

**PUBLIC COMMUNICATION COMPLIANCE**

**PUBLIC COMPLIANCE COMMUNICATION  
55 ON DIRECTIVE 8 SCREENING OF  
EMPLOYEES FOR COMPETENCE AND  
INTEGRITY AND SCRUTINISING OF  
EMPLOYEE INFORMATION AGAINST  
TARGETED FINANCIAL SANCTIONS LISTS  
AS A MONEY LAUNDERING, TERRORIST  
FINANCING AND PROLIFERATION  
FINANCING CONTROL MEASURE**

## **PCC SUMMARY**

This public compliance communication 55 (PCC 55) provides guidance to accountable institutions regarding the application of Directive 8 which deals with the screening of employees for competence and integrity as well as scrutinising of employee information against the targeted financial sanctions lists, as a money laundering (ML), terrorist financing (TF) and proliferation financing (PF) control measure.

## **THE AUTHORITATIVE NATURE OF GUIDANCE**

The Financial Intelligence Centre (the Centre) provides the guidance contained in this PCC55 in terms of its statutory function in terms of section 4 (c) of the Financial Intelligence Centre Act, 2001 (Act 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 in terms 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. Accordingly, guidance provided by the Centre is authoritative in nature and must be taken into account when interpreting the provisions of the FIC Act or assessing compliance of an accountable or reporting institution with its obligations imposed on it by the FIC Act.

It is important to note that enforcement action may emanate as a result of non-compliance with the FIC Act in areas where there has been non-compliance with the guidance provided by the Centre. Where it is found that an accountable or reporting institution has not followed guidance which the Centre has issued, the institution must be able to demonstrate that it has complied with the relevant obligation under the FIC Act in an equivalent manner, nonetheless.

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## **OBJECTIVE**

The objective of this PCC is to provide guidance to accountable institutions on the practical application of screening prospective and current employees for competence and integrity periodically following a risk-based approach, and of scrutinising employee information against the targeted financial sanctions lists, as detailed in Directive 8.

## **1 INTRODUCTION**

- 1.1. [Directive 8](#) calls for accountable institutions to screen prospective and current employees for competence and integrity periodically, and to scrutinise employee information against the targeted financial sanctions lists as an internal control measure aimed at mitigating the risk of accountable institutions being abused by criminals who are either prospective employees, current employees or by persons that may influence employees.
- 1.2. The periodic screening of competence and integrity by current employees allows for the ongoing management of ML/TF/PF risks faced by the accountable institution.
- 1.3. Further, the adequate screening and scrutinising of employee information allows the accountable institution to ensure high standards when hiring employees of that accountable institution.
- 1.4. Similar to understanding ML/TF/PF risks associated with its clients, it is equally important for an accountable institution to understand how these ML/TF/PF risks can arise internally through an accountable institutions' relationship with its own employees. Sufficient risk mitigation and management measures must be put in place that are commensurate with the level of risk identified.

- 1.5. Directive 8, read together with this PCC, sets the minimum standard for screening of employees for competence and integrity by accountable institutions. Where an accountable institution applies a higher standard than what is required in terms of the Directive 8, they are encouraged to continue applying that higher standard.
- 1.6. Directive 8 and this PCC must be applied in compliance with applicable labour laws, which include the Labour Relations Act, 1995 (Act 66 of 1995) (LRA), Basic Conditions of Employment Act, 1997 (Act 75 of 1997) (BCEA) and other applicable existing labour laws.

## **2 SCREENING OF EMPLOYEES FOR COMPETENCE AND INTEGRITY**

- 2.1. Directive 8 requires that the screening of prospective and current employees for competence and integrity must be done periodically using a risk-based approach. The practical considerations of this are considered below;

### ***Risk-based approach***

- 2.2. Not all employees present the same level of ML/TF/PF risk. An accountable institution must determine the level of ML/TF/PF risk an employee role poses and ensure that the screening applied is proportionate to the level of ML/TF/PF risk the employee role presents.
- 2.3. Where the accountable institution identifies a higher risk of ML/TF/PF based upon the employee role, the accountable institution should apply more stringent competency and integrity screening.
- 2.4. Based upon the outcome of the screening of the prospective employee and current employee, the accountable institution must take a risk-based decision to ensure the ML/TF/PF risk is mitigated and managed.

### *Screening for competence*

- 2.5. The Centre is of the view that screening for competence refers to determining whether the employee has the necessary skills, knowledge and expertise to perform their functions effectively. The accountable institution has the flexibility to determine the manner in which the accountable institution will screen for competence according to its risk-based approach.
- 2.6. As part of the screening for competence, an accountable institution could consider reviewing the employee's previous employment history, employment references, qualifications and relevant accreditations.

