ensure that they provide for effective exchange of information in all cases.

C.2. Exchange-of-information mechanisms with all relevant partners

The jurisdictions' network of information exchange mechanisms should cover all relevant partners.

209. Ultimately, the international standard requires that jurisdictions exchange information with all relevant partners, meaning those partners who are interested in entering into an information exchange arrangement. Agreements cannot be concluded only with counterparties without economic significance. If it appears that a jurisdiction is refusing to enter into agreements or negotiations with partners, in particular ones that have a reasonable expectation of requiring information from that jurisdiction in order to properly administer and enforce its tax laws it may indicate a lack of commitment to implement the standards.

210. Grenada's network of EOI agreements comprises 20 bilateral agreements covering 17 jurisdictions. 15 jurisdictions are covered by a TIEA (Australia, Belgium, Denmark, Faroe Islands, Finland, France, Germany,

Greenland, Iceland, Ireland, the Netherlands, Norway, Sweden, the United Kingdom, and the United States) and 3 by a DTC (South Africa, Switzerland, and the United Kingdom). In addition, Grenada is party to the CARICOM Treaty, which covers Antigua and Barbuda, Barbados, Belize, Dominica, Guyana, Jamaica, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, and Trinidad and Tobago. Grenada now has 15 EOI relationships which meet the standard and 12 EOI relationships which do not.

211. All Grenada's partners except the Faroe Islands, Greenland, and Guyana are members of the Global Forum, 14 are OECD members and 6 are G20 members. The main economic partners of Grenada are the CARICOM members, the United States, and some European countries. Grenada's network of EOI agreements covers them, although Grenada's CARICOM partners are not covered by EOI relationships that meet the standard. The CARICOM Secretariat has been reviewing the tax treaty signed among members since the peer review process has begun. It intends to complete this review following the completion of the peer review process.

212. Grenada's authorities have advised that two TIEAs have been recently initialled with Aruba and Poland and are expected to be signed very soon.

213. Ultimately, the international standard requires jurisdictions to exchange information with their relevant partners, meaning those partners who are interested in entering into an exchange of information agreement. During the course of the assessment, no jurisdictions have advised that Grenada had refused to enter into negotiations or conclude an EOI agreement.

Determination and factors underlying recommendations

Phase 1 determination	
The element is in place but certain aspect of the legal implementation of the agreement need improvement.	
Factors underlying recommendations	Recommendations
The CARICOM Treaty and the DTCs signed with South Africa and Switzerland do not provide for EOI to the standard.	Grenada should continue to develop its exchange of information network to the standard with all relevant partners, in particular with its CARICOM partners.

C.3. Confidentiality

The jurisdictions' mechanisms for exchange of information should have adequate provisions to ensure the confidentiality of information received.

Information received: disclosure, use, and safeguards (ToR C.3.1)

214. Governments would not engage in information exchange without the assurance that the information provided would only be used for the purposes permitted under the exchange mechanism and that its confidentiality would be preserved. Information exchange instruments must therefore contain confidentiality provisions that spell out specifically to whom the information can be disclosed and the purposes for which the information can be used. In addition to the protections afforded by the confidentiality provisions within information exchange instruments, jurisdictions with tax systems generally impose strict confidentiality requirements on information collected for tax purposes.

215. All exchange of information provisions in Grenada's EOI arrangements have confidentiality provisions modelled on Article 26(2) of the OECD *Model Taxation Convention* or Article 8 of the OECD *Model TIEA*.

216. In addition, Section 6 of the Income Tax Act provides that the Comptroller of Inland Revenue, and every person employed by the Inland Revenue shall treat any document or information relating to any person and all confidential instructions that may be in his(her) possession or knowledge as secret. Any person who contravenes the secrecy provisions commits an offence and is liable to a fine of XCD 2 000 (USD 741) and to imprisonment of one year (s. 116).

217. The newly introduced EOI Act provides in its section 12 a “no tipping off” provision such that, if instructed by the competent authority, the particulars of all matters relating to a request will be treated as confidential. Section 13 further provides that the requesting party will not use information transmitted by Grenada for purposes other than those detailed in the incoming request, unless the prior written consent of Grenada's authorities has been obtained.

All other information exchanged (ToR C.3.2)

218. The confidentiality provisions in Grenada's exchange of information agreements and domestic law do not draw a distinction between information received in response to requests or information forming part of the requests themselves. As such, these provisions apply equally to all requests for such information, background documents to such requests, and any other document reflecting such information, including communications between the

requesting and requested jurisdictions and communications within the tax authorities of either jurisdiction.

Determination and factors underlying recommendations

Phase 1 determination
The element is in place.

C.4. Rights and safeguards of taxpayers and third parties

The exchange of information mechanisms should respect the rights and safeguards of taxpayers and third parties.

