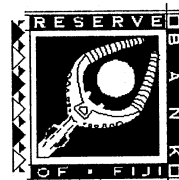




FijiFIU

Fiji Financial Intelligence Unit



Advisory Financial Transactions Reporting Act

Reference: 6/2007

Date: 9th July 2007

Re: Application of Exemption Provisions for Reporting of Cash Transactions

A. *Purpose of this Advisory*

1. The Financial Transactions Reporting Act and Regulation requires financial institutions to report to the Financial Intelligence Unit (FIU) any cash transaction of \$10,000 or above (or its equivalent in foreign currency) in the course of a single transaction. (FTR Act s13.1 and Regulation 25)
2. Certain types of cash transactions of \$10,000 or above are exempted from reporting by financial institutions. (Regulation 25.2)
3. The purpose of this Advisory is to provide further guidance to financial institutions on how to apply these exemption provisions relating to reportable cash transactions.
4. The exemption provisions in Regulation 25.2 are not mandatory. Thus a financial institution may opt to report all cash transactions of cash \$10,000 or more to the FIU regardless of the type of customers involved.

B. *What type of cash transactions are exempted from reporting?*

5. Cash transactions of \$10,000 or above (or its equivalent in foreign currency) with the following types of customers are exempted from reporting:
 - i. established retail customers as specified in writing by the FIU;
 - ii. Fiji government authorities;
 - iii. financial institutions;
 - iv. other class or type of customers as specified in writing by the FIU.
6. An *established retail customer* refers to a customer who:
 - i. primarily engages in the business of providing *goods and services* to ultimate customers and whose cash receipts are substantially large;
 - ii. has maintained an account for its business purposes with the financial institution for at least 12 months;
 - iii. frequently conducts cash transactions of \$10,000 or more. A customer's transactions would be considered frequent if it is done daily or several times a week or on a weekly basis.
7. *Fiji government authorities* refer to a customer who is a government department or ministry, local government authority such as town and city council or a statutory authority such as Fiji Electricity Authority and the Land Transport Authority.

8. *Financial institutions* refer to a customer which is a covered financial institution as listed in the Schedule of the FTR Act. A cash transaction of \$10,000 or above with another financial institution is eligible for exemption.
9. *Other class or type of customers* to be exempted will be communicated to the industry from time-to-time by the FIU based on global standards on anti money laundering and submissions from the industry. Sector based submissions may be made by the industry on additional types of customers to be exempted from reporting under Regulation 25.2.
10. Routine pay-roll transactions are also exempted from reporting by financial institutions. (Regulation 25.2d)
11. Routine pay-roll transactions refer to regular cash withdrawal transactions from an account of an established customer of a financial institution to pay for the salaries and wages of its employees. The customer must have maintained the account with the financial institution for at least 12 months.
12. The purpose of these exemptions is to exclude from the reporting framework those significant and repetitive cash transactions by legitimate cash intensive businesses.

C. Are there any types of retail businesses that are not exempted from the cash reporting requirements?

13. Yes, all cash transactions of \$10,000 or above in accounts of retail business customers engaged in the sale of the following commodities are not exempted from reporting:
 - motor vehicles. These include automobiles, motorcycles and trucks.
 - vessels. These include ships, boats, yachts and seaplanes.
 - farm machinery such as tractors and irrigation pumps.
 - aircraft.
 - jewelries.
 - other high value commodities such as real estate and construction equipment such as graders and cranes.

D. Does the exemption provision apply to all types of financial institutions?

14. The exemption provision can only be applied by a financial institution carrying on a business or activity of:
 - banking (commercial banks; deposit taking credit institutions)
 - insurance (insurance companies and brokers)
 - foreign exchange (dealers in foreign currency)
15. Other types of financial institutions which are not included in this list cannot apply the exemption provisions to their customers. They are required to report all cash transactions of \$10,000 or above.

E. How should the exemption provision be applied to those retail business customers who offer both exemptible and non-exemptible goods and services?

16. Some retail businesses may offer both exemptible and non-exemptible goods and services. For example:
- a motor vehicle dealer which also has a motor vehicle servicing section;
 - a general hardware shop which also sells heavy duty farm machinery.
17. If the funds and transactions for these activities are combined into the same account, financial institutions should not exempt the cash transactions of these retail customers. Thus all cash transactions of \$10,000 or above for these types of retail customers must be reported to the FIU.
18. If there is a distinct separation in the transactions and accounts of the two types of business activities, the financial institution should only exempt the cash transactions relating to the exemptible business activity.

F. Some retail customers may have more than one transaction account. How should a financial institution view these multiple accounts when determining whether that customer is eligible for exemption?

19. A financial institution may treat all the business accounts of a retail customer as a single account when determining whether it is eligible for exemption only if all the accounts relate to exemptible business activities. Thus the financial institution must consider the history of all the accounts to determine whether the customer frequently conducts cash transactions of \$10,000 or more. If that customer is granted exemption from reporting, the exemption would apply to all the customer's accounts and not just one account.
20. However, if multiple accounts are maintained for a customer and some of these accounts are for business activities which are not eligible for exemption (business activities listed in paragraph 13), a financial institution must treat these transaction accounts as separate accounts and assess eligibility for exemption based on each account's merits.

G. How does an exemption for reporting cash transactions impact on a financial institution's obligations to report any suspicious transaction?

21. An exemption on the reporting of a customer's cash transactions does not mean that any suspicious transactions involving that same customer is also exempted from reporting.
22. A financial institution still has the obligation to report any suspicious transaction involving an exempted customer account.
23. Financial institutions must regularly monitor all exempted customer accounts for any suspicious transaction in the exempted account or accounts which need to be reported to the FIU.

