

Bay Wealth Management

CERTIFIED FINANCIAL PLANNER® PRACTITIONERS

FINANCIAL INTELLIGENCE CENTRE ACT

38 OF 2001

MONEY LAUNDER AND TERRORIST FINANCING CONTROL REGULATIONS

INTERNAL RULES

- In terms of Section 42 of the Financial Intelligence Centre Act, an accountable institution must formulate and implement internal rules concerning *inter alia* the verification of a client's identity and the maintenance of records
- The policy must be accessible for public and Financial Intelligence Centre inspection purposes
- This policy must be reviewed annually (Annexure A & B section must be updated and signed annually)

This policy and internal rules (as it applies) is adopted by **Bay Wealth Management (Pty) Ltd** a duly authorised Financial Services Provider (hereunder referred to as the FSP).

As Key Individual of the aforementioned FSP I, **Adrian-John Mestre** hereby confirm the adoption of the policy.

As FICA Compliance Officer of the aforementioned accountable institution I, **Adrian-John Mestre** hereby confirm the adoption of the policy.

KEY INDIVIDUAL SIGNATURE & DATE

FICA MONEY LAUNDERING OFFICER & DATE

Bay Wealth Management (Pty) Ltd

Reg No: 2009/004616/07

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Directors: A. Mestre (Managing); T. Mestre

Bay Wealth Management (Pty) Ltd is an authorised FSP in terms of the FAIS Act, 2002 (14451)



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POLICY ACKNOWLEDGEMENT

By signing this document, I acknowledge the FSP's adoption of this policy

Name & Date

Key Individual Signature

By signing this document, I acknowledge the FSP's adoption of this policy

Name & Date

Key Individual Signature

REPRESENTATIVES, STAFF AND ALL PERSONAL ACKNOWLEDGMENT

I acknowledge that I have read and understand the contents of this document

Name & Date

Staff Signature

I acknowledge that I have read and understand the contents of this document

Name & Date

Staff Signature

I acknowledge that I have read and understand the contents of this document

Name & Date

Staff Signature



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I acknowledge that I have read and understand the contents of this document

Name & Date

Staff Signature

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Staff Signature

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DEFINITIONS

In this document unless the context clearly indicates otherwise:

“Business relationship” means an arrangement between the FSP, Key Individual or Representative and a client with the purpose of concluding transactions on a regular basis.

“Cash” means coin and paper money of the Republic or of another country that is designated as legal tender and that circulates as, and is customarily used and accepted as, a medium of exchange in the country of issue as well as travellers’ cheques

“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

“FIC” means the Financial Intelligence Centre

“FICA” means the Financial Intelligence Centre Act

“FSP” means a Financial Services Provider which has been classified as an “accountable institution” in terms of Schedule 1 of FICA

“KYC procedures” means Know Your Client procedures in respect of identification and verification of identities of clients

“Reporting Format” means the format prescribed by the FIC and that is available on their website at www.fic.gov.za.

“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



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“Transaction” means a transaction concluded between a client and the FSP in accordance with the type of business carried on by the FSP, which may comprise of but not be limited to:

- Receiving an instruction or application, or attempted instruction or application that will result in the alteration or conclusion of any policy or contract; and /or
- Receiving an instruction or application, or attempted instruction or application that would create an inflow or outflow of funds on any new or existing policy / investment contract/ financial product.

INTRODUCTION

The purpose of the Financial Intelligence Centre Act ("FICA") is to combat money laundering activities by, amongst other things, establishing a Financial Intelligence Centre ("FIC") and imposing certain duties on FSP's (classified as "accountable institutions") who may, unbeknownst to the FSP, be implicated with these unlawful activities by being exploited as a vehicle in order to facilitate money laundering practices. Money laundering can be described as the performing of any act which may result in concealing the nature, source, location or movement of the proceeds of unlawful activities or any interest that anyone may have in such proceeds.

The FIC Act provides for certain duties to be performed by accountable institutions and its employees when dealing and/or transacting with clients. The purpose of these duties is to prevent and to deter the individuals involved in money laundering activities from carrying out and profiting from their unlawful acts.

