



INTERNAL RULES THE FINANCIAL INTELLIGENCE CENTRE ACT, 2001 (FICA ACT)

INTRODUCTION

Money laundering refers to an activity which has or is likely to have the effect of concealing or disguising the nature, source, location, disposition or movement of the proceeds of unlawful activities.

In broad terms, money laundering is the manipulation of illegally acquired wealth in order to obscure its true nature or source.

It is not possible to list the variety of ways in which criminals attempt to launder monies. Broadly, money laundering transactions have three distinct stages:-

- Placement- the launderer introduces his illegal profits into the financial system.
- Layering-the launderer engages in a series of conversions or movements of the funds to distance them from their source.
- Integration-the funds re-enter the legitimate economy and are made available to the criminal. The funds appear as “legitimate income”

RELEVANT LEGISLATION

Money Laundering is regulated by:-

- The Prevention of Organized Crime Act 121 of 1998 (“POCA”);
- The Financial Intelligence Centre Act 31 of 2001 (“FICA”);
- The Regulations promulgated in terms of FICA and POCA.
- The Protection of Constitutional Democracy Against Terrorist and Related Activities Act of 2004 (“POCDATARA”)

On 30 June 2003, important sections of FICA came into operation. In broad terms, FICA introduces mechanisms aimed at preventing money laundering, and creates a regulatory regime which applies to institutions and entities that might otherwise be exploited for money laundering purposes. Specific offences relating to organized crime, racketeering, participation in gang activities and money laundering are however still governed by the POCA.

FICA defines certain persons and entities as “accountable institutions”, and imposes obligations upon them to implement internal administrative systems to guarantee that they know and keep records of their clients; report certain transactions, including suspicious and unusual transactions; implement internal rules; appoint a Compliance Officer; and train their employees to recognize and deal with suspected money laundering. In terms of Schedule 1 to FICA, a person who carries on long-term insurance business as defined in the Long-Term Insurance Act, 1998 (“the Long-Term Insurance Act”), including an insurance broker and an agent of an insurer, is an accountable institution

THE INTERNAL MONEY LAUNDERING CONTROL OFFICER IS:

Name:	Terry Mushiana
Designation:	Managing Director
Contact numbers:	065 944 4638
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SCOPE AND PURPOSE OF INTERNAL RULES AND TRAINING

We are obliged, in terms of Section 42 of FICA, to formulate and implement internal rules dealing with:-

- The establishment and verification of the identity of persons.
- Keeping of records.
- The manner in which and place at which such records must be kept.
- The steps to be taken to determine when a transaction is reportable to ensure that we comply with our duties under FICA.
- Such other matters as may be prescribed by the Regulations to FICA.

A copy of these rules will be made available to every employee who may be involved in transactions to which FICA applies and on request to the Financial Services Board and the Financial Intelligence Centre (“the Centre”).

Training will be provided to employees in terms of the provisions of Section 43 of FICA. The aim of the training will be to enable employees to comply with the provisions of FICA and these rules. It will be compulsory for every employee to attend at least one FICA training session and pass a money laundering test. Thereafter it is the Money Laundering Control Officer’s responsibility to ensure that ongoing refresher training is undertaken with all staff.

ESTABLISHMENT AND VERIFICATION OF CLIENTS

In terms of FICA, we are prohibited as an accountable institution, from establishing a business relationship or concluding a single transaction with a client unless we have taken certain prescribed steps to establish and verify the identity of the client, and if necessary, the identity and the authority of the client’s agent or principal.

RECORD KEEPING

In terms of FICA, we are obliged to keep records when establishing and verifying the identity of a client. Accordingly, in respect of any business relationship or transaction established or concluded with a client other than a business relationship or transaction concerning any long term insurance policy which provides benefits only upon the death, disability, sickness or injury of the life insured under the policy, we are obliged to retain the following records:-

- the identity of a client and, if applicable, the identity of the client’s agent or principal;
- the manner in which the identity of the client and the client’s agent or principal was established;
- the nature of the business relationship or transaction;
- in the case of a transaction, the amount involved and the parties to that transaction;
- all accounts that are involved in transactions concluded by the accountable institution in the course of a business relationship or a single transaction, as the case may be;
- the name of the person who obtained the information referred to in bullet point 1 above; and
- any document or copy of a document obtained by the accountable institution in order to verify a person’s identity.

