



Guidance: wire transfer requirements for designated non-financial businesses or professions

Background

1. This guidance explains the application of domestic wire transfer, international funds transfer (**IFT**) and prescribed transaction reporting requirements under the Anti-Money Laundering and Countering Financing of Terrorism (**AML/CFT**) Act 2009 (the **Act**).
2. This guidance is for all designated non-financial businesses or professions (**DNFBPs**)¹ that hold trust accounts. It provides update on obligations that were amended by three new AML/CFT regulations that commenced on 31 July 2023.
3. These regulations accord with recommendations from the Ministry of Justice's [AML/CFT Statutory Review](#), which was completed in 2022. This review determined that amendments were required to the application of the wire transfer provisions and IFT prescribed transaction reporting requirements for DNFBPs.

Definitions

4. For clarity a trust account is defined as “an account or other arrangement for the purpose of holding funds that belong to more than 1 client of a reporting entity”.² In most circumstances, this means a trust account that is held by the reporting entity with a bank.³
5. Also, a wire transfer in the Act:
 - (a) means a transaction carried out on behalf of a person (the originator) through a reporting entity by electronic means with a view to making an amount of money available to a beneficiary (who may also be the originator) at another reporting entity; and
 - (b) includes a transfer or transaction, or class of transfers or transactions, declared by regulations to be a wire transfer for the purposes of this Act; but
 - (c) excludes-
 - (i) transfers and settlements between financial institutions or other reporting entities if both the originator and the beneficiary are financial institutions or other reporting entities acting on their own behalf; and
 - (ii) credit and debit card transactions if the credit or debit card number accompanies the transaction; and
 - (iii) any other transfer or transaction or class of transfers or transactions declared by regulations not to be a wire transfer for the purposes of this Act.

¹ DNFBPs include law firms, conveyancing practitioners, incorporated conveyancing firms, accounting practices, real estate agents or trust and company service providers (as those terms are defined in s5(1) of the Act).

² As defined in Regulation 4 AML/CFT (Definitions) Regulations 2011

³ An account held by a DNFBP to hold virtual assets, such as cryptocurrency, that is a ‘trust account’ would also give rise to wire transfer requirements.



6. An international wire transfer occurs when any institution involved in the wire transfer (ordering, intermediary or beneficiary) is outside of New Zealand.⁴

Wire transfer requirements no longer apply to DNFBPs

7. Effective 31 July 2023, new [Regulation 15A](#) of the AML/CFT (Definitions) Regulations 2011 exempts all DNFBPs that make or receive wire transfers from or into their trust accounts from being an ordering, an intermediary or a beneficiary institution of a wire transfer. This applies to both domestic and international wire transfers.
8. This means that the enhanced customer due diligence (**CDD**) requirements for wire transfers set out in section 22(3) and sections 27-28 of the Act do not apply to DNFBPs.

Prescribed transaction reporting for international wire transfers does apply

9. Notwithstanding the exemption, a requirement that a DNFBP submits a prescribed transaction report (**PTR**) in relation to an international wire transfer of \$1,000 or more remains in place.
10. This is because new [Regulation 8](#) of the AML/CFT (Prescribed Transactions Reporting) Amendment Regulations 2016 (**PTR Regulations**) requires a DNFBP to submit a PTR if it makes or receives an international wire transfer⁵ of \$1,000 or more from or into its trust account.
11. The PTR must be submitted to the New Zealand Police Financial Intelligence Unit (**FIU**) using the goAML reporting tool. The PTR must be submitted as soon as practicable, but no later than ten working days after the transaction.⁶
12. All DNFBPs should ensure they are registered for [goAML](#) to be able to report PTRs (as well as suspicious activity reports).

Importance of receiving PTRs from DNFBPs

13. Note that PTRs from DNFBPs are an important part of the financial intelligence picture.
14. While there may also be an IFT-PTR submitted by a bank in relation to the same transfer of funds, the two PTRs will never be identical. Consequently, this is not considered duplicate but complementary reporting.
15. The DNFBP and the bank will provide a different “snapshot” of the transaction. In particular, the PTRs from DNFBPs provide important visibility of the underlying client in New Zealand that is sending or receiving funds internationally (that the banks’ PTRs will not have).

⁴ Refer definitions of these terms in s5(1) of the Act.

⁵ An international wire transfer of a value equal to or above the applicable threshold value is included in the definition of prescribed transaction in s5(1) of the Act.

⁶ Pursuant to s48A of the Act.



Required content in a prescribed transaction report

16. When submitting an IFT-PTR, you are required to report all the information prescribed by the PTR Regulations that you hold that relates to the international wire transfer.

Outbound international wire transfers

17. For all outbound wire transfers, you should ordinarily hold all the information that is required by the PTR Regulations. This includes:

- **Specified details regarding the transaction** – This is the details of the transaction that you are making from your trust account.
- **Specified information regarding the customer** – In most circumstances, your “customer” is your client that you have established a business relationship (as defined under the Act) with, for whom you hold funds in your trust account and on whom you have already conducted CDD.⁷ (Note: there is an exception to this – refer to the Occasional Transaction section below).
- **Specified information regarding the beneficiary of the wire transfer** - This is the recipient of the wire transfer overseas that your customer has instructed the payment to be made to.