The duties imposed on accountable institutions include *inter alia*:

- 1) The registration of an accountable institution with the FIC
- 2) The establishment and verification of the identity of persons whom transacts with the FSP
- 3) The safekeeping of FICA related information and required records by the FSP
- 4) The reporting of transactions to the FIC
- 5) Client Risk Rating and Source of Funds Verification
- 6) The training of Key Individuals, Representatives and Support Staff on FICA's statutory provisions

This policy (i.e. set of internal rules) will focus on the above-listed duties as well as the measures that must be taken by the FSP in order to comply with the FIC Act more comprehensively below. All employees must read and understand the duties that are required of them as well as the disciplinary measures that may be taken by the FSP in the event of non-compliance.

The FIC Act, Regulations as well as other useful information regarding money laundering may be sourced from the FIC's website – please visit www.fic.gov.za



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RESPONSIBILITY & ADHERENCE

The FSP's management and FICA Compliance Officer will at all relevant times, jointly and severally, carry the overall responsibility to ensure that the provisions of FICA, the Regulations thereunder and the FSP's Internal Rules as incorporated within this document, are complied with.

Any employee of the FSP who fails to comply with the provisions of FICA, the Regulations thereunder and the FSP's Internal Rules as incorporated in this document, and which pertain to the establishment and verification of identities, the keeping of records and the reporting of information, whether through negligence or intent, will be formally disciplined in accordance with the FSP's Disciplinary Policy and Procedure.

CONFIDENTIALITY AND THE CONTINUANCE OF TRANSACTIONS

No person who makes or must make a report, or who knows or suspects that a report has been or is to about to be made in terms of a suspicious or unusual transaction **may disclose** the knowledge or suspicion or any information regarding the contents to any other person, including the person in respect of whom the report is or must be made.

Whenever a Key Individual, Representative or Support Staff member referred a suspicious or unusual transaction to the FICA Compliance Officer, that person **must process** that transaction unless the FICA Compliance Officer directs the staff member not to proceed with 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 defence 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



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- 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 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 FICA Compliance Officer for further advice concerning his or her rights

THE ROLE OF THE FICA Compliance Officer

Whenever the FICA Compliance Officer knows or suspects that a person or transaction or attempted transaction reported to him falls within any of the following categories he or she must report the person, transaction or attempted transaction to the FIC.

The 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 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.

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

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

Whenever the 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,



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OR

The 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 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 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 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 FICA Compliance Officer **before the end of business that day.**

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
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- 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 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

SPECIFIC DUTIES

1. DUTY TO REGISTER AS AN ACCOUNTABLE INSTITUTION

Every accountable institution referred to in Schedule 1, must within the prescribed period and in the prescribed manner, register with the FIC.

The FSP's management and FICA Compliance Officer is responsible to register the FSP as an accountable institution with the FIC.

The FSP has registered, details as follows:

USERNAME:

PASSWORD:

The FSP's management and 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.



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SPECIFIC DUTIES

2. DUTY TO ESTABLISH & VERIFY THE CLIENT'S IDENTITY

The FSP may not establish a business relationship or conclude a single transaction with a client unless the accountable institution has taken the prescribed steps:

Establish and verify the identity of the client (i.e. "know your client" procedure), or

- Whenever the client is acting on behalf of another person, to establish and verify the identity of that other person and the client's authority to establish the business relationship on behalf of that other person, or
- Whenever another person is acting on behalf of the client, to establish and verify the identity of that other person and that other person's authority to act on behalf of the client

EXEMPTION FROM THE "KNOW YOUR CLIENT" PROCEDURES

The FSP need not verify the identity of the client (or his agent), if the FSP is exempted by the FICA regulations from doing so. As an insurance broker and a FSP who renders investment advice, the FSP is exempted from FICA regulations to identify the client in respect of the following transactions:

- Any **long term insurance policy** which is a **fund policy** or a **fund member policy** as defined in the Long-term Insurance Act, 1998 and the regulations thereto and in respect of which the **policyholder is a pension fund, provident fund or retirement annuity fund** approved in terms of the Income Tax Act, 1962;
- Any **unit trust** or **linked product investment** effected by a **pension fund, provident fund or retirement annuity** fund approved in terms of the Income Tax Act, 1962, including an investment made to fund in whole or in part the liability of the fund to provide **benefits to members** or surviving spouses, children, dependants or nominees of members of the fund in terms of its rules
- Any annuity purchased as a **compulsory annuity** in terms of the rules of a pension fund, provident fund or retirement annuity fund approved in terms of the Income Tax Act, 1962;
- Any **reinsurance policy** issued to another accountable institution;
- Any long-term insurance policy classified in terms of the Long-term Insurance Act, 1998 as an **assistance policy**;



