



S.I. No. 13 of 2009

**FINANCIAL TRANSACTIONS REPORTING ACT
(CHAPTER 368)**

**FINANCIAL TRANSACTIONS REPORTING
(AMENDMENT) REGULATIONS, 2009**

The Minister, in exercise of the powers conferred by section 51 of the Financial Transactions Reporting Act, makes the following regulations -

- | | | |
|---|---|---|
| <p>Citation.
Sub. Leg.
Vol. VI.,
Ch. 368-3.
Amendment
of regu-
lation 4
of the
principal
Regulations.</p> | <p>1. These regulations which amend the Financial Transactions Reporting Regulations may be cited as the Financial Transactions Reporting (Amendment) Regulations, 2009</p> <p>2. Regulation 4 of the principal Regulations is repealed and replaced by the following</p> <p>“Procedure for verification of corporate entities.</p> | <p>4. (1) For the purposes of section 11(1) of the Act where a financial institution is required to verify the identity of any corporate entity whether incorporated in The Bahamas or elsewhere, the following information shall be required</p> |
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- (a) certified copy of the certificate of incorporation;
- (b) resolution of the Board of Directors authorizing the opening of the account and conferring authority on the person who will operate the account;
- (c) documentary evidence in accordance with regulation 3 in respect of the individual identified pursuant to subparagraph (b);
- (d) confirmation that the corporate entity has not been struck off the register or is not

in the process of
being wound up;
and

- (e) in accordance
with Regulation
7A, names and
addresses of the
beneficial
owners of the
corporate entity.

(2) In addition to
the requirements mandated in
paragraph (1), a financial
institution may require the
following information:

- (a) certified copy of
the Memo-
randum and
Articles of
Association of
the entity;
- (b) location of the
registered office
or registered
agent of the
corporate entity;
- (c) names and
addresses of all

officers and directors of the corporate entity;

(d) description and nature of the business

including:

(i) date of commencement of business;

(ii) products or services provided;

(iii) location of principal business;

(e) purpose of the account and the potential

parameters of the account including:

(i) size, in the case of investment and custody accounts;

(ii) balance ranges, in the case of deposit accounts;

(iii) the expected transaction volume of the account;

(f) written confirmation that all credits to the account are and will be beneficially owned by the facility holder except in circumstances where the account is being operated by an intermediary for the purpose of holding funds in his professional capacity; and

(g) such other official documentary and other information as is reasonably capable of establishing the structural information of the corporate entity.

(3) The financial institution shall take reasonable measures to identify the natural persons who either possess a controlling interest in the corporate entity or who control its management.”

**Amendment
of regu-
lation 5
of the
principal
Regulations.**

3. Regulation 5 of the principal Regulations is repealed and replaced by the following –

“Verifi-
cation of
identity
of partner-
ships or
unincorpo-
rated
businesses.

5 (1) For the purposes of section 11(D) of the Act where a financial institution is required to verify the identity of partnerships or other unincorporated businesses, the following information shall be required –

- (a) verification of all partners or beneficial owners in accordance with regulation 3,
- (b) copy of partnership agreement, if any, or other agreement establishing the unincorporated business;
- (c) mandate from the partnership or beneficial owner authorizing the opening of the account and conferring authority on those who will operate the account; and
- (d) documentary evidence in accordance

with
regulation 3
in respect of
the individual
identified
pursuant to sub-
paragraph (c).

(2) In addition to
the requirements mandated in
paragraph (1) the financial
institution may require the
following information

- (a) description and
nature of the
business
including:
 - (i) date of
commence-
ment of
business;
 - (ii) products
or
services
provided;
 - (iii) location
of
principal
place of
business;

(b) purpose of the account and the potential parameters of the account including:

(i) size, in the case of investment and client accounts;

(ii) balance ranges, in the case of deposit and client accounts;

(iii) the expected transaction volume of the account.

(c) written confirmation that all credits to the account are and will be beneficially owned by the facility holder except in circumstances where the account is being operated by an intermediary for the purpose of holding funds in his professional capacity; and

(d) such documentary or other evidence as is reasonably capable of establishing the identity of the

partners or
beneficial
owners.”

Amendment
of regu-
lation 5A
of the
principal
Regulations.

4. Regulation 5A of the principal Regulations is amended by the deletion of the word “Documentary” at the commencement of the chapeau and the substitution of the words “Subject to the provisions of section 10A of the Act, documentary”.

Amendment
of regu-
lation 6
of the
principal
Regulations.

5. Regulation 6 of the principal Regulations is amended as follows –

- (a) by the re-numbering of the regulation as regulation 6(1); and
- (b) by the addition of a new paragraph as follows –

“ (2) For the purposes of section 11(1) of the Act where a financial institution is required to verify identity in relation to a trust, the financial institution, in addition to the obligations imposed by the Act and these Regulations, shall take reasonable measures to determine the identity of the settlor and of the person exercising effective control over the trust.”

Amendment of
Regulation 7
of the
principal
Regulations.

6. Regulation 7 of the principal Regulations is amended by the repeal and replacement of paragraph (2) as follows

“ (2) Subject to the directions and guidance issued by its Supervisory Authority, where the

Financial institution has obtained written confirmation from either --

(a) a financial institution; or

(b) a foreign financial institution,

and such financial institution or foreign financial institution, as the case may be, has verified the identity of the person, corporate entity, partnership or other unincorporated business entity specified in paragraph (1), no further verification of identity is necessary.”

Made this 14th day of January, 2009.

Signed
HUBERT A. INGRAHAM
Minister of Finance