



Financial
Intelligence Centre

PUBLIC COMPLIANCE COMMUNICATION

DRAFT PUBLIC COMPLIANCE COMMUNICATION No. 101 (PCC 101)
OF LICENSING, REGISTRATION, APPROVAL OR AUTHORISATION
CONDITIONS ISSUED BY SUPERVISORY BODIES TO
ACCOUNTABLE INSTITUTIONS, IN TERMS OF SECTION 45 AND
45(1B)(e) 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 under the FIC Act. Accordingly, guidance provided by the Centre is authoritative in nature.

Supervisory bodies must comply with guidance issued by the Centre, must explain how the guidance has been applied and must explain the reasons for departing from the issued guidance, if prompted by the Centre.

PCC Summary

The Centre recommends that supervisory bodies include in their conditions of its licence, registration, approval or authorisation processes issued to accountable institutions, a clause confirming that the accountable institution:

- is to comply with the provisions of the FIC Act;
- has in place adequate human, financial, technical and other resources to ensure compliance with the FIC Act.

Disclaimer

The publication of a PCC concerning any particular issue, as with other forms of guidance which the Centre provides, does not relieve the user of the guidance from the responsibility to exercise their own skill and care in relation to the users' legal position. The Centre accepts no liability for any loss suffered as a result of reliance on this publication.

Copyright notice

This PCC is copyright. The material in a PCC may be used and reproduced in an unaltered form only for personal and non-commercial use within your institution. Apart from any use permitted under the Copyright Act No. 98 of 1978, all other rights are reserved.

Objective

The objective of this PCC is to provide guidance to supervisory bodies regarding the conditions of their licence, registration, approval or authorisation processes in meeting their responsibilities to supervise and ensure compliance with the FIC Act by the respective accountable institutions regulated by them, as required by sections 45 and 45(1B)(e) of the FIC Act.

1. Introduction

- 1.1 Every supervisory body is responsible for supervising and enforcing compliance with the FIC Act or any order, determination or directive made in terms of the FIC Act, by all accountable institutions regulated or supervised by it (Section 45(1) of the FIC Act). In this regard, supervisory bodies may conduct inspections to determine the level of compliance by accountable institutions with the FIC Act or any order, determination or directive made in terms of the FIC Act (Section 45B(1) of the FIC Act).
- 1.2 All accountable institutions must comply with the provisions of the FIC Act, unless they are exempted by the Minister of Finance (Section 74 of the FIC Act).

2. Responsibility for supervision of accountable institutions

- 2.1 Section 45(1B)(e)(i) and (ii) of the FIC Act provides that a supervisory body, in meeting its responsibility referred to in section 45(1) of the FIC Act may issue or amend any licence, registration, approval or authorisation that the supervisory body may issue or grant in accordance with any Act, to include that an accountable institution;
 - 2.1.1 is to comply with the provisions of the FIC Act;
 - 2.1.2 has in place adequate human, financial, technical and other resources to ensure compliance with the FIC Act.

FOR CONSULTATION PURPOSES ONLY

- 2.2 The Centre therefore recommends that the supervisory body include conditions as mentioned in paragraph 2.1 above in their conditions of licensing, registration, approval or authorisation in respect of accountable institutions.
- 2.3 The Centre further recommends that, when supervisory bodies assess applications for licensing, registration, approval or authorisation, they should, amongst others, consider the applicant's capability to meet the requirements of these conditions once the license is granted.
- 2.4 The Centre proposes the following generic clause, the first line of which may be amended to conform to the specific industry requirements:
- “Upon being licenced/registered/approved/authorised, the licensee confirms that he/she/it will comply with, and ensure that the licensee will have the necessary availability of human, financial, technological and other resources to enable it to comply with, the provisions of the Financial Intelligence Centre Act (Act No. 38 of 2001).”*
- 2.5 The Centre further request supervisory bodies to commence making amendments to its conditions of licensing, registration, approval or authorization, at the earliest opportunity.

Queries on this and other compliance matters can be logged via the web portal on the Centre's website ([click here](#)) or visit www.fic.gov.za for alternative contact details.

**Issued By:
THE DIRECTOR
FINANCIAL INTELLIGENCE CENTRE
11 December 2018**