

SAINT VINCENT AND THE GRENADINES

ACT NO. 2002

A BILL FOR

AN ACT to make provision for assisting overseas regulatory authorities to obtain information from within Saint Vincent and the Grenadines and other related matters.

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

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| Short title | 1. | This Act may be cited as the Exchange of Information Act, 2002. |
| Interpretation | 2. | In this Act

“foreign regulatory authority” means a statutory authority which, in a country or territory outside Saint Vincent and the Grenadines, exercises functions of a regulatory authority.

“Minister” means the Minister responsible for finance;

“offshore entity” means any legal entity established pursuant to offshore legislation;

“offshore legislation” includes the Offshore Finance Authority Act, the Registered Agent and Trustee Licensing Act, the International Trusts Act, the International Banks Act, the International Business Companies Act, the International Insurance Act, the Mutual Funds Act, Regulations made under any of those Acts, and any other laws and regulations of the State relating to the provision of offshore financial services or relating to the regulation of entities formed in the State to render these services; |

Schedule

“regulatory authority” means an authority specified in the Schedule to this Act;

“regulatory functions” means the statutory functions of a regulatory authority.

Matters to be considered in relation to request for assistance

3. (1) Subject to subsection (2), the powers conferred by section 4 are exercisable by a regulatory authority for the purpose of assisting a foreign regulatory authority which has requested assistance in connection with inquiries being carried out by it or on its behalf in respect of any regulatory functions.

(2) A regulatory authority shall not exercise the powers conferred by section 4 unless it is satisfied that

- (a) the assistance is necessary for the purpose of enabling or assisting a foreign regulatory authority in the exercise of its regulatory functions;
- (b) the assistance requested by the foreign regulatory authority may be granted under any agreement to which Saint Vincent and the Grenadines and the foreign state requesting authority are parties;
- (c) the foreign regulatory authority requesting the assistance has given a written undertaking to provide corresponding assistance to an authority exercising regulatory functions in Saint Vincent and the Grenadines;
- (d) the nature and seriousness of the matter to which the inquiries relate and the importance to the inquiries of the information sought in Saint Vincent and the Grenadines warrant disclosure of the information;
- (e) the assistance cannot be obtained by other means; or
- (f) the relevant country or territory has enacted similar laws with relation to the exchange of information.

(3) If there are public interest considerations in the giving of the assistance sought by the foreign regulatory authority, the regulatory authority must obtain written direction from the Attorney General before providing the information requested.

(4) Where a regulatory authority requires a written undertaking from a foreign regulatory authority under subsection (2), the undertaking shall be in a form as the regulatory authority may determine.

(5) A regulatory authority may decline to exercise the powers conferred under section 4 unless the foreign regulatory authority undertakes in writing to make such contributions towards the cost of the exercise of those powers as a regulatory authority considers appropriate.

**Powers of a
Regulatory
Authority to
require
information to
be furnished**

4. (1) If in accordance with the requirements of section 3 a Regulatory Authority is satisfied that assistance should be provided with respect to a request by a foreign regulatory authority, it may request in writing any person

- (a) to furnish it with information with respect to any matter relevant to the inquiries to which the request relates;
- (b) to produce any documents relevant to the inquiries to which the request relates; or
- (c) to provide him with any assistance in relation to the inquiries to which the request relates as a regulatory authority may specify.

(2) If a person fails to comply with a request issued under subsection (1) within three days from the date of the request or such longer period as a regulatory authority may permit, the Attorney General at the request of a regulatory authority may apply to a Judge in Chambers for an order requiring the person to comply with the request.

(3) Notice of an application made pursuant to subsection (2) shall be served on the person against whom an order is sought and he shall be given an opportunity to be heard.

(4) Where documents are produced pursuant to this section, a regulatory authority may take copies or extracts from them.

(5) A person shall not under this section be required to disclose information or produce a document that he would be entitled to refuse to disclose or produce on grounds of legal professional privilege, except that a barrister or solicitor may be required to furnish the name and address of his client.

(6) Where a person claims a lien on a document, its production under this section is without prejudice to his lien.

(7) In this section, “document” includes information recorded in any form, and, in relation to information recorded otherwise than in legible form, the power to require its production includes power to require the production of a copy of its legible form.

