



Financial intelligence centre

REPUBLIC OF SOUTH AFRICA

PUBLIC COMPLIANCE COMMUNICATION No. 05

REGISTRATION OF ACCOUNTABLE AND REPORTING INSTITUTIONS WITH

THE FINANCIAL INTELLIGENCE CENTRE

The Financial Intelligence Centre (the Centre) provides the guidance contained in this Public Compliance Communication (PCC) in terms of its statutory function under section 4(c) of the Financial Intelligence Centre Act, No 38 of 2001 (the FIC Act).

PCC Summary

Accountable institutions and reporting institutions must, within the prescribed period and in the prescribed manner, register with the Centre in terms of section 43B of the FIC Act.

Section 43B is inserted by section 14 of the Financial Intelligence Centre Amendment Act No 11 of 2008 (Amendment Act).

Regulation 27A of the Money Laundering and Terrorist Financing Control Regulations (the Regulations) provides the period for and the manner of registration by every accountable institution referred to in Schedule 1 of the Act and every reporting institution referred to in Schedule 3 of the FIC Act.

This PCC details the institutions that need to register and sets out the process of registering with the Centre. Kindly refer to “Annexure C” attached, which sets out the guidelines for registration.

In terms of Regulation 27A of the Regulations the period for registration commences on 1 December 2010 until, and including, 1 March 2011.

The failure to register with the Centre or the failure to provide information in terms of section 43B are offences in terms of section 61A of the FIC Act and can result in imprisonment for a period not exceeding five years and or a fine not exceeding R10 million.

This PCC must be read in conjunction with PCC06 which deals with governance issues relating to accountable and reporting institutions forming part of a complex structure.

Disclaimer

The publication of a PCC concerning any particular issue, as with other forms of guidance which the Centre provides, does not relieve the user of the guidance from the responsibility to exercise their own skill and care in relation to the users' legal position. The Centre accepts no liability for any loss suffered as a result of reliance on this publication.

Copyright notice

This PCC is copyright. The material in a PCC may be used and reproduced in an unaltered form only for personal and non-commercial use within your organisation.

Apart from any use permitted under the Copyright Act No. 98 of 1978, all other rights are reserved.

Objective

The objective of this PCC is to provide guidance to accountable and reporting institutions on how to correctly register with the Centre as required by section 43B of the FIC Act, as amended. Reference to the FIC Act in this document refers to the FIC Act as amended.

1. Registration requirements in terms of the FIC Act

- 1.1 Registration is a legal requirement in terms of section 43B of the FIC Act and becomes effective on 01 December 2010. Section 43B is inserted into the FIC Act, in terms of section 14 of the Amendment Act.
- 1.2 Section 43B of the FIC Act requires all accountable and reporting institutions, listed in Schedules 1 and 3 respectively, to register with the Centre within the prescribed period and in the prescribed manner.

2. Institutions required to register with the Centre

- 2.1 An accountable or reporting institution could be an individual or an institution which, by virtue of the business that it conducts, falls within the ambit of Schedule 1 and/or Schedule 3 of the FIC Act. These institutions are different in their client base, size, operations and in the risks to which they are exposed. The use of branches, divisions and franchises within the same legal entity are also very different in these institutions.
- 2.2 In some instances a group of companies or a legal entity may contain more than one accountable or reporting institution e.g. different entities in a financial conglomerate or divisions in a legal entity.

3. Registering under the correct name of the entity

- 3.1 An accountable or reporting institution that forms part of a group or legal entity must register individually, irrespective of whether it is a separate legal entity or a division that qualifies as an accountable or reporting institution, by virtue of the business conducted by it.

- 3.2 In some instances a specific entity could be regarded as an accountable and/or reporting institution under more than one category in Schedule 1 or Schedule 3 e.g. a Bank that falls under item 6 of Schedule 1 and is also registered as a financial advisor under item 12 of Schedule 1. In this case the bank must register itself twice in terms of item 6 and item 12 of Schedule 1.
- 3.3 It is also envisaged that in instances where a group consists of different entities that are separate legal persons, each such entity must register in its own right if it is an accountable or reporting institution.
- 3.4 In the event that an institution registers more than once as an accountable or reporting institution, under different Schedule 1 or 3 Items with the Centre, it is required that the individual institution's registered name, or division name under which it conducts its business, be used.

Example 1:

XYZ Bank Ltd, XYZ Bank Broker Division, and XYZ Bank Foreign Exchange Division.

It is important to note that, although this is considered to be the same accountable institution, it is possible for one accountable institution to conduct the business of different accountable institutions within Schedule 1 or 3. Hence registrations must be done separately. In this scenario there will be three separate registrations. A registration for XYZ Bank Ltd in terms of item 6, XYZ Bank Broker Division in terms of item 12 and XYZ Bank Foreign Exchange Division in terms of item 10.

