

PUBLIC COMPLIANCE COMMUNICATION

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No 46 (PCC 46)

GUIDANCE ON THE COMMENCEMENT
AND ENFORCEMENT OF THE
FINANCIAL INTELLIGENCE CENTRE ACT
2001 (ACT 38 of 2001) AS AMENDED BY
THE FINANCIAL INTELLIGENCE CENTRE
AMENDMENT ACT, 2017
(ACT 1 of 2017)

PCC SUMMARY

This Public Compliance Communication (PCC) confirms the fact that all the obligations as brought about by the Financial Intelligence Centre Amendment Act, 2017 (Act 1 of 2017) (FIC Amendment Act) which commenced on 2 October 2017 are effective and enforceable.

Accountable institutions must demonstrate compliance with all the obligations as set out in the Financial Intelligence Centre Act, 2001 (Act 38 of 2001) (FIC Act), with the consequence of non-compliance resulting in possible administrative sanctions.

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OBJECTIVE

This PCC confirms the position regarding the commencement and enforceability of all the obligations pursuant to the FIC Amendment Act, which commenced on 2 October 2017.

1. COMMENCEMENT AND ENFORCEMENT DATES

- 1.1. The FIC Act was amended by the FIC Amendment Act, of which certain provisions became effective and enforceable on 2 October 2017.
- 1.2. Although all provisions were enforceable as at 2 October 2017, the Prudential Authority (PA) and Financial Sector Conduct Authority (FSCA), as a means to assist the transition to compliance with the obligations that were introduced by the FIC Amendment Act, permitted a transitional period whereby the sanctioning of non-compliance in respect of these provisions of the FIC Act was deferred until 1 April 2019. Kindy refer to the [annexed PA Public Notice dated 29 March 2019](#) and both [FSCA general communications dated 25 April 2019](#).
- 1.3. This deferment until 1 April 2019 implies that PA and FSCA may sanction non-compliance with the provisions of the FIC Act from 2 April 2019 onwards at their discretion.

2. COMPLIANCE WITH THE AMENDMENT ACT

- 2.1. It is the PA and the FSCA's view, as supported by the Centre, that accountable institutions must demonstrate full compliance with their obligations as set out in the FIC Act as amended by the FIC Amendment Act as at 2 October 2017.
- 2.2. The amendments to the FIC Act did not have retrospective application as at October 2017. Therefore, the supervisory bodies granted the transition period from October 2017 to April 2019 to allow accountable institutions to fully align processes, policies, systems, client files and all money laundering and terrorist financing (ML/TF) controls with the amended FIC Act.
- 2.3. The requirements of the FIC Act apply to an accountable institution's full client data base, at any given time. This does not amount to a retrospective application of the Act. Full compliance includes the development and implementation of a Risk Management Compliance Programme (RMCP) to manage the money laundering, terrorist financing and targeted financial sanction risks. A supervisory body, through

appropriate supervisory measures, may expect an accountable institution to demonstrate compliance with these requirements.

3. NON-COMPLIANCE

- 3.1 It is the PA and FSCAs view, as supported by the Centre, that accountable institutions that cannot demonstrate compliance with the obligations which commenced on 2 October 2017 and all other obligations which remained in force in terms of the FIC Act, are non-compliant with the FIC Act, and may be subject to administrative sanctions in the discretion of the relevant supervisory body in terms of section 45C of the FIC Act.

- 3.2 This position regarding the consequence of non-compliance applies to all other accountable and reporting institutions.

4. GENERAL

- 4.1. The Centre has a dedicated Compliance Call Centre that may assist accountable institutions to understand their obligations in terms of the FIC Act.

- 4.2. Should you have any queries please contact the FIC's Compliance Call Centre on 012 641 6000 and select option 1. Alternatively log an online compliance query by clicking on: <http://www.fic.gov.za/ContactUs/Pages/ComplianceQueries.aspx> or visiting the Centre's website and submitting an online compliance query.

Issued By:

The Director Financial Intelligence Centre

30 March 2020