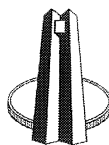


**SOUTH AFRICAN RESERVE BANK
SUID-AFRIKAANSE RESERWEBANK****No. 538****26 June 2015**

South African Reserve Bank

**DIRECTIVE FOR CONDUCT WITHIN THE NATIONAL PAYMENT
SYSTEM IN RESPECT OF THE FINANCIAL ACTION TASK FORCE
RECOMMENDATIONS FOR ELECTRONIC FUNDS TRANSFERS****DIRECTIVE No. 1 OF 2015**

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1. Background, purpose and position of the South African Reserve Bank**1.1. Background**

- 1.1.1. In terms of section 10(1)(c) of the South African Reserve Bank Act, 1989 (Act No. 90 of 1989 - the SARB Act), the South African Reserve Bank (the Bank) is required to perform such functions, implement such rules and procedures and, in general, take such steps as may be necessary to establish, conduct, monitor, regulate and supervise payment, clearing or settlement systems. Furthermore, the National Payment System Act, 1998 (Act No. 78 of 1998 - the NPS Act) provides for the management, administration, operation, regulation and supervision of payment, clearing and settlement systems in the Republic of South Africa, and to provide for connected matters.

- 1.1.2. The National Payment System (NPS) encompasses the entire payment process from payer to beneficiary and includes settlement between banks and on behalf of clearing system participants. The process includes all the tools, systems, mechanisms, institutions, agreements, procedures, rules or laws applied or utilised to effect payment. The NPS enables the circulation of money, that is, it enables transacting parties to exchange value.
- 1.1.3. The NPS Act, in section (3), provides that the Bank may recognise a payment system management body established with the object of organising, managing and regulating the participation of its members in the payment system. It is within the scope of the payment system management body to ensure that each payment stream has the required legal agreements in place, referred to as Payment Clearing House (PCH) agreements, signed by the participants, wherein they undertake to adhere to the conditions of the agreement, the rules and the standards of the payment stream.
- 1.1.4 In terms of section 12 of the NPS Act, the Bank may from time to time, after consultation with a relevant payment system management body, issue directives to any person regarding a payment system or the application of the provisions of the NPS Act.

1.2. Purpose

- 1.2.1. The Bank is issuing this directive to provide for the conduct of banks and clearing system participants relating to electronic funds transfers as required by the Financial Action Task Force (FATF).
- 1.2.2. On 15 February 2012 the FATF released the revised International Standards on Combating Money Laundering and Financing of Terrorism and Proliferation, also known as the FATF Recommendations (Recommendations). These Recommendations impact the payment system, the participants, and the content of “wire transfers” (known in South Africa as electronic payments or electronic funds transfers). It is within this area that

the Bank is collaborating with the Financial Intelligence Centre and their mandate in terms of the Financial Intelligence Centre Act, 2001 (Act No. 38 of 2001 – the FIC Act) to ensure South Africa's compliance with the applicable Recommendations and any supporting guidelines.

1.3. Position of the Bank

- 1.3.1. The Bank supports the initiatives and Recommendations of the FATF and requires of all banks and clearing system participants to ensure that any electronic funds transfer, as described below, meet the requirements of Recommendation 16, attached as Annexure A.
- 1.3.2. Electronic funds transfers comprise of, among other, information relating to the originator, the beneficiary, and the value of a payment transaction.
- 1.3.3. Electronic funds transfers are originated by banks and clearing system participants or customers of the banks and clearing system participants. Electronic funds transfers are processed and forwarded, at times through an intermediary bank or clearing system participant, to the beneficiary bank or clearing system participant, for credit to the beneficiary account, utilising the payment system infrastructure and computerised systems. These transactions encompass both domestic and cross-border payments.
- 1.3.4. Any bank or clearing system participant that facilitates or originates electronic funds transfers that result in funds flowing from one person or institution to another must ensure that the requirements as described in the Recommendations, the FIC Act, and the rules and standards required of signatories to the relevant PCH agreements, managed by the recognised payment system management body, are implemented and maintained.
- 1.3.5. The implementation of and compliance with the Recommendations are to prevent the use of the payment system to facilitate money laundering or the movement of terrorist funds.

1.3.6. With the exception of manually generated Society of Worldwide Interbank Financial Telecommunications (SWIFT) messages, the content of the electronic funds transfer messages are populated utilising sophisticated computer software that ensures correct information is uploaded to the message.

1.3.7. This directive governs electronic funds transfers originated utilising the:

1.3.7.1. SWIFT network;

1.3.7.2. Immediate Settlement Payment Clearing House (PCH);

1.3.7.3. Electronic Funds Transfer Debit PCH;

1.3.7.4. Electronic Funds Transfer Credit PCH;

1.3.7.5. Real-Time Clearing PCH;

1.3.7.6. Any other system that is able to initiate or process an electronic funds transfer.

2. Definitions

2.1. In this directive, unless the context indicates otherwise, the words and expressions used herein shall have the same meaning assigned to them in the NPS Act, the Recommendations, and cognate expressions shall have corresponding meanings.