- 3.5 If an accountable or reporting institution no longer conducts the business referred to in Schedule 1 or Schedule 3, it is still required to register with the Centre if it is registered in terms of another Act to conduct such business. The reason for this requirement is that such an accountable or reporting institution is legally entitled to conduct the business of an accountable or reporting institution. This principle is

applicable even to institutions that never conducted the business before but are registered or licensed to do so.

Example 2:

A registered estate agent or financial advisor should register with the Centre, for as long as it is authorised or licenced to conduct such business.

4. Registration of branches

4.1 Where the accountable or reporting institution is required to register its branches it is important to note that reporting to the Centre can still be centralised, but all reports should be filed using the login credentials of the relevant branch of the firm.

4.2 The risks and type of client could differ substantially between different geographical areas and registration of each branch will enhance the quality of the data received by the Centre. This will enable the Centre to have information on the different branches and on the types and number of intelligence reports submitted by each branch.

4.3 Requiring individual branches to report under their usernames will enhance the Centre's capability to analyse crime trends, and in the process lead to an improvement in the quality of intelligence products referred to law enforcement and other relevant agencies.

5. Registration of Accountable Institutions listed in Schedule 1

On 01 December 2010 Schedule 1 to the FIC Act was amended. The amended Schedule 1 is attached as "Annexure A". The following guidelines are applicable to accountable institutions as listed in Schedule 1 of the FIC Act.

5.1 Item 1: A practitioner who practices as defined in section 1 of the Attorneys Act, 1979 (Act 53 of 1979)

Each branch of an attorneys firm will be regarded as a separate accountable institution and will be required to register separately with the Centre.

Example 3:

If attorneys firm ABC has two (2) branches in Cape Town, one (1) branch in Bloemfontein and one (1) branch in Pretoria, each of these branches will have to acquire separate secure login credentials, and submit reports to the Centre using the relevant login credentials for that branch.

5.2 Item 2: A board of executors or a trust company or any other person that invests, keeps in safe custody, controls or administers trust property within the meaning of the Trust Property Control Act, 1988 (Act No 57 of 1988)

An accountable institution that falls within item 2 to Schedule 1 must register its institution against its registered name. Branches will not be regarded as separate accountable institutions and will not be required to register separately. The nature and clients of a trust company does not differ substantially between different branches of the same entity and it would not require separate registrations.

5.3 Item 3: An estate agent as defined in the Estate Agency Affairs Act, 1976 (Act No 112 of 1976)

The head office and each of its branches and each franchise holder of an estate agent will be regarded as a separate accountable institution and will be required to register separately with the Centre.

5.4 Item 4: An authorised user of an exchange as defined in the Securities Service Act, 2004 (Act 36 of 2004)

5.4.1 These authorised users could be housed in a bank, a securities broker, an issuer of bonds, a dealer in derivatives or a financial services provider. These financial instruments traders are not required to register each branch separately.

5.4.2 However, in instances where an accountable institution in terms of this item is not a legal entity in its own right, but merely a division within another legal entity that would be regarded as an accountable institution, e.g. a bank, such accountable institution must register separately from the other accountable institution(s) in the legal entity. An example of such an accountable institution includes the trading desk of a bank and a securities broker, authorized to trade on JSE Limited.

5.5 Item 5: A manager registered in terms of the Collective Investment Schemes Control Act, 2002 (Act 45 of 2002), but excludes managers who only conduct business in Part VI of the Collective Investment Schemes Control Act (Act 45 of 2002)

Managers of Collective Investment Schemes are required to register in their own right by virtue of its activity under item 5. They are not required to register different branches separately, where applicable, but where these accountable institutions form part of a financial group or an entity that is also included in another item in Schedule 1, such management company is required to register in its own right by virtue of its activity under item 5.

5.6 Item 6: A person who carries on the “business of a bank” as defined in the Banks Act, 1990 (Act No 94 of 1990)

5.6.1 The business of banks is based on the principle of branch business and a bank consists of all its branches. All the branches of a banking group should be in a position to provide advice and administrative services to its clients. It is therefore not required that each individual branch register on its own.

5.6.2 Banks that house other accountable institutions in the same legal entity must, however, ensure that all these different accountable institutions register separately.

5.7 Item 7: A mutual bank, as defined in the Mutual Banks Act, 1993 (Act No 124 of 1993)

The same principles that are applicable to item 6 above apply to mutual banks. It is not a requirement that a mutual bank register its branches separately.

5.8 Item 8: A person who carries on a 'long-term insurance business' as defined in the Long-Term Insurance Act, 1998 (Act 52 of 1998).

As is the case with banks, the nature and business of a long-term insurer is such that any branch should be able to provide advice and administrative support on all the products of that specific insurer. A branch of a long-term insurer will therefore not be regarded as a separate accountable institution and will not be requested to register separately. Long-term insurers that are also registered as Financial Services Providers will be required to also register under item 12 of Schedule 1.

