



PUBLIC COMPLIANCE COMMUNICATION

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No. 47 (PCC 47)

GUIDANCE ON THE INTERPRETATION OF
ITEM 1 OF SCHEDULE 1 TO
THE FINANCIAL INTELLIGENCE CENTRE
ACT 2001 (Act 38 of 2001)

PCC SUMMARY

Item 1 of Schedule 1 to the Financial Intelligence Centre Act, 2001 (Act 38 of 2001) (FIC Act) lists a practitioner who practises as defined in section 1 of the Attorneys Act, 1979 (Act 53 of 1979) (Attorneys Act) as an accountable institution.

With the repeal of the Attorneys Act, being replaced by the Legal Practice Act, 2014 (Act 28 of 2014) (Legal Practice Act), the definition of a *practitioner who practises* as set out in Item 1 of Schedule 1 of the FIC Act, must be interpreted in line with the Interpretation Act, 1957 (Act 33 of 1957) and the Legal Practice Act, and still includes attorneys, notaries and conveyancers who practise.

This PCC provides guidance to attorneys, notaries and conveyancers on the continued applicability of the FIC Act in relation to the Legal Practice Act.

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OBJECTIVE

This PCC provides guidance to attorneys, notaries and conveyancers on the continued applicability of the FIC Act, in relation to the Legal Practice Act.

GLOSSARY

“**The Centre**” means the Financial Intelligence Centre established in terms of section 2 of the FIC Act.

“**FIC Act**” refers to the Financial Intelligence Centre Act, 2001 (Act 38 of 2001).

“**Practise**” refers to practise as an attorney or a notary or conveyancer as defined in the Attorneys Act, 1979 (Act 53 of 1979) and practice has a corresponding meaning.

1. RELEVANT LEGAL FRAMEWORK REGARDING ATTORNEYS IN SOUTH AFRICA

- 1.1. Item 1 of Schedule 1 to the FIC Act includes “a practitioner who practices as defined in section 1 of the Attorneys Act, 1979 (Act 53 of 1979)” as an accountable institution. In terms of the Attorneys Act a practitioner includes any attorney, notary or conveyancer as defined in the Attorneys Act.
- 1.2. The Attorneys Act was repealed by the Legal Practice Act with effect from 1 November 2018. The admission of a practitioner who practises under the Attorneys Act remains valid¹, in terms of the Legal Practice Act.
- 1.3. Section 118 of the Legal Practice Act indicates that subject to the provisions of the Legal Practice Act, a reference in any other law to an advocate, a counsel or an attorney, must be interpreted as a reference to a legal practitioner in the Legal Practice Act. In terms of the Legal Practice Act, a legal practitioner includes an advocate or attorney admitted and enrolled as such in terms of section 24 and 30 of the Legal Practice Act respectively. It is important to note that in order to practise as a conveyancer and notary, one must be a practising attorney in terms of the Legal Practice Act.
- 1.4. Section 119(3) of the Legal Practice Act read together with section 12 of the Interpretation Act, 1957 (Act 33 of 1957) effectively means that when interpreting Item 1 of Schedule 1 to the FIC Act, the reference to “practitioner who practices” in terms of the Attorneys Act, still includes attorneys, notaries and conveyancers who practice in terms of the Legal Practice Act.

¹ Refer to section 119(3) of the Legal Practice Act.

2. REGISTRATION OBLIGATIONS IN TERMS OF THE FIC ACT

2.1. All practising attorneys (this includes notaries and conveyancers), fall within the ambit of Item 1 of Schedule 1 to the FIC Act and must register as accountable institutions with the Centre, in the manner as set out in Public Compliance Communication 5C (PCC5C) as published on the Centre's website.

3. COMMUNICATION WITH THE CENTRE

3.1. The Centre has a dedicated Contact Call Centre geared to assist attorneys, notaries and conveyancers to understand their registration obligations in terms of the FIC Act. Should you have any queries please contact the Centre's Compliance Call Centre on 012 641 6000, and select option 1.

3.2. In addition you can submit 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

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