H. How does a financial institution exempt a particular customer's account from being reported on under Regulation 25.2?

24. A financial institution is responsible for determining whether a customer qualifies for exemption under FTR Regulation 25.2.
25. Once a ***retail customer*** has been identified as eligible for exemption, a financial institution must fill the attached form (Form 6) and submit this to the FIU for its endorsement. The retail customer can only be designated as an exemptible customer once the FIU endorses in writing the financial institution's recommendations in the form.

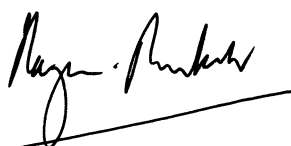
26. For established retail customers, a financial institution will need to consider:
- whether its business activity or activities involve exemptible commodities; and
 - whether it frequently or regularly conducts cash transactions of \$10,000 and above. Thus a key step would be to review the 12 months transaction history of the customer's account to determine the frequency of transactions.
27. For *other types of customers* who have been identified as eligible for exemption (Fiji government authorities and financial institutions), the financial institution must maintain records of:
- the basis for its conclusion that a customer is exempted; and
 - the date on which the exemption was provided by the financial institution.
28. A financial institution must maintain a central record of all its customers whose cash transactions are exempted from reporting.

I. *Monitoring Exempted Entities or Accounts*

29. An exempted customer may over time experience changes in the nature of its business activities which may make it ineligible for exemption. Thus a financial institution must also review exempted customer accounts on a periodic basis to ensure that they continue to be eligible for exemption.
30. The frequency with which a financial institution reviews an exempted customer account for this purpose is at its discretion. The FIU recommends that this review is done at least every two years.
31. A financial institution should also complete Form 6 after reviewing each exempted retail customer and provide this Form to the FIU for endorsement to continue exempting the customer.
32. If a financial institution determines during its regular review (or finds out through other means) that an exempted customer is no longer eligible for exemption, measures should be put in place to report all its cash transactions of \$10,000 and above to the FIU. The financial institution should inform the FIU in writing of the revocation of exemption for such a retail customer.

J. *What type of records if any, needs to be maintained for exempted transactions?*

33. A financial institution must maintain records of its exemption decisions such as:
- details of customers exempted,
 - the basis for exemption,
 - written endorsement of the FIU,
 - date of commencement of the exemption and
 - details of reviews undertaken on a particular exempted customer in line with paragraph 29.
34. These records may be reviewed during a compliance examination of the financial institution.

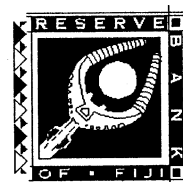


Razim Buksh
Director
Financial Intelligence Unit



FijiFIU

Fiji Financial Intelligence Unit



STRICTLY CONFIDENTIAL

Form 6 - Exemption Notification – Established Retail Customers (FIU Advisory 6/2007)

Under the Financial Transactions Reporting Regulations 25.2, cash transactions with certain established retail customers are exempted from being reported on to the Financial Intelligence Unit. The purpose of this form is to obtain the FIU's endorsement for the exemptions of retail customer's cash transactions that are eligible for exemption under FTR Regulations 25.2. Financial institutions should refer to the FIU's advisory 6/2007 for guidance on the cash transactions exemption provisions.

This form should be completed when first seeking exemption for a retail customer or when reviewing the status of an exempted retail customer and seeking further extension of the exemption to that customer.

Part 1: to be completed by the Financial Institution

1. Name of Financial Institution seeking exemption: _____

2. Name of customer to be exempted: _____

3. Nature of retail business: _____

4. Description of account(s) affected by the transactions to be exempted (type of account (s); account(s) reference number; date account opened with the financial institution.) *(The accounts to be considered must involve funds generated solely from the retail business activity).*

STRICTLY CONFIDENTIAL

5. Period of account activity or history reviewed by the financial institution for the purpose of assessing the customer's eligibility for exemption (at least 12 months of account history):

6. Reason(s) the cash transaction(s) qualify for exemption under the Financial Transaction Reporting Regulations. (This can be answered by reference to the type of business of the customer and the frequency of cash transactions within that business account):

a. Frequency of cash deposits or receipts of \$10,000 or more noted in the account(s) reviewed. *ie : what is the total number of cash deposits/receipts of \$10,000 or more:*

- per day?* _____
- per week/fortnight?* _____
- per month?* _____

b. Frequency of cash withdrawals or payments of \$10,000 or more noted in the account(s) reviewed: *ie what is the total number of cash withdrawals/payments of \$10,000 or more:*

- per day?* _____
- per week/fortnight?* _____
- per month?)* _____

STRICTLY CONFIDENTIAL

7. Based on a review of the history of the following accounts and other available information relating to these accounts, I recommend that any cash transaction of \$10,000 or above through the following accounts be exempted from reporting under the FTR Regulation 25.2a.

Account number	Account name
1.	
2.	
3.	
4.	

8. The exemption is to apply to all cash transactions in the accounts listed in *paragraph 6* which occur within the period _____.

9. We will review the exemption status of these accounts in _____.
(*State the date of review of the customer's eligibility for exemption based on the financial institution's internal policy.*)

Signature of AML Compliance Officer

Date

Name of AML Compliance officer (please print)

Part 2: to be completed by the Financial Intelligence Unit

Recommendation for exemption **endorsed/not endorsed.**

**Director
FIU**

Date

(Original Form 6 to be returned to the financial institution and a copy maintained by the FIU)