

**SUPERVISORY AND REGULATORY GUIDELINES: PU16-0306****Dormant Accounts****13<sup>th</sup> February, 2009****GUIDELINES FOR THE ADMINISTRATION AND ULTIMATE  
TRANSFER OF DORMANT ACCOUNTS TO THE CENTRAL BANK OF THE  
BAHAMAS****I. INTRODUCTION**

The Central Bank of The Bahamas (“the Central Bank”) is responsible for the licensing, regulation and supervision of banks and trust companies operating in and from within The Bahamas pursuant to the Central Bank of The Bahamas Act, 2000 (“the CBA”) and the Banks and Trust Companies Regulation Act, 2000 (“BTCRA”). The Central Bank has the duty, in collaboration with financial institutions, to promote and maintain high standards of conduct and management in the provision of banking and trust services.

All licensees are expected to adhere to the Central Bank’s licensing and prudential requirements and ongoing supervisory programmes, including periodic on-site examinations, and required regulatory reporting. Licensees are also expected to conduct their affairs in conformity with all other Bahamian legal requirements.

**II. PURPOSE**

These Guidelines outline the Central Bank’s minimum requirements for the identification, administration and investigation of inactive deposit accounts and the ultimate disposition of dormant account balances to the Central Bank.

Banks may develop their own documented internal policies and procedures but these Guidelines should be regarded as the minimum standard by which the Central Bank will assess the adequacy of such internal policies and procedures.

**III. APPLICABILITY**

Unless a specific exemption is granted by the Central Bank, the information and guidance contained in these Guidelines apply to all bank licensees in The Bahamas and to all deposit accounts for which banks are liable and in respect of which there has been no customer-initiated activity during a period of one (1) to seven (7) years.

## IV. DEFINITIONS

For the purposes of these guidelines -

**“Customer initiated activity”** means any transaction undertaken by a bank’s customer in respect of a deposit account or any request for a statement or written acknowledgement received by the bank from a such a customer, For the purposes of these Guidelines, the debiting of a fee and the crediting of interest to a deposit account in accordance with any agreement made with the customer are not deemed to be customer-initiated activities.

**“Deposit account”** refers to the unpaid balance of money or its equivalent received or held by an institution from or on behalf of a person in the usual course of business and for which the institution has given or is obliged to give credit to that person’s chequing, savings, demand or time account in respect of which it is primarily liable. Deposit accounts include deposit accounts of gold and silver bullion (section 20(3) of the BTCRA) and include deposit accounts denominated in any currency.

**“Dormant account”** refers to a deposit account in respect of which no customer-initiated activity has taken place during a period of seven (7) years.

**“Inactive account”** refers to a deposit account in respect of which no customer-initiated activity has taken place for a period of at least one (1) year and up to six (6) years.

**“Statutory period”** means the seven (7) year period during which no customer-initiated activity has taken place in respect of a deposit account.

**“Transaction”** means any customer-initiated deposit, withdrawal, exchange or transfer of funds (in whatever currency denominated), whether in cash, by cheque, payment order or other instrument or by electronic or other non-physical means.

## V. INACTIVE ACCOUNTS

### A. Administration of Inactive Accounts

Banks’ policies and procedures should require that customers be informed, at the time of opening a deposit account and at intervals thereafter as necessary, of the implications of inactivity or dormancy of deposit accounts.

However, where a customer has not undertaken any customer-initiated activity on his or her deposit account for at least one (1) year, banks are expected to take reasonable steps to contact the customer to advise that the deposit account is about to be or has already been classified as inactive and to require that the customer either reactivate the deposit account or collect the funds held to the customer’s credit.

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If the customer fails to reactivate or close the deposit account the deposit account should be flagged on the client database systems as “inactive”. Customers who have more than one deposit account with a bank should be required to undertake some customer-initiated activity in respect of each of the deposit accounts to prevent such deposit accounts from becoming inactive.

