

S.I. No. 7 of 2009

**THE FINANCIAL TRANSACTIONS REPORTING  
(AMENDMENT) ACT, 2008  
(No. 36 of 2008)**

**THE FINANCIAL TRANSACTIONS REPORTING  
(AMENDMENT) ACT, 2008  
(APPOINTED DAY) NOTICE, 2009**

In exercise of the powers conferred by subsection (2) of section 1 of the Financial Transactions Reporting (Amendment) Act, 2008, the 5<sup>th</sup> day of January, 2009 is appointed the day on which the Financial Transactions Reporting (Amendment) Act, 2008 shall come into operation.

**Made this 5<sup>th</sup> day of January, 2009.**

**Signed  
HUBERT A. INGRAHAM  
Minister responsible for Finance**



No. 36 of 2008

**AN ACT TO AMEND THE FINANCIAL TRANSACTIONS  
REPORTING ACT**

[Date of Assent – 24<sup>th</sup> December, 2008]

**Enacted by the Parliament of The Bahamas.**

Short title  
and commence-  
ment.  
Ch. 368.

1. (1) This Act, which amends the Financial Transactions Reporting Act, may be cited as the Financial Transactions Reporting (Amendment) Act, 2008.

(2) This Act shall come into force on such day as the Minister may appoint by notice published in the Gazette.

Amendment of  
section 2  
of the  
principal  
Act.

2. Section 2 of the principal Act is amended as follows -

(a) in subsection (1) by -

(i) the deletion of the words and definition of “occasional transaction” and the substitution of the following words and definition -

“ “occasional transaction” means any one-off transaction, including but not limited to cash, that is carried out by a person otherwise than through a facility in respect of which that person is a facility holder;”

(ii) the deletion in the definition of "foreign financial institution" of the words "and referred to in section 2(3)" and the substitution of the words "in accordance with section 3 and that is subject to equivalent or higher anti-money laundering and anti-terrorism financing standards of regulation as provided for by Bahamian law";

(iii) the insertion in the appropriate alphabetical order of the following words and definition -

" "Supervisory Authority" means, in relation to a financial institution under section 3, the agency designated by law for ensuring compliance with the requirements of this Act and any other anti-money laundering laws of The Bahamas, and includes the Central Bank of The Bahamas, the Securities Commission of The Bahamas, the Registrar of Insurance Companies, the Inspector of Financial and Corporate Services, the Gaming Board and the Compliance Commission;"

and

(b) by the deletion of subsection (3).

3. Subsection (1) of section 3 of the principal Act is amended as follows -

(a) in paragraph (i), by the deletion of the words "or operator";

(b) in paragraph (k), by the insertion after the words "that person's business" of the words "otherwise than as part of services rendered pursuant to a financial and corporate service provider's licence";

Amendment of  
section 3  
of the  
principal  
Act.

(c) in paragraph (1), by the insertion immediately after the word "investment" of the words "otherwise than as part of services rendered pursuant to a financial and corporate service provider's licence"; and

(d) by the addition of a new paragraph (m) as follows -

Ch. 369.

"(m) a financial and corporate service provider licensed under the Financial and Corporate Service Providers Act."

Amendment of  
section 6  
of the  
principal  
Act.

4. Section 6 of the principal Act is amended by the following -

(a) the repeal of subsection (7); and

(b) the renumbering of subsection (8) as subsection (7).

Amendment of  
section 7  
of the  
principal  
Act.

5. Section 7 of the principal Act is amended in subsection (2) by the deletion of the words "Notwithstanding anything in subsection (1), nothing in that subsection requires a financial institution to verify the identity of a person who conducts an occasional transaction (in this subsection referred to as "the transactor") through that financial institution in any case where - "and the substitution of the following words -

" (2) Notwithstanding anything in subsection (1) but subject to the directions and guidance issued by its Supervisory Authority, nothing in subsection (1) requires a financial institution to verify the identity of a person who conducts an occasional transaction (in this subsection referred to as "the transactor") through that financial institution in any case where - ".

