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FINANCIAL TRANSACTIONS REPORTING REGULATIONS, 2018

Arrangement of Regulations

Regulation

PART I - PRELIMINARY	2
1. Citation and commencement.....	2
2. Interpretation.....	2
PART II – DESIGNATED AMOUNTS	3
3. Designated amounts for due diligence.....	3
PART III – VERIFICATION REQUIREMENTS	3
4. Verification of identity of individuals.....	3
5. Verification of corporate entity.....	4
6. Verification of identity of partnership or unincorporated business.....	5
7. Verification of trust and other legal arrangement.....	6
8. Exemption from verification.....	7
9. Reliance on due diligence by third party.....	7
10. Verification of beneficial owner.....	7
11. Verification of facilities established by telephone or Internet.....	8
12. Continued verification of accounts.....	8
13. Transfer of records.....	8
PART IV – OBLIGATIONS OF GENERAL INSURERS	9
14. Suspicious transaction reporting by general insurers.....	9
PART V - MISCELLANEOUS	9
15. Revocation.....	9
SCHEDULE	9



MINISTRY OF FINANCE

S.I. No. 35 of 2018

FINANCIAL TRANSACTIONS REPORTING ACT, 2018

(No. 5 of 2018)

FINANCIAL TRANSACTIONS REPORTING
REGULATIONS, 2018

The Minister, in exercise of the powers conferred by section 59 of the Financial Transactions Reporting Act, 2018, makes the following Regulations —

PART I - PRELIMINARY

1. Citation and commencement.

- (1) These Regulations may be cited as the Financial Transactions Reporting Regulations, 2018.
- (2) These Regulations shall come into force on such date as may be appointed by the Minister by notice published in the *Gazette*.

2. Interpretation.

In these Regulations —

“the Act” means the Financial Transactions Reporting Act, 2018 (*No. 5 of 2018*);

“corporate entity” includes —

- (a) unless the context otherwise requires, means a company that is incorporated or registered under the Companies Act (*Ch. 308*);
- (b) an international business company as defined in the International Business Companies Act (*Ch. 309*);

“facility” has the meaning assigned to in section 2 of the Act;

“facility holder” has the meaning assigned to in section 2 of the Act;

“Financial Intelligence Unit” means the Financial Intelligence Unit established under section 3 of the Financial Intelligence Unit Act (*Ch. 367*);

“identified risk” has the meaning assigned to it in section 2 of the Proceeds of Crime Act, 2018 (*No. 4 of 2018*);

- (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.

19. 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.

20. Revocation.

The Financial Transactions Reporting (Wire Transfers) Regulations, 2015 (*No. 98 of 2015*) is hereby revoked.

Made this 6th day of June, 2018.

Signed
KEVIN PETER TURNQUEST
Minister of Finance

“occasional transaction” means a transaction between a financial institution and a customer who does not have a business relationship with that financial institution;

“partnership” includes —

- (a) a partnership, as defined in the Partnership Act (*Ch. 310*);
- (b) a partnership with limited liability, as defined in the Partnership Limited Liability Act (*Ch. 311*);
- (c) an exempted limited partnership, as defined in the Exempted Limited Partnership Act (*Ch. 312*);

“trust” includes, but is not limited to, a “private trust company” as defined in section 2 of the Banks and Trust Companies Regulation Act (*Ch. 316*).

PART II – DESIGNATED AMOUNTS

3. Designated amounts for due diligence.

For the purposes of Part II of the Act, the designated amounts shall be in respect of —

- (a) occasional transactions, whether such transaction is a single transaction or are linked transactions, which are equal to or not exceeding fifteen thousand dollars;
- (b) the financial transactions of patrons of gaming houses and casinos, whether such transaction is a single or are linked transactions, which are equal to or not exceeding three thousand dollars;
- (c) financial transactions of jewellers and other dealers of precious stones and metals, whether such transaction is a single or are linked which is equal to or not exceeding fifteen thousand dollars.

PART III – VERIFICATION REQUIREMENTS

4. Verification of identity of individuals.

- (1) Where a financial institution is required to verify the identity of any individual pursuant to section 7 of the Act, the following information is required —
 - (a) the full, correct and legal name of the individual;
 - (b) contact information;
 - (c) date and place of birth; and
 - (d) the purpose of the account; and

- (e) the nature of the business relationship to be established.
- (2) In addition to the requirements mentioned in paragraph (1), the following information may be required of the individual —
 - (a) evidence of the source of funds;
 - (b) evidence of the source of wealth;
 - (c) a specimen signature;
 - (d) telephone and fax number, if any;
 - (e) occupation, name of employer, and where self-employed, the nature of the self-employment; or
 - (f) a copy of —
 - (i) the relevant identification pages of passport;
 - (ii) a driver's licence;
 - (iii) a voters card;
 - (iv) a national identity card; or
 - (v) such other identification document bearing a photographic likeness of the individual as is reasonably capable of establishing the identity of the individual.

