

Internal Rules FICA

Internal Rules: FICA

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INTRODUCTION

Money laundering is a term used to describe a number of techniques; procedures or processes in which funds obtained through illegal, unlawful or criminal activities are converted into assets in such a way so as to conceal their true origin, ownership or any other factors that may indicate an irregularity. The main objective of money laundering is to legitimize income originating from these sources.

The Financial Intelligence Centre Act, promulgated in 2001 in South Africa, sets up anti-money laundering procedures to prevent criminal groups and individuals from converting illegal profits into “clean money”. FICA requires all individuals and institutions to report specified as well as unusual or suspicious transactions to the Financial Intelligence Centre.

The purpose of this Internal Policy and Procedures is to ensure compliance with FICA and to ensure that each employee knows its role in complying with the requirements as imposed by FICA.

All employees of the company listed above are required to comply with the provisions of the Act and this manual sets out how to comply.

CUSTOMER ACCEPTANCE POLICY

FSPs are expected to develop clear customer acceptance and procedures, including a description of the type of customer that is likely to pose a higher than average risk to their business.

This risk is the risk of “POTENTIAL MONEY LAUNDERING ACTIVITIES.”

The FSP takes into account risk indicators, including factors such as the client’s:

- Background;
- Country of origin;
- Public or high profile position; (PEP’s)
- Linked accounts and;
- Business activities

It is the policy of the FSP to accept the following clients as low risk clients:

- Local clients
- Clients transferring monies using EFT and not cash deposits
- Existing clients with whom a relationship is already established
- Clients whereby a relationship is established, and not just a single transaction
- Receipts in the amount of R20 000 or less.

THE RISK RATE DOCUMENT MUST BE COMPLETED AND ADDED TO EVERY CLIENT’S FILE, WHERE THERE IS A CASH TRANSACTION.

Clients not falling into one of the above categories are regarded as high risk. Extensive due diligence for higher risk clients is required. This includes the completion of the risk rate document (ANNEXURE A) and obtaining information and verifying the source of income of the client, together with the source of funds.

DEFINITIONS

When using this manual you will come across some terminology and this section sets out the meaning of the terminology.

"Accountable institution" means all businesses or persons as listed in Schedule 1 to the Act and includes (but is not restricted to), all listed companies, all estate agents, all insurance companies, all insurance intermediaries and all unit trust management companies. All these aforementioned entities have certain obligations in terms of the Act and these are set out in this manual.

"Business relationship" as opposed to a once-off transaction means a continuing arrangement between two or more parties at least one of whom is acting in the course and scope of business (typically the institution and a customer or client) where transactions are facilitated between the parties on a regular or habitual basis.

"Cash / cash transaction" this includes not only physical cash paid or received but also any traveller's cheques. Cash, as defined in the FIC Act, does not include negotiable instruments, transfer of funds by means of bank cheque, bank draft, electronic funds transfer, wire transfer or other written order that does not involve the physical transfer of cash. These methods of transferring funds will not be covered by the CTR obligation under section 28 of the FIC Act.

"Client" means a

- Prospective policyholder;
- Policyholder;
- Policy owner;
- Premium payer;
- Investor;
- Cessionary (only if the cessionary is not a known bank).
- Beneficiary (only at claims stage, maturity, pay-out to the beneficiary)
- Silent or anonymous partner;
- The other person on whose behalf a client is acting
- Another person acting on behalf of a client.

"CTR" means the cash threshold report that must be submitted in terms of section 28 of the FIC Act.

"FICA" means the Financial Intelligence Centre Act.

"FIC" means the Financial Intelligence Centre, the government authority who ensures compliance with the Act.

"KYC procedures" means Know Your Client procedures in respect of identification and verification of identities of clients.

"Section 43(b) FICA Compliance Officer" means the dedicated person appointed by the FSP with the responsibility to ensure compliance by the employees of the accountable institution with FICA as well as the rules provided for within this document.

“Single transaction” means a transaction other than a transaction concluded in the course of a business relationship.

“Transaction” a once-off transaction carried out other than in the normal course of business for one of the parties (see business relationship definition).

THE RULES

All accountable institutions must obtain and verify certain information, maintain records of the relationship or transaction with that client, report cash transactions (received and paid) above a certain threshold and report suspicious or unusual transactions, when either establishing a business relationship or concluding a single transaction with a client.

This means that any business entity must follow the procedure set out below when dealing with a new client or business partner. A transaction may not be concluded without the information required being supplied by the client or business partner.

All verification must be done on a face to face basis that is the client must be physically met and identified.

If faxed/ mailed copies of documentation is received, without meeting the client on a face to face basis, all received documents must already have been certified.

ESTABLISHMENT AND VERIFICATION OF IDENTITIES OF PARTIES TO A BUSINESS RELATIONSHIP (Section 21, Regulations 2 - 19)

IDENTIFYING THE CLIENT AND VERIFYING THE INFORMATION

- All client information required must be obtained from the client in a diligent and accurate manner.
- The information is obtained to ensure that the provider knows its client (KYC - know your client), to ensure the provider knows who it is dealing with.
- Each document obtained is to reflect the name of the verifier, the date, and what the source document was.
- Any faxed documents received should only be accepted if the fax was certified prior to its being sent.
- Each employee must report transactions concluded by him/her to the reporting officers where the necessary information was not obtainable from the client or where the client refused to disclose or submit the information required.

Where the business partner is the following type of entity, this step need not be followed unless the transaction is a suspicious or unusual transaction:

- Where the party to be transacted with is company listed on the JSE;
- Legal person and non-controlled client in respect of the JSE Rules.

Where the business partner does not fulfil the above exemption, the following information must be obtained:

NATURAL PERSONS

- Full names and I.D. number together with copy of identity document (where the original is seen) or copy of a valid driver's licence (only where the I.D. document is not available, a reason for no I.D. document must be supplied). Certified copies are accepted where the representative has not seen the original. The client or business partner must be physically identified and met;
- Residential address which must be substantiated by e.g. one of the following which must reflect the address, and a copy of the document must be kept:
 - A utility bill (less than 3 months old)
 - A bank statement (less than 3 months old)
 - A recent lease agreement (less than 3 months old)
 - A rates and taxes account (less than 3 months old)
 - A Telkom telephone account (less than 3 months old)
 - A mortgage statement (less than 3 months old)
 - Recent SARS return / IRP5
 - A recent insurance policy document
 - Payslip or salary advice
 - Valid TV licence document
 - Recent motor vehicle licence document
 - Affidavit confirming proof of residence

NATURAL PERSONS UNDER LEGAL INCAPACITY E.G. MINORS/ PERSONS UNDER CURATORSHIP

The information must be obtained for both the incapacitated person and the person assisting.

CLOSE CORPORATIONS AND COMPANIES**COMPANY:**

The registered name and registration number and registered address of the entity together with a certified copy of the Certificate of Incorporation (company form CM1 or COR15.1A/COR15.1B), Notice of Registered Office and postal address (form CM22 or COR21).

