

Funds Transfers Recordkeeping — Overview

Objective. *Assess the bank’s compliance with statutory and regulatory requirements for funds transfers. This section covers the regulatory requirements as set forth in the BSA. Refer to the expanded sections of this manual for discussions and procedures regarding specific money laundering risks for funds transfer activities.*

Funds transfer systems enable the instantaneous transfer of funds, including both domestic and cross-border transfers. Consequently these systems can present an attractive method to disguise the source of funds derived from illegal activity. The BSA was amended by the Annunzio–Wylie Anti-Money Laundering Act of 1992 to authorize the U.S. Treasury and the Federal Reserve Board to prescribe regulations for domestic and international funds transfers.

In 1995, the U.S. Treasury and the Board of Governors of the Federal Reserve System issued a final rule on recordkeeping requirements concerning payment orders by banks (31 CFR 1010.410).¹¹⁰ The rule requires each bank involved in funds transfers¹¹¹ to collect and retain certain information in connection with funds transfers of \$3,000 or more.¹¹² The information required to be collected and retained depends on the bank’s role in the particular funds transfer (originator’s bank, intermediary bank, or beneficiary’s bank).¹¹³ The requirements may also vary depending on whether an originator or beneficiary is an established customer of a bank and whether a payment order is made in person or otherwise.

Also in 1995, the U.S. Treasury issued a final rule that requires all financial institutions to include certain information in transmittal orders for funds transfers of \$3,000 or more (31 CFR 1010.410).¹¹⁴ This requirement is commonly referred to as the “Travel Rule.”

¹¹⁰ 31 CFR 1020.410(a) is the recordkeeping rule for banks, and 31 CFR 1010.410(e) imposes similar requirements for nonbank financial institutions that engage in funds transfers. The procedures in this core overview section address only the rules for banks in 31 CFR 1020.410(a).

¹¹¹ Funds transfer is defined under 31 CFR 1010.100. Funds transfers governed by the Electronic Fund Transfer Act of 1978, as well as any other funds transfers that are made through an automated clearing house, an automated teller machine, or a point-of-sale system, are excluded from this definition and exempt from the requirements of 31 CFR 1020.410(a), and 31 CFR 1010.410(e) and (f).

¹¹² 31 CFR 1020.410(a)(6) provides exceptions to the funds transfer requirements. Funds transfers where both the originator and the beneficiary are the same person and the originator’s bank and the beneficiary’s bank are the same bank are not subject to the recordkeeping requirements for funds transfers. Additionally, exceptions are provided from the recordkeeping requirements for funds transfers where the originator and beneficiary are: a bank; a wholly owned domestic subsidiary of a bank chartered in the United States; a broker or dealer in securities; a wholly owned domestic subsidiary of a broker or dealer in securities; the United States; a state or local government; or a federal, state or local government agency or instrumentality.

¹¹³ These terms are defined under 31 CFR 1010.100 .

¹¹⁴ The rule applies to both banks and nonbanks (31 CFR 1010.410(f). Because it is broader in scope, the Travel Rule uses more expansive terms, such as “transmittal order” instead of “payment order” and “transmittor’s financial institution” instead of “originating bank.” The broader terms include the bank-specific terms.

Responsibilities of Originator's Banks

Recordkeeping Requirements

For each payment order in the amount of \$3,000 or more that a bank accepts as an originator's bank, the bank must obtain and retain the following records (31 CFR 1020.410(a)(1)(i)):

- Name and address of the originator.
- Amount of the payment order.
- Date of the payment order.
- Any payment instructions.
- Identity of the beneficiary's institution.
- As many of the following items as are received with the payment order:
 - Name and address of the beneficiary.
 - Account number of the beneficiary.
 - Any other specific identifier of the beneficiary.

Additional Recordkeeping Requirements for Nonestablished Customers

If the originator is not an established customer of the bank, the originator's bank must collect and retain the information listed above. In addition, the originator's bank must collect and retain other information, depending on whether the payment order is made in person.

Payment Orders Made in Person

If the payment order is made in person, the originator's bank must verify the identity of the person placing the payment order before it accepts the order. If it accepts the payment order, the originator's financial institution must obtain and retain the following records:

- Name and address of the person placing the order.
- Type of identification reviewed.
- Number of the identification document (e.g., driver's license).
- The person's taxpayer identification number (TIN) (e.g., Social Security number (SSN) or employer identification number (EIN)) or, if none, the alien identification number or passport number and country of issuance, or a notation in the record of the lack thereof. If the originator's bank has knowledge that the person placing the payment order is not the originator, the originator's bank must obtain and record the originator's TIN (e.g., SSN or EIN) or, if none, the alien identification number or passport number and country of issuance, or a notation of the lack thereof.

Payment Orders Not Made in Person

If a payment order is not made in person, the originator's bank must obtain and retain the following records:

- Name and address of the person placing the payment order.
- The person's TIN (e.g., SSN or EIN) or, if none, the alien identification number or passport number and country of issuance, or a notation in the record of the lack thereof, and a copy or record of the method of payment (e.g., check or credit card transaction) for the funds transfer. If the originator's bank has knowledge that the person placing the payment order is not the originator, the originator's bank must obtain and record the originator's TIN (e.g., SSN or EIN) or, if none, the alien identification number or passport number and country of issuance, or a notation of the lack thereof.

