



financial intelligence centre

REPUBLIC OF SOUTH AFRICA

PUBLIC COMPLIANCE COMMUNICATION NO. 27 (PCC27)
STATUS OF EXPIRED DOCUMENTS RELATING TO CLIENT IDENTIFICATION
AND VERIFICATION REQUIREMENTS FOR ASYLUM SEEKERS AND
REFUGEES IN TERMS OF THE FINANCIAL INTELLIGENCE CENTRE
ACT, ACT NO. 38 OF 2001

The Financial Intelligence Centre (the Centre) provides the guidance contained in this Public Compliance Communication (PCC) in terms of its statutory function in terms of section 4(c) of the Financial Intelligence Centre Act, 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 in terms of the FIC Act. Guidance provided by the Centre is authoritative in nature. An accountable institution must apply guidance issued by the Centre, or demonstrate an equivalent level of compliance with the relevant obligations under the FIC Act. It is important to note that enforcement action may emanate as a result of non-compliance with the FIC Act where an accountable institution does not follow guidance issued by the Centre and cannot demonstrate compliance with the legal obligations to which the guidance relates.

PCC Summary

PCC27 provides clarity on whether an accountable institution may continue transacting with a client where the client's identity was verified using a valid asylum seeker or refugee document relating to the client's residence status, and where such document has since expired.

This PCC27 should be read in conjunction with PCC03 and PCC03A.

A client's identity must be established and verified at the outset of the business relationship and does not have to be repeated during the course of the relationship, provided the clients details have not changed.

If the client's identity was verified using a valid asylum seeker or refugee document, which document also contains information relating to the client's residence status, the subsequent expiry of the document reflecting the residence status does not affect the verification of the client's identity.

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Objective

The objective of PCC27 is to provide clarity on whether an accountable institution may continue transacting with a client if the client's identity was verified using a valid asylum seeker or refugee document relating to the client's residence status, and where such document has since expired.

1. Introduction

- 1.1 Section 21 of the FIC Act requires that an accountable institution must establish and verify the identity of its client prior to establishing a business relationship or concluding a single transaction with the client or the representatives of the client.
- 1.2 PCC03 provides guidance concerning the obligations of accountable institutions when establishing business relationships or concluding single transactions with clients in the context of asylum seekers and refugees.
- 1.3 PCC03A is an addendum to PCC03 and provides an interim measure which is intended to assist accountable institutions in instances where an official identification document is not available and the circumstances in which reliance on the section 22 and section 24 permits issued in terms of the Refugees Act, Act No. 130 of 1998 (the Refugees Act), as alternative forms of identification, is permissible.
- 1.4 A permit issued in terms of section 22 of the Refugees Act grants an asylum seeker temporary residence. If the application for refugee status is approved a certificate is issued in terms of section 24 of the Refugees Act. The section 24 certificate entitles the person to apply for a 13 digit green bar coded refugee identity document as well as for a United Nations issued travel document.
- 1.5 It has come to the Centre's attention that certain accountable institutions are freezing the accounts of asylum seeker and refugee clients where the client's identity was verified using a valid asylum seeker or refugee document relating to the client's residence status, and such where document has since expired.

2. The Centre's view

- 2.1 In terms of section 21 of the FIC Act, the client's identity must be established and verified at the outset of a business relationship or single transaction.
- 2.2 The client identification and verification process does not have to be repeated when subsequent transactions take place within the business relationship.
- 2.3 The client identification and verification requirements in terms of the FIC Act should not be confused with the residence status of a client and the legitimacy pertaining to the client's presence in the country. The validity of the client's residence status document used to confirm the identity of the client is only applicable at the establishment of the business relationship or concluding a single transaction with the client.
- 2.4 Where an accountable institutions relies on documents relating to the client's residence status it confirms the client's identity and not the client's residence status in the Republic of South Africa
- 2.5 If the client's identity was confirmed to the satisfaction of the accountable institution by using an unexpired and therefore valid document, which document also pertains to the client's residence status, the subsequent expiry of the document does not affect the confirmation of the client's identity.
- 2.6 Accountable institutions should therefore not place a transaction hold or "freeze" the accounts of asylum seeker and refugee clients where a business relationship already exists and the documents used to confirm the client's identity have subsequently expired.
- 2.7 Accountable institutions should not conclude a business relationship or single transaction with a client where the identification and verification of the person's identity will be established by relying on expired documents.

2.8 Where a business relationship with a client has ended, and the client subsequently wants to enter into a single transaction, the accountable institution cannot rely on the expired documents for identification and verification purposes.

3. Conclusion

3.1 Where the client's identity was confirmed to the satisfaction of the accountable institution by using a valid document, which document also pertains to the client's residence status, the subsequent expiry of the document does not affect the confirmation of the client's identity.

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Issued By:

**The Director
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