

**SUPERVISORY AND REGULATORY GUIDELINES: PU16-0306****GUIDELINES FOR THE ADMINISTRATION AND ULTIMATE DISPOSITION OF DORMANT ACCOUNTS**

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I. INTRODUCTION

- 1.1 The Central Bank of The Bahamas (“the Central Bank”) is responsible for the licensing, regulation and supervision of banks and trust companies operating in and from within The Bahamas pursuant to the Central Bank of The Bahamas Act, 2020 (“the CBBA”) and the Banks and Trust Companies Regulation Act, 2020 (“BTCRA”). The Central Bank has the duty, in collaboration with financial institutions, to promote and maintain high standards of conduct and management in the provision of banking and trust services.
- 1.2 All licensees are expected to adhere to the Central Bank’s licensing and prudential requirements and ongoing supervisory programmes, including periodic on-site examinations, and required regulatory reporting. Licensees are also expected to conduct their affairs in conformity with all other Bahamian legal requirements.

II. PURPOSE

- 2.1 These Guidelines outline the Central Bank’s minimum requirements for the identification, administration and investigation of inactive deposit accounts and the ultimate disposition of dormant bank account balances and other facilities.
- 2.2 Banks may develop their own documented internal policies and procedures but these Guidelines should be regarded as the minimum standard by which the Central Bank will assess the adequacy of such internal policies and procedures.

III. APPLICABILITY

- 3.1 Unless a specific exemption is granted by the Central Bank, the information and guidance contained in these Guidelines apply to all bank licensees in The Bahamas and to all dormant accounts, as set out in section 78(1) of the BTCRA, for which banks are liable and in respect of which there has been no customer-initiated transaction for a period of seven (7) years.

IV. DEFINITIONS

4.1 For the purposes of these guidelines -

“Customer” means—

- (a) a person who holds an account or other facility;
- (b) a person who, in respect of an account or other facility, is authorised, in writing, to act as the agent of the person who holds the account or other facility;
- (c) a person who is authorised under a power of attorney to manage and control an account or other facility;
- (d) where a person who holds an account or other facility is deceased, the heirs, executors, administrators and assigns of that person; or
- (e) such other person as the Central Bank may by notice determine.

“Customer-initiated transaction” means any transaction undertaken by a bank’s customer in respect of a deposit account and or other facility. For the purposes of these Guidelines, the debiting of a fee and the crediting of interest to a deposit account in accordance with any agreement made with the customer are not deemed to be customer-initiated transactions.

“Deposit account” refers to the unpaid balance of money or its equivalent received or held by a bank from or on behalf of a person in the usual course of business and for which the bank has given or is obliged to give credit to that person’s chequing, savings, demand or time account in respect of which it is primarily liable.

“Dormant account” means a deposit account or other facility of a customer at a bank where, for a period of seven years, the customer has initiated no transaction with respect to—

- (a) the deposit account or other facility; and
- (b) any other deposit account and or any other facility of the customer held with the bank;

“Inactive account” refers to a deposit account or other facility in respect of which no customer-initiated transaction has taken place for a period of at least one (1) year and up to six (6) years.

“Other facility” means any account or arrangement –

- (a) that is provided by a bank to a customer;
- (b) by, through or with which a customer may conduct transactions; and

- (c) includes instruments such as bank drafts, manager's cheques, money orders and travellers cheques.

“precious gemstones” does not include jewellery;

“securities” means all securities listed in Part I of the First Schedule to the Securities Industry Act 2011;

“Statutory period” means the seven (7) year period during which no customer-initiated transaction has taken place in respect of a deposit account or other facility.

“Transaction” means an action initiated by a customer, in person or by electronic or other non-physical means, in respect of a deposit account or other facility that such customer has with a bank and includes a—

- (a) deposit, withdrawal, exchange or transfer of funds in any currency denomination and whether in cash, by cheque, payment order, or other instrument; or
- (b) communication, acknowledgement, request or instruction of the customer, as evidenced in writing and signed by the customer; and
- (c) contemporaneous record of the customer's verbal instruction prepared by the bank.