Restriction on the disclosure of information

5. (1) Subject to subsection (2) information that
- (a) is supplied by a foreign regulatory authority in connection with a request for assistance; or
 - (b) is obtained by virtue of the exercise of powers under this Act,

shall not be disclosed by a regulatory authority or by any person who obtains the information directly or indirectly from it, without the consent of the person from whom a regulatory authority obtained the information and, if different, the person to whom it relates.

(2) Information obtained in accordance with this Act may be disclosed

- (a) pursuant to an order of a court of competent jurisdiction in Saint Vincent and the Grenadines;
- (b) to a regulatory authority;
- (c) to a foreign regulatory authority;
- (d) to any person for the purpose of discharging any duty or exercising any power under this Act.

Immunity from suit

6. (1) No suit shall lie against a Regulatory Authority or any person acting under its authority for any thing done by him, in good faith, in the exercise of any power or the performance of any function

under this Act.

(2) A person shall not be required to disclose any information or produce any document under this Act if to do so would expose him to prosecution for an offence.

Offences and penalties

7. (1) A person commits an offence if the person,
- (a) fails to comply with an order of the court made pursuant to section 4 (2); or
 - (b) intentionally furnishes false information in purported compliance with any such direction or order.

(2) A person commits an offence if the person mutilates, obliterates or in any way destroys or does any thing to prevent the production of a document, or does any thing to impede the provision of information in relation to any matter relevant to an inquiry being a matter relevant to a request for assistance made by foreign regulatory authority.

(3) A person who contravenes section 5 commits an offence.

(4) A person who commits an offence under this section is liable on summary conviction to a fine of one hundred thousand dollars or to imprisonment for a term of two years or both.

Minister may amend schedule

8. The Minister may by order published in the Gazette, amend the schedule.

Repeal No. 17 of 1996

9. The Confidential Relationships Preservation (International Finance) Act is repealed.

SCHEDULE

[section 2]

REGULATORY AUTHORITIES

1. The Attorney General

2. The Registrar of Companies
3. The Registrar of International Business Companies
4. The Offshore Finance Authority
5. The Commissioner of Insurance
6. The Commissioner of International Insurance
7. The Registrar of Insurance
8. The Registrar of International Trusts
9. The Registrar of Mutual Funds

Passed in the House of Assembly this day of ,2002.

Clerk of the House of Assembly

SAINT VINCENT AND THE GRENADINES
EXCHANGE OF INFORMATION ACT, 2002
ARRANGEMENT OF SECTIONS

SECTION

1. Short title
2. Interpretation
3. Matters to be considered in relation to request for assistance
4. Powers of a Regulatory Authority to require information to be furnished
5. Restriction on the disclosure of information
6. Immunity from suit
7. Offences and penalties
8. Minister may amend schedule
9. Repeal

Schedule

OBJECTS AND REASONS

The object of this Bill is to make provision for assisting overseas regulatory authorities to obtain information from within Saint Vincent and the Grenadines and other related matters.

Clause 2 defines “regulatory authority” to mean the Attorney General, the Registrar of Companies, the Registrar of International Business Companies, the Offshore Finance Authority, the Commissioner of Insurance, the Commissioner of International Insurance, the Registrar of Insurance, the Registrar of Trusts and the Registrar of Mutual Funds. A “foreign regulatory authority” means an authority which, in a country or territory outside Saint Vincent and the Grenadines, exercises functions corresponding to any function of a regulatory authority under an enactment.

Clause 3 lists the matters that should be considered by the Regulatory Authority in relation to requests for assistance.

Clause 4 provides for the powers of the Regulatory Authority to require information to be furnished to him.

Clause 5 restricts the disclosure of information received under the Bill.

Clause 6 confers immunity from suit to certain persons in the performance of their functions under the Bill.

Clause 7 imposes offences and penalties.

Clause 8 allows the Minister to publish in the Gazette, amend the schedule

Clause 9 repeals the Confidential Relationships Preservation (International Finance) Act.

Dr. the Hon. Ralph Gonsalves
Prime Minister, Minister of Finance,
Planning, Economic Development,
Labour, Information, Grenadines and
Legal Affairs