The forms must bear the stamp of the Registrar of Companies.

CLOSE CORPORATION:

For a Close Corporation, certified copies of the Founding Statement, Certificate of Incorporation (CK1 or CM1/COR15.1A/COR15.1B), Amended Founding Statement (CK2 or CM2/COR15.1A/15.1B) if applicable, all duly stamped are required;

BOTH COMPANY AND CLOSE CORPORATION:

The trade name of the business (if applicable) and proof of the trade name. Proof may be in a form as per clause above;

The physical address of the business. Where the business has multiple addresses from which it operates, the head office address and the relevant branch office address are required;

For a company, the following additional requirements must be met:

- The full names, date of birth and residential address and contact particulars of the manager of the company and each natural person authorised to transact on behalf of the other company; and

- The full names, I.D. number and date of birth or registered name, registration number, registered address, trade name and business address of all persons/entities holding 25% or more of the rating rights of the company concerned;
- The manager or a director must be physically met and identified.

For a close corporation the information (NATURAL PERSONS) for each member and each person to be authorised to transact is required;

The information required is to be verified

- The Income Tax number and VAT number of the Close Corporation and company and certified copy of a SARS document.

PARTNERSHIPS

- Requirements as per natural persons must be obtained for each partner;
- The ID and address details for every manager and person establishing the relationship on behalf of the partnership;
- The business name of the partnership and business address of the partnership and proof thereof;

TRUSTS

- The name, trust number and a certified copy of the trust deed;
- The address of the Master of the High Court where the trust is registered;
- The Income Tax number of the trust and a certified copy of the SARS document evidencing this;
- The full names, date of birth, identity number, residential address and contact particulars of each natural person who is a trustee, beneficiary and who acts on behalf of the trust and proof thereof
- Certified copies of the Letter of Appointment of all trustees;
- Particulars of how the beneficiaries of the trust are determined.

WHERE A PERSON ACTS ON THE AUTHORITY OF ANOTHER

- All the details of that authorised person are required in addition to the information of the person on whose behalf they are acting;
- A certified copy of a Power of Attorney or Resolution or Court Order.

FOREIGN ENTITIES

Natural Persons

Full identification must be obtained in respect of any natural person who is not a citizen of the Republic.

Legal Persons

The particulars referred to for legal persons are to be obtained. In addition, the country of incorporation must be established and verified.

Where the Company relies on the Par 4, Part 1 of the FICA regulations, and exemption is granted under Sections 21 and 22 of the Act, written confirmation of FICA compliance by the third party is to accompany every application submitted, where applicable. The standard format, as annexed hereto, will be deemed to be sufficient evidence of such.

POLITICALLY EXPOSED PERSONS (PEP'S)

A politically exposed person or PEP is the term used for an individual who is or has in the past been entrusted with prominent public functions in a particular country.

The following examples serve as aids in defining PEPs:

- Heads of State, Heads of Government and cabinet ministers;
- Influential functionaries in nationalised industries and government administration;
- Senior judges;
- Senior political party functionaries;
- Senior and/or influential officials, functionaries and military leaders and people with similar functions in international or supranational organisations;
- Members of ruling or royal families;
- Senior and/or influential representatives of religious organisations (if these functions are connected to political, judicial, military or administrative responsibilities).

Families and closely associated persons of PEPs should also be given special attention by an institution. The term "families" includes close family members such as spouses, children, parents and siblings and may also include other blood relatives and relatives by marriage. The category of "closely associated persons" includes close business colleagues and personal advisers/consultants to the PEP as well as persons, who obviously benefit significantly from being close to such a person.

An institution should conduct proper due diligence on both a PEP and the persons acting on his or her behalf. Similarly, KYC principles should be applied without exception to PEPs, families of PEPs and closely associated persons to the PEP. This entails obtaining, in addition to the required FICA identification and verification, information and verification of: SOURCE OF INCOME AND SOURCE OF FUNDS.

TREATMENT OF PEPS IN RELATION TO OTHER HIGH-RISK CLIENTS

Specific action should be taken in relation to PEPs as a category of high-risk client. In addition to performing customer due diligence measures, institutions should put in place appropriate risk management systems to determine whether a customer, a potential customer or the beneficial owner is a PEP.

All clients should be asked whether they would fall into one of the categories above, or constitute family of any such persons.

In addition the following is required:

- Obtain senior management approval for establishing business relationships with a PEP. When the client has been accepted, the institution should be required to obtain senior management approval to continue the business relationship;
- Take reasonable measures to establish the source of wealth and the source of funds of customers and the beneficial owners identified as PEPs;
- Conduct enhanced ongoing monitoring of a relationship with a PEP.

POLICIES FOR DEALING WITH PEPs:

PEPs should be regarded as high-risk clients and, as a result, enhanced due diligence should be performed on this category of client. Heightened scrutiny has to be applied whenever PEPs or families of PEPs or closely associated persons of the PEP are the contracting parties or the beneficial owners of the assets concerned, or have power of disposal over assets by virtue of a power of attorney or signature authorisation.

The risk rate document to be completed at every transaction includes questions in respect of PEP. This must be completed and placed on file for every cash transaction.

VERIFYING INFORMATION WHENEVER THE CLIENT IS NOT PRESENT

The verification process need not take place in person, provided reasonable steps are taken to ensure the correctness of any verification process.

Whenever the FSP, obtains information about a natural person, legal entity, partnership or trust in the absence of personal contact with that natural person or representative of the legal entity or trust, reasonable steps must be taken in order to establish the existence and to verify the identity of such natural person, partnership, legal entity or trust.

If the above relates to a natural person, the following guidelines should be adhered to:

- Obtain the usual copies of the prescribed documentation in order to establish the identity of a natural person, partnership, legal person or trust, as provided for in these rules.
- Whenever the above-mentioned information relates to a natural person, such person's names, date of birth and identity number, can be verified with reference to the information maintained by a recognised credit bureau or on the official voter's roll.
- Such natural person's residential address could be verified with reference to a local or national telephone directory.
- Such natural person's identity can be obtained by making telephonic contact at the telephone number obtained in the local or national telephone directory as above, and confirming whether he or she is the person seeking to establish a business relationship or execute a transaction.
- Such natural person's name and identity could be verified by obtaining a cancelled cheque from him or her and confirming the details with the bank involved.
- Such natural person's residential address could be verified by visiting the address. A standard declaration confirming the client's details should in such event be completed, dated and signed by the visitor.
- Such natural person's names, date of birth, identity number or residential address could be obtained through an appropriate reference from the person's bank and/or employer

If the above relates to a legal person, partnership or trust, the following guidelines should be adhered to:

- A company or close corporation's registered name, trade name, registration number and business address could be confirmed with reference to the details maintained by a recognised credit bureau
- A company or close corporations above mentioned details or part thereof could be confirmed with reference to a local or national directory or other business directory or publication.
- A company or close corporation's identity could be obtained by contacting the entity at the telephone number obtained from a telephone directory or business publication as above and confirming that the company or close corporation is the entity seeking to establish a business relationship or execute a transaction.
- A legal person, partnership or trust's identity could be verified by obtaining a cancelled cheque and confirming the details with the bank involved.