Ideally, a bank’s systems should have the capability of segregating inactive accounts for reporting purposes. Systems should also have the capability of producing activity exception reporting of items processed through inactive accounts for management’s review. Specific internal controls and authorizations should be applied to any transactions that pass through inactive accounts subsequent to their being classified as inactive, including any debit or credit affecting the accounts’ inactive classification. Apparent activity on an inactive account should not normally by itself precipitate a change in the account’s inactive status. The bank should take necessary steps to determine the validity of any transaction before the account is reclassified as “active”.

In all instances, the bank must continue to accrue and pay interest on and manage deposit accounts in accordance with the terms of any agreement made with the customer.

#### **B. Investigation of Inactive Accounts**

In accordance with the know-your-customer requirements established by the Financial Transaction Reporting Act, 2000 as amended (“the FTRA”), and to facilitate investigation of deposit accounts that may become inactive, at the account opening stage banks should ensure that they obtain sufficient information to be able to locate persons to whom deposit account facilities are provided. Banks also have an obligation to ensure that they maintain their customers’ current contact information throughout the business relationship.

Before a deposit account is initially deemed to be inactive, a thorough investigation should be conducted, with a view to (1) contacting the customer, (2) re-activating the account, and (3) making a final and correct disposition of the funds to the customer, if required. The bank’s attempts to contact the customer should be properly documented and should be proportionate to the value of the customer’s assets held by the bank. Proportionality is a determination for the bank to make. If the customer cannot be contacted, the bank is expected to continue to hold the funds governed by the controls discussed in these Guidelines and any agreement with the customer.

It is important for banks to ensure that customer confidentiality is upheld, in accordance with section 19 of the BTCRA, when they try to re-establish contact with their customers.

#### **C. Monitoring of Inactive Accounts**

Any debit or credit activity on an inactive account should be closely monitored and escalated to supervisory or management personnel for authorization prior to processing a transaction or prior to reclassifying the deposit account as active. As a subsequent review,

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activity and change-in-status system exception reports should be generated to allow senior management to monitor activity, including accounts entering and exiting inactive status.

All deposit accounts classified as inactive should be properly aged so that the bank and other interested parties would be able to determine the length of time that there has been no customer-initiated activity. As part of its on-going monitoring of inactive accounts a bank should seek to contact its customer pursuant to the following schedule:

- After the account has remained inactive for one (1) year;
- After the account has remained inactive for three (3) years; and
- After the account has remained inactive for six (6) years.

#### **D. Administration Fees**

As mandated by section 21 of the BTCRA, banks may only deduct fees related to the administration of inactive deposit accounts pursuant to express and specific agreement between the bank and the customer.

### **VI. DORMANT ACCOUNTS**

#### **A. Requirements after Seven (7) Years**

Banks that have a liability in respect of a deposit account on which no customer-initiated activity has taken place during the statutory period are required to pay to the Central Bank an amount equal to the amount owing by the bank in respect of the deposit account. In the case of a deposit made for a fixed period, the statutory period commences from the date on which the initial contractual period terminates. In the case of any other deposit accounts, the statutory period commences from the date on which the last customer-initiated activity took place in respect of the account. Payment to the Central Bank of an amount equal to the balance held on a dormant deposit account discharges the bank from all liability in respect of the account (section 20(1) of the BTCRA).

Banks are required, within two months after the end of the calendar year in which the statutory period expires, to remit to the Central Bank an amount equal to the amount held by the bank in respect of dormant accounts. Dormant accounts are to be transferred in the same currency in which they were held and the remitted amount should include any interest payable up to the date of transfer to the Central Bank.