5.9 Item 9: A person who carries on the business of making available a gambling activity as contemplated in section 3 of the National Gambling Act, 2004 (Act 7 of 2004) in respect of which a license is required to be issued by the National Gambling Board or a provincial licensing authority.

This item includes:

- 5.9.1 All casinos that are licensed by a provincial licensing authority are required to register with the Centre;
- 5.9.2 All bookmakers and its respective branches are required to register with the Centre;
- 5.9.2 All totalisators and its respective branches are required to register with the Centre;
- 5.9.3 All bingo operators and its respective branches are required to register with the Centre; and
- 5.9.4 Any other gambling operator in respect of which a license is required to be issued by the National Gambling Board or a provincial licensing authority, is required to be registered with the Centre.

5.10 Item 10: A person who carries on the business of dealing in foreign exchange

5.10.1 All head offices of authorised dealers with limited authority and their respective branches must register with the Centre.

5.10.2 All authorised dealers, e.g. a bank that carries on the business of dealing in foreign exchange, must register its head office in terms of item 6 and item 10 of Schedule 1.

5.11 Item 11: A person who carries on the business of lending money against the security of securities

5.11.1 In the event of an item 11 accountable institution making use of branches, it is not required that such accountable institutions register each branch separately. As in the case of insurers and banks, it must, however, be noted that where these accountable institutions form part of a group or an entity that is an accountable institution by virtue of its activities under one of the other items in Schedule 1 or a reporting institution in terms of Schedule 3, such accountable institutions must register separately under the relevant item.

5.11.2 The term “securities” mentioned in item 11 of Schedule 1 is defined in the Securities Service Act, 2004 (Act 36 of 2004) as

“(a) means —

- (i) *shares, stocks and depository receipts in public companies and other equivalent equities, other than shares in a share block company as defined in the Share Blocks Control Act, 1980 ([Act No. 59 of 1980](#));*
- (ii) *notes;*
- (iii) *derivative instruments;*
- (iv) *bonds;*
- (v) *debentures;*
- (vi) *participatory interests in a collective investment scheme as defined in the Collective Investment Schemes Control Act, 2002 (Act No. 45 of 2002), and units or any other form of participation in a foreign*

- collective investment scheme approved by the Registrar of Collective Investment Schemes in terms of section 65 of that Act;*
- (vii) units or any other form of participation in a collective investment scheme licensed or registered in a foreign country;*
 - (viii) instruments based on an index;*
 - (ix) the securities contemplated in subparagraphs (i) to (viii) that are listed on an external exchange; and*
 - (x) an instrument similar to one or more of the securities contemplated in subparagraphs (i) to (ix) declared by the registrar by notice in the Gazette to be a security for the purposes of this Act;*
 - (xi) rights in the securities referred to in subparagraphs (i) to (x);*
- (b) excludes —*
- (i) money market instruments except for the purposes of Chapter IV; and*
 - (ii) any security contemplated in paragraph (a) specified by the registrar by notice in the Gazette;”*

5.12 Item 12: A person who carries on the business of a financial services provider requiring authorisation in terms of the Financial Advisory and Intermediary Services Act, 2002 (Act 37 of 2002), to provide advice and intermediary services in respect of the investment of any financial product (but excluding a short term insurance contract or policy referred to in the Short-term Insurance Act, 1998 (Act 53 of 1998) and a health service benefit provided by a medical scheme as defined in section 1(1) of the Medical Schemes Act, 1998 (Act 131 of 1998)

5.12.1 Financial services providers that are, in terms of their license conditions under the Financial Advisory and Intermediary Services Act, No 37 of 2002,(FAIS Act), limited to the provision of advice and intermediary services on short-term insurance and medical aid membership only are excluded from the requirement to register with the Centre. However, if the financial services provider is also registered to provide advice or intermediary services on long-term insurance business or other investment business, it is compulsory for such institution to register with the Centre.

5.12.2 Item 12 of Schedule 1 includes a wide range of accountable institutions such as large asset managers and linked investment service providers as well as small individual brokerages. Registration of each separate branch is not required, however financial groups that contain two or more accountable institutions or reporting institutions, by virtue of the activities mentioned under Schedule 1 or Schedule 3 respectively, must ensure that each of those accountable institutions or reporting institutions are registered separately, also if it is within one group or legal entity.

5.12.3 Public accountants and auditors fall within the category of item 12 of Schedule 1 provided they are licensed in terms of the FAIS Act.

5.13 Item 13: A person who issues, sells or redeems travellers' cheques, money orders or similar instruments

All head offices of authorised dealers with limited authority and their respective branches must register with the Centre.

All banks and the South African Post Office that carries on the business in terms of item 13 of Schedule 1 must register its head office in terms of item 13 of Schedule 1.