- A legal person, partnership or trust's business address could be verified by visiting the address. A standard declaration confirming the client's details should be completed, dated and signed by the visitor.
- A legal person, partnership or trust's registered or trade name, registration number and business address could be obtained through an appropriate reference from the entity's bank or the Companies and Intellectual Property Registration Officer (CIPRO).

RECORD KEEPING (Sections 22 - 26, Regulation 20)

Record keeping

All documents and records relating to each client ("client information"), with whom a transaction was concluded must be maintained and kept in safe custody (protected against destruction) for a period of 5 years **FROM DATE OF CONCLUSION OF THE TRANSACTION OR DATE THE RELATIONSHIP WITH THE CLIENT WAS TERMINATED, WHICHEVER OCCURS THE LATEST IN TIME.**

In this regard all client information must be handed to the money laundering control officer, who can thereafter be contacted to ensure access to client information by employees. This includes identification of the client, proof of address and most importantly source and origin of funds. Such documentation must be submitted together with application forms or any other agreement. Hard copies of the documentation may be held in a client file or it may be held electronically

Each employee who removes client information from safekeeping, must sign for such client information and insert the date such client information is removed from safekeeping. On return of such client information the same person who removed such information must sign and date that all client information was returned.

Records are to be kept of everything that was done with the client or business partner. This means that all copies of documentation, including but not limited to, letters, application forms, quotes, receipts, e-mails as well as the further details mentioned in this section are to be kept.

- All records are to be kept for 5 years after the date of the last transaction.
- All records must be updated within 3 days of receiving a change of details.
- All changes of detail must be accompanied by proof
- All parties to a business relationship must confirm, in writing, all their details once every two years. (FICA verification process)
- A record of all transactions with that party must be kept.
- The name of the employee dealing with the party must be recorded as well as the name of the person obtaining and verifying the information required must be kept. This should be included on the copies of verification documents
- The nature of the relationship or transaction must be recorded and kept.
- The amount involved must be recorded and a record kept.

UPDATED DETAILS:

ALL EXISTING/ REPEAT CLIENTS ARE TO BE RE-VERIFIED AT LEAST ONCE EVERY 24 MONTHS
FULL RECORDS OF THIS PROCESS ARE TO BE KEPT

ORIGIN OF THE FUNDS (Regulation 21)

Proof of the origin of funds is required for purposes of building a client profile where a person is a PEP, or poses a high risk of facilitating money laundering activities or to enable the Company to identify any possible money laundering and information. The following documentation is required:

Origin of funds i.e. source of the other party's income, for example:

- Salary
- A donation
- An inheritance

Proof of the origin of funds. Any substantiating documentation such as:

- A copy of a will
- Investment maturity letter
- Balance sheet
- Income statement

The source of the funds which the other party intends to use in the course of the relationship:

- Income statement
- Balance sheet
- Bank statement

REPORTING

REPORTING IN TERMS OF FICA

WITHIN 1 DAY: Each employee must immediately report a transaction to the reporting officer – Money Laundering Control officer (MLCO) in the following events:

- Any cash transaction over the published threshold R24 999. (even if the transaction was split into two or more, and the total exceeds this amount)
- Any unusual or suspicious transaction; or
- When it was impossible for the employee to comply with the requirements in terms of FICA for Whatever reason; or
- Whenever in doubt as to whether to report to the reporting officer or not.
- Where any funds are suspected of being used for the financing of terrorist or related activities

The responsibility to report a transaction in terms of FICA to the Financial Intelligence Centre will transfer from the employee to the reporting officer after a transaction was reported to the reporting officer. The reporting officer will determine and decide as to whether a transaction must be reported.

THRESHOLD AND CASH REPORTING (Section 28)

WITHIN 2 DAYS: Physical cash payments in excess of the threshold amount received have to be reported. **(R24 999)**

Where an accountable institution pays a client physical cash in excess of the threshold amount this must be reported.

WHERE CASH IS PAID INTO THE BANK ACCOUNT OF THE BUSINESS, THERE IS A DUTY ON THE BANK AS WELL AS THE INSTITUTION TO REPORT SUCH TRANSACTION TO THE CENTRE UNDER SECTION 28 OF THE FIC ACT.

Where foreign currency forms part of a cash transaction that requires the completion of a cash transaction report (CTR), the advisor/broker must apply the exchange rate in effect for the business day of the transaction to calculate the amount in ZAR.

Note that aggregation is applied to the threshold amount. The threshold amount can be a single cash transaction to the value of R24 999 or an aggregation, where multiples of smaller amounts would add to the threshold amount of R24 999.

The calculation of aggregated transactions is directional, i.e. either an inward or outward direction of cash, but not a combination of the two. It is either withdrawals (payments) or deposits (receipts). A report in terms of section 28 of the Financial Intelligence Centre Act, Act 38 of 2001, (the FIC Act) must be sent to the Centre as soon as possible but no later than 2 business days after the entity becomes aware that a cash transaction exceeds the prescribed limit, in terms of Regulation 24(4) of the Money Laundering and Terrorist Financing Control Regulations, 2002, as amended (the Regulations), which came into operation on 01 December 2010

REPORTING TO THE RELEVANT PERSON (MLCO) IS TO BE DONE WITHIN 1 DAY OF RECEIPT OF THE INFORMATION.

ALL CASH TRANSACTIONS, THAT IS CASH PAID OR RECEIVED, ARE TO BE REPORTED TO THE MLCO.

ALL REPORTING IS TO REMAIN CONFIDENTIAL.

PROCESS:

A full written report is to be forwarded to the MLCO within the specified time periods. (ANNEXURE B)

The MLCO will ascertain whether reporting to the FIC is required.

SUSPICIOUS OR UNUSUAL TRANSACTIONS (Section 29)

All suspicious and/or unusual transactions are to be reported IRRESPECTIVE OF THE SIZE OF THE TRANSACTION;

Reporting to the MLCO is to be done within 1 day of the receipt of the information;

The following non-exhaustive list will give rise to a duty to report the transaction as suspicious or unusual:

- Where the person knows or suspects that the Company is about to or has received the proceeds of any unlawful activity.
- Where the money is received for no apparent business or lawful purpose.
- Where the business is conducted in a manner so as to avoid a reporting duty in terms of these rules.
- Where the funds received may be as a result of any tax evasion or attempted evasion.
- An application for business outside the client's normal pattern of business.
- A delay in the provision of information to enable verification to be completed.
- Any transaction that is unnecessarily complex.
- Any transaction involving an undisclosed party.
- Early termination of a product, especially at a loss or where cash was tendered or the refund cheque is to a third party.
- A transfer of a benefit of a product to a third party.
- Attempts to use a third party cheque to make payment.

