



financial intelligence centre

REPUBLIC OF SOUTH AFRICA

REVISED PUBLIC COMPLIANCE COMMUNICATION No. 20 (PCC20) CLIENT IDENTIFICATION AND VERIFICATION REQUIREMENTS FOR NON FACE-TO-FACE ONLINE BETTING CLIENTS

The Financial Intelligence Centre (the Centre) provides the guidance contained in this Public Compliance Communication (PCC) in terms of its statutory function under section 4(c) of the Financial Intelligence Centre Act No. 38 of 2001, as amended (the FIC Act) read together with Regulation 28 of the Money Laundering and Terrorist Financing Control Regulations (the Regulations) issued in terms of the FIC Act.

Section 4(c) of the FIC Act empowers the Centre to provide guidance in relation to a number of matters concerning compliance with the obligations of the FIC Act.

Guidance provided by the Centre is the only form of guidance formally recognised in terms of the FIC Act and the Regulations issued under the FIC Act. Guidance provided by the Centre is authoritative in nature. An accountable institution must comply with the FIC Act and Regulations read with guidance issued by the Centre, and where there is a departure explain the reasons for not adhering to the guidance provided by the Centre. It is important to note that enforcement action may emanate as a result of non-compliance with the FIC Act in areas where there have been non-compliance with the guidance provided by the Centre.

PCC Summary

PCC20 has been revised and takes effect from the date of issue of this PCC. The previous version of this PCC is hereby withdrawn.

Bookmakers and totalisators who are providing online betting facilities in a non face-to-face environment should conduct their business based on the accountable institution's risk framework. Hence, a bookmaker and totalisator should apply equally effective client identification and verification procedures for non-face-to-face prospective clients, as would be obtained where the identity of the client was established and verified in a face-to-face situation.

It is a contravention of the FIC Act for a bookmaker or totalisator to accept funds from a prospective client into an online betting account prior to the identification and verification process being completed in terms of section 21 of the FIC Act.

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Objective

The objective of this PCC is to provide the Centre's view on non face-to-face transactions such as the opening of online betting accounts and the acceptance of betting transactions against funds deposited in a betting account prior to the identification and verification of the prospective client.

1. Introduction

- 1.1 Bookmakers and totalisators are listed as accountable institutions under item 9 of Schedule 1 to the FIC Act, and defined as a person who carries on the business of making available a gambling activity as contemplated in section 3 of the National Gambling Act, Act 7 of 2004, in respect of which a license is required to be issued by the National Gambling Board or a provincial licensing authority.
- 1.2 Bookmakers and totalisators must therefore comply with the relevant provisions of the FIC Act and the Money Laundering and Terrorist Financing Control Regulations (the Regulations) to the FIC Act.
- 1.3 The money laundering control measures prescribed by the FIC Act impose certain obligations on accountable institutions, in this instance on bookmakers and totalisators. These obligations are listed in Chapter 3 of the FIC Act and are inter alia:
 - The duty to identify clients (Part 1);
 - The duty to keep record (Part 2);
 - Reporting duties and access to information (Part 3); and
 - Measures to promote compliance by accountable institutions (Part 4).

2. Part 1 of the FIC Act-The duty to identify clients

- 2.1 Part 1 and specifically section 21 of the FIC Act deals with the identification of clients and other person. Section 21 of the FIC Act prohibits accountable institutions from establishing business relationships or entering into single transactions with their clients unless they have established and verified the identities of their clients, or established and verified the identities of persons representing their clients.

- 2.2 Regulation 4 of the Regulations stipulates that an accountable institution must verify the full names, date of birth, identity number and residential address of a natural person referred to in regulation 3(1) (a),(b),(c) and (e), or 3(2)(a), (b), (c) and (e) by comparing these particulars with the applicable documents relating to that person.
- 2.3 Regulation 4 of the Regulations concerning the verification of a natural person's identity is based on a view that the client is met face-to-face when his or her particulars are verified.
- 2.4 The Centre is aware of an industry practice where bookmakers and totalisators are accepting deposits from prospective clients and then allowing bets to be made prior to the client identification and verification process being completed. This practice is in contravention of the provisions of section 21 the FIC Act. Betting accounts should not be able to accept funds if the client identification and verification process has not been completed.
- 2.5 In these circumstances it should be clear from the outset that the mere production of a copy of the prospective client's identity document (whether certified or not) will not be sufficient to establish that the client's identity has been verified.
- 2.6 Bookmakers and totalisators must refrain from encouraging their prospective clients to deposit funds into betting accounts prior to the client identification and verification process being completed. It is recommended that bookmakers and totalisators not make their bank account details public, e.g. by placing them on websites or in advertising material, so as to minimise the possibility that prospective clients may take the initiative to deposit funds into their respective accounts prior to the identification and verification process being completed.