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- Any long term insurance policy which provides **benefits only upon the death, disability, sickness or injury** of the life insured under the policy;
- Any long-term insurance policy in respect of which recurring premiums are paid which will amount to an **annual total not exceeding R25 000** subject to the **condition** that the client:
 - × **do not increase** the recurring premiums so that the amount of R25 000,00 is exceeded;
 - × **do not surrender** such a policy within **three** years after its commencement
do not receive a loan or credit against the security of such policy from the accountable institution within **three** years after its commencement.
- Any long-term insurance policy in respect of which a **single premium not exceeding R50 000** is payable subject to the **condition** that the client:
 - × **do not surrender** such a policy within **three** years after its commencement
 - × **do not receive** a loan or credit against the security of such policy from the accountable institution within **three** years after its commencement
- Any contractual agreement to **invest in unit trust or linked product investments** in respect of which recurring payments are payable amounting to an **annual total not exceeding R 25 000** subject to the condition that the client:
 - × **do not liquidate** the whole or part of such an investment within **one** year after the making of the first payment
- Any **unit trust or linked product investment** in respect of which a **once off consideration not exceeding R 50 000** is payable, subject to the condition that the client:
 - × **do not liquidate** the whole or part of such an investment within **one** year after the making of the first payment
- Any other long term insurance policy on condition that within **the first three years** after the commencement of the policy the **surrender value** of the policy does **not exceed twenty per cent** of the value of the premiums paid in respect of that policy.

The majority of the FSP's transactions DO / DO NOT fall within these exemptions.



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THE FSP'S "KNOW YOUR CLIENT PROCEDURE"

In regards to all other transaction an accountable institution must verify the identity of the following types of persons (clients):

- Natural Persons (foreign or domestic)
- Juristic entities (foreign or domestic)

All employees will be responsible to:

Perform the "know your client" procedure on all transactions that fall within the ambit of these rules. The "know your client" procedure must be performed with any **new business relationship** or with **any single transaction** with an existing client:

1)	Obtain the original verification document from the client
a)	Verify identity
b)	Verify residential address
2)	Create a copy of the original documentation
3)	File and maintain all FICA verification documents on the client's file
4)	Whenever the information provided by the client does not correspond with the verification documents, or there are inconsistencies with the original copies of the verification documents, the client should be regarded as a high risk client and the case must be referred to the FICA Compliance Officer before the close of business of that day. (See the procedure with regards to high risk clients below)
5)	Whenever a staff member facilitating a transaction actually knows or believes that there is a reasonable possibility that the name provided by a client is false, the client should be regarded as a high risk client and the case must be referred to the FICA Compliance Officer before the close of business of that day. (See the procedure with regards to high risk clients below).
6)	Whenever a natural person acts on behalf of another natural person, partnership, legal entity or trust, the following steps must be followed in addition to the prescribed "know your client" procedures for the establishment and verification of a client's identity:
a)	Obtain documentation in order to provide proof of such natural person's authority to act on behalf of another person or entity. For example:
i)	Power of Attorney / Mandate
ii)	a Resolution duly executed by authorized signatories authorizing the third party to establish the relationship.



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iii)	a Court Order authorizing the third party to conduct business on behalf of another person.
7)	Verify the accuracy of the information attained
8)	File and maintain all FICA verification documents on the client's file
9)	The verification process need not take place in person, provided reasonable steps are taken to ensure the correctness of any verification process.
a)	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.

MAINTAINING THE CORRECTNESS OF CLIENT'S PARTICULARS

The FSP must take reasonable steps to maintain the correctness of particulars that have been provided and which may be susceptible to change.

In order to accomplish this, the FSP must request any new client, to inform the FSP in writing should any change occur in regards to the relevant particulars that were provided when the business relationship was established or the transaction executed.

Should the FSP at any stage become aware, during the business relationship, through written or verbal communications with the client, that any such particulars have subsequently changed, the FSP's would need to perform the know your client procedure in terms of that particular identifying attribute.

At each annual renewal the client must be requested to confirm the information held by the FSP

SPECIFIC DUTIES

3. DUTY TO MAINTAIN RECORDS

The FSP **must keep records** of all relevant information and documentation associated with the identification and verification process.