Retrievability

Information retained must be retrievable by reference to the name of the originator. When the originator is an established customer of the bank and has an account used for funds transfers, information retained must also be retrievable by account number (31 CFR 1020.410(a)(4)). Records must be maintained for five years.

Travel Rule Requirement

For funds transmittals of \$3,000 or more, the transmitter's financial institution must include the following information in the transmittal order at the time that a transmittal order is sent to a receiving financial institution (1010.410(f)(1)):

- Name of the transmitter, and, if the payment is ordered from an account, the account number of the transmitter.
- Address of the transmitter.
- Amount of the transmittal order.
- Date of the transmittal order.
- Identity of the recipient's financial institution.
- As many of the following items as are received with the transmittal order:
 - Name and address of the recipient.
 - Account number of the recipient.
 - Any other specific identifier of the recipient.
- Either the name and address or the numerical identifier of the transmitter's financial institution.

There are no recordkeeping requirements in the Travel Rule.

Responsibilities of Intermediary Institutions

Recordkeeping Requirements

For each payment order of \$3,000 or more that a bank accepts as an intermediary bank, the bank must retain a record of the payment order.

Travel Rule Requirements

For funds transmittals of \$3,000 or more, the intermediary financial institution must include the following information if received from the sender in a transmittal order at the time that order is sent to a receiving financial institution (1010.410(f)(2):

- Name and account number of the transmitter.
- Address of the transmitter.
- Amount of the transmittal order.
- Date of the transmittal order.
- Identity of the recipient's financial institution.
- As many of the following items as are received with the transmittal order:
 - Name and address of the recipient.
 - Account number of the recipient.
 - Any other specific identifier of the recipient.
- Either the name and address or the numerical identifier of the transmitter's financial institution.

Intermediary financial institutions must pass on all of the information received from a transmitter's financial institution or the preceding financial institution, but they have no duty to obtain information not provided by the transmitter's financial institution or the preceding financial institution.

Responsibilities of Beneficiary's Banks

Recordkeeping Requirements

For each payment order of \$3,000 or more that a bank accepts as a beneficiary's bank, the bank must retain a record of the payment order.

If the beneficiary is not an established customer of the bank, the beneficiary's institution must retain the following information for each payment order of \$3,000 or more.

Proceeds Delivered in Person

If proceeds are delivered in person to the beneficiary or its representative or agent, the institution must verify the identity of the person receiving the proceeds and retain a record of the following:

- Name and address.
- The type of document reviewed.
- The number of the identification document.
- The person’s TIN, or, if none, the alien identification number or passport number and country of issuance, or a notation in the record of the lack thereof.
- If the institution has knowledge that the person receiving the proceeds is not the beneficiary, the institution must obtain and retain a record of the beneficiary’s name and address, as well as the beneficiary’s identification.

Proceeds Not Delivered in Person

If proceeds are not delivered in person, the institution must retain a copy of the check or other instrument used to effect the payment, or the institution must record the information on the instrument. The institution must also record the name and address of the person to whom it was sent.

Retrievability

Information retained must be retrievable by reference to the name of the beneficiary. When the beneficiary is an established customer of the institution and has an account used for funds transfers, information retained must also be retrievable by account number (31 CFR 1020.410(a)(4)).

There are no Travel Rule requirements for beneficiary banks.

Abbreviations and Addresses

Although the Travel Rule does not permit the use of coded names or pseudonyms, the rule does allow the use of abbreviated names, names reflecting different accounts of a corporation (e.g., XYZ Payroll Account), and trade and assumed names of a business (doing business as) or the names of unincorporated divisions or departments of the business.

Customer Address

The term “address,” as used in 1010.410(f), is not defined. Previously issued guidance from FinCEN had been interpreted as not allowing the use of mailing addresses in a transmittal order when a street address is known to the transmitter’s financial institution. However, in the November 28, 2003, *Federal Register* notice,¹¹⁵ FinCEN issued a regulatory interpretation that states the Travel Rule should allow the use of mailing addresses, including post office boxes, in the transmitter address field of transmittal orders in certain circumstances.

The regulatory interpretation states that, for purposes of 1010.410(f), the term “address” means either the transmitter’s street address or the transmitter’s address maintained in the financial institution’s automated CIF (such as a mailing address including a post office box)

¹¹⁵ 68 Fed. Reg. 66708 (November 23, 2003).

as long as the institution maintains the transmitter's address¹¹⁶ on file and the address information is retrievable upon request by law enforcement.

¹¹⁶ Consistent with 31 CFR 1020.220, an "address" for purposes of the Travel Rule is as follows: for an individual, "address" is a residential or business street address, an Army Post Office Box or a Fleet Post Office Box, or the residential or business street address of next of kin or another contact person for persons who do not have a residential or business address. For a person other than an individual (such as a corporation, partnership, or trust), "address" is a principal place of business, local office, or other physical location. However, while 31 CFR 1020.220 applies only to new customers opening accounts on or after October 1, 2003, and while the rule exempt funds transfers from the definition of "account," for banks, the Travel Rule applies to all transmittals of funds of \$3,000 or more, whether or not the transmitter is a customer for purposes of 31 CFR 1020.220.