



Financial
Intelligence Centre

PUBLIC COMPLIANCE COMMUNICATION

PUBLIC COMPLIANCE COMMUNICATION NO. 37 (PCC 37)
ON THE OBLIGATIONS OF REPORTING INSTITUTIONS IN
TERMS OF THE FINANCIAL INTELLIGENCE CENTRE ACT,
(ACT NO. 38 OF 2001)

The Financial Intelligence Centre (the Centre) provides the guidance contained in this Public Compliance Communication (PCC) in terms of its statutory function in terms of section 4(c) of the Financial Intelligence Centre Act, Act No. 38 of 2001 (the FIC Act) read together with Regulation 28 of the Money Laundering and Terrorist Financing Control Regulations (the Regulations) issued in terms of the FIC Act.

Section 4(c) of the FIC Act empowers the Centre to provide guidance in relation to a number of matters concerning compliance with the obligations of the FIC Act. Guidance provided by the Centre is the only form of guidance formally recognised in terms of the FIC Act and the Regulations issued under the FIC Act. Accordingly, guidance provided by the Centre is authoritative in nature and must be taken into account when interpreting the provisions of the FIC Act or assessing compliance with the obligations it imposes.

It is important to note that enforcement action may follow from non-compliance with the FIC Act. Where it is found that a reporting institution has not followed the guidance which the Centre has issued, the institution must be able to demonstrate that it has complied with the relevant obligations under the FIC Act in an equivalent manner nonetheless.

PCC Summary

The FIC Act places limited compliance obligations on reporting institutions to register and report cash threshold transactions and suspicious or unusual transactions and activities to the Centre. PCC37 provides clarity on the obligations of reporting institutions. In the absence of a stipulated Supervisory Body, the Centre will fulfil this function.

Disclaimer

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Objective

The objective of this PCC is to clarify the obligations of reporting institutions listed in Schedule 3 to the FIC Act.

1. Introduction

1.1 Reporting institutions are listed in Schedule 3 to the FIC Act. The following entities/businesses are regarded as reporting institutions in terms of the FIC Act:

- A person who carries on the business of dealing in motor vehicles; and
- A person who carries on the business of dealing in Kruger rands.

1.2 This PCC must be read with the following guidance issued by the Centre:

- Revised PCC07 on the definition of a motor vehicle dealer for the purpose of Schedule 3 to the FIC Act; and
- PCC17 on the definition of a Kruger rand dealer for the purpose of Schedule 3 to the FIC Act.

2. Supervisory oversight

2.1 Schedule 2 to the FIC Act lists the Supervisory Bodies responsible for the supervision of regulated institutions with the FIC Act.

2.2 Section 4(g)(i) of the FIC Act provides that the Centre, as part of its functions, must supervise and enforce compliance with the FIC Act or any directive made in terms

of the FIC Act by reporting institutions that are not regulated or supervised by a supervisory body in terms of the FIC Act or any other law.

2.3 The abovementioned reporting institutions in paragraph 1.1 do not have supervisory bodies assigned in terms of the FIC Act and as such the Centre is the default supervisory body for all reporting institutions listed in Schedule 3 to the FIC Act.

3. Legal obligations of a reporting institution

3.1 The following legal obligations are applicable to reporting institutions in terms of the FIC Act:

3.1.1. Registration with the Centre in terms of section 43B of the FIC Act;

3.1.2. Reporting of Cash Threshold Reports (CTR) to the Centre in terms of section 28 of the FIC Act; and

3.1.3. Reporting of Suspicious and Unusual Transaction Reports (STR) to the Centre in terms of section 29 of the FIC Act.

3.2 Registration with the Centre

Reporting institutions have a duty to register with the Centre in terms of section 43B of the FIC Act.

3.2.1 Each operating unit or branch of a motor vehicle or Kruger rand dealer is required to register individually with the Centre. In instances where different franchise owners are operating under the same name, those franchise owners are regarded as separate legal persons and are required to register individually with the Centre.

3.3 Cash Threshold Reporting

Reporting institutions are required to report cash transactions above the prescribed threshold of R24 999.99 to the Centre in terms of section 28 of the FIC Act.

3.3.1 Cash transactions in the context of motor vehicle dealers include the following:

- motor vehicle related services provided by the motor vehicle dealer; and
- buying and selling of motor vehicle parts.

3.3.2 Cash transactions in the context of Kruger rand dealers include the following:

- purchase or sale of a Kruger rand; and
- purchase or sale of a Kruger rand that has been included in another object such as a piece of jewellery, ornament, watches etc.

3.4 **Reporting of suspicious and unusual transactions**

Section 29 of the FIC Act requires that any person, who carries on a business, is in charge of a business, manages a business, or is employed by a business, must report suspicious or unusual transactions to the Centre. This reporting obligation is also applicable to reporting institutions.