3. Exemption 13

- 3.1 Exemption 13 of the Exemptions to the FIC Act is applicable to institutions making available a gambling activity. In terms of this exemption, all gambling institutions are exempted from Part 1 of the FIC Act (the duty to identify clients) and Part 2 of the

FIC Act (the duty to keep record) with regard to certain single transactions, as set out in the exemptions.

- 3.2 The establishment of an online betting account by a prospective client with a bookmaker or totalisator is considered to be the establishment of a business relationship between that client and the bookmaker or totalisator and Exemption 13 therefore does not apply.

4. The Centre's view

- 4.1 Regulation 4 of the Regulations (concerning the verification of a natural person's full names, date of birth, identity number and residential address) apply regardless of the nature of the interaction with the client. Regulation 18 of the Regulations provides for instances in which client information is obtained in a non face-to-face situation. In such cases the accountable institution "must take reasonable steps" to confirm the existence of the client and to verify the identity of the natural person involved.
- 4.2 The challenge facing bookmakers and totalisators who accept online bets is to establish with whom they are actually doing business. Therefore they should have measures in place to mitigate risks pertaining to clients with whom they have no personal contact and whose existence has never been confirmed conclusively.
- 4.3 This implies that documents that are certified as true copies of originals would not provide sufficient verification of the client's particulars if the accountable institution does not take additional steps to confirm that the said documents are in fact those of the client. In such cases reliance on a faxed/emailed document for verification, in the absence of other steps to confirm the client's particulars, is not an acceptable form of verification.
- 4.4 The use of faxed/emailed copies will only be acceptable for purposes of providing the accountable institution with the required documentation for record keeping purposes.

- 4.5 Decisions concerning the additional steps to be taken in cases of a non face-to-face situation should be based on the accountable institution's risk framework, but the process employed should provide a similar degree of comfort as would be obtained where the identity of the client was established and verified in a face-to-face situation.
- 4.6 Below are practical examples that bookmakers and totalisators who accept online bets should consider for inclusion in their internal rules. These processes may be used to satisfactorily establish and verify the identity of non face-to-face clients:
- Obtaining confirmation from a credible party that the client's particulars were confirmed in a face-to-face situation together with copies of documents used. Consideration should be given as to whether the person providing the confirmation is regulated or is otherwise a professional person subject to some sort of fit and proper test, who can easily be contacted to verify the confirmation;
 - Requiring that all deposits into the player accounts are received via electronic transfer only from a bank account bearing the prospective client's name;
 - Sending a letter by registered post to validate the address of the client and ensuring that the service is not activated until the signed acknowledgement of receipt is returned;
 - Verifying the customer identity and address provided against a credible third party database.
- 4.7 The above list is not exhaustive and is intended to be used as a guide for accountable institutions when developing internal rules in respect of non face-to-face clients.
- 4.8 It is important to note that bookmakers and totalisators are accountable institutions in their own right in terms of Schedule 1 of the FIC Act and therefore carry the primary responsibility for their compliance with the FIC Act and the Regulations. This implies that they cannot merely rely on the client identification and verification information obtained by another institution such as a bank.

5. Conclusion

- 5.1 Decisions concerning the additional steps to be taken in cases of a non face-to-face situation should be based on the accountable institution's risk framework, but the process employed should provide a similar degree of comfort as would be obtained where the identity of the client was established and verified in a face-to-face situation.
- 5.2 It is a contravention of the FIC Act for a bookmaker or totalisator to accept funds from a prospective client into an online betting account for the purpose of betting, prior to the identification and verification process being completed in terms of section 21 of the FIC Act.

For any further enquiries regarding this revised PCC20, please contact the Centre on **0860 222 200**, or by sending an email to: fic_feedback@fic.gov.za

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**The Director
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