- An applicant for business shows no concern for the performance of a product but much concern for the cancellation / refund of the product.
- The client attempt to use cash in a transaction where the client has typically used cheques or other methods of payment.
- The applicant requests to make payment with foreign currency or by wire transfer from another country.
- The client provides fictitious information.
- The client purchases products beyond his apparent means.
- The client purchases a large policy / product and within a short time cancels / repurchases and requests the cash value returned in cash or payable to a third party.
- The client uses a mailing address in another jurisdiction and the telephone has been disconnected when phoned for verification.
- Any employees, agents or brokers who suddenly show a lavish lifestyle; an unexpected and dramatic increase sales; exceed a high level of single premium business or use their own business address as the delivery address for a client's documentation.

When reporting the transaction to the MLCO the following information is to accompany the report:

- The REASON for the suspicion that the transaction is suspicious or unusual;
- Full client particulars;
- ANNEXURE B

REPORTING TO THE MONEY LAUNDERING CONTROL OFFICER IS TO TAKE PLACE WITHIN 1 WORKING DAY OF THE TRANSACTION

PROTECTION OF PERSON WHO REFERRED THE TRANSACTION

The FSP and its employees **cannot rely** on a duty of secrecy or confidentiality and/or restriction to disclose information (derived from common law, legislation, agreement) as a defense against non-compliance with the reporting requirements as required by the FIC Act,

However, the FSP and its employees can rely on the common law right to legal professional privilege between attorney and attorney's client **concerning communications** made in confidence between:

- The attorney and his/her client for the purpose of legal advice / litigation which is pending / contemplated / has commenced;
- A third party and the attorney for the purpose of litigation which is pending / contemplated / has commenced.

AND

- The FSP, its employees or any other person acting on behalf of the FSP, **cannot be sued or held criminally liable for complying in good faith** with the FIC Act.
- A person who played any part in a report made in terms of the FIC Act may give evidence in criminal proceedings arising from the report, but **cannot be forced to do so**. Unless a person testifies who played a role in making a mentioned report, no evidence may be led about the identity of such person.

Whenever a Key Individual, Representative or Support Staff member is in doubt whether a report should be made to the FIC, the matter should be referred to the Section 43(b) FICA Compliance Officer.

If ever a Key Individual, Representative or Support Staff member is subpoenaed to testify based on a report made to the FIC and/or information provided to the FIC, the matter should be referred to the Section 43(b) FICA Compliance Officer for further advice concerning his or her rights

PROPERTY ASSOCIATED WITH TERRORISM

In the event where an employee becomes aware of property of a client which can be associated with terrorism and any related activities, such employee whether employed by a reporting institution or an accountable institution, must report to the reporting officer. The reporting officer must report to the FIC WITHIN 5 DAYS

It is a further requirement to risk rate each client in order to establish which clients pose a higher risk associated with the combating of money laundering and financing of terrorism to the entity.

REPORTING TO THE FIC

All threshold transactions and all suspicious and unusual transactions are to be reported in accordance with the procedure hereunder:

The new provision in terms of the amendments to the FIC Act requires every accountable institution in terms of sec. 43B to register with the Centre as per **Annexure "F"** and appoint a section 43(b) FICA Compliance Officer as per **Annexures "C & D"**;

A registered accountable institution must notify the Centre, in writing, of any changes to the particulars furnished within 90 days after such change.

Once registered Accountable Institutions and reporting institutions are required to use the new Suspicious Transaction Report (STR) and Terrorist Property Report (TPR) forms, available on the FIC website, when filing these reports to the Centre

REGISTRATION:

You can register by following the steps below:

- **www.fic.gov.za**
- **click on ACQUIRE LOGIN CREDENTIALS under REPORTS & REQUESTS**
- **complete your details in the fields provided**

Sec. 61A is inserted into the principal Act and determines that any accountable institution that fails to register with the Centre in terms of section 43B, or fails to provide information in terms of section 43B is guilty of an offence. Sec. 68 of the principal Act is substituted by a new section 68 which determines that a person convicted of an offence mentioned in section 61A is liable to:

IMPRISONMENT FOR A PERIOD NOT EXCEEDING FIVE YEARS OR TO A FINE NOT EXCEEDING R10 MILLION.

Each employee must immediately report a transaction to the reporting officer in the following events:

- ANY CASH TRANSACTION OVER THE PUBLISHED THRESHOLD; OR
- ANY UNUSUAL OR SUSPICIOUS TRANSACTION; OR
- WHEN IT WAS IMPOSSIBLE FOR THE EMPLOYEE TO COMPLY WITH THE REQUIREMENTS IN TERMS OF FICA FOR WHATEVER REASON; OR

- PROPERTY OF A CLIENT WHICH CAN BE ASSOCIATED WITH TERRORISM AND ANY RELATED ACTIVITIES,
- WHENEVER IN DOUBT AS TO WHETHER TO REPORT TO THE REPORTING OFFICER OR NOT.

The responsibility to report a transaction in terms of FICA to the Financial Intelligence Centre will transfer from the employee to the reporting officer after a transaction was reported to the reporting officer. The reporting officer will determine and decide as to whether a transaction must be reported.

REPORTING OFFICER

The Counter-Money Laundering Control and Reporting Officer for the company is a suitably responsible person, or any other person nominated from time to time by the company. Every MLCO shall complete the appointment form which shall be placed on the compliance file as part of the general recordkeeping. (ANNEXURES C & D)

The money laundering control and reporting officer (MLCO) for the business is Roland Salomon.

If the employee has any questions or any queries or is uncertain of any aspect relating to FICA, the employee must report to the MLCO reporting officer immediately before any transaction is finalised between the company and a client in order to ensure compliance with FICA.

The reporting officer has to determine whether or not the transaction is reportable to the Financial Intelligence Centre.

Reporting periods:

- | | |
|--------------------------------------|---------|
| • THRESHOLD TRANSACTION | 2 DAYS |
| • TERRORIST RELATED ACTIVITIES | 5 DAYS |
| • SUSPICIOUS OR UNUSUAL TRANSACTIONS | 15 DAYS |

The MLCO will:

- Ensure compliance with applicable money laundering legislation by the FSP and all employees operating under the FSP;
- Ensure compliance by everyone in the business with the internal rules;
- Report suspicious and unusual transactions to the FIC;
- Report property associated with terrorism and or related activities;
- Liaise with authorities on developments in respect of applicable legislation;
- Report to the FSP in regard to compliance by the FSP and persons operating under the FSP;
- Monitor training of the FSP, key individuals, representatives and staff on applicable legislation
- Submission of On line reports in terms of sec 28A of the FIC Act on the appropriate dates

THE ROLE OF THE SECTION 43(b) FICA COMPLIANCE OFFICER

Whenever the Section 43(b) FICA Compliance Officer knows or suspects that a person or transaction or attempted transaction reported to him falls within any of the below categories he or she must report the person, transaction or attempted transaction to the FIC:

- The FSP 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;

- Any transaction or prospective transaction over which a person is making enquiries:
 - Facilitates, or will facilitate the proceeds of unlawful activities into the FSP;
 - Facilitates, or will facilitate, or is likely to facilitate the transfer of proceeds of unlawful activities;
 - Have, or will have no apparent business or lawful purpose;
 - Are concluded, or will be concluded for the purpose of avoiding giving rise to a reporting duty under the FIC Act;
 - Appears to be an evasion or attempted evasion of a duty to pay any tax or levy;
 - Cause, or may cause the FSP to be used in any way for money laundering purposes;
 - Relates to an offence relating to the financing of terrorist and related activities.