4. **Minimum client information required in order to submit reports to the Centre**

4.1 In order to submit complete and meaningful reports to the Centre, reporting institutions need to:

- obtain minimum client information when conducting business transactions with clients; and
- Clearly record specific transaction details.

4.2 Reporting institutions are advised therefore to ensure that a report to the Centre contains as much information regarding the transactional data as well as the details of the person or entity that is conducting the transaction or series of transactions.

4.3 Regulations 22C and 23 of the Regulations prescribe the information which is specifically required for section 28 and 29 reporting respectively.

5. Conclusion

- 5.1 Reporting institutions as per Schedule 3 to the FIC Act include motor vehicle dealers and Kruger rand dealers.
- 5.2 Obligations of reporting institutions include registration with the Centre, submitting a CTR in terms of section 28 of the FIC Act and submitting a STR in terms of section 29 to the Centre.
- 5.3 In order to file complete and meaningful reports to the Centre, the reporting institutions are advised that reports to the Centre must contain information regarding the transactional data as well as the details of the person or entity that is conducting the transaction or series of transactions.
- 5.4 The Centre is the Supervisory Body for reporting institutions listed in schedule 3 of the FIC Act.

Queries on this and other compliance related matters can be logged via the web portal on the Centre's website ([click here](#)) or call the Centre's Compliance Contact Centre ([click here for details](#))

**Issued By:
THE DIRECTOR
FINANCIAL INTELLIGENCE CENTRE
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SECTION 43B

Registration by accountable institution and reporting institution

- (1) Every accountable institution referred to in Schedule 1 and every reporting institution 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 institution and a 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 institution and reporting institution registered in terms of subsection (1).
- (4) A registered accountable institution or reporting institution must notify the Centre, in writing, of any changes to the particulars furnished in terms of this section within 90 days after such a change.

SECTION 28

Cash transactions above prescribed limit

An accountable institution and a reporting institution must, within the prescribed period, report to the Centre the prescribed particulars concerning a transaction concluded with a client if in terms of the transaction an amount of cash in excess of the prescribed amount—

- (a) is paid by the accountable institution or reporting institution to the client, or to a person acting on behalf of the client, or to a person on whose behalf the client is acting; or
- (b) is received by the accountable institution or reporting institution from the client, or from a person acting on behalf of the client, or from a person on whose behalf the client is acting.

SECTION 29

Suspicious and unusual transactions

- (1) A person who carries on a business or is in charge of or manages a business or who is employed by a business and who knows or ought reasonably to have known or suspected that—
- (a) the business has received or is about to receive the proceeds of unlawful activities or property which is connected to an offence relating to the financing of terrorist and related activities;
 - (b) a transaction or series of transactions to which the business is a party—
 - i) facilitated or is likely to facilitate the transfer of the proceeds of unlawful activities or property which is connected to an offence relating to the financing of terrorist and related activities;
 - ii) has no apparent business or lawful purpose;
 - iii) is conducted for the purpose of avoiding giving rise to a reporting duty under this Act; or
 - iv) may be relevant to the investigation of an evasion or attempted evasion of a duty to pay any tax, duty or levy imposed by legislation administered by the Commissioner for the South African Revenue Service; or
 - v) relates to an offence relating to the financing of terrorist and related activities; or
 - (c) the business has been used or is about to be used in any way for money laundering purposes or to facilitate the commission of an offence relating to the financing of terrorist and related activities,
- must, within the prescribed period after the knowledge was acquired or the suspicion arose, report to the Centre the grounds for the knowledge or suspicion and the prescribed particulars concerning the transaction or series of transactions.
- (2) A person who carries on a business or is in charge of or manages a business or who is employed by a business and who knows or suspects that a transaction or

a series of transactions about which enquiries are made, may, if that transaction or those transactions had been concluded, have caused any of the consequences referred to in subsection (1)(a), (b) or (c), must, within the prescribed period after the knowledge was acquired or the suspicion arose, report to the Centre the grounds for the knowledge or suspicion and the prescribed particulars concerning the transaction or series of transactions.

- (3) No person who made or must make a report in terms of this section may disclose that fact or any information regarding the contents of any such report to any other person, including the person in respect of whom the report is or must be made, otherwise than—
- (a) within the scope of the powers and duties of that person in terms of any legislation;
 - (b) for the purpose of carrying out the provisions of this Act;
 - (c) for the purpose of legal proceedings, including any proceedings before a judge in chambers; or
 - (d) in terms of an order of court.
- (4) No person who knows or suspects that a report has been or is to be made in terms of this section may disclose that knowledge or suspicion or any information regarding the contents or suspected contents of any such report to any other person, including the person in respect of whom the report is or is to be made, otherwise than—
- (a) within the scope of that person's powers and duties in terms of any legislation;
 - (b) for the purpose of carrying out the provisions of this Act;
 - (c) for the purpose of legal proceedings, including any proceedings before a judge in chambers; or
 - (d) in terms of an order of court.