### *Screening for integrity*

- 2.7. In the context of Directive 8, integrity relates to the honesty and moral principles of an employee.
- 2.8. The Centre is of the view that screening for integrity may include determining whether the employee does not have a criminal record, particularly related to crimes of dishonesty, money laundering or other financial crimes.

### *Enhanced screening for integrity*

- 2.9. In addition to the recommendations set out in paragraph 2.7 above, the accountable institution is advised to implement additional integrity screening measures for employee roles that pose a higher ML/TF/PF risk. Additional screening measures include, but is not limited to, determining whether the employee:
- 2.9.1. Had conducted themselves in accordance with the generally accepted conduct requirements as applied by the accountable institution;
- 2.9.2 Held a senior decision-making role in relation to anti-money laundering, terrorist financing or proliferation financing at an accountable institution that was found to have

criminally contravened the FIC Act, the Prevention and Combating of Corrupt Activity Act, 2004 (Act 12 of 2004), the Prevention of Organised Crime Act, 1998 (Act 121 of 1998),  
or the Protection of Constitutional Democracy against Terrorist and Related Activity Act, 2004 (Act 33 of 2004) (POCDATARA Act).

2.9.3. Is a known close associate, or immediate family member of a high-risk client (e.g. high-risk domestic politically exposed persons or foreign politically exposed persons).

2.9.4. Is a national of a high-risk TF or PF geographic area (refer to PCC 54).

### *Employee role considerations*

2.10. The Centre is of the view that the following employee roles may be considered as presenting a heightened ML/TF/PF risk:

2.10.1. Senior management, including employees sitting within committees that approve the establishment of a business relationship or single transactions with high-risk clients such as domestic politically exposed persons or foreign politically exposed persons.

2.10.2. Any category of employee, where the employee may take decisions which alter the anti-money laundering, counter terrorist financing and counter proliferation regime of the entity.

### *Timing of screening*

2.11 The word “periodically” is used in Directive 8. This indicates that screening of employee information must occur on an ongoing basis.

2.12 An accountable institution must screen all prospective employees for competence and integrity before their appointment at the accountable institution. Thereafter, all

employees must be screened on a periodic basis, where the frequency of such screening is determined by the ML/TF/PF risk posed by the employee role.

- 2.13 In application of a risk-based approach to screening of employee information, employee roles presenting a higher ML/TF/PF risk must be screened more frequently than employee roles that are considered to present a medium or lower ML/TF/PF risk.
- 2.14 The Centre recommends that where the employee role poses a heightened ML/TF/PF risk, the accountable institution should perform competence and integrity screening of the employee on an annual basis, at a minimum.
- 2.15 The frequency of screening for employee roles should be recorded in the accountable institution's risk management and compliance programme (RMCP).
- 2.16 In relation to current employees as at the time of the Directive 8 being *gazetted*, accountable institutions must perform screening for competence and integrity following a risk-based approach of these employees.
- 2.17 Employees that are no longer in the employment of the accountable institution need not be considered for screening purposes.

### **3. SCRUTINISING EMPLOYEE INFORMATION AGAINST TARGETED FINANCIAL SANCTIONS LISTS**

- 3.1. An accountable institution must scrutinise all prospective employees against the TFS list before appointment of the person.
- 3.2. The accountable institution must scrutinise all current employees against the TFS list as and when updates are made to the TFS list.
- 3.3. The scrutinising of employee information in this regard applies to all employees irrespective of the level of ML/TF/PF risk the employee role presents.

- 3.4. Accountable institutions are reminded that no person may provide economic support, financial or other services to any person who is listed on a targeted financial sanctions list, as read with section 26B of the FIC Act.
- 3.5. All current employees at the time of Directive 8 being *gazetted*, must be scrutinised against notices issued by the Director under section 26A(3) of the FIC Act.
- 3.6. Employees that are no longer in the employment of the accountable institution need not be considered for scrutinising purposes.

#### **4. COMMENCEMENT AND ENFORCEMENT DATES**

- 4.1 The Directive 8 becomes effective and enforceable from date of publication in the *Government Gazette*, for both current and prospective employees.
- 4.2 An accountable institution should commence with screening of its higher risk employee roles, in relation to current employees, as soon as possible, and thereafter focus on lower risk employee roles.

#### **5 COMMUNICATION WITH THE CENTRE**

- 5.1 The Centre has a dedicated compliance contact centre geared to assist accountable institutions to understand their registration obligations in terms of the FIC Act. Please call the compliance contact centre on 012 641 6000 and select option 1.
- 5.2 Compliance queries may also 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.

**Issued By:**

**The Director**

**Financial Intelligence Centre**

**31 March 2023**