All employees will be responsible to:



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- 1) Maintain records of all applicable identification and verification documentation in a secure and readily accessible manner
 - a) Identity of the client
 - b) The manner in which the identity of the person was established
 - c) The name of the person who obtained the information
 - d) Copy of the documents obtained
 - e) The nature of the business relationship or transaction
 - f) The amounts and parties involved with a transaction
- 2) Maintain records of all applicable client risk rating documentation in a secure and readily accessible manner

The FSP must keep records pertaining to:

- The establishment of a business relationship, for at least five (5) years from the date on which the business relationship is terminated
- A transaction which is concluded, for at least five (5) years from the date on which that transaction is concluded.

FIC ACCESS TO RECORDS

An authorised representative of the FIC must be allowed access during ordinary working hours to any records kept by or on behalf of the FSP. The authorised representative of the FIC may examine, make extracts from or copies of, any such records for the purposes of obtaining further information.

SPECIFIC DUTIES

4. DUTY TO REPORT - SUSPICIOUS TRANSACTIONS

Any person who manages a FSP or who is employed by the FSP and knows or ought reasonably to have known or suspected that:

- 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 terrorists and related activities,

OR

- A transaction or series of transactions to which the FSP is a party:
 - × facilitated or is likely to facilitate the transfer of the proceeds of unlawful activities or property which is connected to an offence relating to the financing of terrorist and related activities
 - × has no apparent business or lawful purpose



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- ✗ is conducted for the purpose of avoiding giving rise to a reporting duty under the FIC Act
- ✗ may be relevant to the investigation of an evasion or attempted evasion of a duty to pay tax
- ✗ relates to an offence relating to the financing of terrorists and related activities

Such person would be obligated to:

- 1) Report in writing any suspicious and unusual transaction to the FICA Compliance Officer **before the end of business that day**
- 2) The FSP's FICA Compliance Officer is indicated on Annexure A
- 3) Should the FICA Compliance Officer not be available, the designated Alternative Reporting Officer must be informed in writing of the suspicions and unusual transaction **before the end of business that day**
- 4) Should the FICA Compliance Officer be the subject of the suspicion and investigation the designated Alternative Reporting Officer must be informed in writing of the suspicious and unusual transaction **before the end of business that day**
- 5) The FSP's Alternative Reporting Officer is indicated on Annexure B

There will be a duty to report suspicious or unusual activities as put forward by the examples listed under the following descriptions:

4.1. General suspicious and/or unusual activities

The circumstances referred to below may be legitimate features of certain categories of businesses, or may make business sense if viewed in the context of the client's business activities. However, it is equally possible that these features would be unexpected in relation to certain categories of businesses, or would have no apparent business purpose, given a particular client's business activities. A suspicious situation may involve several factors that may on their own seem insignificant, but, taken together, may raise suspicion concerning that specific situation.

Examples of general suspicious or unusual transactions include:

- The client provides insufficient vague or suspicious information concerning a transaction
- The client admits or makes statements about involvement in criminal activities
- The client is involved with significant amounts of cash in circumstances that are difficult to explain
- The client does not want correspondence sent to his or her home address
- The client repeatedly uses an address but frequently changes the names involved
- The client appears to have accounts with several financial institutions in one area for no apparent reason
- The client is accompanied and watched
- The client shows uncommon curiosity about internal systems, controls and policies



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- The client over justifies or explains the transaction
- The client is secretive and reluctant to meet in person
- The client's home or business telephone number has been disconnected or there is no such number when an attempt is made to contact the client shortly after the transaction
- The client is involved in activity out-of-keeping for that individual or business
- The client insists that a transaction be done quickly
- The client appears to have recently established a series of new relationships with different financial entities
- The client attempts to develop close rapport with staff
- The client offers staff money, gratuities or unusual favours for the provision of services that may appear unusual or suspicious
- The client purchase commodities at prices significantly above or below market prices
- The client intensively makes use of a previously inactive account for no apparent legitimate personal or business reason
- The client regularly buys securities and sells them for little profit or even loss
- The client and other parties to the transaction have no apparent ties to South Africa
- The transaction involves a country where illicit drug production or exporting may be prevalent, or where there is no effective anti-money-laundering system

4.2. Suspicious or unusual indicators in terms of client identification

The circumstances referred to below may be legitimate features of certain categories of businesses, or may make business sense if viewed in the context of the client's business activities. However, it is equally possible that these features would be unexpected in relation to certain categories of businesses, or would have no apparent business purpose, given a particular client's business activities. A suspicious situation may involve several factors that may on their own seem insignificant, but, taken together, may raise suspicion concerning that specific situation.

