

CONSULTATION FEEDBACK NOTE

Relating to the draft public compliance
communication 47A on the interpretation of
item 1 of Schedule 1 to the Financial
Intelligence Centre Act, 2001
(Act 38 of 2001)

October 2023

INTRODUCTION

1. The Financial Intelligence Centre (FIC) issued for consultation the draft public compliance communication 47A (draft PCC 47A) for consideration and comments by accountable institutions, in terms of section 42B of the Financial Intelligence Centre Act, 2001 (Act 38 of 2001) (FIC Act).
2. The period for consultation was from Thursday, 15 December 2022 to Friday, 20 January 2023. Consultation comments were received from an insurance broker and an advocate.
3. The final version of the PCC 47A has been issued and draft PCC 47A has been withdrawn.

CONSULTATION FEEDBACK

4. Feedback on the consultation comments received are noted below:

Comment	Response
I still believe that you should not leave referral advocates and arbitrators, adjudicators and mediators out of this duty to register as accountable institutions.	Comment noted, no changes to the PCC 47A.
Banks and other financial institutions should not lower their guard just because a legal practitioner, usually a law firm represents a client.	Comment noted. Criminals may abuse legal practitioners to benefit from the appearance of legitimacy, and as such is noted as a risk consideration.
Advocates (unlike attorneys who are restricted to Divisions) appear in any court in the Republic. Advocates frequently have clients who are located in other provinces or indeed outside the Republic.	Comment noted, no changes to the PCC 47A.

<p>Advocates will not succeed in their practice if they specialise without being willing to accept briefs from anyone. It would be prudent of the client though, to choose wisely as some subjects require specialised knowledge. For example, complicated trademark cases or patents.</p> <p>Tenders are another reason why clients are cash-flush.</p>	<p>Comment noted, no changes to the PCC 47A.</p>
<p>How would the legal practitioner know about the previous legal practitioner unless there is a transfer of a file between two practitioners?</p> <p>An attorney may have a specific practice. A trust advocate usually has a general practice. So, a trust advocate may never know when a client with a large claim will, if ever, instruct the trust advocate.</p> <p>It is a common legal practice to have third party litigation funding. I do not engage in any form of third-party funding. But I have spoken to a number of foreign lawyers whose law firms fund litigation and arbitration. It would be wrong to target them.</p> <p>On the other hand, I understand the point of view that a third-party entity could be engaged in AML.</p>	<p>Comments noted, no changes to the PCC 47A.</p>

CONCLUSION

5. The FIC thanks the commentators and notes that all comments received have been considered.
6. The final PCC 47A has been issued on 17 October 2023.

COMMUNICATION WITH THE CENTRE

7. Queries can be directed to the compliance contact centre on 012 641 6000 and select option 1. Queries can 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.

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