5. Verification of corporate entity.

- (1) Where a financial institution is required to verify the existence of a corporate entity, the financial institution shall require that corporate entity to submit —
 - (a) a certified copy of the certificate of incorporation;
 - (b) a certified copy of the Memorandum of Association and Articles of Association of the entity;
 - (c) a certified copy of the resolution of the Board of Directors of the corporate entity authorizing the opening of the account and conferring authority on the natural person who will operate the facility;
 - (d) documentary evidence as is required under regulation 6 for the verification of the natural person who will operate the facility;
 - (e) documentary evidence to satisfy the requirements for the identification and verification of the identity of the beneficial owners of the corporate entity —
 - (i) who have a ten percent or more controlling interest in the corporate entity;
 - (ii) to the extent that there is doubt under subparagraph (i) as to whether the person with the controlling interest is the beneficial owner or where no natural person exerts control

through ownership interests, the identity of the natural person if any exercising control of the legal person or arrangement through other means; or

- (iii) where no natural person is identified under subparagraph (i) or (ii), the identity of the relevant natural person who holds the position of senior managing official;
 - (f) a certificate of good standing;
 - (g) the location of the registered office and, if different, the location of the principal place of business;
 - (h) a description of the nature of the business including —
 - (i) the date of commencement of the business;
 - (ii) a description of the products or services provided by the business;
 - (iii) the location of the principal place of business; and
 - (i) such other official documentary and other information as is reasonably capable of establishing information on the customer's ownership and control structure of the corporate entity.
- (2) In addition to the requirements specified in paragraph (1), a financial institution may require —
- (a) the names and addresses of all officers and directors of the corporate entity;
 - (b) the purpose of the facility and the potential parameters of the facility including —
 - (i) size, in the case of investment and custody facilities;
 - (ii) balance ranges, in the case of deposit facilities;
 - (iii) the expected transaction volume of the facility; and
 - (c) written confirmation that all credits to the facility are and will be beneficially owned by the facility holder except in circumstances where the facility is being operated by an intermediary for the purpose of holding funds in his professional capacity.

6. Verification of identity of partnership or unincorporated business.

- (1) Where a financial institution is required to verify the identity of a partnership or other unincorporated business, pursuant to section 7(1) of the Act, the following information shall be required —
 - (a) verification of all partners or beneficial owners in accordance with regulation 4;
 - (b) a copy of the partnership agreement, if any, or other agreement establishing the unincorporated business;

- (c) the 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) any documentary evidence as is required under regulation 6 for the verification of the natural person who will operate the facility.
- (2) In addition to the requirements specified in paragraph (1) the financial institution may require—
- (a) the description and nature of the business including —
 - (i) the date of commencement of the business;
 - (ii) a description of the product or service provided the business;
 - (iii) the location of the principal place of business;
 - (b) the purpose of the account and the potential parameters of the facility including —
 - (i) size, in the case of investment and client facilities;
 - (ii) balance ranges, in the case of deposit and client facilities;
 - (iii) the expected transaction volume of the facility;
 - (c) written confirmation that all credits to the facility are and will be beneficially owned by the facility holder except in circumstances where the facility 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 a partner or beneficial owner.

7. Verification of trust and other legal arrangement.

- (1) This regulation shall apply to the verification of identity in relation to a trust and other legal arrangement pursuant to section 7 of the Act.
- (2) For the purpose of this regulation, “facility” includes a trust.
- (3) Where a financial institution is required to verify identity in relation to a trust, the financial institution shall, in addition to carrying out the obligations imposed by the Act and these Regulations, take reasonable measures to determine the identity of the —
 - (a) settlor of the trust;
 - (b) beneficiaries or class of beneficiaries of the trust;
 - (c) protector, if any; and
 - (d) the natural person exercising effective control over the trust.
- (4) Where a financial institution is required to verify identity in relation to a legal arrangement other than a trust, the financial institution shall, in addition to the obligations imposed by the Act and these Regulations, take reasonable measures to determine the identity of —

- (a) the legal person exercising effective control over the legal arrangement;
- (b) the beneficiary, if any; and
- (c) the natural person establishing such arrangement.

