



EXTRAORDINARY
OFFICIAL GAZETTE
THE BAHAMAS
PUBLISHED BY AUTHORITY

NASSAU

4th December, 2015

FINANCIAL TRANSACTIONS REPORTING ACT (CHAPTER 368)

FINANCIAL TRANSACTIONS REPORTING (WIRE TRANSFERS) REGULATIONS, 2015

Arrangement of Regulations

Regulations

PART I - PRELIMINARY	3
1. Citation.....	3
2. Interpretation.....	3
PART II – OBLIGATIONS OF ORIGINATING FINANCIAL INSTITUTIONS	4
3. Duty to verify payer's identity.....	4
4. Information to accompany transfers.....	4
5. Exemption for batch file transfers.....	5
6. Requirements for domestic wire transfers.....	5
7. Cross-border wire transfers below one thousand dollars.....	5
8. Retention of records.....	5
9. Refusal to execute wire transfers.....	5
PART III – OBLIGATIONS OF INTERMEDIARY FINANCIAL INSTITUTIONS	6
10. Technical limitations.....	6
11. Detection of missing payer and payee information.....	6
12. Duty to assess risks.....	6
PART IV – OBLIGATIONS OF BENEFICIARY FINANCIAL INSTITUTIONS	7
13. Detection of missing payer and payee information.....	7
14. Duty to verify identity.....	7
15. Duty to assess risks.....	7
PART V – OFFENCES AND PENALTIES	8
16. Offences.....	8

PART VI – MISCELLANEOUS	8
17. Exempt wire transfers.....	8
18. Suspicious transaction reporting.....	9
19. Revocation.....	9

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

**FINANCIAL TRANSACTIONS REPORTING (WIRE
TRANSFERS) REGULATIONS, 2015**

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

PART I - PRELIMINARY

1. Citation.

These regulations may be cited as the Financial Transactions Reporting (Wire Transfers) Regulations, 2015.

2. Interpretation.

In these Regulations, unless the context otherwise requires —

“**Act**” means the Financial Transactions Reporting Act (*Ch. 368*);

“**batch file transfer**” means a transfer comprised of several individual wire transfers that are sent by a payer to the same financial institution, irrespective of whether the individual wire transfers are intended ultimately for one or more payees;

“**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 wire transfers;

“**one thousand dollars**” means one thousand Bahamian dollars or its equivalent in foreign currency;

“**originating financial institution**” means a financial institution that initiates a wire 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 wire transfer from that account, or, where there is no account, a natural or legal person who places an order for a wire transfer;

“**wire 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 transaction 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 wire transfer, which permits traceability of the transaction back to the payer and the payee; and

“straight-through processing” means payment transactions that are conducted electronically without the need for manual intervention.

PART II – OBLIGATIONS OF ORIGINATING FINANCIAL INSTITUTIONS

3. Duty to verify payer's identity.

- (1) Subject to paragraph (2), an originating financial institution shall, before conducting a wire transfer, verify the payer's identity in accordance with section 11(1) of the Act and the Financial Transactions Reporting Regulations.
- (2) Where the payer is a facility holder of the originating financial institution and the originating financial institution has already verified his identity in accordance with section 11(1) of the Act, the originating financial institution is not required to verify the payer's identity pursuant to paragraph (1).

4. Information to accompany transfers.

Subject to regulations 5 and 6, originating financial institutions shall ensure that each wire transfer of one thousand dollars or more is accompanied by —

- (a) the payer's —
 - (i) name;
 - (ii) account number, where an account is used to process the transaction or, if no account is used, a unique transaction identifier; and
 - (iii) address or date and place of birth or the payer's national identity number or customer identification number; and
- (b) the payee's —
 - (i) name; and
 - (ii) account number, where an account is used to process the transaction or, if no account is used, a unique transaction identifier.

5. Exemption for batch file transfers.

Where a batch file transfer comprises individual wire transfers of one thousand dollars or more from a single payer to payees outside The Bahamas, the originating financial institution shall be exempted from the requirements of regulation 4 in respect of the inclusion of the payer's information with each individual transfer, provided that —

- (a) the batch file contains the information required under regulation 4 on —
 - (i) the payer;
 - (ii) the payees; and
- (b) the individual wire transfers include the payer's account number or, if no account is used, a unique transaction identifier.

6. Requirements for domestic wire transfers.

Every wire transfer may be accompanied solely by the account number of the payer, or a unique transaction identifier, 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.

7. Cross-border wire transfers below one thousand dollars.

Where the beneficiary financial institution of the payee is situated outside of The Bahamas, transfers of funds of less than one thousand dollars must be accompanied by the information required under sub-paragraphs (i) and (ii) of paragraph (a) and paragraph (b) of regulation 4.

8. Retention of records.

An originating financial institution shall keep for five years, a record of any information on the payer and the payee obtained under regulations 3 and 4.

9. Refusal to execute wire transfers.

Where an originating financial institution —

- (a) is unable to comply with the requirements specified in regulations 3 through 7; or
 - (b) has any suspicion of money laundering or terrorism financing,
- the originating financial institution shall not execute the wire transfer.

