



CONSULTATION FEEDBACK NOTE AND DETAILED RESPONSES TO COMMENTS RECEIVED

Relating to the draft Guidance Note 102A on the Directive for conduct within the National Payment System in respect of the Financial Action Task Force Recommendations for Electronic funds transfers (Directive 1 of 2022)
– Second round of consultation

April 2023

INTRODUCTION

1. The Financial Intelligence Centre (Centre) issued for consultation draft guidance note 102A (draft GN102A) for consideration and the provision of comments on the draft by accountable institutions to the Centre in terms of section 42B of the Financial Intelligence Centre Act, 2001 (Act 38 of 2001) (FIC Act) on 31 October 2022, with the consultation period ending on 18 November 2022.
2. Consultation comments were received from banks, financial service providers, industry associations, and consultants.
3. The final version of the draft Guidance Note 102A has been issued as [Guidance Note 8](#).

THEMATIC FEEDBACK

High level feedback on the consultation comments received are noted thematically below:

The difference between the cross-border electronic funds transfer threshold outlined in the Directive and the single transaction threshold in terms of the reference to the Financial Intelligence Centre Act

4. The threshold of R10 000.00 referred to in the Directive 1 of 2022 (Directive) and Guidance Note 8 only refers to the capturing of verified information for cross-border electronic funds transfer.
5. The obligation to conduct customer due diligence (CDD) and all other obligations as stated in the FIC Act continue to apply and have not been replaced by the contents of this Directive. Therefore, all transactions of R5 000.00 and above are subject to CDD obligations as stated in the FIC Act.
6. The Centre strongly urges all accountable institutions to continue to capture validated information, where available, regardless of the value of the transaction.

Applicability of the Directive to specific institutions

7. If the accountable institution initiates or receives domestic and cross-border electronic funds transfers and/or acts as an intermediary in receiving or transmitting

electronic funds transfers, then the Directive and the Guidance is applicable to them. This includes domestic and cross-border electronic funds transfers initiated or processed through payment clearing houses and similar facilities.

8. There are no exclusions to specific accountable institutions performing the activities mentioned in paragraph 7 above.

The applicable threshold as discussed in the Directive is too low

9. The threshold has been increased to R10 000.00 after extensive industry consultation.

The scrutinising of client details in terms of targeted financial sanctions list

10. Accountable institutions are reminded that customers involved in transactions must be scrutinised against the Targeted Financial Sanctions (TFS) list available on the Centre's website. All transactions includes both domestic electronic fund transfers and cross-border electronic funds transfers.

Use of unique identifiers for beneficiaries

11. The Directive allows for the use of unique customer identifier information for originators. Where proxies are used by ordering financial institutions, they must ensure that the name and account number of the beneficiary are always carried in the payment message of a domestic electronic funds transfer.

DETAILED COMMENTS RECEIVED

Comment	Response comments
<p><u>Commentator A</u></p> <p>Commentator A believes that this guidance note is not applicable to authorised users as accountable institutions, as all scenarios above are covered in the normal course of business as authorised users who are accountable institutions as named in Schedule 1 of FIC Act. If our understanding and interpretation is correct, we have no further comment. If the FIC takes a different view, we will look forward to receiving you feedback on the matter.</p> <p>We note that all client accounts are CDD'd as required by the FIC Act in line with our documented RMCP's. We do not believe that we are ordering financial institutions, intermediary financial institutions, or beneficiary financial institutions. X therefore is of the view that this guidance note is not applicable to authorised users as accountable institutions, as all scenarios above are covered in the normal course of business as authorised users who are accountable institutions as named in Schedule 1 of FIC Act. If our understanding and interpretation is correct, we have no further comment.</p> <p>Scenario 1 - An authorised user receives transfers from the clients into the Trust accounts. During the settlement, these funds</p>	<p>The definition of the ordering financial institution and the intermediary financial institution:</p> <p>'ordering financial institution' means an accountable institution that initiates an electronic funds transfer and transfers the associated funds upon receiving the request for an electronic funds transfer from or on behalf of the originator;</p> <p>'intermediary financial institution' means an accountable institution in a serial or cover payment chain that receives and transmits an electronic funds transfer on behalf of an ordering financial institution and beneficiary financial institution or another intermediary financial institution.</p> <p>The Directive applies to domestic electronic funds transfer transactions and cross-border electronic funds transfer transactions above the threshold and cleared by Payment Clearing Houses (PCH) and similar institutions.</p>