8. Exemption from verification.

Subject to the provisions of section 8 of the Act, documentary evidence shall not normally be required for verification of identity of —

- (a) any financial institution licensed by the Central Bank of The Bahamas, The Securities Commission of The Bahamas, The Inspector, Financial Corporate Service Providers, The Insurance Commission of The Bahamas, or the Gaming Board;
- (b) a financial institution which —
 - (i) is subject to anti-money laundering and countering the financing of terrorism obligations;
 - (ii) is under supervision for compliance with the obligations referred to in subparagraph (i); and
 - (iii) has adequate procedures for compliance with customer due diligence and record keeping requirements;
- (c) any central or local government agency or statutory body; and
- (d) a publicly traded company listed on The Bahamas International Stock Exchange or any other Stock Exchange specified in the *Schedule* and approved by the Securities Commission of The Bahamas.

9. Reliance on due diligence by third party.

Subject to section 9 of the Act and any directions or guidance issued by the relevant supervisory authority, where a financial institution has obtained written confirmation from either —

- (a) a local financial institution; or
- (b) a foreign financial institution,

which has verified the identity of an individual, corporate entity, partnership or other unincorporated business entity, the financial institution may rely on the verification by the local financial institution or by the foreign financial institution.

10. Verification of beneficial owner.

Where a financial institution is required to verify the identity of a facility holder under Part II of the Act, the financial institution shall verify the identity of the beneficial owner of such facility in accordance with these Regulations.

11. Verification of facilities established by telephone or Internet.

- (1) Where an individual, corporate entity or partnership makes a request to establish a facility —
 - (a) by telephone;
 - (b) by the Internet; or
 - (c) by written communication,

the financial institution shall verify, in accordance with these Regulations, the identity of that individual, corporate entity or partnership for whom the facility is to be established.

- (2) Notwithstanding paragraph (1), the financial institution may rely on the verification of the identity of the individual, corporate entity or partnership in accordance with regulation 9.

12. Continued verification of accounts.

- (1) Where the identity of a facility holder has been verified, no further verification of identity is necessary unless there is a material change in the operation of the facility.
- (2) For the purposes of this regulation, a material change in the operation of a facility includes but is not limited to —
 - (a) change in the ownership of the facility;
 - (b) activity which gives rise to the suspicion of any identified risk.
- (3) Every financial institution must carry out monitoring of all facility holders for consistency with the facility holders stated account purposes during the business relationship.

13. Transfer of records.

Where an existing facility holder closes one facility and opens another facility the financial institution shall confirm the identity of the facility holder and obtain any additional information with respect to the facility holder and all records relating to the existing account shall be transferred to the new facility and retained in accordance with the Act and any regulations made thereunder.

PART IV – OBLIGATIONS OF GENERAL INSURERS

14. Suspicious transaction reporting by general insurers.

- (1) A general insurer must file a suspicious transaction report with the Financial Intelligence Unit where a proposal, a proposer, or a circumstance raises suspicion that the proposal, proposer, or circumstance —
 - (a) involves the proceeds of criminal conduct as defined in the Proceeds of Crime Act, 2018 (*No 4 of 2018*);
 - (b) is related to an offence under the Proceeds of Crime Act, 2018 (*No. 4 of 2018*);
 - (c) is an attempt to avoid the enforcement of any provision of the Proceeds of Crime Act, 2018 (*No. 4 of 2018*); or
 - (d) is an identified risk.
- (2) A general insurer who intentionally fails to submit a report to the Financial Intelligence Unit as required by paragraph (1) commits a summary offence and is liable to imprisonment for a term of up to five years or to a fine of up to five hundred thousand dollars or to both such fine and imprisonment.
- (3) For the purposes of this regulation —

“**general insurance**” has the meaning as assigned to it in section 2 of the Insurance Act (*Ch. 347*); and

“**general insurer**” means an individual or corporate entity carrying out the business of general insurance.

PART V - MISCELLANEOUS

15. Revocation.

The Financial Transactions Reporting Regulations, 2000 (*S.I. No 111 of 2000*) is hereby revoked.