Examples of suspicious or unusual indicators in terms of client identification include:

- The client makes use of a seemingly false identity in connection with the transaction, including the use of aliases and a variety of similar but different addresses.
 - The client produces seemingly false identification or identification that appears to be counterfeited, altered or inaccurate
 - The client refuses to produce personal identification documents
 - The client wants to establish identity using something other than his or her personal identification documents
 - All identification presented is foreign or cannot be checked for some reason
 - All identification documents presented appear new or have recent issue dates
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- The client changes a transaction after learning that he must provide a form of identification

4.3. Suspicious or unusual indicators in terms of reporting requirements

Examples of suspicious or unusual indicators in terms of reporting requirements include:

- The client attempts to convince an employee not to complete any documentation required for the transaction
- The client make enquiries that would indicate a desire to avoid reporting
- The client has unusual knowledge of the law in relation to suspicious transaction reporting
- The client seems very conversant with money laundering or terrorist activity financing issues
- The client is quick to volunteer that funds are clean or not being laundered

4.4. Suspicious or unusual indicators in terms of cash transactions

Examples of suspicious or unusual indicators in terms of cash transactions include:

- The client starts conducting frequent cash transactions in large amounts when this has not been a normal activity for the client in the past
- The client frequently exchanges small bills for large ones
- The client presents notes that are packed or wrapped in a way that is uncommon for the client
- The client consistently makes cash transactions that are just under the reporting threshold amount (i.e. R25 000) in an attempt to avoid the reporting threshold
- The client's stated occupation is not in keeping with the level or type of activity
- The transaction seems to be inconsistent with the client's apparent financial standing or usual pattern activities

4.5. Additional factors to be considered in terms of politically exposed persons (PEP's)

A client which is also a politically exposed person must be regarded as a high risk client and, as a result, more stringent due diligence procedures must be performed on this type of client.

"Know your client" procedures should be strictly applied to such individuals, their immediate family members such as spouses, parents and siblings and possibly other blood relatives and relatives by marriage, depending on the profile of the individual. In the event of uncertainty about the profile of an individual suspected of being a PEP, consult with the FICA Compliance Officer.

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Examples of politically exposed persons include:

- Persons entrusted with a prominent public function within a particular country
- Persons appointed as head of state, head of any spheres of government and/or cabinet ministers
- Persons appointed as judge
- Persons appointed as political party functionaries
- Persons appointed as senior representatives of a religious organisations
- A family member or closely associated person of a politically exposed person.

Whenever, a Key Individual, Representative or Support Staff member suspects that he or she is interacting with a politically exposed person such staff member would be obligated to:

- Report the client as a politically exposed person to the FICA Compliance Officer **before the end of business that day**
- The report must be made to the FICA Compliance Officer in writing.

4.6. Consolidated List of Terrorist Organisations and Associated Individuals

A client whose name is indicated on the United Nations Security Council's list of terrorist organisations and associated individuals list would be considered a high risk client.

The lists are frequently updated and may be viewed by navigating to the following internet website links:

<https://www.un.org/securitycouncil/content/un-sc-consolidated-list>

<https://www.treasury.gov/resource-center/sanctions/pages/default.aspx>

Whenever, a Key Individual, Representative or Support Staff member suspects that he or she is interacting with a politically exposed person such staff member would be obligated to:

- Report the client as a potential High Risk client to the FICA Compliance Officer **before the end of business that day**
- The report must be made to the FICA Compliance Officer in writing.

4.7. Financial Action Task Forms Member States and Observers

A client whom is also citizen of a country that is **not** indicated on the financial actions task force member states and observers list would be considered a high risk client.



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The list of member states is frequently updated and may be viewed by navigating to the following internet website link:

(http://www.fatf-gafi.org/document/52/0,3343,en_32250379_32236869_34027188_1_1_1_1,00.html)

Whenever, a Key Individual, Representative or Support Staff member suspects that he or she is interacting with a client whom is not a citizen of one of the FATF's member states, such staff member would be obligated to:

- Report the client as a potential High Risk client to the FICA Compliance Officer **before the end of business that day**
- The report must be made to the FICA Compliance Officer in writing.

