

transmitter's financial institution or an intermediary financial institution intended to carry out the transmitter's transmittal order. The term transmittal of funds includes a funds transfer. A transmittal of funds is completed by acceptance by the recipient's financial institution of a transmittal order for the benefit of the recipient of the transmitter's transmittal order. Funds transfers governed by the Electronic Fund Transfer Act of 1978 (Title XX, Pub. L. 95-630, 92 Stat. 3728, 15 U.S.C. 1693, *et seq.*), as well as any other funds transfers that are made through an automated clearinghouse, an automated teller machine, or a point-of-sale system, are excluded from this definition.

(kk) *Transmittal order.* The term transmittal order includes a payment order and is an instruction of a sender to a receiving financial institution, transmitted orally, electronically, or in writing, to pay, or to cause another financial institution to pay, a fixed or determinable amount of money to a recipient if:

- (1) The instruction does not state a condition to payment to the recipient other than time of payment;
- (2) The receiving financial institution is to be reimbursed by debiting an account of, or otherwise receiving payment from, the sender; and
- (3) The instruction is transmitted by the sender directly to the receiving financial institution or to an agent or communication system for transmittal to the receiving financial institution.

(ll) *Transmitter.* The sender of the first transmittal order in a transmittal of funds. The term transmitter includes an originator, except where the transmitter's financial institution is a financial institution other than a bank.

(mm) *Transmitter's financial institution.* The receiving financial institution to which the transmittal order of the transmitter is issued if the transmitter is not a financial institution, or the transmitter if the transmitter is a financial institution. The term transmitter's financial institution includes an originator's bank, except where the originator is a transmitter's financial institution other than a bank.

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3. Paragraph (b)(2) of § 103.25 is revised to read as follows:

§ 103.25 Reports of transactions with foreign financial agencies.

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(b) * * *

(2) Transmittal orders received by a respondent financial institution from a foreign financial agency or sent by respondent financial institution to a foreign financial agency, including all

information maintained by that institution pursuant to § 103.33.

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4. Section 103.33 is amended by adding new paragraphs (e) and (f), to read as follows:

§ 103.33 Records to be made and retained by financial institutions.

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(e) *Banks.* With respect to a funds transfer in the amount of \$3,000 or more by a bank:

(1) *Recordkeeping requirements.* (i) For each payment order that it accepts as an originator's bank, the bank shall obtain and retain either the original or a microfilm, other copy, or electronic record of the following information relating to the payment order:

- (A) The name and address of the originator;
- (B) The amount of the payment order;
- (C) The execution date of the payment order;
- (D) Any payment instructions received from the originator with the payment order;
- (E) The identity of the beneficiary's bank; and
- (F) As many of the following items as are received with the payment order:¹

- (1) The name and address of the beneficiary;
- (2) The account number of the beneficiary; and
- (3) Any other specific identifier of the beneficiary.

(ii) For each payment order that it accepts as an intermediary bank, the bank shall retain either the original or a microfilm, other copy, or electronic record of the payment order.

(iii) For each payment order that it accepts as a beneficiary's bank, the bank shall retain either the original or a microfilm, other copy, or electronic record of the payment order.

(2) *Originators other than established customers.* In the case of a payment order from an originator that is not an established customer, in addition to obtaining and retaining the information required in paragraph (e)(1)(i) of this section:

- (i) If the payment order is made in person, prior to acceptance the originator's bank shall verify the identity of the person placing the payment order. If it accepts the payment order, the originator's bank shall obtain and retain a record of the name and

¹ For funds transfers effected through the Federal Reserve's Fedwire funds transfer system, only one of the items is required to be retained, if received with the payment order, until such time as the bank that sends the order to the Federal Reserve Bank completes its conversion to the expanded Fedwire message format.

address, the type of identification reviewed, the number of the identification document (*e.g.*, driver's license), as well as a record of the person's taxpayer identification number (*e.g.*, social security or employer identification number) or, if none, 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 shall obtain and retain a record of the originator's taxpayer identification number (*e.g.*, social security or employer identification number) or, if none, alien identification number or passport number and country of issuance, if known by the person placing the order, or a notation in the record of the lack thereof.

(ii) If the payment order accepted by the originator's bank is not made in person, the originator's bank shall obtain and retain a record of name and address of the person placing the payment order, as well as the person's taxpayer identification number (*e.g.*, social security or employer identification number) or, if none, 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 shall obtain and retain a record of the originator's taxpayer identification number (*e.g.*, social security or employer identification number) or, if none, alien identification number or passport number and country of issuance, if known by the person placing the order, or a notation in the record of the lack thereof.

(3) *Beneficiaries other than established customers.* For each payment order that it accepts as a beneficiary's bank for a beneficiary that is not an established customer, in addition to obtaining and retaining the information required in paragraph (e)(1)(iii) of this section:

- (i) if the proceeds are delivered in person to the beneficiary or its representative or agent, the beneficiary's bank shall verify the identity of the person receiving the proceeds and shall obtain and retain a record of the name and address, the type of identification reviewed, and the number of the identification document (*e.g.*, driver's license), as well as a record of the person's taxpayer identification number (*e.g.*, social security or employer