The Section 43(b) FICA Compliance Officer will report to the FIC as soon as possible but **no later than 5 days** (excluding Saturdays, Sundays and public holidays) from the date on which the Section 43(b) FICA Compliance Officer became aware of, or suspected the occurrence of a reportable transaction.

Such said report must be made by way of the FIC's internet-based reporting portal (www.fic.gov.za) and completing the required information fields on the website.

Any submissions made to the Section 43(b) FICA Compliance Officer must be recorded by the Section 42(b) FICA Compliance Officer and not on the general database of the FSP. The Section 43(b) FICA Compliance Officer must have access to this database.

Whenever a duly authorised representative of the FIC requests additional information about a reported case, the Section 43(b) FICA Compliance Officer must provide the required information.

Whenever a duly authorised representative of the FIC requests that the transaction should be discontinued, the Section 43(b) FICA Compliance Officer must ensure that the FSP discontinues the transaction.

Whenever the Section 43(b) FICA Compliance Officer believes it necessary to obtain additional information surrounding a client whom established a business relationship or is about to establish a business relationship poses a high risk of facilitating money laundering activities,

OR

The Section 43(b) FICA Compliance Officer believes additional measures must be taken in order to enable the FSP to identify the proceeds of possible unlawful activities or money laundering activities

The Section 43(b) FICA Compliance Officer must obtain sufficient appropriate information to determine whether transactions involving the client are consistent with the FSP's knowledge of that client and must include:

- The source of that client's income, and
- The source of the funds which that person expects to use in concluding the contract or transaction

FIC REQUEST FOR ADDITIONAL INFORMATION

Whenever an authorised representative of the FIC requires any information regarding a report made to it by the FSP, such request must be referred to the Section 43(b) FICA Compliance Officer for attention. Whenever a Key Individual, Representative or Support Staff member of the FSP wishes to request

information from the FIC, the request must be communicated to the Section 43(b) FICA Compliance Officer.

An authorised representative of the FIC may request the FSP to divulge whether:

- A particular person is a client, insured life, beneficiary, or broker / representative of the FSP, or
- Whether a particular person / representative employed by the FSP is acting on behalf of, or has acted for a specified person

Any request from the FIC, must be referred to the Section 43(b) FICA Compliance Officer **before the end of business that day.**

The Section 43(b) FICA Compliance Officer will ensure that the person requesting the information has been duly authorised by the FIC to make requests of that nature.

The Section 43(b) FICA Compliance Officer must provide the FIC representative with the information referred to above, (anything more requires a warrant to be produced by the FIC Representative), and would require the FIC Representative to sign an acknowledgement of receipt.

The Section 43(b) FICA Compliance Officer must record the request and arrange for the scanning of the warrant, written authority, acknowledgement of receipt onto the secure database held by the Section 43(b) FICA Compliance Officer.

FIC INSPECTIONS

For the purposes of determining compliance with the FIC Act and subordinate legislation an inspector may at any reasonable time and on reasonable notice, where appropriate, enter and inspect any premises at which the FIC or, when acting in terms of Section 45(1), the supervisory body reasonably believes that the FSP is conducting business.

A duly authorised inspector may:

- In writing direct a person to appear for questioning before the inspector at a time and place determined by the inspector
- Order any person who has or had any document in his, her or its possession or under his, her or its control relating to the affairs of the FSP:
 - To produce that document, or
 - To furnish the inspector at the place and in the manner determined by the inspector with information in respect of that document.
- Open any strongroom, safe or other container, or order any person to open any strongroom, safe or other container, in which the inspector suspects any document relevant to the inspection is kept.
- Use any computer system or equipment on the premises or require reasonable assistance from any person on the premises to use that computer system to:
 - Access any data contained in or available to that computer system, and
 - Reproduce any document from that data
- Examine or make extracts from or copy any document in the possession of the FSP, against the issue of receipt

Whenever, an inspector undertakes an inspection in terms of FICA any Key Individual or Section 43(b) FICA Compliance Officer must request from the inspector:

- A certificate of appointment (that must be readily produce such certificate immediately on request)
- A receipt of any document copied, or removed from the FSP's premises

Whenever, an inspector undertakes an inspection in terms of FICA any Key Individual, Representative or Support Staff member must without delay provide reasonable assistance to an inspector.

PROCEDURE TO BE FOLLOWED:

When a new business transaction is concluded with a client and you are an accountable institution and the transaction qualifies as a FICA transaction, the following steps must be taken

Step 1

Obtain verification documents

Step 2

Complete the Risk rating/ PEP form (ANNEXURE A) Only in the case of cash transactions

Step 3

If in doubt about any of the information required on any of the above steps, report to the MLCO immediately and provide copies of the documentation. Use the reporting form (ANNEXURE B)

WHEN A REPORT IS FILED

A report in terms of section 28 of the Act must be sent to the Centre as soon as possible but not later than 2 days after becoming aware of a cash transaction or series of cash transactions that has exceeded the prescribed Limit. When a report is filed, the following steps must be followed.

Step 1

Go onto the FIC website www.fic.org.za and provide your log-on details

Step 2

Report the transaction

The report must contain the following information:

Full particulars in respect of the natural or legal person making the report or other entity on whose behalf the report is made. This will include:

- Identifying particulars of the person or entity. Example ID or registration number of entity;
- Address of the person or entity;
- The type of business or economic sector of the accountable institution and reporting institution;
- In the case of a natural person, the person's contact particulars, and in the case of a legal person or entity, the surname, initials and contact particulars of a contact person.

Step 3

In respect of the transaction for which a report under section 28 is made, the report must contain as much of the following information as is available:

- The date and time of the transaction, or in the case of a series of transactions, the time of the transactions in the 24 hour period;
- The description of the transaction or series of transactions;
- The amount of the funds per transaction or series of transactions;
- The currency in which the funds were disposed of; and
- The purpose of the transaction or series of transactions;

Step 4

In respect of each person conducting the transaction the report must contain as much of the following information available-

- In the case of a natural person, full particulars of the person's name and surname, or initials and surname if the name is not available;
- The date of birth of the person or identification number;
- The type of identifying document from which the particulars referred to subparagraphs above were obtained;
- In the case of a legal person, full particulars of the person's or entity's name including their registration number;

Note that a report in terms of section 28 must contain a full description of the amount of cash in excess of the prescribed limit which is received or paid out by the accountable institution and reporting institution

Where a suspicious or unusual or other transaction has been reported, you must continue with the transaction unless the MLCO or the FIC direct you otherwise.

