

**JOINT STATEMENT: Clarification on the obligations of accountable institutions on verifying client identities, and record keeping**

**Johannesburg, 09 July, 2009:** The Ombudsman for Banking Services and the Financial Intelligence Centre have taken note of certain inaccurate information on some aspects of the Financial Intelligence Centre Act 2001 (FIC Act), as published in the Cape Argus newspaper and Independent Online website on 06 July 2009 under the headline: "Over-zealous managers put you at risk".

The articles contain the following statements on the record-keeping requirements:

***"Asked why banks required customers to submit their IDs for copying, Pillay replied: 'There is no obligation for them to do so. 'The Financial Intelligence Centre Act obliges banks to establish and verify the identity of every client before they can enter into a business relationship. But there is no obligation in the act to actually copying ID books. 'You can tell the bank you do not want your ID book copied. The bank can verify your identity by simply looking at you and at your photo and record on the file that it is satisfied that you are the person that appears in the ID book."***

The above statement was made against the backdrop of concern for the rising incidence of identity theft.

The money laundering control measures under the FIC Act impose certain obligations on a variety of financial and non-financial institutions, referred to in the FIC Act as accountable institutions e.g. banks, life insurers, investment managers, attorneys, estate agents and licensed gambling institutions.

One of the obligations under the FIC Act is the requirement to establish and verify the identities of their customers. The underlying principle of this obligation is that

institutions must know who they are doing business with. Another obligation under the FIC Act is the requirement to keep records of customers' identities and their transaction activities. The purpose of this requirement is to ensure that a transaction, or a series of transactions, can be reconstructed during an investigation clearly indicating not only what had transpired, but also who was involved.

Section 21(1) of the FIC Act provides that an accountable institution may not establish a business relationship or conclude a single transaction with a customer unless the accountable institution has taken the prescribed steps to, among others, establish and verify the identity of the customer. The term 'prescribed steps' refers to the procedure for establishing and verifying the identity of a customer which is prescribed in the Money Laundering and Terrorist Financing Control Regulations (the Regulations).

The steps prescribed by the Regulations, as far as establishing and verifying the identity of an individual is concerned, include obtaining a customer's full name, date of birth and identity number and verifying this information by comparing it with an Identity Document of that person.

Section 22 of the FIC Act refers to the duty of accountable institutions to keep records of the identity of the customer; this includes a record or copy of the documents which the institution had used to verify a person's identity. When the record-keeping requirement is read in conjunction with the requirement to establish and verify the identity of a customer, it is clear that the use of an Identity Document forms part of the procedure of identifying a customer and therefore forms part of the record of the customer's identity which must be kept by the institution.

As much as the FIC Act does not clearly state that a copy of the Identity Document must be made by an accountable institution, the most prudent and practical manner to comply with this obligation would indeed be to make and keep a copy of the identity of the client, in the form of an Identity Document.

Therefore, all accountable institutions are reminded and encouraged to continue meeting their obligations as per Section 21 and 22 of the FIC Act.

(A Copy of the FIC Act is available on [www.fic.gov.za](http://www.fic.gov.za))

ENDS

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