5.14 Item 14: The Postbank referred to in section 51 of the Postal Services Act. 1998 (Act No 124 of 1998)

The activities of the Postbank are limited and are standard throughout all the branches in South Africa. While the Postbank must register, it is not a requirement for each branch of the Postbank to register with the Centre.

5.15 Item 15:

Item 15 of Schedule 1 is deleted from Schedule 1 to the FIC Act. The new wording of item 4 of Schedule 1 includes all accountable institutions previously included under item 15 of Schedule 1. These accountable institutions must therefore register under item 4 of Schedule 1.

5.16 Item 16: The Ithala Development Finance Corporation Limited

The Ithala Development Finance Corporation Limited is a single accountable institution and should register as such. It is not a requirement for each branch of the institution to register with the Centre.

5.17 Item 17

Item 17 of Schedule 1 is deleted from Schedule 1 to the FIC Act. The new wording of item 12 of Schedule 1 includes all accountable institutions previously included under item 12 of Schedule 1. These accountable institutions must therefore register under item 12 of Schedule 1.

5.18 Item 18

Item 18 of Schedule 1 is deleted from Schedule 1 to the FIC Act. The new wording of item 12 of Schedule 1 includes all accountable institutions previously included under item 12 of Schedule 1. These accountable institutions must therefore register under item 12 of Schedule 1.

5.19 Item 19: A person who carries on the business of a money remitter

5.19.1 All head offices of authorised dealers with limited authority and their respective branches that remit money, must register with the Centre.

5.19.2 All banks, the South African Post Office, or any other entity, that carries on the business of a money remitter must register its head office in terms of item 19 of Schedule 1.

6. Registration of reporting institutions listed in Schedule 3

6.1 Item 1: A person who carries on the business of dealing in motor vehicles¹

Each operating unit or branch of a motor vehicle dealer will be regarded as a separate reporting institution and will be required to register separately. It must however be noted that, in instances where different franchise owners are operating under the same name, those franchise owners are separate legal persons and will be regarded as separate accountable institutions which need to register with the Centre separately.

6.2 Item 2: A person who carries on the business of dealing in Kruger Rands

Each operating unit or branch of a Kruger Rand dealer will be regarded as a separate reporting institution and will be required to register separately. It must however be noted that, in instances where different franchise owners are operating under the same name, those franchise owners are separate legal persons and will be regarded as separate accountable institutions, which need to register with the Centre separately. Accountable institutions that also deal in Kruger Rands will be required to register separately as a reporting institution.

7. Method of registration

In terms of section 43B (1) of the FIC Act, registration must take place within the prescribed period and in the prescribed manner. The method of registration is:

7.1 Web based registration

7.1.1 All registrations must be completed and submitted to the Centre electronically using the user friendly interface on the Centre's website at www.fic.gov.za.

¹ “**motor vehicle**” means any vehicle designed or adapted for propulsion or haulage on a road by means of fuel, gas or electricity, including a trailer, a caravan, an agricultural or any other implement designed or adapted to be drawn by such motor vehicle as defined in the Road Accident Fund Act.

7.1.2 Electronic submissions are required in terms of Regulation 27A (4).

“27A(4) The registration of an accountable institution and a reporting institution contemplated in subregulation (1), (2) and (3) must be in accordance with the format specified by the Centre and must be submitted to the Centre electronically by means of the internet-based reporting portal provided by the centre for this purpose at the following internet address: <http://www.fic.gov.za>.”

7.1.3 This process involves the submission of the required information of an accountable institution and reporting institution into mandatory fields on the Centre’s website.

7.1.4 In exceptional circumstances an accountable institution or reporting institution may make use of a paper-based mechanism to register. If a person wishing to register does not have the technical capability to do so in accordance with Regulation 27A (4) that person must submit the registration to the Centre on a form that is available from the Centre. Kindly contact the Centre at the following number to obtain a copy of the manual registration form: 0860 222 200.

8. Person responsible for registering an accountable institution

8.1 The person who is required to initiate the registration process on behalf of the institution is the section 43 compliance officer for an accountable institution or the reporting officer for a reporting institution. As a first step in the process he/she will be required to complete an online form.

8.2 This entails populating and submitting the registration information, including providing a password and username and activating the account upon receipt of the request via e-mail.

8.3 An accountable institution that has registered can only have one (1) section 43 compliance officer linked to the login credentials for that specific accountable institution.

8.4 To effect registration, the information provided during the first step in the registration process must be confirmed by a validator (envisaged to be a separate and senior person in the institution). The validator must verify and either accept or reject the registration information. This must be done within **five (5) business days** of registration to avoid cancellation of the information submitted by the section 43 compliance officer. The validator must also select a password to activate his/her account.

9. Registration Details

9.1 It is important that the registration forms are completed as comprehensively as possible. There are mandatory fields in the form which are a prerequisite to the successful completion of the registration process. Each accountable or reporting institution will be allocated a unique registration number once registration is completed successfully.