If you are dealing with a client on any matter or product other than one concerning a long-term insurance policy which provides benefits only upon the death, disability, sickness or injury of the life insured under the policy, you must liaise with the Money Laundering Control Officer as to the records we are required to keep. The Money

Laundrying Control Officer will instruct you as to the manner in which and place at which such records must be kept.

ACCESS TO RECORDS

- An authorised representative of the Centre has access to any records kept by us in terms of FICA and may examine, make extracts from or copies of any such records.
- Where the documents are not public documents, the authorised representative of the Centre must present a warrant to access the documents.
- We are obliged, in terms of FICA, to give the authorised representative of the Centre who requires access to documents retained in terms of FICA, our reasonable assistance in this regard.
- Any request for access to our records, whether by warrant or otherwise, must be forwarded to the Money Laundrying Control Officer or the Compliance Officer immediately on receipt thereof and may not be dealt with by any employee.

ADVISING THE CENTRE OF OUR CLIENTS

If an authorised representative of the Centre requests us to advise whether –

- a specified person is or has been a client of ours:
- a specified person is acting or has acted on behalf of any client
- a client is acting or has acted for a specified person,

We must inform the centre accordingly within the specified time frames.

Any request received from the Centre of the nature referred to above, must immediately be forwarded to the Money Laundrying Control Officer or Compliance Officer.

POLITICALLY EXPOSED PERSONS (PEP)

When dealing with any client transactions involving anybody falling within this category, the relevant risk rating form must be used and the source of funds declaration must be completed. All the relevant information must be obtained from the client and populated in the forms.

If there is doubt please liaise with the Money Laundrying Control Officer or Compliance Officer for guidance and clarity.

REPORTING SUSPICIOUS AND UNUSUAL TRANSACTIONS

FICA obliges any person who carries on or is in charge of or manages a business, or who is employed by a business and who knows or suspects that a “suspicious or unusual transaction” has or is going to occur, must report that knowledge or suspicion to the Centre.

A suspicious transaction could involve several factors that may on their own seem insignificant but together raise suspicion. You should always assess whether the transaction seems appropriate and normal within the company’s normal range of business. When evaluating whether a transaction or certain behaviour is suspicious, all relevant factors should be taken into account. The following points may indicate a suspicious and unusual transaction:

- The client does not appear to display honest behaviour
- The client is reluctant to furnish standard personal or business information
- You do not have a satisfactory picture of the clients affairs
- The conduct of the client changes for no apparent reason
- The transaction or series of transactions appear to have a money laundering purpose
- The client engages in transactions that are out of the ordinary or do not fit the client profile

In each case, it is the person who deals directly with the client who has to make use of these key signs and make a judgement regarding the nature of the transaction and if it is suspicious or not, ***remember it is behaviour that is suspicious and not the person.***

A report may therefore need to be made to the Centre where an employee knows or suspects that we have or are about to receive the proceeds of unlawful activities or is a party to a transaction that:-

- resulted or is like to result in the transfer of the proceeds of unlawful activities;
- appears to have no business or lawful purpose;
- is constructed to avoid any reporting duties; or
- may be related to any attempt to evade tax or any other duty or levy imposed by a legislation administered by the South African Revenue Service;
- has been or is about to be used for money laundering purposes.

CASH TRANSACTIONS

We are also required, in terms of section 28 of FICA, to report cash transactions above a prescribed limit, whether or not such transaction is considered suspicious or unusual. "**Cash transactions**" is defined in FICA as transactions involving domestic and foreign notes and coins and travellers cheques above the prescribed limit.

The prescribed limit is R24 999,99 (or an aggregate of smaller amounts which combine to come to this amount if it appears that the transactions involving those smaller amounts are linked and to be considered fractions of one transaction).

In the event where cash (notes, coins and travellers cheques) is involved in any transaction, the same information as with any other transaction must be obtained, but in addition the transaction report form must be completed and the transaction must be reported to the **MLCO**.

The MLCO in consultation with the Compliance Officer will decide whether or not a report must be made to the Centre as required by FICA. In coming to that decision, discussions will be held, if necessary, with the person reporting the suspicion.

REPORTING ON PROPERTY ASSOCIATED WITH TERRORIST AND RELATED ACTIVITIES

Financing of terrorism is the collection or provision of funds for the purpose of enhancing the ability of an entity or anyone who is involved in terrorism or related activities to commit an act that is regarded as a terrorist act. Funds may be raised from legitimate sources, such as personal donations and profits from businesses and charitable organizations, as well as from criminal sources, such as the drug trade, the smuggling of weapons and other goods, fraud, kidnapping and extortion.

