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 –

1. These regulations which amend the Financial Transactions Reporting Regulations may be cited as the Financial Transactions Reporting (Amendment) Regulations, 2009.

2. Regulation 4 of the principal Regulations is repealed and replaced by the following –

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 –

Procedure for verification of corporate entities.
(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 sub-paragraph (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 Memorandum 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.”

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 Regulation 5 of the principal Regulations is repealed and replaced by the following –

5. (1) For the purposes of section 11(1) 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."

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".

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."

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