9.2 Accountable or reporting institutions should inform the Centre of any changes to their details by updating their accounts online or manually within 90 (ninety) days after such change, as required in terms of section 43B (4) of the FIC Act.

10. The Registration process

Please take note of the following fields and information that have to be provided to the Centre during the registration process:

10.1 Name of the accountable institution or reporting institution

The registered name of the accountable or reporting institutions must be used for registration purposes.

10.2 User name and password

The username and password that needs to be selected when registering online will be linked to the name and personal details of the person who submits the online registration as well as to the details of the entity to be registered. This will

allow the person and entity to perform functions such as updating changes to details that have already been submitted.

10.3 Registered details

- 10.3.1 The registered details refer to the number in terms of which the accountable or reporting institution is registered with CIPRO, when applicable.
- 10.3.2 In the case of a South African individual, who should, by virtue of the business conducted by him/her, register in his/her own name as an accountable or reporting institution, the number to be completed in this space is the person's identity number in his/her green bar-coded identity document.
- 10.3.3 In the case of a foreign individual, who should, by virtue of the business conducted by him/her, register in his/her own name as an accountable or reporting institution this should be the person's passport number. The number to be included in the case of an individual is the identity number or passport number of the owner of the business.
- 10.3.4 On 1 December 2010 Schedule 2 to the FIC Act containing the list of Supervisory Bodies was amended. The amended Schedule 2 is attached as "Annexure B".
- 10.3.5 The supervisory body details that need to be added refer to the body that regulates the particular institution and such supervisory body should be listed in Schedule 2 to the FIC Act. In some instances more than one supervisory body could be responsible for regulating a particular legal entity and could have issued a licence to such entity. However, as mentioned before each accountable institution or reporting institution must register separately and must select its own supervisory body.

Example 4:

A bank could be registered in terms of the Banks Act, No 94 of 1990 and be regulated by the Registrar of Banks, whilst that same bank could also have a division providing investment advice and be registered as a Financial Services Provider with the Financial Services Board (the FSB) in terms of the FAIS Act. In such an instance separate registrations must be submitted for the bank (where the supervisory body is the Registrar of Banks) and for the division providing investment advice (where the supervisory body is the FSB).

- 10.3.6 In the event of an institution not having a supervisory body regulating it, the Centre should be selected as the default supervisory body.

10.4 Contact Information

The information to be provided in this section is the contact information of the accountable institution or reporting institution that is registering and not the information of the individual completing the registration form or the validator required to authorize the registration. In the event of the business being conducted from more than one business premise, the contact information of the registered head office of the entity should be provided, unless it is necessary to register each branch separately, as explained above. The form also provides for the entity to provide an additional telephone number, which is optional.

10.5 Section 43 Compliance Officer

The details to be provided in this section are the details of the person appointed with the responsibility to ensure compliance with the FIC Act, as required by section 43 of the FIC Act. This would usually be the person completing the registration form. It is important to note that, although an entity could have a compliance officer that has been appointed in terms of another Act (for example the FAIS Act) the person referred to in this section is the compliance officer envisaged in section 43 of the FIC Act, that must ensure that the entity complies with the provisions of the FIC Act. It is for this reason that the system does not

allow for the appointment date of the compliance officer to be a date prior to the enactment of section 43 of the FIC Act.

10.6 Reporting Officer

A reporting institution, as defined in Schedule 3 of the FIC Act, is not subject to all the requirements of the FIC Act and does not need to appoint a person (in terms of section 43 of the FIC Act) to oversee compliance with the FIC Act. The person in a reporting institution whose details should be completed in this section is the individual who must ensure that reporting to the Centre is done as envisaged in sections 28, 28A, 29 and 31 of the FIC Act.

10.7 Validator

10.7.1 The system requires that all the information initially submitted as well as any future amendments to the online information, be validated and confirmed by a validator. The validator is a person in the entity who will authorize the initial registration and any future amendments to the entity's information. It is suggested that the validator be a senior person within the accountable or reporting institution. In the event that the accountable institution or reporting institution does not have a person to validate the information, the auditor or accountant can fulfil this requirement.

10.7.2 The registration process makes provision for category 1 financial services providers that are sole proprietors that are not in terms of any other legislation required to appoint an auditor or an accountant. In such instance, the process described below will still be followed, but it is important to note that the sole proprietor completing the registration process will be required to also perform the functions of a validator. The sole proprietor will therefore be required to act in the capacities of both validator and compliance officer.