V. INACTIVE ACCOUNTS

A. Administration of Inactive Accounts

- 5.1 Banks' policies and procedures should require that customers be informed, at the time of opening a deposit account or other facility and at intervals thereafter as necessary, of the implications of inactivity or dormancy of deposit accounts or other facilities.
- 5.2 Where a customer has not undertaken a transaction on his or her deposit account or other facility for at least one (1) year, or such longer period as is practical having regard to the nature of the deposit account or other facility and the customer's mandate, banks are expected to take reasonable steps to contact the customer to advise that the deposit account or other facility is about to be or has already been classified as inactive and to require that the customer either conduct a transaction to reactivate the deposit account or other facility or close the deposit account or other facility and collect the funds or other assets held to the customer's credit.
- 5.3 If the customer fails to reactivate or close the deposit account or other facility, the deposit account or other facility should be flagged on the client database systems as “inactive”.
- 5.4 Ideally, a bank's systems should have the capability of segregating inactive deposit accounts and other facilities for reporting purposes. Systems should also have the capability of producing activity exception reporting of items processed through inactive deposit accounts and other facilities for management's review. Specific internal controls and authorizations

should be applied to any transactions that pass through inactive deposit accounts and other facilities subsequent to their being classified as inactive, including any debit or credit affecting the deposit accounts' or other facilities' inactive classification. Apparent activity on an inactive deposit account or other facility should not normally by itself precipitate a change in the account's inactive status. The bank should take necessary steps to determine the validity of any transaction before the deposit account or other facility is reclassified as "active".

- 5.5 In all instances, the bank must continue to accrue and pay interest on and manage inactive deposit accounts and other facilities in accordance with the terms of any agreement made with the customer.

B. Investigation of Inactive Accounts

- 5.6 In accordance with the know-your-customer requirements established by the Financial Transactions Reporting Act, 2018 ("the FTRA"), and to facilitate investigation of deposit accounts and other facilities that may become inactive, at the account opening stage banks should ensure that they obtain sufficient information to be able to locate persons to whom deposit accounts and other facilities are provided. Banks also have an obligation to ensure that they maintain their customers' current contact information throughout the business relationship.

- 5.7 Before a deposit account or other facility is initially deemed to be inactive, a thorough investigation should be conducted, with a view to –

- (i) contacting the customer;
- (ii) re-activating the account; and
- (iii) making a final and correct disposition of the funds or other assets to the customer, if required.

- 5.8 The bank's attempts to contact the customer should be properly documented and should be proportionate to the value of the customer's assets held by the bank. Proportionality is a determination for the bank to make. If the customer cannot be contacted, the bank is expected to continue to hold the funds governed by the controls discussed in these Guidelines and any agreement with the customer.

- 5.9 It is important for banks to ensure that customer confidentiality is upheld in accordance with section 77 of the BTCRA when they try to re-establish contact with their customers.

C. Monitoring of Inactive Accounts

- 5.10 Any debit or credit activity on an inactive account or other facility should be closely monitored and escalated to supervisory or management personnel for authorization prior to processing a transaction or prior to reclassifying the deposit account or other facility as active. As a subsequent review, activity and change-in-status system exception reports should be generated

to allow senior management to monitor activity, including accounts and facilities entering and exiting inactive status.

5.11 All deposit accounts and other facilities classified as inactive should be properly aged so that the bank and other interested parties would be able to determine the length of time that there has been no customer-initiated transaction. As part of its on-going monitoring of inactive accounts and facilities, and having regard to the nature of the deposit account or other facility in question and the customer's mandate, a bank should generally seek to contact its customer with respect to the deposit account or other facility pursuant to the following schedule:

- After the account or other facility has remained inactive for one (1) year;
- After the account or other facility has remained inactive for three (3) years; and
- After the account or other facility has remained inactive for six (6) years.

D. Bank Administration Fees

5.12 As mandated by section 78(10)(c) of the BTCRA, banks may only deduct fees related to the administration of inactive deposit accounts and other facilities if there is an enforceable written contract between the bank and the customer under which the bank may impose the fees and the bank regularly imposes the charge and the charge is not regularly reversed or otherwise cancelled.

VI. DORMANT ACCOUNTS

A. Requirements after Seven (7) Years

6.1 Banks that have a liability in respect of a deposit account or other facility on which no customer-initiated transaction has taken place during the statutory period are required to—

- (i) pay to the Central Bank an amount equal to and in the same currency as the amount owing by the bank in respect of the dormant account, including cash from a dormant safety deposit box;
- (ii) liquidate a dormant account, including a dormant safety deposit box containing precious metals, precious gemstones or securities, and after deducting the reasonable costs incurred in connection with the liquidation of the account, pay the balance of the proceeds of sale of such account to the Central Bank; or
- (iii) where it is not possible to liquidate the precious metals, precious gemstones or securities held on the dormant account, transfer the property to the Central Bank or an agent appointed by the Central Bank or, at the discretion of the Central Bank, retain the property as an agent for the Central Bank.

6.2 The statutory period commences, in the case of a deposit made for a fixed period, from the

date on which the initial contractual period terminates or the date of the customers last instructions, whichever is the later. In the case of deposit accounts not made for a fixed period, the statutory period commences from the date on which the customer last conducted a transaction with respect to the deposit account.

