Introduction

The challenges and complexities of complying with anti-money laundering (AML) regulations are nothing new, although the expectations of global regulators have understandably increased since the Financial Crisis. Consequently, the European Union (EU) has published new AML and anti terrorist financing legislation – extending the scope and requirements for funds transfers. Here the focus is on aligning with the February 2012 recommendations issued by the Financial Action Task Force (FATF). Yet FATF is a global task force – meaning that, in the coming years, more countries are likely to transpose the recommendations into local regulations.

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EU Funds Transfer Regulation

Published on June 5, 2015, the new “Regulation 2015/847 on information accompanying transfers of funds” – referred to as the EU Funds Transfer Regulation – repeals “Regulation 1781/2006 on information on the payer accompanying transfers of funds”. Although EU regulations do not need to be implemented into national legislation, as they have direct application on member states, the new legislation will only become effective on June 26, 2017. The effective date of the Funds Transfer Regulation has been aligned with the implementation deadline for the related EU Fourth Anti Money Laundering directive (Directive 2015/849 also published June 5, 2015) in order to ensure the smooth introduction of the anti-money laundering and terrorist financing framework within the EU.

Compared to the existing legislation, the scope of the new EU Funds Transfer Regulation has been materially extended.

- Complete information about the beneficiary (payee) must be accompanied with the transaction
- Intermediary banks need to detect missing or incomplete information and take appropriate follow-up actions in a risk-sensitive manner
- Cover Payments (MT202COV) are in scope of the regulation (subject to confirmation by supervisory guidance)

FATF Background

The Financial Action Task Force (FATF) is an intergovernmental organisation founded in 1989 with the purpose of developing international recommendations to combat money laundering and terrorism financing. Over 180 jurisdictions have joined FATF or a similar regional body.

- FATF issued 40 recommendations on combating Money Laundering & Terrorist Financing of which Special Recommendation VII focuses on wire transfers
- Special Recommendation VII has been transferred into national laws in many countries (e.g. EU Regulation 1781/2006)
- In 2012 FATF revised its 40 recommendations. With regard to wire transfers, the former FATF SR VII was replaced with FATF recommendation 16, which extended both the scope and responsibilities of the recommendations

The full FATF recommendations are available on the FATF website (http://www.fatf-gafi.org)

Global context

Due to the global nature of FAFT guidance, it is expected that many more countries will align their local regulations to be compliant with the latest FATF recommendations. Singapore has recently issued MAS Notice 626 to implement the updated FATF recommendation 16 and other jurisdictions are expected to take similar action imminently.
### Details of EU Funds Transfer Regulation

#### Scope of EU Funds Transfer Regulation

Regardless of the currency, the regulation applies to all transfers of funds sent or received by a bank within the European Union, including intermediary banks. Exceptions apply to bank-to-bank transfers (regular MT202) as well as certain retail transactions such as payment cards used simply to pay for goods and services. Further exceptions apply to transfers of less than €1,000 unless these are linked to other transfers or there is a suspicion of money laundering or terrorist financing.

#### Overview of Obligations

For all transfers in scope, the bank of the payer, the bank of the payee and any intermediary bank must ensure that proper details of the payer and payee are included in the transaction details. Furthermore, intermediary and beneficiary banks must implement effective procedures enabling them to detect missing or incomplete information and also establishing risk-based procedures for follow-up action.

<table>
<thead>
<tr>
<th>Payer Bank</th>
<th>Intermediary Bank</th>
<th>Payee Bank</th>
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| - Full originator information:  
  - Name  
  - Account number  
  - Address or date and place of birth  
  - Full beneficiary information:  
  - Name  
  - Account number  
  - Not allowed to execute payment if it does not comply with the requirements | - All received information must be kept with the transfer  
- Detect transactions with missing or incomplete information  
- Establish risk-based policies and procedures to determine:  
  - when to execute, reject or suspend transactions with missing or incomplete information  
  - appropriate follow-up-action | - Detect transactions with or incomplete information  
- Verify identity of beneficiary  
- Establish risk-based policies and procedures to determine:  
  - when to execute, reject or suspend transactions with missing or incomplete information  
  - appropriate follow-up-action |

Simplified information requirements apply for intra-EU transfers (i.e. where all banks in the transaction are located within the EU). In such cases it is sufficient to provide the account number of the payer and the payee as unique identifiers. If requested, the payer bank must provide full payer and payee details within three business days.

#### Required follow-up actions for non-compliant transactions

Following a risk-based approach, which is further outlined in the related Fourth Anti Money Laundering Directive, the Payee and Intermediary Banks need to determine on a risk-sensitive basis whether to reject, suspend or execute funds transfers that have been identified as being incomplete in terms of the regulation. If the payment is not rejected, the bank must request the missing information from the Payer Bank either prior or after executing the payment.

If a Payer Bank repeatedly fails to comply with the regulation – perhaps by not providing the required data within the transaction – the Payee and Intermediary Banks need to take appropriate steps. These include warnings, deadlines, rejection of future business or termination of the business relationship. Any such failure, as well as the action taken, shall be reported to the local regulator.
**Expected impact of EU Funds Transfer Regulation**

<table>
<thead>
<tr>
<th>Banks located within the EU</th>
<th>Banks located outside the EU</th>
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<tr>
<td>- Full compliance with Regulation 2015/847 and Directive 2015/849 required by June 26, 2017</td>
<td>- Funds transfers paid into or through the European Union require full payer and payee details</td>
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<td>- IT infrastructure and operational procedures need to be adjusted</td>
<td>- Transactions with missing or incomplete details may be rejected or delayed</td>
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<td>- Biggest impact expected for intermediary banks in correspondent banking business</td>
<td>- Banks need to be prepared to handle additional investigation volumes when the regulation comes to force in June 2017</td>
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**Supporting SWIFT MT changes**

In order to support the extended requirements for payee information, SWIFT is adding the F format to field 59 (Beneficiary Customer), which provides a structured format to capture name and address of the beneficiary in an MT message. The same structured F format option has already been implemented for field 50 (Ordering Customer) some time ago. Although the change to field 59 is optional, banks should be prepared to at least accept the new format for incoming messages when the SWIFT 2015 Standards Release goes live in November 2015.

Deutsche Bank believes that a common interpretation and implementation of the regulation is important to limit the potential impact on payment processing. Engaging within the industry to understand and analyse the impact of the regulation is one of our key priorities – especially to agree “best practice” with respect to implementation. We will continue to keep you informed regarding further developments, as and when they occur.