10.8 The validation process:

- 10.8.1 The section 43 compliance officer or reporting officer will allocate a username to the validator in order to set up an account. This account will allow the validator to validate the information provided by the section 43 compliance officer or the reporting officer or person completing the registration and to terminate the appointment of a compliance/reporting officer.
- 10.8.2 After the information on the accountable or reporting institution has been submitted, an e-mail (message 1) will be generated by the system which will request the validator to validate the information provided on the registration website within 5 (five) working days upon receipt thereof.
- 10.8.3 The system will provide the validator access to the information provided by the section 43 compliance officer or the reporting officer (or other person completing the registration).
- 10.8.4 The validation of the information will be done by clicking on a hyperlink on the e-mail. Should the validation not be done within 5 (five) working days, the information provided will lapse and the registration process must be repeated. This will also apply when the validator indicates that he/she does not agree with the information provided by the section 43 compliance officer or the reporting officer (or other person completing the registration).
- 10.8.5 If the validator confirms the correctness of the information and authorizes the registration process to continue, the system will send an e-mail (message 2) to the validator to acknowledge the validation and to provide the entity's reference number.
- 10.8.6 Another message (message 3) is then sent to the compliance officer or the reporting officer with a request to activate his/her account with the Centre.

- 10.8.7 The section 43 compliance/reporting officer must click on a hyperlink that activates his/her account with the Centre.
- 10.8.8 An e-mail is then sent to the validator to confirm the successful registration (message 4).
- 10.8.9 The section 43 compliance officer/reporting officer then receives an email informing them that their user account held with the Centre has been activated and the institution registration was successful (message 5).

10.9 Future amendments to information supplied

Any future amendments to the information on the database must be done by the section 43 compliance or the reporting officer or person completing the registration. Any amendments must also be confirmed by the validator. The process to be followed in the event of amendments will be similar to the process described above for the initial registration.

10.10 Removal from the register

An accountable or reporting institution whose name is on the register can request in writing that the Centre remove same from the register. This will only be done in instances where the entity is no longer registered to conduct the business of an accountable or reporting institution or in the event where registration is not required and where the entity has ceased conducting the business of an accountable or reporting institution.

10.11 Access to the Register

The register of accountable and reporting institutions will not be available to the public.

10.12 Processing time

The registration process (both manual and electronic) takes approximately 30 (thirty) minutes to complete.

11 Failure to register with the Centre

- 11.1 In terms of section 68(2) read with section 61A of the FIC Act, the failure to register with the Centre or the failure to provide information in terms of section 43B are offences and can result in imprisonment for a period not exceeding five years and or a fine not exceeding R10 million.
- 11.2 The Centre may also, in terms of section 45C(1) read with section 45C(3) of the FIC Act, impose an administrative sanction on any accountable institution, reporting institution, or other person to whom the FIC Act applies, for a failure to comply with any provision of the FIC Act, such as the failure to register with the Centre, including a financial penalty not exceeding R10 million in respect of natural persons, and R50 million in respect of any legal person.

12 Enquiries

For any further enquiries regarding this PCC05, please contact the Centre on **0860 342 342**, or by sending an email to: fic_feedback@fic.gov.za.

Issued By:

The Director

Financial Intelligence Centre

09 December 2010

Glossary

Section 43B of the FIC Amendment Act: Registration by the accountable institutions and reporting institutions—

- (1) Every accountable institution referred to in schedule 1 and reporting institutions referred to in schedule 3 must, within the prescribed period and in the prescribed manner, register with the Centre.
- (2) The registration of an accountable institutions and reporting institution contemplated in subsection (1) must be accompanied by such particulars as the Centre may require.
- (3) The Centre must keep and maintain a register of every accountable and reporting institution registered in terms of subsection (1).
- (4) A registered accountable institution or reporting institution must notify, in writing, of any changes to the particulars furnished in terms of section within 90 days after such a change.

Section 45C(1) of the FIC Amendment Act: Responsibility of supervision of accountable institutions – (1) The Centre or a supervisory body may impose an administrative sanction on any accountable institution, reporting institution or other person to whom this Act applies when satisfied on available facts and information that the institution or person –

- (a) has failed to comply with a provision of this Act or any order, determination or directive made in terms of this Act;
- (b) has failed to comply with a condition of a licence, registration, approval or authorisation issued or amended in accordance with section 45(1B)(e);
- (c) has failed to comply with a directive issued in terms of section 34(1) or 43A(3); or
- (d) has failed to comply with a non-financial administrative sanction imposed in terms of this section.

Section 61A of the FIC Amendment Act: Failure to register with the Centre

– Any accountable institution or reporting institution that –

(a) fails to register with the Centre in terms of section 43B; or

(b) fails to provide information in terms of section 43B

is guilty of an offence.

Section 68 of the FIC Amendment Act: Penalties –

(2) A person convicted of an offence mentioned in section 55, 61 or 62 is liable to imprisonment for a period not exceeding five years or to a fine not exceeding R1 000 000.

Regulation 27A - “Period for and manner of registration by accountable institutions and reporting institutions

27A. (1) Every accountable institution referred to in Schedule 1 of the Act and every reporting institution referred to in Schedule 3 of the Act must register with the Centre in terms of section 43B of the Act on 1 December 2010.