Terrorist financing reporting obligations are legislated in the Protection of Constitutional Democracy Against Terrorist and Related Activities Act, Act 33 of 2004 ("POCDATARA").

In terms of section 28A we are obliged to report any suspicious and unusual transactions including cover transactions relating to "property which is connected to an offence relating to the financing of terrorist and related activities" or to "the financing of terrorist and related activities".

A report under section 28A of FICA must be sent to the FIC as soon as possible but not later than five working days after the accountable institution becomes aware that it has in its possession or under its control property associated with terrorist or related activities.

In order to ensure absolute compliance with the reporting obligations imposed by the Act, any employee who becomes aware that he/she has been involved in a transaction that places us in possession or in control property associated with terrorist or related activities must report such transaction to the MLCO within 24 hours of the fact.

Unlawful activity is defined for purposes of FICA as “conduct which constitutes a crime or which contravenes any law, whether such conduct occurred before or after the commencement of [POCA] and whether such conduct occurred in the Republic or elsewhere”.

Proceeds of unlawful activities is defined for purposes of FICA as “any property or any service, advantage, benefit or reward which was derived, received or retained, directly or indirectly, in the Republic or elsewhere, at any time before or after the commencement of [POCA], in connection with or as a result of any unlawful activity carried on by any person, and includes any property representing property so derived”.

Money laundering and money laundering activity means “an activity which has or is likely to have the effect of concealing or disguising the nature, source, location, disposition or movement of the proceeds of unlawful activities or any interest which anyone has in such proceeds, and includes any activity which constitutes an offence in terms of section 64 of [FICA] or section 4, 5 or 6 of [POCA].

PROCDATRA provides for measures to prevent and combat the financing of terrorist and related activities. PROCDATRA criminalizes the conduct of any person who **directly, indirectly, in whole or in part** by any means or method is involved with the a criminal guilty of an offence (see Annexure 2), as well as any person who **knows or ought reasonably to have known or suspected** that the property by an entity which commits or attempts to commit or facilitate the commission of a specified offence.

Every employee must immediately report every suspicion of the nature referred to above to the Money Laundering Control Officer.

- The Money Laundering Control Officer in conjunction with the Compliance Officer will decide whether or not a report must be made to the Centre as required by FICA and, in the event of a report being made, whether or not the relationship with a client will be continued.
- No person other than the Money Laundering Control Officer or Compliance Officer may make a report directly to the Centre.
- No person may disclose to any person other than the Money Laundering Control Officer or Compliance Officer the fact that he or she has reported a knowledge or suspicion in terms of these rules or FICA. Under no circumstances must the reporting in terms of these rules of a knowledge or suspicion be communicated to the client. To do so would constitute an offence under FICA.
- A person who has reported to the Money Laundering Control Officer a knowledge or suspicion as set out above may raise that fact as a defense to a charge of failing to report a suspicious or unusual transaction.
- Any further communications from the Centre must be forwarded to and be dealt with by the Money Laundering Control Officer or Compliance Officer. No employee may communicate directly with the Centre with regard to the reporting of a suspicious and unusual transaction”.

PROTECTION OF EMPLOYEES MAKING THE REPORT

- No action, whether criminal or civil, lies against any person complying in good faith with the reporting obligations under FICA.
- If you have made, initiated or contributed to a report in terms of FICA, you may give evidence in criminal proceedings arising from the report but will not be obliged in law to do so.
- In addition, no evidence of your identity is admissible as evidence in criminal proceedings unless you testify at those proceedings.

FAILURE TO COMPLY WITH THE INTERNAL RULES

- Any person who fails to comply with any provision of these rules will be subject to disciplinary action.
- The penalty for an offence committed in terms of FICA is imprisonment for a period not exceeding 15 years or a fine not exceeding R10 million, save in the event that the offence is a failure to formulate and

implement internal rules, in which event, the penalty is imprisonment not exceeding 5 years or a fine not exceeding R1 million.

- The penalty for a contravention of Section 4, 5 or 6 of POCA is R100 million or 30 years imprisonment”.

SIGNED AND ADOPTED ON BEHALF OF THE FSP:

Name	Terry Mushiana
Designation	Managing Director
Signature	N.T Mushiana
Date	08/03/2018