Exceptions to requirement to provide information (ToR C.4.1)

219. The international standard allows requested parties not to supply information in response to a request in certain identified situations. Among other reasons, an information request can be declined where the requested information would disclose confidential communications protected by attorney-client privilege. Attorney-client privilege is a feature of the legal systems of many countries.

220. All of the agreements concluded by Grenada, except with Switzerland and South Africa, incorporate wording modeled on Article 26(3) of the *OECD Model Tax Convention* or Article 8 of the *OECD Model TIEA* providing that requested jurisdictions are not obliged to provide information which would disclose any trade, business, industrial, commercial or professional secret or information which is the subject of attorney-client privilege/legal privilege or information the disclosure of which would be contrary to public policy. Nevertheless, in the case of Switzerland and South Africa it is unlikely that this variation will materially affect the exchange of information to the international standard as Grenada has not given effect to these two treaties.

221. The reservation in the CARICOM treaty appears to apply when the disclosure of the information would cumulatively be contrary to public policy and disclose certain secrets such as trade secrets. As such, the grounds for declining to provide information in response to a request appear to be narrower than those contemplated in the *OECD Model Tax Convention*.

Determination and factors underlying recommendations

Phase 1 determination
The element is in place.

C.5. Timeliness of responses to requests for information

The jurisdiction should provide information under its network of agreements in a timely manner.

Responses within 90 days (ToR C.5.1)

222. In order for exchange of information to be effective it needs to be provided in a timeframe which allows tax authorities to apply the information to the relevant cases. If a response is provided after a significant lapse of time the information may no longer be of use to the requesting authorities. This is particularly important in the context of international co-operation as cases in this area must be of sufficient importance to warrant making a request.

223. There appear to be no legal restrictions on the ability of Grenada's competent authority to respond to requests within 90 days of receipt by providing the information requested or by providing an update on the status of the request. Neither the CARICOM agreement nor Grenada's bilateral agreements specifically address the question of timeliness of responses or provision of status updates. Nothing in their provisions would restrict Grenada's ability to respond expeditiously or to provide status updates to its counterparts. The ability of Grenada's Inland Revenue Department to respond to requests in a timely manner will be considered during the course of the Phase 2 Peer Review.

Organisational process and resources (ToR C.5.2)

224. Grenada's competent authority for its EOI agreements is the Minister of Finance or the Minister's authorised representative, the Comptroller of the Inland Revenue. Under section 4(1) of the Mutual Exchange of Information on Taxation Matters Act 2011 the Comptroller of Inland Revenue is designated as the Tax Co-operation Authority for the purposes of the Act and any scheduled agreement and in relation to any scheduled country. One of the Authority's principal functions is executing requests relating to the exchange of information for tax purposes. A review of Grenada's organisational process and resources will be conducted in the context of its Phase 2 Peer Review.

Absence of restrictive conditions on exchange of information (ToR C.5.3)

225. Exchange of information assistance should not be subject to unreasonable, disproportionate, or unduly restrictive conditions. As noted in Part B of this Report, there are no aspects of Grenada's domestic laws that appear to impose additional restrictive conditions on exchange of information.

Determination and factors underlying recommendations

Phase 1 determination
The assessment team is not in a position to evaluate whether this element is in place, as it involves issues of practice that are dealt with in the Phase 2 Peer Review.

Summary of Determinations and Factors Underlying Recommendations²⁵

Determination	Factors underlying recommendations	Recommendations
Jurisdictions should ensure that ownership and identity information for all relevant entities and arrangements is available to their competent authorities (<i>ToR A.1</i>)		
Phase 1 determination: The element is in place, but certain aspect of the legal implementation of the element need improvement.	In relation to external companies that are resident in Grenada, there is no legal requirement to make updated ownership information available.	Grenada should ensure that updated ownership information in relation to external companies that are resident in Grenada is available.
	Grenada's law do not contain any mechanisms to ensure that the share registers maintained by international companies will be kept updated.	Grenada's law should provide for mechanisms ensuring that the share registers maintained by international companies will be kept updated.
	Ownership information in relation to trusts is not available in all circumstances.	Grenada should ensure that ownership information in relation to trusts is available in all circumstances.
Jurisdictions should ensure that reliable accounting records are kept for all relevant entities and arrangements (<i>ToR A.2</i>)		
Phase 1 determination: The element is not in place.	Obligations to maintain reliable accounting records for five years, including underlying documents, in line with the <i>Terms of Reference</i> are not in place for international companies, offshore banks, international insurance companies and international trusts.	Grenada should introduce consistent obligations for all relevant entities and arrangements to maintain reliable accounting records, including underlying documents in line with the <i>Terms of Reference</i> .