SCHEDULE

(regulation 8(d))

APPROVED STOCK EXCHANGES

American Stock Exchange (AMEX)

Amsterdam Stock Exchange (Amsterdamse Effectenbeurs)

Antwerp Stock Exchange (Effectenbeurs vennootschap van Antwerpen)

Athens Stock Exchange (ASE)
Australian Stock Exchange
Barcelona Stock Exchange (Bolsa de Valores de Barcelona)
Basle Stock Exchange (Basler Borse)
Belgium Futures & Options Exchange (BELFOX)
Berlin Stock Exchange (Berliner Borse)
Bergen Stock Exchange (Bergen Bors)
Bermuda Stock Exchange
Biblao Stock Exchange (Borsa de Valores de Bilbao)
Bologna Stock Exchange (Borsa Valori de Bologna)
Bordeaux Stock Exchange
Boston Stock Exchange
Bovespa (S3o Paulo Stock Exchange)
Bremen Stock Exchange (Bremener Wertpapierborse)
Brussels Stock Exchange (Societe de la Bourse des Valeurs Mobilieres/Effecten
Beursvennootschap van Brussel)
Cayman Islands Stock Exchange
Cincinnati Stock Exchange
Copenhagen Stock Exchange (Kobenhayns Fondsbors)
Dusseldorf Stock Exchange (Rheinsch-Westfililische Borse Zu Dusseldorf)
Florence Stock Exchange (Borsa Valori di Firenze)
Frankfurt Stock Exchange (Frankfurter Wertpapierborse)
Fukuoka Stock Exchange
Geneva Stock Exchange
Genoa Stock Exchange (Borsa Valori de Genova)
Hamburg Stock Exchange (Hanseatische Vertpapier Borse Hamburg)
Helsinki Stock Exchange (Helsingen Arvopaperiporssi Osuuskunta)
Hong Kong Stock Exchange
Irish Stock Exchange
Johannesburg Stock Exchange
Korea Stock Exchange
Kuala Lumpur Stock Exchange
Lille Stock Exchange

Lisbon Stock Exchange (Borsa de Valores de Lisboa)
London Stock Exchange (LSE)
Luxembourg Stock Exchange (Societe de la Bourse de Luxembourg SA)
Lyon Stock Exchange
Madrid Stock Exchange (Bolsa de Valores de Madrid)
Marseille Stock Exchange
Mexican Stock Exchange (Bolsa Mexicana de Valores)
Midwest Stocks Exchange
Milan Stock Exchange (Borsa Valores de Milano)
Montreal Stock Exchange
Munich Stock Exchange (Bayerische Borse in Miinchen)
Nagoya Stock Exchange
Nancy Stock Exchange
Nantes Stock Exchange
Naples Stock Exchange (Borsa Valori di Napoli)
NASDAQ (The National Association of Securities Dealers Automated
Quotations)
New York Stock Exchange
New Zealand Stock Exchange
Oporto Stock Exchange (Bolsa de Valores do Porto)
Osaka Stock Exchange
Oslo Stock Exchange (Oslo Bors)
Pacific Stock Exchange
Palermo Stock Exchange (Borsa Valori di Palermo)
Paris Stock Exchange
Philadelphia Stock Exchange
Rio de Janeiro Stock Exchange (BVRI)
Rome Stock Exchange (Borsa Valori di Roma)
Singapore Stock Exchange
Stockholm Stock Exchange (Stockholm Fondbors)
Stuttgart Stock Exchange (Baden-Wuerttembergische Wertpapierbourse Zu
Stuttgart)
Taiwan Stock Exchange
The Stock Exchange of Thailand

Tokyo Stock Exchange
Toronto Stock Exchange
Trieste Stock Exchange (Borsa Valori di Trieste)
Trondheim Stock Exchange (Trondheims Bors)
Turin Stock Exchange (Borsa Valori de Torino)
Valencia Stock Exchange (Borsa de Valores de Valencia)
Vancouver Stock Exchange
Venice Stock Exchange (Borsa Valori de Venezia)
Vienna Stock Exchange (Wiener Wertpapierbourse)
Zurich Stock Exchange (Ziircher Borse)

Made this 6th day of June, 2018.