DO NOT ALERT YOUR CLIENT TO THE FACT THAT THEY ARE BEING REPORTED!!!!

CONFIDENTIAL INFORMATION

Any person who is required to make a report in terms of these rules may not disclose the fact that a report is being made or the contents of that report to any person other than the employee who is responsible for making the report to the FIC.

The client or other business party may under no circumstances be informed that a report is to be made or that the client or business partner is suspected of money laundering.

No person who is aware that a report is to be made may disclose that fact or any information contained in the report to any other person.

Any person who suspects that a report is to be made or has been made in not to disclose that fact. If you make a report in good faith, no criminal or civil action may be taken against you for reporting.

NON-COMPLIANCE WITH FICA

DISCIPLINARY PROCEDURES

Each member will be liable to disciplinary action in the event of non-compliance with FICA, the training manual, these Internal Policy and Procedures and all other policies issued from time to time by the company.

A person convicted under the Act will be summarily dismissed.

Any contravention of the rules contained in this manual will be dealt with in accordance with the disciplinary procedure.

OFFENCES AND PENALTIES

Any person who fails to report a suspicious or unusual transaction as referred to above is guilty of an offence in terms of sections 52 or 53 of the Act.

These offences carry a maximum penalty of imprisonment for a period not exceeding 15 years or a fine not exceeding R100 million (R100 000 000).

- It is an offence to fail to identify a person as prescribed in Section 21(1) of the act.
- It is an offence to fail to keep record of information in terms of Section 22(1) and keep such records in terms of section 23 or 24(1) or to comply with Section 24(3).
- It is an offence to willfully tamper with a record in terms of section 22 or Section 24(1), or willfully destroys such a record, otherwise in accordance with Section 23.
- It is an offence to fail to give assistance to the FIC in accordance with Section 26(5)
- It is an offence to fail to report cash transactions in accordance with Section 28
- It is an offence to fail to report suspicious or unusual transactions in accordance with Section 29(1) or (2)
- It is an offence to fail to formulate and implement internal rules in accordance with Section 42(1) and (2).
- It is an offence to fail to provide training or to appoint a Section 43(b) FICA Compliance Officer in accordance with Section 43(a) and (b)

A person convicted of an offence mentioned above, is liable to imprisonment for a period not exceeding 15 years or to a fine not exceeding R100 Million (R100 000 000).

DEFENSES

Section 69 of FICA provides for a special defense to a charge based on the failure to report an unusual or suspicious transaction to the FIC:

If an employee of the FSP is charged with committing an offence under section 52 of the Act that person may raise as a defense the fact that he or she had:

- Complied with the applicable obligation in terms of the Internal Rules relating to the reporting of information of the FSP.
- Reported the matter to the Section 43(b) FICA Compliance Officer.
- Reported the matter to his or her superior, if any, if the FSP did not appoint a Section 43(b) FICA Compliance Officer.
- The FSP had not made its Internal Rules available to its employees.
- The Internal Rules were not applicable to that person.

Internal Rules:

To be read with the generic FICA Internal Rules

Rule 1

The Compliance Officer is responsible for ensuring compliance with the Act and these internal rules. This will be exercised under the Generic FICA Internal Rules.

Training and awareness

Each employee is obliged to read through the FICA training material and receive FICA training. Each employee must ensure that he/she fully understands the contents, duties and obligations in terms of FICA and know how to identify and report a suspicious transaction. After reading the FICA training manual and receiving FICA training each employee must sign and date a training register, which is to be kept on file and updated annually. All new staff to be trained on the provisions of the Financial Intelligence Centre Act and the Company's internal rules, within a period of 30 days of joining the company.

Training will be conducted every two (2) years.

Rule 2

Failing to comply with the provisions of the Act and these internal rules will result in disciplinary action and criminal sanction as set out in the Generic FICA Internal Rules.

Rule 3

If, in exceptional circumstances, employees do establish a business relationship or conclude a single transaction with a client (or prospective client) and such transaction is not FICA exempt, they must ensure that the correct client identification, verification and record keeping procedures are followed. The Generic FICA Internal Rules and the Money Laundering control Officer are to be consulted regarding the appropriate procedures, before establishing a business relationship or concluding a single transaction with a client (or prospective client).

Rule 4

Reporting cash transactions are not the responsibility of the business units [or the employees working in these business units] listed above. The MLCO (money laundering control officer) is responsible for all reporting

Rule 5

Unusual or suspicious transactions

Each employee is obliged to report any unusual or suspicious transaction to the reporting officer. Unusual or suspicious transactions are transactions as set out or any other transaction concluded by the employee and a client and the employee is not sure whether he knows his client or is unsure of the source of any of the received documents or monies. Each transaction concluded by an employee that seems unusual or suspicious, taking into consideration the experience and qualifications of each employee, must be reported to the reporting officer. Suspicious or unusual transactions are to be reported within 1 working day of the suspicion arising. Reporting a suspicion would constitute a defence if charged with a contravention of the Act. Employees should therefore retain a copy of the acknowledgement of receipt of the report by The FICA Reporting Officer for a period of five years. Employees may elect to remain anonymous when reporting.

Rule 6

The FICA Reporting Officer is obliged to acknowledge receipt of a report within 5 business days of the report being made. Receipt is to be acknowledged in writing utilising confidential mail services unless the

employee reporting elects to remain anonymous and not receive confirmation. The FICA Reporting Officer is to keep records of the reports submitted to the Financial Intelligence Centre.

Rule 7

No person making, or who must make a report, may disclose the fact that a report has been made or the contents of the report. The fact that a report has been made [or a suspicion that a report has been made], or the information contained in the report may not be disclosed to any other person, except as provided for in these rules and the Act.

Rule 8

Any request for information held by the Company relating to the Act is to be referred to the MLCO, within 2 business days of receiving the request.

Rule 9

Staff should consult with MLCO should they require further clarification of the internal rules or provisions of the Act.

ANNEXURE A

FICA – RISK RATE DOCUMENT (GENERAL INSURANCE)

Client:.....

Date:

Verifier:.....

The following questions should be asked at each FICA transaction:

Politically Exposed persons (PEP's)		Yes	No
Is the client one of the following or a close family member or closely associated with one of the following?			
	Heads of state, heads of Government and cabinet ministers		
	Influential functionaries in nationalised industries and Government		
	Senior judges		
	Senior political party functionaries		
	Senior and/or influential officials, functionaries and military leaders and people with similar functions in international or supranational organisations		
	Members of ruling or royal families		
	Senior and/or influential representatives of religious organisations (if these functions are connected to political, judicial, military or administrative responsibilities)		

If any questions were answered “Yes”, the source of funds and more information about the transaction and the client should be obtained.