25. The ratings will be finalised as soon as a representative subset of Phase 2 reviews is completed.

Determination	Factors underlying recommendations	Recommendations
Banking information should be available for all account-holders (<i>ToR A.3</i>)		
Phase 1 determination: The element is in place.		
Competent authorities should have the power to obtain and provide information that is the subject of a request under an exchange of information arrangement from any person within their territorial jurisdiction who is in possession or control of such information (irrespective of any legal obligation on such person to maintain the secrecy of the information) (<i>ToR B.1</i>)		
Phase 1 determination: The element is in place, but certain aspects of the legal implementation of the element need improvement	Access to information in compliance with the standard is only granted to the 15 countries with which Grenada has signed a TIEA. Grenada does not have the necessary powers to access information in compliance with the standard in other cases due to a domestic tax interest requirement and several confidentiality provisions.	Grenada should ensure a full access to all type of information in respect of all its EOI arrangements, irrespective of the date when it entered into an EOI relationship with a treaty partner.
The rights and safeguards (e.g. notification, appeal rights) that apply to persons in the requested jurisdiction should be compatible with effective exchange of information (<i>ToR B.2</i>)		
Phase 1 determination: The element is in place.	The prior notification procedure in civil tax matters provided by the EOI Act only allows for an exception when the whereabouts of the taxpayer are not disclosed to the Inland Revenue Department.	It is recommended that wider exceptions from prior notification be permitted in civil tax matters under the EOI Act (e.g. in cases in which the information request is of very urgent nature or the notification is likely to undermine the chance of the success of the investigation conducted by the requesting jurisdiction)

Determination	Factors underlying recommendations	Recommendations
Exchange of information mechanisms should allow for effective exchange of information (ToR C.1)		
Phase 1 determination: The element is in place, but certain aspects of the legal implementation of the element need improvement	Of Grenada's 27 EOI relationships, 12 do not allow for exchange of information to the standard.	Grenada should update its agreements which presently do not meet the standard to ensure that they provide for effective exchange of information in all cases.
The jurisdictions' network of information exchange mechanisms should cover all relevant partners (ToR C.2)		
Phase 1 determination: The element is in place, but certain aspect of the legal implementation of the element need improvement.	The CARICOM Treaty as well as the DTCs signed with South Africa and Switzerland do not provide for EOI to the standard.	Grenada should continue to develop its exchange of information network to the standard with all relevant partners, in particular with its CARICOM partners.
The jurisdictions' mechanisms for exchange of information should have adequate provisions to ensure the confidentiality of information received(ToR C.3)		
Phase 1 determination: The element is in place.		
The exchange of information mechanisms should respect the rights and safeguards of taxpayers and third parties (ToR C.4)		
Phase 1 determination: The element is in place.		
The jurisdiction should provide information under its network of agreements in a timely manner (ToR C.5)		
The assessment team is not in a position to evaluate whether this element is in place, as it involves issues of practice that are dealt with in the Phase 2 review.		

Annex 1: Jurisdiction’s Response to the Review Report²⁶

Grenada is very appreciative of the comprehensive, thorough and professional work done by the assessment team in evaluating Grenada’s legal and regulatory frame for the exchange of information on taxation matters. Grenada endorses the recommendations made by the assessment team. Although in practice there are currently mechanisms in place to address the concerns of the assessment team, Grenada recognises the need for legislative changes to specifically address these concerns.

The concerns raised by the assessment team in relation to up-to-date identity information for external companies, trust and international companies, and the underlying accounting information for international companies are being addressed by an overall review, updating and benchmarking of Grenada’s financial legislation. This project, which has already commenced, will benchmark Grenada’s financial legislation against the standards/principles established by such standards setting bodies as the OECD, FATF, IAIS, Basel Committee, IOSCO, etc. Pending the completion of this review, Grenada has issued a moratorium on the licensing any financial institution under its current international financial services legislation.

Grenada takes this opportunity to reconfirm its commitment to the Global Forum’s peer review process, tax transparency and the avoidance of harmful tax competition. Grenada is also committed to continuing to establish tax exchange agreements with its main trading partners and other interested jurisdictions²⁷, and to regularising its few existing agreements which do not comply with the OECD’s model for the exchange of information. Grenada has already contacted the relevant jurisdictions to begin negotiations on the regularisation of these agreements.

Grenada looks forward to satisfying the requirements of the Phase II review.

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26. This Annex presents the jurisdiction’s response to the review report and shall not be deemed to represent the Global Forum’s views.
27. Grenada has completed treaty negotiations with Aruba and Poland, and is currently in negotiations with Portugal.