Signed
KEVIN PETER TURNQUEST
Minister of Finance

FINANCIAL TRANSACTIONS REPORTING (WIRE TRANSFERS) REGULATIONS, 2018

Arrangement of Regulations

Regulation

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.....	6
PART III - OBLIGATIONS OF INTERMEDIARY FINANCIAL INSTITUTIONS	6
10. Technical limitations.....	6
11. Detection of missing payer and payee information.....	7
12. Duty to assess risks.....	7
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.....	8
PART V - OFFENCES AND PENALTIES	8
16. Offences.....	8
17. Administrative penalties.....	9
PART VI - MISCELLANEOUS	10
18. Exempt wire transfers.....	10
19. Suspicious transaction reporting.....	11

20. Revocation11

S.I. No. 36 of 2018

FINANCIAL TRANSACTIONS REPORTING ACT, 2018

(No. 5 of 2018)

**FINANCIAL TRANSACTIONS REPORTING (WIRE TRANSFERS)
REGULATIONS, 2018**

The Minister, in exercise of the powers conferred by section 59 of the Financial Transactions Reporting Act, 2018, makes the following Regulations —

PART I - PRELIMINARY

1. Citation.

These Regulations may be cited as the Financial Transactions Reporting (Wire Transfers) Regulations, 2018.

2. Interpretation.

In these Regulations, unless the context otherwise requires —

□ **“Act”** means the Financial Transactions Reporting Act, 2018 (*No. 5 of 2018*);

“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;

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

“intermediary financial institution” means a financial institution, other than an originating or a beneficiary financial institution, that participates in the execution of wire transfers;

“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 7(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 7(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 7(1) of the Act and the Financial Transactions Reporting Regulations, 2018.
- (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 7(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 beneficiary 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 hundred 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 hundred thousand dollars upon a financial institution that contravenes, or fails to comply with, any provision of these Regulations.

17. Administrative penalties.

(1) Notwithstanding any penalties that may be imposed under these Regulations, any —

- (a) financial institution that fails to comply with any provision of these Regulations;
- (b) employee, director or senior manager of a financial institution who knowingly concurs in a failure to comply with any provision of these Regulations,

may be subject to an administrative penalty imposed by the Supervisory Authority with responsibility for regulating that financial institution and

- (i) in the case of a company, to a maximum penalty of two hundred thousand dollars;
- (ii) in the case of an employee, director or a senior manager of a financial institution, to a maximum penalty of fifty thousand dollars.

(2) A Supervisory Authority may not impose a penalty on a person specified in subsection (1)(a) or (b) for contravention of any customer due diligence measures if the Supervisory Authority is satisfied that the person took all reasonable steps and exercised all due diligence to ensure that the requirement would be complied with.

(3) In deciding whether a person has contravened a provision of this Act, Supervisory Authority must consider whether at the time, the person followed any relevant guidance, rules or codes of practice issued by the Supervisory Authority.

(4) When determining any penalty to be imposed on a person under subsection (1), a Supervisory Authority must take into account all relevant circumstances, including where appropriate —

- (a) the gravity and the duration of the contravention or failure;
- (b) the degree of responsibility of the person on whom the Supervisory Authority proposes to impose the penalty;
- (c) the financial strength of the person;
- (d) the amount of profit gained or loss avoided by the person;
- (e) the loss to third parties caused by the contravention or failure;
- (f) the level of cooperation of the person with the Supervisory Authority;
- (g) any previous contraventions or failures of the person; and
- (h) any potential systemic consequences of the contravention or failure.

- (5) Where a Supervisory Authority proposes to impose a penalty on a person under subsection (1), the Supervisory Authority must issue a written warning to the person specifying —
 - (a) the nature of the contravention which the person is believed to have committed;
 - (b) the amount of the penalty;
 - (c) a reasonable period, which may not be less than twenty-eight days from the date of the notice, within which the person to whom the warning is issued may make representations to the Supervisory Authority.
- (6) The Supervisory Authority may extend the period specified in the notice.
- (7) The Supervisory Authority must determine, within a reasonable period, whether to give the person concerned a notice of its decision.
- (8) A decision given pursuant to subsection (7), must —
 - (a) be in writing;
 - (b) give the Supervisory Authority's reason for the decision to take the action to which the notice relates;
 - (c) give an indication of —
 - (i) any right to have the matter appealed provided under any other law governing that financial institution; and
 - (ii) the procedure for appeal.
- (9) If a Supervisory Authority decides not to take —
 - (a) the action proposed in a warning issued; or
 - (b) the action referred to in its notice of decision, the Supervisory Authority must give a notice of discontinuance to the person to whom the warning notice or decision notice was given.
- (10) A notice of discontinuance must identify the proceedings which are being discontinued.

PART VI - MISCELLANEOUS

18. 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.

19. 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.

20. Revocation.

The Financial Transactions Reporting (Wire Transfers) Regulations, 2015 (*No. 98 of 2015*) is hereby revoked.

Made this 6th day of June, 2018.

Signed.
KEVIN PETER TURNQUEST
Minister of Finance