PART III – OBLIGATIONS OF INTERMEDIARY FINANCIAL INSTITUTIONS

10. Technical limitations.

- (1) Intermediary financial institutions shall ensure that payer and payee information received with a wire transfer remains with the transfer unless technical limitations of the payment systems prevent this.
- (2) Where technical limitations prevent the required payer and payee, or payer or payee, information accompanying a cross-border wire transfer from remaining with a related domestic wire transfer, the intermediary financial institution shall keep a record, for at least five years, of all the payer and payee, or payer or payee, information received from the originating financial institution or another intermediary financial institution.
- (3) Where an intermediary financial institution receives a wire transfer that does not have complete payer and payee, or payer or payee, information as required under these Regulations, it shall use a payment system with technical limitations only if —
 - (a) it informs the beneficiary financial institution or the other intermediary financial institution that it does not have complete payer and payee, or payer or payee, information as required;
 - (b) it informs the beneficiary financial institution or the other intermediary financial institution that it intends to use a payment system with technical limitations; and
 - (c) it conveys the information in sub-paragraphs (a) and (b) using a form of communication accepted by, or agreed between, itself and the beneficiary financial institution or the other intermediary financial institution.
- (4) Where the intermediary financial institution uses a payment system with technical limitations, it shall, upon request from the beneficiary financial institution or another intermediary financial institution, provide all the payer or payee information it has received, whether complete or not, within three business days of receiving the request.

11. Detection of missing payer and payee information.

Intermediary financial institutions shall take reasonable measures, which are consistent with straight-through processing, to identify cross-border wire transfers that lack the required payer and payee information.

12. Duty to assess risks.

Intermediary financial institutions shall adopt risk-based policies and procedures that enable them to determine —

- (a) when to execute, reject or suspend wire transfers that are not accompanied by the complete payer and payee information as required; and
- (b) the appropriate follow-up action.

PART IV – OBLIGATIONS OF BENEFICIARY FINANCIAL INSTITUTIONS

13. Detection of missing payer and payee information.

Every beneficiary financial institution shall take reasonable measures, which may include post-event monitoring or real-time monitoring where feasible, to identify cross-border wire transfers that lack required payer and payee information.

14. Duty to verify identity.

- (1) Subject to paragraph (2), a beneficiary financial institution shall, before paying out funds in cash or cash equivalent to a payee in The Bahamas with respect to a cross-border wire transfer of one thousand dollars or more, verify the payee's identity as provided under section 11(1) of the Act and the Financial Transactions Reporting Regulations.
- (2) Where the payee is a facility holder of the beneficiary financial institution and the beneficiary financial institution has already verified his identity in accordance with section 11(1) of the Act, the beneficiary financial institution is not required to verify the payee's identity pursuant to paragraph (1).

15. Duty to assess risks.

- (1) Every beneficiary financial institution shall adopt risk-based policies and procedures that enable them to determine —
 - (a) when to execute, reject, or suspend wire transfers that are not accompanied by the complete payer and payee information as required; and
 - (b) the appropriate follow-up action.
- (2) Where the originating financial institution repeatedly fails to provide the complete payer and payee information as required, the beneficiary financial institution shall give the originating financial institution a reasonable opportunity to correct the failures, before it —
 - (a) rejects any future transfers of funds from the originating financial institution;

- (b) restricts its business relationship with the originating financial institution; or
 - (c) terminates its business relationship with the originating financial institution.
- (3) Every beneficiary financial institution shall report any decision to reject future wire transfers from, or to restrict or terminate its business relationship with, the originating financial institution to the beneficiary financial institution's Supervisory Authority.
- (4) Every beneficial financial institution shall consider missing or incomplete payer and payee information as a factor in assessing whether the wire transfer, 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.

PART V – OFFENCES AND PENALTIES

16. Offences.

- (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.

PART VI – MISCELLANEOUS

17. Exempt wire transfers.

These Regulations shall not apply to —

- (a) a wire transfer where the payer withdraws cash from his 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 transaction identifier that allows the transaction to be traced back to the payer; and
 - (iii) the unique transaction 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 transaction identifier accompanies the wire transfer enabling the transaction to be traced back to the payer;
- (d) fines, penalties, duties and other taxes within The Bahamas; or
- (e) transfers and settlements where both the payer and payee are financial institutions acting on their own behalf.

18. Suspicious transaction reporting.

Every financial institution that controls both the originating and the beneficiary side of a wire transfer shall —

- (a) take into account all the information from both the originating financial institution and the beneficiary financial institution in order to determine whether a suspicious transaction report has to be filed; and
- (b) where applicable, file a suspicious transaction report in any country affected by the suspicious wire transfer and make relevant transaction information available to the appropriate authorities.

19. Revocation.

The Financial Transactions Reporting (Wire Transfers) Regulations¹ is revoked.

Made this 4th day of December, 2015.

Signed
PHILIP E. “BRAVE” DAVIS
Minister responsible for Finance

¹*Sub. Leg., Vol. VI, Ch. 368, pg. 11.*