

## WEB STATEMENT

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### **CONSULTATION PAPER RELATING TO THE COMMENCEMENT OF SECTION 31 OF THE FINANCIAL INTELLIGENCE CENTRE ACT AND DRAFT REGULATIONS, AND THE AMENDMENT OF REGULATIONS IN RESPECT OF CASH THRESHOLD REPORTING AND AGGREGATION**

**Friday, 1 March 2019:** The Financial Intelligence Centre (FIC) is pleased to advise that the National Treasury (on behalf of the Minister of Finance) on Thursday, 28 February 2019 invited public comments on draft regulations on international funds transfer reporting and cash threshold reporting.

The draft regulations relating to section 31 of the Financial Intelligence Centre Act, 2001 (Act 31 of 2001) (the FIC Act), international funds transfer reporting and section 28 (cash threshold reporting and aggregation) of the FIC Act are published together with a consultation paper prepared by the FIC that sets out the policy rationale for the draft regulations.

The [FIC's consultation paper](#) and the [draft regulations](#) are published for comment on the [National Treasury website](#) on 28 February 2019.

The FIC has also issued two draft guidance notes for comment. [Draft Guidance Note 104](#) relates to international funds transfer reporting, and [Draft Guidance Note 5C](#) relates to cash threshold reporting.

Comments on the draft regulations published on the National Treasury website on cross-border financial transactions and cash transaction reporting and aggregation must be submitted to National Treasury at via e-mail to [commentdraftlegislation@treasury.gov.za](mailto:commentdraftlegislation@treasury.gov.za) on or before Monday, 1 April 2019.

Comments on FIC's draft guidance notes 104 and 5C must be submitted to the FIC via e-mail to [consult@fic.gov.za](mailto:consult@fic.gov.za) on or before Monday, 1 April 2019.

Those who are commenting on both the FIC's draft guidance notes and the draft regulations published by the National Treasury, are kindly requested also to submit both sets of comments to the FIC via e-mail: [consult@fic.gov.za](mailto:consult@fic.gov.za) on or before Monday, 1 April 2019.

### **Background on the proposed amendments to the regulations**

The proposed regulations mark the next phase in enhancing the integrity of the country's financial system by enhancing the continued fight against the criminal abuse of the financial system through money laundering, terrorist financing and the activities of organised crime syndicates. The FIC Amendment Act 1 of 2017 sought to address some of the weaknesses that were identified in the country's anti-money laundering and combating of financing of terrorism (AML/CFT) system. The main weaknesses that had been identified included compliance, supervision and sanctions in respect of non-bank financial institutions and non-financial professions, tracking and sharing of information on cross-border cash flows and the pursuit of money laundering and terrorist financing investigations, prosecutions, international co-operation and extradition by law enforcement and prosecuting authorities.

Government's current Programme of Action includes priorities to intensify efforts to combat crime (including corruption), build safer communities and create drivers of economic recovery thereby improving economic growth. Failure to implement an effective AML/CFT system weakens the credibility of the South African financial system, undermines the ability to accelerate economic growth and job creation, and compromises the security of the country and its people. Against this background, enhancing South Africa's system to combat money laundering and terrorist financing will contribute to the attainment of Government's Medium-Term Strategic Framework outcomes.

The proposed regulations and amendments seek to improve the generation of quality financial intelligence information for the FIC to use in developing its financial intelligence reports. This will assist investigating and prosecuting authorities, and increase the prospects of securing convictions. It is more effective for the FIC to receive a smaller volume of quality cash transaction reports (CTRs) and suspicious and unusual transaction reports (STRs), than to receive large volumes of these reports, which may not be optimal in the fight against money laundering and other financial crimes.

### **Cash Threshold Reporting and Aggregation**

A summary of the proposed changes to Regulations 22B (prescribed amount for cash transaction reporting), 22C (information to be reported concerning a CTR) and 24 (time period for reporting) include:

- a) increasing the cash threshold amount from R24 999.99 to R49 999.99. The obligation to report information concerning cash transactions in terms of section 28 of the FIC Act will arise when a transaction is concluded with a client by means of which cash in the amount of R50 000,00 and above:
  - is paid by the accountable or reporting institution 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 accountable or reporting institution from the client, or from a person acting on behalf of the client, or from a person on whose behalf the client is acting;
- b) dispensing with the aggregation requirement in terms of regulation 22B issued in terms of section 28 of the FIC Act. In this regard, cash transactions in excess of the applicable threshold over a 24 hour period will not be treated as a single transaction;
- c) the period for reporting CTRs to the FIC has been increased from 2 days to 3 days. The proposed changes will impact all reporting and accountable institutions in relation to their obligation to submit a CTR in terms of the FIC Act.

### **International Funds Transfer Reporting**

Section 31 of the FIC Act applies to the movement of funds into and out of South Africa via electronic transfers. The objective of section 31 is to ensure that information relating to cross-border electronic funds transfers is made available to the FIC as soon as possible to enhance its ability to analyse information and detect illicit financial flows. This in turn, strengthens the FIC's ability to detect possible suspicious or unusual activity and to disseminate the relevant information to investigating and prosecuting authorities.

A summary of the proposed Regulations, namely, 23D (prescribed amount for reporting an international funds transfer report (IFTR)), 23E (prescribed information to be reported concerning an IFTR) and proposed changes to Regulation 24 (time period for reporting an IFTR) and 29 (penalties applicable for failing to provide the prescribed information in an IFTR) include:

- (a) Setting the prescribed amount of funds above which a transaction must be reported to the FIC at R4 999, 99. All electronic cross-border transactions (the sending of funds out of South Africa and the receiving of funds from outside of South Africa) from a value of R5 000,00 and above will have to be reported to the FIC.

(b)The FIC reviewed IFTR thresholds in other jurisdictions, and the practice is that IFTR thresholds are generally set at low levels. This is because terror financing can be executed using small amounts of money.

**Note on implementation and commencement of IFT reporting**

It was previously communicated that the anticipated go-live date for IFT reporting under section 31 of the FIC Act was 1 April 2019. The date for the commencement of section 31 of the FIC Act will, however, be determined by the President. Nonetheless, the FIC marks Monday, 1 April 2019, as the system readiness date for itself and affected reporters in preparation for the commencement of section 31 of the FIC Act. Therefore, the FIC requests affected reporters to ensure that their internal systems can accommodate IFT reporting to the FIC, with no further development being required, after 1 April 2019.

**Issued by the Financial Intelligence Centre**

**Date: 1 March 2019**