(2) Any person or category of persons added to the list in Schedule 1 or Schedule 3 of the Act after the commencement of this regulation must register with the Centre within 90 days after the amended Schedule 1 or Schedule 3 is published by notice in the *Gazette*.

(3) Any person or category of persons who, on commencing a new business, fall within the list of accountable institutions or reporting institutions in Schedule 1 and Schedule 3 respectively must, within 90 days of the day the business opened, register with the Centre.

(4) The registration of an accountable institution and a reporting institution contemplated in subregulation (1), (2) and (3) must be in accordance with the format specified by the Centre and must be submitted to the Centre electronically by means of the internet-based reporting portal provided by the Centre for this purpose at the following internet address: <http://www.fic.gov.za>.

(5) If a person does not have the technical capability to register in accordance with subregulation (4) that person must submit the registration on a form specified by the Centre at the contact particulars specified by the Centre from time to time for this purpose.

(6) The registration of an accountable institution or a reporting institution is not a licensing process and no license will be issued on the completion of a registration contemplated in subregulation (1), (2) and (3).

(7) No fee is payable for a registration contemplated in subregulation (1), (2) or (3).”

“Annexure A”

Schedule 1

List of Accountable Institutions

- 1 A practitioner who practices as defined in section 1 of the Attorneys Act, 1979 (Act 53 of 1979).
- 2 A board of executors or a trust company or any other person that invests, keeps in safe custody, controls or administers trust property within the meaning of the Trust Property Control Act, 1988 (Act 57 of 1988).
- 3 An estate agent as defined in the Estate Agency Affairs Act, 1976 (Act 112 of 1976).
- 4 An authorised user of an exchange as defined in the Securities Service Act, 2004 (Act 36 of 2004).
- 5 A manager registered in terms of the Collective Investment Schemes Control Act, 2002 (Act 45 of 2002), but excludes managers who only conduct business in Part VI of the Collective Investment Schemes Control Act (Act 45 of 2002).
- 6 A person who carries on the ‘business of a bank’ as defined in the Banks Act, 1990 (Act 94 of 1990).
- 7 A mutual bank as defined in the Mutual Banks Act, 1993 (Act 124 of 1993).
- 8 A person who carries on a ‘long-term insurance business’ as defined in the Long-Term Insurance Act, 1998 (Act 52 of 1998).
- 9 A person who carries on the business of making available a gambling activity as contemplated in section 3 of the National Gambling Act, 2004 (Act 7 of 2004) in

respect of which a license is required to be issued by the National Gambling Board or a provincial licensing authority.

- 10 A person who carries on the business of dealing in foreign exchange.
- 11 A person who carries on the business of lending money against the security of securities.
- 12 A person who carries on the business of a financial services provider requiring authorisation in terms of the Financial Advisory and Intermediary Services Act, 2002 (Act 37 of 2002), to provide advice and intermediary services in respect of the investment of any financial product (but excluding a short term insurance contract or policy referred to in the Short-term Insurance Act, 1998 (Act 53 of 1998) and a health service benefit provided by a medical scheme as defined in section 1(1) of the Medical Schemes Act, 1998 (Act 131 of 1998).
- 13 A person who issues, sells or redeems travellers' cheques, money orders or similar instruments.
- 14 The Postbank referred to in section 51 of the Postal Services Act, 1998 (Act 124 of 1998).
- 15
- 16 The Ithala Development Finance Corporation Limited.
- 17
- 18
- 19 A person who carries on the business of a money remitter.

“Annexure B”