Comment	Response comments
<p>move between institutions and then will be paid to the client based on the transaction concluded i.e., the purchase or sale of a share.</p> <p>Scenario 2 - The authorised user can also be instructed by a client to transfer funds on their behalf and conduct third party payments, in which case the authorised user would have conducted CDD On the client but not on the third party receiving the cash. The assumption is that this CDD obligation would fall onto the receiving parties accountable institution where the account is held.</p> <p>Scenario 3 - The authorised user would also make cross-border payments on behalf of themselves in relation to services provided i.e., Data services, Terminal fees (xx) etc. or for counterparties in relation to the business of an authorised user.</p> <p>We note that all client accounts are CDD'd as required by the FIC Act in line with our documented RMCP's.</p> <p>As such we do not believe that we are ordering financial institutions, intermediary financial institutions, or beneficiary financial institutions.</p>	
<p>2.5 We propose the paragraph to be amended to read -</p> <p>'2.5 It is the Centre's view that the ordering financial institution and the beneficiary financial institution, as accountable institutions, would meet its obligation to verify</p>	<p>Substantial intext amendments have been made.</p> <p>The amendments are to address the use of CDD processes to assist in the verification of information required to be captured, as set out</p>

Comment	Response comments
<p>the accuracy of its client information terms of Directive 1 of 2022, where it has verified its client, per the CDD obligations in terms of the FIC Act and its RMCP.</p> <p>2.6 This implies a transaction by an originator. It is not clear what is intended here, as the originator could make multiple transactions to multiple beneficiaries. See Example 4.</p> <p>Propose the following wording: Delete 'made by a client'</p> <p>For purposes of Directive 1 of 2022, there would be no need to re-verify CDD information for every cross-border transaction, unless there are doubts about veracity of previously obtained information as contemplated in Section 21 D of the FIC Act.</p>	<p>in the Directive, where such information forms part of the CDD process.</p> <p>In text amendments made to clarify that re-verification stemming from suspicious transaction reports (STR) or doubts about veracity of information can relate to transactions either made by or received by a client. A suspicion can relate to both the originator and the beneficiary.</p>
<p>2.11 The introduction may cause some confusion.</p> <p>We propose the following amendment –</p> <p>2.11. Where a cross-border electronic funds transfer transaction raises suspicion of money laundering or terrorist financing, irrelevant of the amount involved, the accountable institution is required in terms of Directive 1 of 2022 to conduct CDD on their client.</p> <p>Deletion of the following: Accountable institutions are reminded that transactions between R5 000,00 and R10 000,00 are subject to CDD requirements as read with paragraph 2.8 regardless of suspicions raised.</p>	<p>All references to the difference in thresholds set in the Directive and the FIC Act (ie. R10 000.00 and R5 000.00) have been redrafted to simply text.</p>

Comment	Response comments
<p><u>Commentator B</u></p> <p>3.3 We propose alignment of 3.3 with 4.9 of the Directive.</p> <p>3.5. Amend GN wherever it refers to "originating financial institution" to "ordering financial institution".</p> <p>3.8 We propose the following clause for improved clarity: The use of a unique customer identifier for an originator in a cross-border electronic funds transfer must be used with caution, as it may result in the rejection or suspension of transactions due to non-compliance with the international standards in terms of FATF Recommendation 16.</p>	<p>Reference to jurisdiction, country and geographic area has been considered and updated.</p> <p>Document has been reworded accordingly.</p> <p>Document has been reworded accordingly.</p>
<p><u>Commentator B</u></p> <p>The Directive Paragraph 4.6.1 makes the beneficiary name a mandatory field. GN Paragraph 6.6 further defines this field to be name and surname for natural persons and the registered name for legal persons. While we are generally in support of this requirement we highlight at this time certain challenges to the achievement of this, which may require the SARB's support for a period over which market practice is adopted to meet this requirement, especially as it impacts on customers, customer experience, and customer behaviour. The following are current limitations to compliance with this requirement:</p>	<p>These comments have been noted.</p> <p>The integrity of the payment system is reliant on the quality of data that is captured into the system by participants. It is not the expectation that a payments system validate data. Rather, it is the expectation that all participants that capture data into the system validate and perform a level of quality control of data, prior to this entering into the payment system.</p> <p>It is the Centre and the SARB's expectation that accountable institutions drive a</p>

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<p>-What information about the beneficiary is known to originating client. Generally speaking the public will know the “trading as” name of legal persons whom they wish to pay, but not the registered name.</p> <p>-What client chooses to input. Furthermore our payment systems are not intelligent enough to determine what is populated in the required in the fields of the EFT, but rather that such fields are populated.</p> <p>-Any field length restriction on the various payment instruction/initiation channels including but not limited to online banking, banking apps, USSD (dial-string), etc.</p> <p>-Any field length restriction on any internal (to bank or sponsored non-bank) messaging/ processing/ data storing systems and</p> <p>-Any field length restriction on the interbank clearing message standard (e.g. EFT180, ISO15001 etc)</p>	<p>behavioural change by urging their customers (in whatever means available to them) to capture quality information regarding the beneficiary.</p>
<p><u>Commentator C</u></p> <p>Thresholds seem to be a bit low.</p>	<p>The threshold has been increased to R10 000.00 after consultation with the industry.</p>

CONCLUSION

12. The Centre thanks all commentators and notes that all comments received have been considered and incorporated in Guidance Note 8 where appropriate.
13. The final Guidance Note 8 has been issued on 6 April 2023.

COMMUNICATION WITH THE CENTRE

14. 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 Centre's website and submitting an online compliance query.

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