Amendment of  
section 8  
of the  
principal  
Act.

6. Section 8 of the principal Act is amended in subsection (6) by the deletion of the words "Nothing in subsection (1) requires a financial institution to verify the identity of any person in any case where -" and the substitution of the words "Subject to the directions and guidance issued by its Supervisory Authority, nothing in subsection (1) requires a financial institution to verify the identity of any person in any case where -".

Amendment of  
section 9  
of the  
principal  
Act.

7. Section 9 of the principal Act is amended in subsection (6) by the deletion of the words "Nothing in subsection (1) requires a financial institution to verify the identity of any person in any case where -" and the substitution of the words "Subject to the directions and guidance issued by its Supervisory Authority, nothing in subsection (1) requires a financial institution to verify the identity of any person in any case where -".

Amendment of  
section 11  
of the  
principal  
Act.

8. Section 11 of the principal Act is amended as follows -

- (a) in subsection (3) by -
  - (i) the deletion of the word "Where -" at the commencement of the subsection and replacement by the words "Subject to the directions and guidance issued by its Supervisory Authority, where -"; and
  - (ii) the deletion of the word "shall" in the last paragraph of the subsection and the substitution of the word "may".
- (b) in subsection (4) by -
  - (i) the deletion of the word "Where -" at the commencement of the subsection and replacement by the words "Subject to the directions and guidance issued by its Supervisory Authority, where -"; and
  - (ii) the deletion of the word "shall" in the last paragraph of the subsection and the substitution of the word "may".

Amendment of  
section 15  
of the  
principal  
Act.

9. Section 15 of the principal Act is amended by the deletion of the word "Police" and the substitution on the words "Financial Intelligence Unit".

Amendment of  
section 27  
of the  
principal  
Act.

10. Section 27 of the principal Act is repealed and replaced by the following -

"When records need not be kept by a financial institution.

27. (1) Subject to subsection (2), nothing in sections 23, 24 or 25 requires the retention of any records kept by a financial institution (being a company) in any case where that financial institution has been liquidated and finally dissolved.

(2) The liquidator of a financial institution referred to in subsection (1) shall maintain for the balance of the prescribed period remaining at the date of dissolution such records that would otherwise have been required to be kept by the financial institution but for the liquidation."

Amendment of  
section 46  
of the  
principal  
Act.

11. Section 46 of the principal Act is repealed and replaced by the following -

"Meaning of financial Institution.

46. (1) For the purposes of this Part "financial institution" means those institutions specified in paragraphs (c), (d), (g), (h), (j), (k) and (l) of section 3 that are not otherwise subject to regulation in respect of the prescribed activities under these paragraphs by the Central Bank of The Bahamas, the Securities Commission of The Bahamas, the Registrar of Insurance Companies, or the Inspector of Financial and Corporate Services.

(2) Upon the recommendation of the Commission, the Minister may by order designate any professional body, association, or entity -

(a) with statutory authority to regulate the activities of its members; and

Amendment of  
section 47  
of the  
principal  
Act.

(b) which represents a sector of financial institutions as defined in subsection (1), with authority to ensure compliance with the provisions of this Act upon the terms stipulated by the Commission.”.

12. (1) Section 47 of the principal Act is amended as follows -

(a) by re-numbering the section as section 47(1); and

(b) by the addition of the following new subsection -

“ (2) Where a financial institution violates or fails to comply with any provision in the codes of practice issued pursuant to this section, it shall be subject to -

(a) any sanctioning powers that its Supervisory Authority may possess to deal with the violation or non-compliance; and

(b) prosecution pursuant to Regulation 8 of the Financial Intelligence (Transactions Reporting) Regulations in order to enforce the codes of practice.”

Sub. Leg.  
Vol. VI.,  
Ch. 367-8.