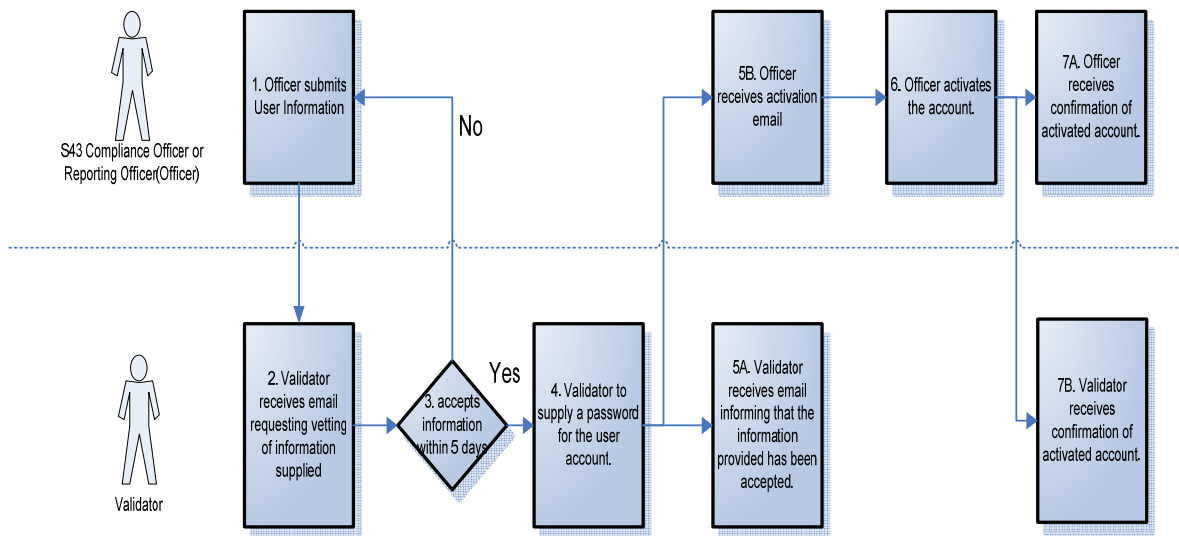
Schedule 2

List of Supervisory Bodies

- 1 The Financial Services Board established by the Financial Services Board Act, 1990 (Act 97 of 1990).
- 2 The South African Reserve Bank in respect of the powers and duties contemplated in section 10(1)(c) in the South African Reserve Bank Act, 1989, (Act 90 of 1989) and the Registrar as defined in sections 3 and 4 of the Banks Act, 1990, (Act 94 of 1990) and the Financial Surveillance Department in terms of Regulation 22.E of the Exchange Control Regulations, 1961.
- 3
- 4 The Estate Agency Affairs Board established in terms of the Estate Agency Affairs Act, 1976, (Act 112 of 1976).
- 5 The Independent Regulatory Board for Auditors established in terms of the Auditing Professions Act, 2005 (Act 26 of 2005).
- 6 The National Gambling Board established in terms of the National Gambling Act, and retained in terms of the National Gambling Act, 2004 (Act 7 of 2004).
- 7
- 8 A law society as contemplated in section 56 of the Attorneys Act, 1979 (Act 53 of 1979).
- 9 A provincial licensing authority as defined in section 1 the National Gambling Act, 2004 (Act 7 of 2004).

“Annexure C”

Guidelines for the Registration of Accountable and Reporting Institutions



The person who is required to register on behalf of the institution is the section 43 Compliance Officer (S43CO) for an Accountable Institution (AI) or the Reporting Officer (RO) for a Reporting Institution (RI), and he/she will be required to complete an online form. An Accountable Institution that has registered can only have one (1) S43CO linked to the login credentials for that specific Accountable Institution.

Step 1

The S43CO/RO supplies his/her institution's and own information and completes the take-on process via the webpage provided on the Centre's public website. In order to register an Accountable Institution or Reporting Institution, the S43CO/RO will need to:

- choose a username and password for the institution; and
- supply the Validator's name, surname, email address and username.

The S43CO/RO will be required to:

- submit the institution`s information; and
- submit his/her own information by completing the registration process via the Centre`s website.

Step 2

The Validator receives an email requesting him/her to verify the information supplied to the Centre. The Validator will usually be a senior person within an institution, who is authorised to validate the captured information. In the event of such a person not being available then the appointed auditor or accountant can fulfil this role.

Step 3

The Validator will be requested to:

- verify the information submitted by the S43CO/RO by accessing a hyperlink provided in an email; and
- accept or reject the information submitted. (please note that if the Validator fails to accept the information submitted within **five (5) business days** then the process will be cancelled and all information will have to be resubmitted).

Step 4

The Validator must provide a password to create his/her own user account.

Step 5

When the Validator accepts the information, an email will be sent to the S43CO/RO who will be required to activate the account by accessing a hyperlink contained therein.

Step 6

The S43CO/RO activates the account.

Step 7

Emails are sent to both the Validator and the S43CO/RO to confirm account activation.

Registration of Money Laundering Reporting Officers

Only the S43CO/RO may add or delete a Money Laundering Reporting Officer (MLRO) to the registration information of an Accountable Institution or Reporting Institution obtained from the Centre.

The S43CO/RO may, once he/she has successfully registered the institution, submit the details of the MLROs by following a similar process as outlined above.

Accountable Institutions and Reporting Institutions may submit the information of one or more MLROs that will enable them to submit suspicious transaction reports or terror property reports to the Centre by using the web- based reporting forms.

The registration of MLROs will mostly be applicable in the instance where reporting of suspicious transaction reports and terror property reports for an institution takes place at a head office or group level and involves a number of employees.

Financial Services Providers that are Sole Proprietors

The take-on process on the website has been amended for Category 1 financial services providers that do not collect client funds and are not required to appoint an auditor or accounting officer in terms of the Financial Advisory and Intermediary Services Act, No. 37 of 2002.

The amendment allows these financial services providers to use the same person and the same e-mail address to submit the information (as S43CO) and to validate the information (as Validator).