3. Directive

3.1 For all electronic funds transfers, any bank or clearing system participant that originates, facilitates or enables the origination, performs the role of intermediary, or is the beneficiary of any electronic funds transfer shall:

3.1.1 Implement such measures and processes to ensure that the requirements as contemplated within the Recommendations are strictly adhered to;

3.1.2 Implement the message requirements as stipulated within the PCH agreements, rules and standards;

3.1.3 Ensure that the requirements for customer and originator identification as set out in the FIC Act are implemented.

- 3.2 Following proper governance, the Chief Executive Officer, together with Anti-Money Laundering (AML) Compliance Officer, with the assistance of the internal audit function, must, on an annual basis, submit to the National Payment System Department of the South African Reserve Bank, a declaration confirming that the systems and processes employed by the bank or clearing system participant to originate and transmit, intermediate or receive electronic funds transfers, are compliant with the requirements of FATF Recommendation 16 and any supporting guidelines.
- 3.3 The declarations must be sent to the address below, and reach the Bank by no later than 31 March each year.
- 3.4 Further, each bank or clearing system participant must permit and assist any persons identified by the Bank to inspect the transactions and the systems employed to populate the abovementioned electronic funds transfers.

4. Conclusion

- 4.1 This directive is not exhaustive and may be supplemented or amended from time to time.
- 4.2 Banks and clearing system participants who undertake the business of electronic funds transfers are obliged to act in accordance with the NPS Act and this directive. Contravention of this directive is an offence in terms of section 12 of the NPS Act.
- 4.3 This directive becomes effective on the date of publication hereof.
- 4.4 Banks and clearing system participants who are uncertain as to whether their current or future business practices are aligned with this directive should initiate discussions with the National Payment System Department of the Bank to clarify the matter.

Compliance declarations as well as any enquiry or clarification concerning this directive may be addressed to:

The Head: National Payment System Department
South African Reserve Bank
PO Box 427
Pretoria
0001

The declaration may also be sent to the following e-mail address:
npsdirectives@resbank.co.za

ANNEXURE: A**FATF Recommendation 16 - Wire Transfers¹**

Countries should ensure that financial institutions include required and accurate originator information, and required beneficiary information, on wire transfers and related messages, and that the information remains with the wire transfer or related message throughout the payment chain.

Countries should ensure that financial institutions monitor wire transfers for the purpose of detecting those which lack required originator and, or, beneficiary information, and take appropriate measures.

Countries should ensure that, in the context of processing wire transfers, financial institutions take freezing action and should prohibit conducting transactions with designated persons and entities, as per the obligations set out in the relevant United Nations Security Council resolutions, such as resolution 1267 (1999) and its successor resolutions, and resolution 1373(2001), relating to the prevention and suppression of terrorism and terrorist financing.

Interpretive Note to FATF Recommendation 16 (Wire Transfers)**A. Objective**

1. Recommendation 16 was developed with the objective of preventing terrorists and other criminals from having unfettered access to wire transfers for moving their funds, and for detecting such misuse when it occurs. Specifically, it aims to ensure that basic information on the originator and beneficiary of wire transfers is immediately available:

(a) to appropriate law enforcement or prosecutorial authorities to assist them in detecting, investigating, and prosecuting terrorists or other criminals, and tracing their assets;

¹ International Standards On Combating Money Laundering And The Financing Of Terrorism & Proliferation - The FATF Recommendations - February 2012.

(b) to financial intelligence units for analysing suspicious or unusual activity, and disseminating it as necessary; and

(c) to ordering, intermediary and beneficiary financial institutions to facilitate the identification and reporting of suspicious transactions, and to implement the requirements to take freezing action and comply with prohibitions from conducting transactions with designated persons and entities, as per the obligations set out in the relevant United Nations Security Council resolutions, such as resolution 1267 (1999) and its successor resolutions, and resolution 1373 (2001) relating to the prevention and suppression of terrorism and terrorist financing.

2. To accomplish these objectives, countries should have the ability to trace all wire transfers. Due to the potential terrorist financing threat posed by small wire transfers, countries should minimise thresholds taking into account the risk of driving transactions underground and the importance of financial inclusion. It is not the intention of the FATF to impose rigid standards or to mandate a single operating process that would negatively affect the payment system.

B. Scope

3. Recommendation 16 applies to cross-border wire transfers and domestic wire transfers, including serial payments, and cover payments.

4. Recommendation 16 is not intended to cover the following types of payments:

(a) Any transfer that flows from a transaction carried out using a credit or debit or prepaid card for the purchase of goods or services, so long as the credit or debit or prepaid card number accompanies all transfers flowing from the transaction. However, when a credit or debit or prepaid card is used as a payment system to effect a person-to-person wire transfer, the transaction is covered by Recommendation 16, and the necessary information should be included in the message.