- 6.3 The statutory period commences, in the case of facilities other than deposit accounts, from the date on which the facility was issued, established or the obligation to make a payment in respect of the facility accrued, whichever is the later (see section 78(3) of the BTCRA).
- 6.4 Payment to the Central Bank of an amount equal to the balance held on a dormant account, or the balance of the proceeds of sale of a liquidated dormant account, or transfer of property discharges the bank from further liability in respect of the payment or the transfer (section 78(13) of the BTCRA).
- 6.5 Banks are required to execute the liquidation of securities –
- (i) listed on an established stock exchange, as soon as practicable after the account in which the proceeds from related securities are held becomes dormant; and
 - (ii) not listed on an established stock exchange within two months after the account in which the securities are held becomes dormant or within such longer period as the Central Bank may, in its sole discretion, approve (sections 78(5)(a) and (b) of the BTCRA).
- 6.6 Banks are required, within two months after the end of the calendar year in which the statutory period expires, to transfer any funds as outlined in paragraph 6.1 above. Dormant account funds are to be transferred in the same currency in which they were held and the remitted amount should include any interest payable up to the date of transfer to the Central Bank.

B. Record Keeping

- 6.7 Banks transferring dormant account balances to the Central Bank are required, pursuant to section 78(8) of the BTCRA, to retain, all registers, signature cards, signing authorities and other records relating to the dormant accounts, or microfilm or electronically stored copies thereof. This requirement is intended to enable banks to verify the entitlement of any person who may subsequently seek to recover an amount transferred to the Central Bank. For these purposes, the Central Bank would require the records to be maintained for a period of –
- (i) fifteen (15) years after dormant account funds or the balance of the proceeds of sale of a liquidated dormant account containing precious metals or precious gemstones are transferred to the Central Bank. The fifteen (15) years period covers the ten (10) years period during which an entitled person's right to claim dormant account funds subsists, plus five (5) years after the right to claim such funds is extinguished;
 - (ii) five (5) years after dormant account funds are paid to an entitled person pursuant to

section 78(12) of the BTCRA;

- (iii) seventeen (17) years after the balance of the proceeds from the sale of the securities connected to the dormant account are transferred to the Central Bank (section 78(9) of the BTCRA); or
- (iv) seven (7) years after the balance of the proceeds of sale of a dormant account containing securities are paid to an entitled person pursuant to section 78(12) of the BTCRA (section 78(9) of the BTCRA).

The records retention period of five years after extinguishment of the right to make a claim or payment of a successful claim is consistent with the record retention requirements contained in the FTRA.

- 6.8 Dormant account records maintained by banks should include evidence to demonstrate banks' attempts to contact their customers or investigate deposit accounts and other facilities before or while they were classified as inactive. Such proof might include: (1) mail to customers that has been returned and (2) contemporaneous notes to the bank's file regarding the various attempts to make contact with the customer. The bank may wish to use alternative methods of investigation having regard to the value of the assets involved and the confidentiality requirements established by section 77 of the BTCRA.

C. Reporting Requirements

- 6.9 Banks are required to submit annual dormant accounts reports to the Central Bank via the Central Bank's Dormant Account Reporting System ('DARS'). This Guideline does not affect the right of confidentiality that currently exists between banks and their customers, and the information required to be submitted in respect of each dormant account is limited to the minimum sensitive information possible. No account holders names or addresses are submitted to the Central Bank.

6.10 The information required to be submitted to the Central Bank includes:

- (a) the account type (e.g. chequing, fixed term deposit, security or other facility);
- (b) the account number;
- (c) the currency denomination of the account;
- (d) the account balance (including accrued interest to date);
- (e) the branch code for the branch at which the account is held;
- (f) the date, if any, on which the funds became payable, demandable, or returnable, and of the last customer-initiated -transaction on the account; and
- (g) If the reporting bank is a successor to another bank who previously held the dormant account or the bank has changed its name or address, the bank shall provide particulars of such changes in its report. Where a bank is leaving the jurisdiction but before it ceases

to carry on any business, arrangements should be made for its' inactive accounts to be transferred to another entity and the bank should notify the Central Bank of such arrangements including the name and contact details of the other entity

VII. PAYMENT OF INTEREST ON DORMANT ACCOUNTS

7.1 The Central Bank is empowered by sections 78(12)(b)(i) of the BTCRA and 27(1) of the CBBA to pay interest on dormant account balances transferred to it in accordance with section 78(4) of the BTCRA. Section 78(12)(b)(i) provides for interest to be paid where interest was payable by the bank in respect of the amount transferred to the Central Bank. It should be noted that section 27(3) of the CBBA provides for no interest to accrue on dormant account balances of less than five hundred dollars (\$500) as these balances are required to be transferred by the Central Bank to the Treasurer of The Commonwealth of The Bahamas (“the Treasurer”) within two (2) months of the Bank’s receipt of them. On the other hand, dormant account balances of five hundred dollars (\$500) or more, which will be held by the Central Bank for ten (10) years before they are transferred to the Treasurer, will accrue interest. Section 78(12)(b)(i) of the BTCRA also provides for the Central Bank, by notice in writing, to determine the rate and manner of computation of the interest payable by the Bank.