Source of funds:..... **verified:**.....

Source of income:.....**verified:**

Risk rating:

The following factors should be taken into account when risk rating a client and should be implemented at each instance where FICA applies:

		low	med	high
1	product type – e.g. Complex investments could be high risk and life cover with small savings could be low risk			
2	business activity			
3	client attributes, for example, is the client on the United Nations list			
4	duration of client relationship with FSP – a once off transaction could be high risk			
5	source of funds; is the source of funds structured e.g. salary (low risk) or cash business (high risk)			
6	jurisdiction of client; local person (low) and foreign national (high)			
7	transaction value; Value less than R20 000 (low risk)			
8	Type of entity.			

Manager’s Signature

Date

ANNEXURE B

INTERNAL MONEY LAUNDERING REPORT FORM

Client Name:

Client Ref No.....

Client Address:.....

.....

.....

.....

Reasons Why You Are Suspicious:
(Please give full details)

.....

.....

.....

.....

Transaction:

.....

Reported by:

Date:

Once this form is complete please take it (sealed) to the Money Laundering Control Officer (MLCO) and ensure you receive a signed receipt.

NB. REMEMBER DO NOT DISCUSS THE CONTENT OF THIS REPORT WITH ANYONE OTHER THAN THE MLCO



.....

RECEIPT:

MONEY LAUNDERING REPORT RECEIVED BY:.....
ON.../...../.....

FROM:.....

SIGNED:

ANNEXURE C**INTERNAL APPOINTMENT OF COUNTER-MONEY LAUNDERING OFFICER**

I _____, hereby accept my appointment as
Counter-money Laundering Officer of _____.

I agree that I will:

- a) Ensure compliance with money laundering control obligations as set out in the FIC Act, amendments thereto as made from time to time and the regulation
- b) Accept and acknowledge reports regarding reportable transactions made by employees within two working days.
- c) Examine the report in order to establish that:
 - There are sufficient grounds to classify the transactions as suspicious or unusual in terms of FICA
 - There are sufficient grounds to believe that the property is associated with terrorism or related actions
 - Accompanied by the relevant documentation
- d) Make the report to the FIC centre once verified and found reportable
- e) Deal with the report in confidence.
- f) Report all transaction above the prescribed limit to the FIC Centre
- g) Attach a certified copy of my Identity Document

SIGNATURE

DATE

ANNEXURE D

SECTION 43(b) FICA COMPLIANCE OFFICER APPOINTMENT

The FSP must appoint a person as the Section 43(b) FICA Compliance Officer who must ensure compliance by the FSP with the provisions of FICA and the internal rules. This person can be the Key Individual of the FSP and must be equipped with the knowledge and skills to perform the duties imposed by FICA.

The person assigned the role of Section 43(b) FICA Compliance Officer need not have any specific qualifications but must have a thorough knowledge of the money laundering legislation and must be able to train and guide other people involved with the FSP on applicable legislation.

By signing this document the Section 43(b) FICA Compliance Officer acknowledges his or her responsibility to ensure that the FSP, at all times adhere to the following requirements:

- The registration of the FSP as an accountable institution with the FIC and the upkeep of such information
- The establishment and verification of the identity of persons whom transacts with the FSP
- The safekeeping of FICA related information and required records by the FSP
- The reporting of suspicious or unusual transactions to the FIC
- Client Risk Rating and Source of Funds verification
- The reporting of Cash Threshold Reports
- The training of all Key Individuals, Representatives and Support Staff on FICA's statutory provisions

As Key Individual of the FSP I, _____ (name)
confirm the appointment of, _____ (name)
as the FSP's Section 43(b) FICA Compliance Officer.

Key Individual Signature & Date

Sec 43(b) FICA Compliance Officer Signature

ANNEXURE E

ALTERNATIVE REPORTING OFFICER APPOINTMENT
--

The FSP must appoint an Alternative Reporting Officer (other than the Section 43(b) FICA Compliance Officer) who must ensure that suspicious and unusual transactions are reported to the Financial Intelligence Centre, as soon as possible but no later than 15 days after an employee has become aware of the suspicious and unusual transaction, but only:

- In cases where the Section 43(b) FICA Compliance Officer is unable to do so within the prescribed 15 days
- In cases where the Section 43(b) FICA Compliance Officer is in fact the subject of the suspicion and investigation

The person assigned the role of the Alternative Reporting Officer need not have any specific qualifications but must have a thorough knowledge of the suspicious and unusual transaction reporting requirement (Section 29 of the FIC Act)

By signing this document the Alternative Reporting Officer acknowledges his or her responsibility to ensure that the FSP, at all times adhere to the following requirements:

- The reporting of suspicious or unusual transactions to the FIC during the circumstances listed above
- Reporting to the Section 43(b) FICA Compliance Officer the receipt of any suspicious or unusual transaction reports of which the Section 43(b) FICA Compliance Officer is not the subject of the suspicion and investigation

As Key Individual of the FSP I, _____(name)
confirm the appointment of, _____(name)
as the FSP's Alternative Reporting Officer.

Key Individual Signature & Date

Alternative Reporting Officer Signature

ANNEXURE F

FSP REGISTRATION AS AN ACCOUNTABLE INSTITUTION

In order to register with the FIC follow the steps as outlined below:

- Log onto the FIC's website www.fic.gov.za
- Select the 7th menu heading on the left hand side (i.e. "registration form")
- Select the "register" sub-menu option
- At the bottom of the page, click on "to register click here"
- At the first drop down menu select "Accountable Institution"
- Choose either number 8 or 12 depending on the focus of your business
- Choose the Financial Services Board as supervisory body
- Enter a username and password (***note: that the password must be at least 6 characters long, contain at least one digit and one special character e.g. *~!@#\$%^&+=***)
- Follow the instructions, complete the entry fields and click on continue
- From the drop down box select "Other"
- Complete the FSP's name on the next entry field, and the holding company name if applicable
- Select the entity type within which the FSP's license was issued from the drop down box
- Select the identification type from the next drop down box
- Complete the ID number and click on "continue"
- Complete entry fields and click on "continue"
- Complete the Section 43(b) FICA Compliance Officer's details (this may be the same person as the Key Individual) and click on "continue"
- Complete the validator's information, read and acknowledge the legal declaration (***the "validator" is preferably a senior person within the FSP, for example a 2nd Key Individual or Director. However, a 3rd party such as an accountant or auditor may also act as the FSP's validator. The Key Individual of a Sole Proprietorship may act as his or her own validator***)
- Click on "submit"

The FSP's management and Section 43(b) FICA Compliance Officer will be responsible to notify the FIC, in writing, **within 90 days** of any changes to the particulars that was furnished as part of the registration process.

EXTRACTS FROM THE FINANCIAL INTELLIGENCE CENTRE ACT 38 OF 2001**LONG TERM INSURANCE EXEMPT PRODUCTS FROM KYC**

When the prospective policyholder is a pension fund, provident fund or retirement annuity fund and the policy being purchased is a fund or fund member policy as defined in the Long-term Insurance Act.