SPECIFIC DUTIES

5. DUTY TO REPORT – CASH THRESHOLD REPORTING

In terms of Section 28 of the FIC Act the FSP must, within the prescribed period, report to the FIC the prescribed particulars concerning a transaction concluded with a client in terms of the transaction an amount of cash in excess of the prescribed amount:

- Is paid by the FSP to the client, or to a person acting on behalf of the client, or to a person on whose behalf the client is acting,

OR

- Is received by the FSP from the client, or from a person acting on behalf of the client, or from a person on whose behalf the client is acting

The obligation to report therefore extends to cash in excess of the prescribed amount being **paid or received** by the FSP. Payment or receipt of cash includes paying or receiving cash in person as well as paying or receiving it via a third party.

Cash is defined in Section 1 of the FIC Act as:

- Coin and paper money of the Republic or of another country that is designated as legal tender and that circulates as, and is customarily used and accepted as, a medium of exchange in the country of issue



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AND

- Traveller's cheques

Cash does not include negotiable instruments as defined in the FIC Act. It also does not include a 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 cash threshold reporting obligation.

Physical cash payments presented to and received by, or on behalf of, the FSP will be covered. Where an FSP makes a payout to a client consisting of physical cash this will also be covered by the CTR obligation.

Any Key Individual, Representative or Support Staff member that acquire knowledge that the FSP physically receives/received or pays/paid out cash exceeding R24 999.99 must:

- Report this transaction to the FSP's FICA Compliance Officer **before the end of business that day**
- The report must be made to the FICA Compliance Officer in writing.

5.1. PRESCRIBED THRESHOLD & AGGREGATION OF AMOUNTS

The prescribed limit in terms of section 28 of the FIC Act is **R24 999.99** (twenty four thousand nine hundred and ninety nine Rands and ninety nine cents) or the equivalent foreign denomination value calculate at the time that the transaction is concluded. This means that all cash transactions exceeding R24 999.99 (being R25 000 or more) must be reported to the FIC.

The FSP must report aggregated of smaller amounts which when combined add up to the prescribed amount, in cases where it appears to the FSP concerned that the transactions involving those smaller amounts are linked in such a way that they should be considered fractions of one transaction.

Accordingly, the threshold amount can be a single cash transaction to the value of R25 000 or more, or an aggregation of smaller amounts with a combined value of R25 000 or more.

A period of **at least 24 hours** must be applied when considering aggregation.

Indications of when a series of smaller amounts combine to form a "composite" transaction that exceed the prescribed threshold are supported by the following:

- The time period within which such a series of smaller transactions take place



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- The fact that the series of transactions consists of a repetition of the same type of transaction e.g. cash payments or cash deposits
- The smaller amount transactions involve the same person or account holder, or relates to the same account

Where foreign currency forms part of a cash transaction that requires the completion of a CTR, a FSP would have to refer to the **exchange rate in effect for the business day of the transaction** to calculate the amount in ZAR. The source of the exchange rate that is used may be determined at the discretion of the FSP's management or FICA Compliance Officer.

5.2. METHOD FOR SUBMITTING A CASH THRESHOLD REPORT

The FICA Compliance Officer will be **required to file a CTR** to the FIC whenever the FSP has knowledge of the transaction that exceeds the prescribed threshold, via the FIC electronic reporting system.

The FICA Compliance Officer would be required to make the CTR as soon as possible but **no later than two (2) days** after a Key Individual, Representative or any Support Staff members become aware of a fact of a cash transaction or series of transactions that has exceeded the prescribed limit.

SPECIFIC DUTIES

6. CLIENT RISK RATING AND SOURCE OF FUNDS VERIFICATION

As part of the FSP's duty to establish and verify a client's identity (i.e. "know your client" procedure) the FSP is responsible to verify the furnished particulars against information which **can be reasonably expected** to achieve such verification and which has been obtained by **reasonably practical means**, taking into account any guidance notes concerning the verification of identities which may apply.

The FSP must therefore at all times exercise its judgement and decide what the appropriate balance is between the level of verification and the most practical means to obtain such verification as it applies to specific instances. In order to achieve this, the FSP must adopt a risk-based approach to the verification of the particulars in question when rendering financial services to its clients.

A risk-based approach implies the greater the risk, the higher the level of verification, and the more secure the methods of verification used, should be. The balance between the accuracy of the verification required



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on the one hand, and the level of effort invested in the means to obtain such verification on the other, has to be commensurate with the nature of the risk involved in a given business relationship or transaction.

