

TRUST AND COMPANY SERVICE PROVIDERS REMINDED TO COMPLY WITH THE FINANCIAL INTELLIGENCE CENTRE ACT

Trust and company service providers (TCSPs) must register with the Financial Intelligence Centre (FIC) or risk falling foul of South Africa's rules and regulations on anti-money laundering, countering the financing of terrorism and proliferation financing (AML, CFT and CPF).

Registering with the FIC is an important first step that TCSPs must take to fulfil their compliance obligations in terms of the Financial Intelligence Centre Act (FIC Act). Compliance obligations include filing regulatory reports to the FIC.

The FIC is South Africa's financial intelligence unit tasked with identifying the proceeds of crime, and assisting in combating money laundering, terrorist financing and proliferation financing (ML, TF and PF).

Regulatory reports filed by TCSPs, and other accountable institutions are central to the FIC's work of supporting law enforcement, prosecutorial authorities and other competent authorities in the pursuit of financial crime.

A person who performs the activities of a TCSP, regardless of the professional accreditation they hold, is an accountable institution under Schedule 1 of the FIC Act and must register with the FIC. For sector specific guidance on TCSPs, refer to the FIC's [public compliance communication \(PCC\) 6A](#).

Other FIC Act obligations include adopting a risk-based approach, record keeping, appointing a person responsible for compliance, developing and implementing a risk management and compliance programme (RMCP), and training employees on FIC Act compliance and the institution's RMCP. TCSPs can consult the [reference guide for accountable institutions](#) and visit the FIC website for the [compliance obligations for accountable institutions](#).

Registration with the FIC

Registration with the FIC is free and must be completed electronically using the FIC's online registration system called goAML, which is accessible on www.fic.gov.za. A TCSP must register per TCSP activity, namely trust services and company services. Refer to the goAML [accountable institutions registration guide](#) as well as [PCC5D](#) for guidance on how to register.

Reporting to the FIC

Accountable institutions must monitor client transactions to identify suspicious and unusual transactions and activities and other anomalies. There are three primary regulatory reporting streams for all accountable institutions:

- Cash threshold reports (CTRs) – on transactions (cash paid or received) exceeding R49 999.99. This must be reported as soon as possible but not later than two days following the transaction. See FIC [guidance note 5C](#).
- Suspicious and unusual transaction reports (STRs) and suspicious and unusual activity reports (SARs) – on transactions or activities that are unusual or arouse suspicion of ML, TF or PF. These reports must be filed without delay but no later than 15 days from a person becoming aware of the transaction or activity. These reports must be filed regardless of the amount of money involved. See FIC [guidance note 4B](#).
- Terrorist property reports (TPRs) – where the accountable institution has in their possession property of a person who is listed on a targeted financial sanctions (TFS) list or is associated with terrorism, proliferation financing and related activities. This must be reported without delay and no later than five days from becoming aware. See FIC [guidance note 6A](#).

Scrutinising client information

United Nations Security Council resolutions designate persons or entities that are suspected or known terrorists and members of terrorist groups such as ISIL (Da'Esh), and Al-Qaida, on TFS lists. Persons or entities that are associated with threats to international peace and security, which include the proliferation of weapons of mass

destruction, oppressive regimes or human rights abuses, are also designated on TFS lists. Sections 26A, 26B, 26C read together with 28A of the FIC Act form the basis of the TFS regime in South Africa.

A TCSP must scrutinise their client information to determine whether the client, beneficial owner, person acting on behalf of the client, person on whose behalf the client is acting or party to a transaction is a designated person or entity on the TFS list. Client information must be scrutinised regardless of the risk assigned to the business relationship or single transaction. Refer to [PCC 44A](#) which sets out guidance on TFS.

The FIC hosts the TFS list on its [website](#) that TCSPs can search against, for free, to assist in scrutinising their client information. The TFS list reflects the current identity particulars of persons and entities contained in notices published by the Director of the FIC, in terms of section 26A of the FIC Act.

Freezing of property

In terms of section 26B, no one may provide financial or other services to persons or entities designated on a TFS list. TCSPs are prohibited from establishing a business relationship or conducting a single transaction with designated persons or entities. This may include not releasing any property to the designated person or entity. This is referred to as an “asset freeze”.

The accountable institution must have processes in place to ensure that ‘freezing’ occurs immediately where it is in the possession or control of a designated person’s property.

Section 28A of the FIC Act requires accountable institutions to file a TPR report with the FIC if the business knows that it possesses, or controls property linked to terrorism or designated persons and entities (see FIC [guidance note 6A](#)). An accountable institution must not continue with the transaction when a TPR has been submitted to the FIC.

Suspicious and unusual transaction reporting

Where the TCSP suspects a transaction or activity may be linked to a designated person or entity, it must file an STR or SAR, whichever is applicable in terms of section 29 of the FIC Act. A suspicion may involve several factors that could seem insignificant but taken together may arouse suspicion concerning that situation. The reporter should evaluate the transactions and the client's history, background and behaviour when determining whether a transaction or activity is suspicious or unusual.

An STR must be reported as soon as possible without delay, and no later than 15 days of the institution becoming aware of a fact concerning a transaction or a suspicion. An accountable institution can continue with the transaction when an STR has been submitted to the FIC. However, they may not disclose that a report was submitted, nor the content of the report. Doing so would amount to "tipping off." Refer to [guidance note 4B](#) for further information on STRs.

Terrorist financing and proliferation financing risk

When dealing with terrorist and proliferation financing, the source of funds may be from both legitimate and non-legitimate sources, while the goal is to fund and/or carry out an illegal activity. PCC 44A provides guidance on TFS and the risk-based approach to ensure sufficient resources are focused on heightened risks of proliferation financing.

Submitting a risk and compliance return

All TCSPs are urged to submit their risk and compliance returns (RCRs) in respect of Directive 6 without further delay. Completed RCRs enable the FIC to measure TCSPs' understanding of the ML, TF and PF risks they face. In addition, the FIC can assess the inherent ML, TF and PF risks in the sector, and supervise TCSPs using a risk-based approach.

The TCSP sector has been slow in submitting their RCRs. TCSPs that fail to submit their RCRs are non-compliant and will face administrative sanctions. The RCR questionnaires can be accessed [here](#). Alternatively, please visit the FIC website www.fic.gov.za. On the home

page scroll down and click on the link: “Accountable Institutions: File your 2023 risk and compliance return today”.

For more information and guidance refer to the [FIC website](#) for various guidance notes and public compliance communications. Alternatively, contact the FIC’s compliance contact centre on +27 12 641 6000 or log an [online compliance query](#) on the FIC website.