Inbound international wire transfers

18. For inbound transfers you receive into your trust account, you will also hold most, but not necessarily all, of the information ordinarily required by the PTR Regulations as follows:

- **Specified details regarding the transaction** – This is the details of the transaction (i.e., the funds) that you receive.
- **Specified information regarding the customer** – Your “customer” is your client, the client that you have established a business relationship with and on whom you have already conducted CDD under the Act.⁸ When reporting the inbound IFT in goAML, the “from” side of the transaction should always be “*Not my client*” and the “to” side (NZ side of the transaction) will be “*Account My Client*”. The “*Account Number*” refers to the information you use to identify this client from others whom you hold funds for. For example, a client code, matter number, sale number or reference number. It can be alpha numeric, e.g., Smith01.
- **Specified information regarding the originator of the wire transfer** – This is the payer overseas that has transferred the funds into your trust account.

19. In some circumstances, you will receive all information required by the PTR Regulations in correspondence from your bank relating to the originator of the funds. If so, this will enable you to submit all the information required in your PTR.

⁷ Pursuant to s11 of the Act (in accordance with s14, s18 or s22).

⁸ Pursuant to s11 of the Act (in accordance with s14, s18 or s22). If you receive funds into your trust account and are not able to identify which of your clients this is for, you will need to take steps to do so and ensure that all applicable CDD requirements in relation to this person are met.



Identifying incoming international payments

20. To ensure you identify all inbound international wire transfers requiring an IFT-PTR, you should have policies, procedures and controls in place to determine which payments into your trust account have originated from overseas.

Unique identifier

21. Another requirement of the PTR Regulations is to submit “any unique identifier” you receive in relation to the transfer. This means any transaction reference provided by your bank that is specific to that transfer.

22. This assists the FIU in matching your PTR with the PTR submitted by your bank.

Occasional transactions by non-clients

23. As noted in para [17] above, in most circumstances the customer that must be reported in your PTR is the client that you have established a business relationship with and have already conducted CDD on under the Act. However, there is an exception to this:

24. [Regulation 13B](#) of the AML/CFT (Definitions) Regulations 2011 prescribes that a wire transfer of \$1,000 or more made by a DNFBP from its trust account that occurs outside of a business relationship with the person instructing the transfer is an “occasional transaction” under the Act.⁹

25. As a result, the person that instructs the transfer (or any person they act on behalf of) becomes a customer under the Act. You must therefore conduct CDD on this person.¹⁰ In turn and if the transfer is an international wire transfer, this person must also be reported as the client in the PTR.

26. Typically, this situation may arise in circumstances where you are holding funds in your trust account for a person that is a counterparty (i.e., a **non-client**) to the person you act for (being your “customer” under the Act). Most likely, this will relate to funds ultimately intended for your client, but in the interim are in escrow until an activity or transaction involving the two parties concludes.¹¹

27. If conditions associated with a contractual agreement are not met, the non-client (or a person acting on their behalf) may instruct you to refund or transfer the funds from your trust account. If this occurs, you must therefore conduct CDD on the non-client (as a customer) under the Act.

28. Note that any instructions from the non-client in these circumstances to pay a third-party (rather than refund) should be considered very high ML/TF risk, likely requiring enhanced CDD under s22(1)(d) of the Act.

⁹ This also applies if a transaction is carried out in a single operation or several operations that appear linked.

¹⁰ Refer the definition of customer in s5(1) of the Act and s14(1)(b) of the Act.

¹¹ In some circumstances, a DNFBP may hold funds for multiple non-clients at the same time for extended periods of time. For example, a law firm acting for a property developer of an apartment complex may receive and hold deposits from multiple purchasers while the building is being constructed.



AML/CFT programme

29. All DNFBPs with trust accounts should ensure their AML/CFT programmes are updated to reflect these new wire transfer and prescribed transaction reporting requirements.
30. Also note that the enhanced CDD DNFBP exclusion from the wire transfer provisions does not change any other CDD requirements under the Act. In particular, you are still required to carry out all other applicable CDD requirements relating to your customer (if they are a party to a wire transfer). This includes:
- Ongoing CDD and account monitoring, including in relation to transfers made or received into your trust account (s31).
 - Enhanced CDD if a customer seeks to conduct a complex, unusually large transaction or unusual pattern of transactions that have no apparent or visible economic or lawful purpose (s22(1)(c), ss23-24).
 - Enhanced CDD when the level of risk involved is otherwise such that enhanced due diligence should apply to a particular situation (s22(1)(d), ss23-24).
 - Suspicious activity reporting (including relating to a party to a wire transfer that is not your customer) as required by Part 2 Subpart 2 of the Act.

If you require further information on the application of the wire transfer and prescribed transaction reporting requirements to DNFBPs, please contact Te Tari Taiwhenua Department of Internal Affairs (**DIA**) AML/CFT Group on amlcft@dia.govt.nz.

If you require further information regarding the reporting process through the goAML system, please contact the FIU on goaml@police.govt.nz.

Disclaimer

Note: This guidance has been produced by the Department of Internal Affairs under s132(2)(c) of the Act for all DNFBPs that hold trust accounts. This guidance does not set out all obligations under the Act, its associated regulations and codes of practice. This guidance does not constitute legal advice.

Version history

September 2023	Initial version