VIII. TRANSFER OF DORMANT ACCOUNT BALANCES TO THE TREASURER OF THE BAHAMAS

8.1 As mentioned above, section 27(3) of the CBBA provides for the Central Bank to transfer to the Treasurer—

- (a) dormant account balances of less than five hundred dollars, within two months after the receipt of such funds by the Central Bank; and
- (b) dormant account balances of five hundred dollars or more (plus interest accrued on such balances, if applicable) that the Central Bank has held for ten years, within two months after the end of the calendar year in which the ten year period expires.

8.2 Dormant account balances paid to the Treasurer pursuant to section 27(3) of the CBBA –

- (a) form part of the Consolidated Fund;
- (b) vest in the Treasurer for the benefit of The Bahamas;
- (c) are disposed of with the approval of both Houses of Parliament, signified by resolution, with the exception that a resolution is not required to repay dormant account funds to an entitled person who brings a successful claim pursuant to section 27(7) the CBBA; and
- (d) cease to accrue interest (see section 27(6) of the CBBA).

8.3 The Central Bank is discharged from all liability with respect to dormant account balances that

it receives from banks when it either pays the equivalent of those balances to a bank that has represented that it is satisfied that the person is entitled to claim them pursuant to section 78(12) of the BTCRA as described below (see section 78(14) of the BTCRA), or makes a payment to the Treasurer pursuant to section 27(3) of the CBBA (see section 27(5)(a) of the CBBA).

IX. CLAIMING DORMANT ACCOUNT BALANCES

A. Extinguishment of the Right to Reclaim Dormant Account Balances

9.1 The right of entitled persons to reclaim dormant account balances transferred to the Central Bank is extinguished ten years from the date of the Central Bank's receipt of such funds. Therefore, all claims to recover dormant account balances must be brought prior to the expiry of the ten (10) year period (see section 27(7) of the CBBA). For the purposes of calculating the ten (10) year period, the clock starts to run immediately after the dormant account balances are received by the Central Bank and, in the case of balances of \$500 or less, continues to run after the funds have been transferred to the Treasurer.

Dormant account balances of more than \$500 can only be reclaimed before they are transferred to the Treasurer by the Central Bank, as such transfer only occurs upon the expiry of the ten (10) year period.

B. Process for Reclaiming Dormant Account Balances

9.2 Persons claiming entitlement to dormant account balances in respect of which payments were made to the Central Bank must make application to the bank at which the dormant account was originally held (or its successor) and satisfy it of their entitlement to make such claim.

9.3 Establishing proof of entitlement may present little difficulty for a claimant who is the dormant account owner since the bank is required to retain all registers, signature cards, signing authorities and other records relating to the dormant account (see section VI B above). However, difficulties may arise in cases where the claimant is a person other than the dormant account owner (for example, an heir, successor, beneficiary or legal representative of the account owner). In such cases the bank should take particular care to ensure that the claimant is the entitled person and should require the claimant to provide appropriate documentation in support of the claim.

9.4 Once satisfied of the claimant's entitlement to bring the claim, the bank shall facilitate the claimant in obtaining the funds from the Central Bank. Where the dormant account balances in respect of which a claim is brought have been paid to the Treasurer by the Central Bank, the Central Bank shall facilitate obtaining the funds from the Treasurer by making an application to the Minister of Finance ("the Minister") on behalf of the claimant for repayment of the funds by the Treasurer (see subsections (7) and (8) of section 27 of the CBBA).

9.5 All claims to the Central Bank must be made in writing by the bank that transferred the funds to the Central Bank (or the bank's successor). The Central Bank would then confirm whether its records reflect that the payment was received from the bank and the amount of such

payment. Once verified, if the funds are still in the Central Bank's possession, the Central Bank would pay the dormant account balance (plus interest accrued on such balance, if any) to the bank for onward payment to the claimant. Where the funds have been transferred to the Treasurer, the Central Bank would make application to the Minister as outlined in the preceding paragraph and, upon receipt of the funds from the Treasurer, pay them to the bank for onward payment to the claimant.

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