Annex 2: List of All Exchange-of-Information Mechanisms in Force

Multilateral agreement

Grenada is party to the CARICOM agreement. The different jurisdictions as well as the date on which they joined this agreement are showed in the table below:

No.	Jurisdiction	Date signed	Date in force
1	Antigua and Barbuda	6 Jul 1994	18 Feb 1998
2	Barbados	7 Jul 1995 ²⁸	7 Jul 1995
3	Belize	6 Jul 1994	30 Nov 1994
4	Dominica	1 March 1996	19 Jun 1996
5	Grenada	6 Jul 1994	1 Mar 1996
6	Guyana	19 Aug 1994	26 Nov 1997
7	Jamaica	6 Jul 1994	16 Feb 1995
8	St Kitts and Nevis	6 Jul 1994	8 May 1997
9	St Lucia	6 Jul 1994	22 May 1995
10	St Vincent and the Grenadines	6 Jul 1994	12 Feb 1998
11	Trinidad and Tobago	6 Jul 1994	29 Nov 1994

28. Date of accession.

Bilateral agreements

Tax Information Exchange Agreements (TIEAs) and Double Tax Conventions (DTCs) signed by Grenada as at March 2012.

No.	Jurisdiction	Type of EOI agreement	Date signed	Date in force
1	Australia	Tax information exchange agreement (TIEA)	30 Mar. 2010	
2	Belgium	TIEA	15 Mar. 2010	
3	Denmark	TIEA	19 May 2010	14 Feb 2012
4	Faroe Islands	TIEA	19 May 2010	
5	Finland	TIEA	19 May 2010	
6	France	TIEA	31 Mar. 2010	9 Jan 2012
7	Germany	TIEA	3 Feb. 2011	
8	Greenland	TIEA	19 May 2010	
9	Iceland	TIEA	19 May 2010	
10	Ireland	TIEA	31 May 2011	
11	Netherlands	TIEA	18 Feb. 2010	
12	Norway	TIEA	19 May 2010	
13	South Africa	DTC	6 Aug 1960	5 Oct 1960
14	Sweden	TIEA	19 May 2010	
15	Switzerland	DTC	20 Aug 1963	1 Jan 1961
16	United Kingdom	TIEA	31 Mar. 2010	10 Jan 2012
17	United States	TIEA	18 Dec 1986	13 Jul 1987

Annex 3: List of all Laws, Regulations and Other Relevant Material

Constitution of Grenada

Commercial Laws

Companies Act, No. 35 of 1994

Companies Regulations SRO. 2 1995 and amendments thereto

Companies Regulations SRO. 5 2009

Trustee Act (CAP 329):

Banking Act 2005:

Insurance Act, No. 5 of 2010

GARFIN Act No. 1 of 2008.

Offshore legislation

International Insurance Act 1996 and amendments thereto

Company Management Act 1996 and amendments thereto

The Offshore Banking Act and amendments thereto

International Trusts Act 1996

International Companies Act 1990 (CAP 152) and amendments thereto

International Financial Services Act No. 2 of 2002

Tax legislation

Income Tax Act of 1994 and amendments thereto

Stamp Tax Act No. 36 of 1992

VAT Act of 2009

Exchange of information

The Mutual Exchange of Information on Taxation Matters Act No. 24 of 2011

S.R.O. 37 of 2011: Mutual Exchange of Information on Taxation Matters Order 2011

Anti Money Laundering legislation

Money Laundering (Prevention) Act 1999

Proceeds of Crime Act 2012

Proceeds of Crime (Anti-Money Laundering) Regulations 2012.

Anti Money Laundering Guidelines 2012

Terrorism Act 2003

Financial Intelligence Unit Act 2003

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Global Forum on Transparency and Exchange of Information for Tax Purposes

PEER REVIEWS, PHASE 1: GRENADA

The Global Forum on Transparency and Exchange of Information for Tax Purposes is the multilateral framework within which work in the area of tax transparency and exchange of information is carried out by over 100 jurisdictions which participate in the work of the Global Forum on an equal footing.

The Global Forum is charged with in-depth monitoring and peer review of the implementation of the standards of transparency and exchange of information for tax purposes. These standards are primarily reflected in the 2002 *OECD Model Agreement on Exchange of Information on Tax Matters* and its commentary, and in Article 26 of the *OECD Model Tax Convention on Income and on Capital* and its commentary as updated in 2004, which has been incorporated in the *UN Model Tax Convention*.

The standards provide for international exchange on request of foreseeably relevant information for the administration or enforcement of the domestic tax laws of a requesting party. "Fishing expeditions" are not authorised, but all foreseeably relevant information must be provided, including bank information and information held by fiduciaries, regardless of the existence of a domestic tax interest or the application of a dual criminality standard.

All members of the Global Forum, as well as jurisdictions identified by the Global Forum as relevant to its work, are being reviewed. This process is undertaken in two phases. Phase 1 reviews assess the quality of a jurisdiction's legal and regulatory framework for the exchange of information, while Phase 2 reviews look at the practical implementation of that framework. Some Global Forum members are undergoing combined – Phase 1 plus Phase 2 – reviews. The ultimate goal is to help jurisdictions to effectively implement the international standards of transparency and exchange of information for tax purposes.

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