When the prospective policy is a compulsory annuity purchased in terms of the rules of a pension fund, provident fund or retirement annuity fund, approved in terms of the Income Tax Act 1962.

When the prospective policy is an assistance policy as defined in the Long-term Insurance Act.

When the prospective policy is a Long-term Insurance policy providing benefits only upon death, disability, sickness or injury of the life insured.

When the prospective policy is a long-term insurance policy and the surrender value of the policy within the first three years thereof will not exceed twenty percent of the of the premiums paid in respect of that policy.

When the prospective investor is a pension fund, provident fund or retirement annuity fund approved in terms of the Income Tax Act 1962, and the prospective investment is a unit trust, a linked product investment or a participatory interest in a collective investment scheme.

Extracts from FICA and the FICA Regulations dealing with Internal Rules

[To be read with the Guidance Notes for the Financial Services Sector]

6 June 2003

FINANCIAL INTELLIGENCE CENTRE ACT NO. 38 OF 2001

43. Training and monitoring of compliance. —

(1) An accountable institution must—

- (a) Provide training to its employees to enable them to comply with the provisions of this Act and the internal rules applicable to them;
- (b) Appoint a person with the responsibility to ensure compliance by—
 - (i) The employees of the accountable institution with the provisions of this Act and the internal rules applicable to them; and
 - (ii) The accountable institution with its obligations under this Act

42. Formulation and implementation of internal rules. —

(1) An accountable institution must formulate and implement internal rules concerning—

- (a) The establishment and verification of the identity of persons whom the institution must identify in terms of Part 1 of this Chapter;
- (b) The information of which record must be kept in terms of Part 2 of this Chapter
- (c) The manner in which and place at which such records must be kept;
- (d) The steps to be taken to determine when a transaction is reportable to ensure the institution complies with its duties under this Act; and
- (e) Such other matters as may be prescribed

(2) Internal rules must comply with the prescribed requirements.

(3) An accountable institution must make its internal rules available to each of its employees involved in transactions to which this Act applies.

(4) An accountable institution must, on request, make a copy of its internal rules available to—

- (a) The Centre;

- (b) A supervisory body which performs regulatory or supervisory functions in respect of that accountable institution.

61. Failure to formulate and implement internal rules.—

An accountable institution that fails to—

- (a) Formulate and implement internal rules in accordance with section 42 (1) and (2);
(b) Make the internal rules available to its employees in accordance with section 42 (3); or
(c) Make a copy of its internal rules available to the Centre or a supervisory body in terms of section 42 (4), is guilty of an offence

62. Failure to provide training or appoint compliance officer.—An accountable institution that fails to—

- (a) Provide training to its employees in accordance with section 43 (a); or
(b) Appoint the person referred to in section 43 (b) is guilty of an offence.

68. Penalties.—

- (1) A person convicted of an offence mentioned in this Chapter, other than an offence mentioned in subsection (2), is liable to imprisonment for a period not exceeding 15 years or to a fine not exceeding R100 000 000.
- (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

REGULATIONS

GNR.1595 of 20 December 2002

Money laundering control regulations

GNR.1596 of 20 December 2002

Exemptions in terms of the Financial Intelligence Centre Act, 2001

CHAPTER 5

INTERNAL RULES

25. Internal rules concerning establishment and verification of identities.—The internal rules of an accountable institution concerning the establishment and verification of identities must—

- (a) Provide for the necessary processes and working methods which will cause the required particulars concerning the identities of the parties to a business relationship or single transaction to be obtained on each occasion when a business relationship is established or a single transaction is concluded with the institution
- (b) Provide for steps to be taken by the relevant staff members aimed at the verification of the required particulars concerning the identities of the parties to a business relationship or single transaction;
- (c) Provide for the responsibility of the management of the institution in respect of compliance with the Act, these regulations and the internal rules;
- (d) Allocate responsibilities and accountability to ensure that staff duties concerning the establishment and verification of identities are complied with;
- (e) Provide for disciplinary steps against the relevant staff members for non-compliance with the Act, these regulations and the internal rules; and
- (f) Take into account any guidance notes concerning the verification of identities which may apply to that institution.

26. Internal rules concerning the keeping of records.—The internal rules of an accountable institution concerning the keeping of records in terms of section 22 of the Act must—

- (a) Provide for the necessary processes and working methods to ensure that the relevant staff members of the institution obtain the information of which record must be kept on each occasion when a business relationship is established or a transaction is concluded with the institution;
- (b) Provide for the responsibility of the management of the institution in respect of compliance with the Act, these regulations and the internal rules;
- (c) Allocate responsibilities and accountability to ensure that staff duties concerning the establishment and verification of identities are complied with;
- (d) Provide for disciplinary steps against the relevant staff members for non-compliance with the Act, these regulations and the internal rules;
- (e) Provide for the necessary processes and working methods to ensure that the accuracy and that the integrity of those records are maintained for the entire period for which they must be kept;

- (f) Provide for the necessary processes and working methods to ensure that access as may be required or authorised under the Act by the relevant staff members to those records can be obtained without undue hindrance; and;
- (g) Take into account any guidance notes concerning the verification of identities which may apply to that institution.

27. Internal rules concerning reporting of information.—The internal rules of an accountable institution concerning reporting of suspicious and unusual transactions must—

- (a) Provide for the necessary processes and working methods which will cause suspicious and unusual transaction to be reported without undue delay;
- (b) Provide for the necessary processes and working methods to enable staff to recognise potentially suspicious and unusual transactions or series of transactions;
- (c) Provide for the responsibility of the management of the institution in respect of compliance with the Act, these regulations and the internal rules;
- (d) Allocate responsibilities and accountability to ensure that staff duties concerning the reporting of suspicious and unusual transactions are complied with;
- (e) Provide for disciplinary steps against the relevant staff members for non-compliance with the Act, these regulations and the internal rules; and
- (f) Take into account any guidance notes concerning the reporting of suspicious or unusual transactions which may apply to that institution.

[Date of commencement of Chapter 5: 30 June 2003.]

28. Guidance notes.—(1) The Centre may issue guidance notes concerning—

- (a) The verification of identities;
 - (b) Reporting of suspicious and unusual transactions; and
 - (c) Any other obligations imposed on accountable institutions under the Act.
- (2) Guidance notes referred to in subregulation (1) may differ for different accountable institutions or persons, or categories of accountable institutions or persons and different categories of transactions.

[Date of commencement of r. 28: 30 June 2003.]

30. Title and commencement.—

- (1) These regulations are called the Money Laundering Control Regulations
- (2) Chapter 4 and regulations 29 (7) and (9) shall come into operation on 3 February 2003
- (3) Regulation 1, Chapters 1, 2, 3, and 5 and regulations 28 and 29 (1), (2), (3), (4), (5), (6) and (8) shall come into operation on 30