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## **B. Record Keeping**

Banks transferring dormant account balances to the Central Bank are required, pursuant to section 20(2) of the BTCRA, to retain, until notified that they are no longer required, all registers, signature cards, signing authorities and other records relating to the dormant accounts, or microfilm or electronically stored copies thereof. This requirement is intended to enable banks to verify the entitlement of any person who may subsequently seek to recover the amount transferred to the Central Bank. For these purposes, the Central Bank would normally require the records to be maintained indefinitely or for a reasonable period after a claim is paid out to an entitled person in respect of dormant account balances transferred to the Central Bank.

Dormant account records maintained by banks should include evidence to demonstrate banks' attempts to contact their customers or investigate deposit accounts before or while they were classified as inactive. Such proof might include (1) mail to customers that has been returned and (2) notes to the file regarding the various attempts to make contact with the customer. The bank may wish to use alternative methods of investigation having regard to confidentiality requirements established under section 19 of the BTCRA.

### ***Record Keeping Requirements Under the FTRA***

Section 27(2) of the FTRA, as amended in 2008, mandates that a financial institution's liquidator, after the finalisation of a liquidation, is to maintain the records of the institution for the balance of any part of the five (5) year statutory period. For the purposes of the FTRA, the five (5) year statutory period is established under sections 23 and 24 of the FTRA which impose obligations on financial institutions to retain transaction records and identity verification records, respectively for five years after the completion of a transaction and five years after the end of a business relationship. Section 27(2) of the FTRA applies to dormant accounts.

## **C. Reporting Requirements**

Banks are required to submit annual dormant accounts reports to the Central Bank via the Central Bank's Dormant Account Reporting System ('DARS'). This Guideline does not affect the right of confidentiality that currently exists between banks and their customers, and the information required to be submitted in respect of each dormant account is limited to the minimum sensitive information possible. No account holders names or addresses are submitted to the Central Bank.

The information required to be submitted includes: (1) the account type (checking, savings or fixed), (2) the account number, (3) the currency the account is denominated in, (4) the account balance (include interest to date), (5) the branch code for the branch at which the account is held, and (6) the date of the last customer-initiated activity on the account.

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## **VII. THE CENTRAL BANK'S ADMINISTRATION OF DORMANT ACCOUNTS**

### **A. Payment of Interest**

The Central Bank is empowered by section 24 of the CBA to pay interest on dormant account balances that are required to be transferred to it in accordance with section 20 of the BTCRA. As a matter of policy, the Central Bank will only pay interest on dormant accounts balances transferred to it where such balances bore interest up to the time of the transfer to the Central Bank.

### **B. Investment of Dormant Deposit Account Funds**

Dormant account balances transferred to the Central Bank are invested and are accounted for and administered separately from other assets held by the Central Bank.

## **VIII. CLAIMING DORMANT ACCOUNT BALANCES**

The right of entitled persons to claim funds transferred to the Central Bank is preserved under section 24 of the CBA. Persons claiming entitlement to dormant account balances in respect of which payments were made to the Central Bank must satisfy the bank at which the account was originally held of their entitlement to make such claim.

Establishing proof of entitlement may present little difficulty for a claimant who is the customer/account holder since the bank would have retained all signature cards, signing authorities and other records relating to the dormant account. However, difficulties may arise in cases where the claimant is a person other than the customer/account holder. In such cases the bank should take particular care to ensure that the claimant is the entitled person and should require the claimant to provide appropriate documentation in support of the claim.

Once satisfied of the claimant's entitlement to bring the claim, the bank should facilitate the claimant in obtaining the funds from the Central Bank. All claims to the Central Bank must be made in writing by the bank that transferred the funds to the Central Bank. The Central Bank would then confirm whether its records reflect that the payment was received from the bank and the amount of such payment. Once verified, the Central Bank would return the originally remitted amount to the bank together with any interest which may have accrued during the period that the dormant account balance was held at the Central Bank.

Banks should not refer claimants to the Central Bank in reference to dormant account balances transferred to the Central Bank. As pointed out in section VI (C) of these Guidelines, the Central Bank does not receive any information capable of assisting it in verifying the identity of a claimant.