

JOINT CONSULTATION NOTE

Relating to the [Draft Guidance Note 7A](#): Chapter 4 on the Apex Risk Management and Compliance Programme (RMCP) document in terms of section 42 of the Financial Intelligence Centre Act, 2001, and Draft Public Compliance Communication 114 ([draft PCC 114](#)) – the RMCP for DNFBP accountable institutions in terms of section 42 of the Financial Intelligence Centre Act 2001

1 April 2022

INTRODUCTION

1. The Financial Intelligence Centre (FIC) has issued for consultation two related guidance products, in the form of draft Guidance Note 7A (draft GN 7A): Chapter 4 on the Apex Risk Management and Compliance Programme (RMCP) document in terms of section 42 of the Financial Intelligence Centre Act, 2001, and Draft Public Compliance Communication 114 (Draft PCC 114) – the RMCP for DNFBP accountable institutions in terms of section 42 of the Financial Intelligence Centre Act 2001, for consideration and the provision of comments on these proposed guidance products by accountable institutions to the FIC in terms of section 42B of the Financial Intelligence Centre Act, 2001 (Act 38 of 2001) (FIC Act).

BACKGROUND

2. Guidance Note 7 (GN 7) was issued in October 2017 and included the discussion on the RMCP. Under chapter 4 of GN 7, the RMCP requirements as set out in section 42 of the FIC Act is explained. Draft Guidance Note 7A (draft GN 7A): Chapter 4 replaces the GN 7 in respect of the formulation and recordal of the RMCP, which has been misapplied in practice reflecting a fragmented and unintegrated representation of the RMCP, which often does not exist in one single comprehensive, readily identifiable and accessible document. Accordingly, the expectation is expressed that there be an Apex RMCP document in terms of section 42 of the FIC Act.
3. Draft public compliance communication 114 (draft PCC 114) discusses the drafting of an RMCP in detail and is limited to assisting Designated Non-Financial Businesses and Professions (DNFBPs) accountable institutions understand better how to approach the issues of ML and TF risk assessment, identification and management within their businesses.
4. Guidance in [Draft PCC 114](#) is provided on how to express and include understanding on the subsequent inherent ML and TF risks flowing from the necessary ML and TF

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risk assessment required to be undertaken, as well as the risk mitigation, monitoring and management measures in the RMCP. This is so as to mitigate these understood ML and TF inherent risks. During the drafting process, certain correlating issues in GN7 were identified for updating to ensure consistency in guidance issued by the FIC. Of practical assistance to DNFBP entities is the inclusion of an RMCP template for their consideration, application and modification when tailoring the RMCP to reflect the ML and TF risk profile of the accountable institution, as informed by its business activities conducted.

5. Draft GN 7A introduces the expectation to develop an overarching enterprise-wide and consolidated RMCP document (termed the “Apex RMCP” document) which describes comprehensively in one readily identifiable and accessible document, all the core identified ML and TF risk assessment elements, the derived inherent ML and TF risks perspective. Then of critical importance, how such identified ML and TF risks are mitigated, monitored and managed by business procedures, controls and systems on an enterprise-wide yet risk sensitive basis, in respect of all the business activities, products and services provided to clients, within the context of the preventive control measures contained in the FIC Act.
6. An adequate RMCP would constitute such an Apex RMCP document, that clearly demonstrates an appreciation of the inherent ML and TF risks facing the business. Critically, it would also record in the RMCP the risk mitigation and management measures to address these identified ML and TF risks in a manner commensurate with the risk profile of the accountable institution as informed by its business activities conducted.
7. It is important to note that the Apex RMCP document constitutes the identifiable and readily accessible single document that records comprehensively the RMCP and would be the single document the board of directors, or senior management would approve. The accountable institution would make this single document available to all employees and train them on its contents. Most importantly this single Apex RMCP document is to be provided to the FIC or other supervisory body on their request for examination purposes in terms of section 42(4) of the FIC Act.

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8. Furthermore, the Apex RMCP document should make clear reference to all underlying related operational business procedures, controls and supporting documentation, which collectively would constitute the RMCP, and which reflects and records all the underlying, detailed risk and compliance elements of the RMCP, as envisaged in section 42 of the FIC Act.
9. Updates to Chapter 4 of draft GN 7A are in response to numerous requests from supervisory bodies and accountable institutions for guidance on how to describe and record the documenting of an RMCP in terms of section 42 of the FIC Act.
10. Finally, the approach adopted regarding the need for an Apex RMCP document addresses concerns raised during the Financial Action Task Force's 2019 mutual evaluation of South Africa, and effectively facilitates and addresses the IO.4 Recommended Actions emanating from this assessment.

CONCLUSION

11. Comments are invited on the draft guidance. Comments must be submitted in writing via the online links only; Draft GN 7A Chapter 4 ([click here](#)) and Draft PCC 114 ([click here](#)). Questions or requests relating to this Draft GN 7A Chapter 4 or Draft PCC 114 – the RMCP for DNFBP accountable institutions, must be sent to the FIC at **consult@fic.gov.za**. Submissions will be received until close of business on Monday, 2 May 2022.
12. The FIC intends to conclude the consultation on this Draft GN 7A Chapter 4 or Draft PCC 114 – the RMCP for DNFBP accountable institutions, by publishing a final version no later than Tuesday, 31 May 2022.

COMMUNICATION WITH THE FIC

13. Queries can be directed to the compliance contact centre on 012 641 6000 and select option 1, or be submitted online by clicking on <http://www.fic.gov.za/ContactUs/Pages/ComplianceQueries.aspx> or visiting the FIC's website and submitting an online compliance query.

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