It also implies that the FSP can take an informed decision on the basis of its risk assessment as to the appropriate methods and levels of verification that should be applied in a given circumstance. The FSP should therefore always have grounds on which it can base its justification for a decision that the appropriate balance, referred to above, was struck in a given circumstance.

6.1. RISK RATING YOUR CLIENT

The Key Individual and/or Representative will be responsible to accurately assess the risk posed by a client by:

- Determining how the reasonable Key Individual or Representative (as it applies) in a similar FSP would rate the risk involved with regard to a particular client, a particular product and a particular transaction

AND

- What likelihood, danger or possibility can be foreseen of money laundering occurring with the client profile, product type or transaction in question.

The Key Individual and/or Representative (as it applies) must determine the money laundering risk in any given circumstance on a holistic basis. In other words, the ultimate risk rating accorded to a particular business relationship or transaction must be a function of all factors which may be relevant to the combination of a particular client profile, product type and transaction.

During the process of determining whether a client poses a higher or lower risk the Key Individual and/or Representative (as it applies) must take cognizance of the General and Specific activities and indicators (as indicated above) which may signal the possibility of a high risk client.

Whenever, a Key Individual, Representative or Support Staff member suspects that he or she is interacting with an actual or potential high risk client such staff member would be obligated to:

- Utilise the FICA Risk Rating Document as per the indicated instructions
- Report the client as a potential High Risk client to the FICA Compliance Officer **before the end of business that day**
- The report must be made to the FICA Compliance Officer in writing.



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6.2. SOURCE OF FUNDS VERIFICATION

The FSP must obtain additional information (if reasonably necessary) concerning a business relationship or single transaction which poses a particularly high risk due to the fact that the transaction may be intended to facilitate money laundering activities.

Whenever, a staff member suspects that he or she is interacting with an actual or potential high risk client such staff member would be obligated to:

- Utilise the Source of Funds verification document

DUTIES

7. FICA TRAINING

A FSP must provide training to its employees to enable them to comply with the provisions of the FIC Act and the internal rules applicable to them

The FICA Compliance Officer is responsible to arrange training for all Key Individuals, Representatives and Support Staff members.

Training on FICA must be conducted at least **every two (2) years**.

NON COMPLIANCE WITH FICA OFFENCES & 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 R10 million (R10 000 000)**.

- It is an offence to **fail to identify a person** as prescribed in Section 21(1) of the act.

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- 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 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 R10 Million (R10 000 000).



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ANNEXURE A

Section 43(b) FICA COMPLIANCE OFFICER APPOINTMENT

The FSP must appoint a person as the 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 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 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 FICA Compliance Officer.

Key Individual Signature & Date

Sec 43(b) FICA Compliance Officer Signature



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ANNEXURE B

ALTERNATIVE REPORTING OFFICER APPOINTMENT

The FSP must appoint an Alternative Reporting Officer (other than the 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 FICA Compliance Officer is unable to do so within the prescribed 15 days
- in cases where the 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 FICA Compliance Officer the receipt of any suspicious or unusual transaction reports of which the 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 & Date



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ANNEXURE C

FICA CLIENT RISK RATING

Name of Client: _____

Details of Transaction: _____

This questionnaire is completed by the Representative dealing directly with the client and is done confidentially and not with the client. Sections referred to in the questions refer back to the FIC Internal Rules.

1. Was anything with regards to this business relationship or transaction suspicious or unusual as per section 4.1?
2. Did the client raise any suspicions in term of client identification per section 4.2?
3. Did the client raise any suspicious indicators regarding the reporting requirements as per section 4.3?
4. Do you suspect the client of transacting a suspicious or unusual cash transaction as per section 4.4?
5. Do you suspect (after reviewing the factors in section 4.5 which determine a PEP) that the client is a politically exposed person?
6. Is the client a citizen of a country which is NOT a member of the financial action task force as per section 4.6?

*If the answer to any of the above questions is yes, the client must be viewed as a client with a higher risk and a **higher level of verification of information must be undertaken.***

*If the answer to any of the above questions is yes, the client must be viewed as a client with a higher risk and this **must be reported** to the FICA Compliance Officer, in writing, before the end of the business day on which this is completed.*

Name Representative: Adrian-John Meistre

Signature

Date



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