(b) Financial institution-to-financial institution transfers and settlements, where both the originator person and the beneficiary person are financial institutions acting on their own behalf.

5. Countries may adopt a de minimis threshold for cross-border wire transfers (no higher than USD 1,000 or EUR 1,000), below which the following requirements should apply:

(a) Countries should ensure that financial institutions include with such transfers: (i) the name of the originator; (ii) the name of the beneficiary; and (iii) an account number for each, or a unique transaction reference number. Such information need not be verified for accuracy, unless there is a suspicion of money laundering or terrorist financing, in which case, the financial institution should verify the information pertaining to its customer.

(b) Countries may, nevertheless, require that incoming cross-border wire transfers below the threshold contain required and accurate originator information.

C. Cross-Border Qualifying Wire Transfers

6. Information accompanying all qualifying wire transfers should always contain:

- (a) The name of the originator;
- (b) The originator account number where such an account is used to process the transaction;
- (c) The originator's address, or national identity number, or customer identification number, or date and place of birth;
- (d) The name of the beneficiary; and
- (e) The beneficiary account number where such an account is used to process the transaction.

7. In the absence of an account, a unique transaction reference number should be included which permits traceability of the transaction.

8. Where several individual cross-border wire transfers from a single originator are bundled in a batch file for transmission to beneficiaries, they may be exempted from the requirements of paragraph 6 in respect of originator information, provided that they include the originator's account number or unique transaction reference number (as described in paragraph 7 above), and the batch file contains required and accurate originator information, and full beneficiary information, that is fully traceable within the beneficiary country.

D. Domestic Wire Transfers

9. Information accompanying domestic wire transfers should also include originator information as indicated for cross-border wire transfers, unless this information can be made available to the beneficiary financial institution and appropriate authorities by other means. In this latter case, the ordering financial institution need only include

the account number or a unique transaction reference number, provided that this number or identifier will permit the transaction to be traced back to the originator or the beneficiary.

10. The information should be made available by the ordering financial institution within three business days of receiving the request either from the beneficiary financial institution or from appropriate competent authorities. Law enforcement authorities should be able to compel immediate production of such information.

E. Responsibilities of Ordering, Intermediary and Beneficiary Financial Institutions

Ordering financial institution

11. The ordering financial institution should ensure that qualifying wire transfers contain required and accurate originator information, and required beneficiary information.

12. The ordering financial institution should ensure that cross-border wire transfers below any applicable threshold contain the name of the originator and the name of the beneficiary and an account number for each, or a unique transaction reference number.

13. The ordering financial institution should maintain all originator and beneficiary information collected, in accordance with Recommendation 11.

14. The ordering financial institution should not be allowed to execute the wire transfer if it does not comply with the requirements specified above.

Intermediary financial institution

15. For cross-border wire transfers, financial institutions processing an intermediary element of such chains of wire transfers should ensure that all originator and beneficiary information that accompanies a wire transfer is retained with it.

16. Where technical limitations prevent the required originator or beneficiary information accompanying a cross-border wire transfer from remaining with a related domestic wire transfer, a record should be kept, for at least five years, by the receiving intermediary financial institution of all the information received from the ordering financial institution or another intermediary financial institution.

17. An intermediary financial institution should take reasonable measures to identify cross-border wire transfers that lack required originator information or required beneficiary information. Such measures should be consistent with straight-through processing.

18. An intermediary financial institution should have effective risk-based policies and procedures for determining: (i) when to execute, reject, or suspend a wire transfer lacking required originator or required beneficiary information; and (ii) the appropriate follow-up action.

Beneficiary financial institution

19. A beneficiary financial institution should take reasonable measures to identify cross-border wire transfers that lack required originator or required beneficiary information. Such measures may include post-event monitoring or real-time monitoring where feasible.

20. For qualifying wire transfers, a beneficiary financial institution should verify the identity of the beneficiary, if the identity has not been previously verified, and maintain this information in accordance with Recommendation 11.

21. A beneficiary financial institution should have effective risk-based policies and procedures for determining: (i) when to execute, reject, or suspend a wire transfer lacking required originator or required beneficiary information; and (ii) the appropriate follow-up action.

F. Money or Value Transfer Service Operators

22. Money or value transfer service (MVTs) providers should be required to comply with all of the relevant requirements of Recommendation 16 in the countries in which they operate, directly or through their agents. In the case of a MVTs provider that controls both the ordering and the beneficiary side of a wire transfer, the MVTs provider:

- (a) Should take into account all the information from both the ordering and beneficiary sides in order to determine whether an STR has to be filed; and
- (b) Should file an STR in any country affected by the suspicious wire transfer, and make relevant transaction information available to the Financial Intelligence Unit.

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