



S.I. No. 14 of 2009

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

**FINANCIAL TRANSACTIONS REPORTING
(WIRE TRANSFERS) REGULATIONS, 2009**

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

- Citation.** 1. These regulations may be cited as the Financial Transactions Reporting (Wire Transfers) Regulations, 2009.
- Interpretation.** 2. In these Regulations, unless the context otherwise requires –
- Ch. 368.** “Act” means the Financial Transactions Reporting Act;
- “batch file transfer” means several individual transfers of funds which are bundled together for transmission;
- “beneficiary financial institution” means a financial institution that receives, on behalf of a payee, funds that have been transferred to the payee;
- “intermediary financial institution” means a financial institution, other than an originating

or a beneficiary financial institution, that participates in the execution of funds transfers;

“originating financial institution” means a financial institution that initiates a funds transfer on behalf of a payer;

“payee” means a person who is the intended final recipient of transferred funds;

“payer” means either a person who holds an account and allows a transfer of funds from that account; or, where there is no account, a natural or legal person who places an order for a transfer of funds;

“transfer of funds” and “funds transfer” means any transaction carried out on behalf of a payer through a financial institution by electronic means with a view to making funds available to a payee at a beneficiary financial institution, whether or not the payer and payee are the same person;

“unique identifier” means a combination of letters, numbers, or symbols, determined by a financial institution in accordance with the protocols of the payment and settlement system, or messaging system, used to effect the transfer of funds.

Duty to
verify
payer's

3. (1) Subject to paragraph (2), a financial institution shall, before conducting a transfer of funds, verify the payer's identity in accordance with section

identity. 11(1) of the Act and the Financial Transactions Reporting Regulations.

(2) Where the payer is a facility holder of the financial institution and the financial institution has already verified his identity in accordance with section 11(1) of the Act, the financial institution is not required to verify the payer's identity pursuant to paragraph (1).

Information
to accompany
funds transfers.

4. Subject to regulations 5 and 6, financial institutions shall ensure that each transfer of funds of one thousand dollars or more is accompanied by –

- (a) the name of the payer;
- (b) the account number of the payer; or, if no account exists, a unique identifier or transaction number; and
- (c) the address or date and place of birth of the payer, or a national identity number, or customer identification number.

Exemption
for batch
file transfers.

5. Where a batch file transfer comprised of individual funds transfers of one thousand dollars or more from a single payer to a beneficiary financial institution outside The Bahamas is accompanied by the information required in regulation 4, the originating financial institution need only include the account number of the payer, or a unique identifier or transaction number, with the individual funds transfers.

Requirements
for domestic
funds transfers.

6. Transfers of funds may be accompanied solely by the account number of the payer, or a unique identifier or transaction number, where –

- (a) the originating financial institution of the payer and the beneficiary financial institution of the payee are both situated in The Bahamas; and
- (b) the originating financial institution provides the complete payer information prescribed in regulation 4 to any intermediary or beneficiary financial institution requesting such information within three business days of such a request.

Retention
of records.

7. (1) An originating financial institution shall keep for five years a record of any information on the payer obtained pursuant to regulations 3 and 4.

(2) Intermediary financial institutions shall ensure that all information received on the payer that accompanies a transfer of funds is kept with the transfer.

Duty to
assess
risk.

8. (1) Beneficiary financial institutions shall adopt risk-based procedures which enable them –

- (a) to identify transfers of funds that are not accompanied by the complete payer information prescribed in these Regulations; and

(b) to assess whether such transfers or related transactions should result in a suspicious transaction report to the Financial Intelligence Unit.

(2) Where a beneficiary financial institution detects, when receiving transfers of funds, that information on the payer required under these Regulations is missing or incomplete, it shall either reject the transfer or ask for complete information on the payer.

(3) A beneficiary financial institution shall, at all times, comply with the Anti-Terrorism Act.

Ch. 107.

Failure
to supply
information
by originating
financial
institution.

9. (1) Where an originating financial institution fails to supply information on the payer as required under these Regulations, the beneficiary financial institution shall give the originating financial institution a reasonable opportunity to correct the failures.

(2) Where the originating financial institution, after it has been given a reasonable opportunity to do so, fails to correct the failures, the beneficiary financial institution shall -

(a) reject any future transfers of funds from the originating financial institution;

- (b) restrict its business relationship with the originating financial institution; or
- (c) terminate its business relationship with the originating financial institution.

(3) The beneficiary financial institution shall report any decision to reject future transfers from, or to restrict or terminate its business relationship with, the originating financial institution to the beneficiary financial institution's Supervisory Authority.

Risk-based
assessment.

10. The beneficiary financial institution of the payee shall consider missing or incomplete information on the payer as a factor in assessing whether the transfer of funds, or any related transaction, is suspicious, and whether it must be reported to the Financial Intelligence Unit in accordance with these Regulations and the Act.

Duties of
intermediary
financial
institutions.

11. (1) Intermediary financial institutions shall ensure that information on a payer received with a funds transfer remains with the transfer unless technical limitations of the payment system prevent this.

(2) Where technical limitations prevent the information received with a funds transfer to remain with the transfer, the intermediary financial institution shall retain for five years records of all information received on the payer.

(3) Where an intermediary financial institution receives a transfer of funds that does not have complete information on the payer as required under these Regulations, it shall use a payment system with technical limitations only if –

- (a) it informs the beneficiary financial institution of the payee that it does not have complete information on the payer as required;
- (b) it informs the beneficiary financial institution of the payee that it intends to use a payment system with technical limitations; and
- (c) it conveys the information in (a) and (b) using a form of communication accepted by, or agreed between, itself and the beneficiary financial institution.

(4) Where the intermediary financial institution uses a payment system with technical limitations it shall, upon request from the beneficiary financial institution of the payee, provide that beneficiary financial institution with all the information on the payer it has received, whether complete or not, within three business days of receiving the request.

Exempt
funds
transfers.

12. These Regulations shall not apply to –
- (a) a transfer of funds where the payer withdraws cash from his or her own account;
 - (b) credit or debit card transactions if –
 - (i) the payee has an agreement with a financial institution permitting payment for the provision of goods and services;
 - (ii) the payee has a unique identifier that allows the transaction to be traced back to the payer; and
 - (iii) the unique identifier accompanies all transfers flowing from the transaction;
 - (c) a debit transfer authorization between two parties permitting payments between them through accounts if a unique identifier accompanies the transfer of funds enabling the transaction to be traced back to the payer;
 - (d) fines, penalties, duties or other taxes within The Bahamas; or

- (e) transfers and settlements where both the payer and payee are financial institutions acting on their own behalf.

Offences

13. (1) A financial institution that contravenes, or fails to comply with, any provision of these Regulations commits an offence and is liable on summary conviction to a fine of two thousand dollars.

(2) As an alternative to a prosecution under paragraph (1), the Supervisory Authority of a financial institution may, in accordance with the provisions of its governing statute, impose a fine of two thousand dollars upon a financial institution that contravenes, or fails to comply with, any provision of these Regulations.

Revocation of
Regulation 8.
Sub. Leg.,
Vol. VI.,
Ch. 368-7.

14. Regulation 8 of the Financial Transactions Reporting Regulations is revoked.

Made this 14th day of January, 2009.

Signed
HUBERT A. INGRAHAM
Minister of Finance