

CONSULTATION FEEDBACK NOTE

Relating to the draft Guidance Note 104A on
international funds transfer reporting to the
Financial Intelligence Centre in terms of
section 31 of the Financial Intelligence Centre
Act, 2001 (Act 38 of 2001)

November 2023

INTRODUCTION

1. The Financial Intelligence Centre (Centre) issued draft Guidance Note 104A for consideration by all accountable institutions, supervisory bodies and other persons in terms of 42B of the Financial Intelligence Centre Act, 2001 (Act 38 of 2001) (FIC Act).
2. The draft Guidance Note 104, was initially made available on the Centre's website for the period from Friday, 1 March 2019 to Monday, 1 April 2019. Consultation comments were received from banks and industry associations, which comments have been addressed where necessary in the updated draft Guidance Note 104A (draft GN104A).
3. The draft GN104A was made available on the Centre's website for period 19 January 2023 to 1 February 2023. Consultation comments were received from an industry association, which comments have been addressed where necessary in the final [Guidance Note 9](#).
4. The final Guidance Note 9 replaces the draft GN104A and draft GN 104.
5. Guidance Note 9 provides guidance on the implementation of section 31 of the FIC Act, read together with the regulations 23D, 23E, 24 and 29 of the Money Laundering and Terrorist Financing Control Regulations.

FEEDBACK ON MATERIAL COMMENTS

High level feedback on the consultation comments received on draft Guidance Note 104A are noted below:

Comment	Response comments
Paragraph 11 1) There is no need to reference "legally conduct transactions". If the list of institutions	Guidance Note updated to address the comment.

Comment	Response comments
is restricted to those listed in the preceding paragraph the proposed amended wording would be/ is sufficient.	
<p>Paragraph 15</p> <p>1) Commentator suggests that para 15 be amended for grammatical correctness by replacing “reported” with “reportable”.</p>	<p>Guidance Note updated to address the comment.</p>
<p>Paragraph 15</p> <p>2) Commentator points out that credit card purchases, the financial institution would not always access the bank account details of the merchant for these purchases, and as per the IFTR sessions with FIC it was agreed that banks can report the details of the merchants as an Entity Party (no account information visible). The FIC is requested to confirm same in this Guidance Note.</p> <p>2) Commentator proposes that paras 15.3 and 15.4 be amended as follows: “15.3 Credit and debit card transactions to the credit of a person/business located outside South Africa, where the transaction is linked to an account held in South Africa; 15.4 Credit and debit card transactions to the credit of a person/business located inside South Africa, where the transaction is linked to an account held outside of South Africa.”</p>	<p>Comment noted..</p> <p>Where information is not mandatory but the accountable institution has the information readily available, then the accountable institution must provide that information in the IFTR.</p> <p>Minor amendments made to enhance the paragraphs. The inclusions are to be read in the context of the heading and leading text of paragraph 15, indicating the application to cross border transactions.</p>

Comment	Response comments
<p>Noting the content of para 16.2 regarding interbank transactions, which is to be considered in this context, the following to be noted –</p> <p>a) A bank would debit the account of the client.</p> <p>b) The banks funds would be utilised to purchase the foreign currency and the client's wallet/ cash passport would in turn be credited.</p> <p>c) Such transfer of funds can therefore happen domestically. The mere intent to use same for international spend is irrelevant.</p> <p>d) It should be clearly articulated to state that in the event that such funds are spent / utilised or refunded cross border, the transaction would then be reportable.</p> <p>e) We propose that the said paragraph be amended accordingly.</p>	<p>The commentators are referred to paragraphs 13 and 15.5 that sets out when an IFTR reporting obligation in respect of wallets and cash passports are triggered.</p> <p>Further, it is noted in paragraph 16.2 that it is the responsibility of the bank to determine which transactions meet the definition of an interbank transaction, and those that do not.</p> <p>No changes made to the guidance note in this regard.</p>
<p>Paragraph 16</p> <p>Commentator suggests that para 16 be amended for grammatical correctness by replacing “reported” with “reportable”.</p> <p>1) Commentator proposes that para 16 be amended as follows: “Examples of transactions which are not reported reportable as IFTRs include:”</p>	<p>Guidance Note updated to address the comment.</p>

Comment	Response comments
<p>Paragraph 20</p> <p>Previous feedback suggests that reporters default the transmode type to IFTR inbound or IFTR outbound respectively. This is not an accurate reflection of the transmode as it may be an EFT (account to account), credit card transaction, foreign exchange transaction, etc.</p> <p>1) The FIC is requested to reconsider its approach and allow reporters to select the most appropriate transmode to be an accurate reflection of the flow of funds inbound and or outbound.</p> <p>2) Commentator proposes that para 20 be amended as follows: “IFTRs are reported separately as inbound (money being transferred from another country into South Africa) and separately as outbound (money being transferred outside South Africa) cross-border transactions, and be indicated under the various transmode types, e.g., electronic fund transfer, point of sale (POS)/card swipe, money transfer, purchase via credit card etc.”</p>	<p>The IFTR inbound and IFTR outbound transmode types are the two broad categories, under which a transaction may be categorised.</p>
<p>Paragraph 25</p> <p>For certainty and to assist with correct reporting, the FIC is requested to clarify its</p>	<p>The Guidance Note has been updated to clarify, in the scenario where a transaction is returned, note that a second IFTR must be filed.</p>

Comment	Response comments
<p>expectation relating to outbound transactions that are subsequently returned (due to incorrect payment information, disputes, etc.). Is the expectation that the outgoing IFTRs be reported and then when it is returned same be reported as a second IFTR (noting that whilst funds may have been reserved- it was not a successful transaction on the client's account)?</p>	
<p>Example 6</p> <p>1) The example incorrect as it references a transaction in the amount of R10,000.00.</p>	<p>Example updated to refer to R20 000.</p>
<p>Example 7</p> <p>1) The second date of 10 February 2023 should be Friday and not Thursday.</p>	<p>Example updated to refer to Friday.</p>
<p>Paragraph 38</p> <p>1) This provision appears contradictory and needs to be clarified. If the field may be left blank, how must it be completed or vice versa, if it must be completed under what circumstances may the field be left blank"? The FIC is requested to redraft the para to clearly reflect its expectation of reporters.</p>	<p>Guidance Note updated to clarify.</p> <p>goAML may have a field set as not mandatory, however the information may be mandatory in terms of the MLTFC Regulations, in which scenario the reporter must complete the field.</p> <p>All information which is mandatory in terms of the MLTFC Regulations, and information that is and readily available must be completed.</p>

Comment	Response comments
Paragraph 43	
<p>1) Note with card purchases, it is possible to pay online in ZAR for purchases on online platforms, whereby the user can decide to pay in the foreign currency (e.g. US Dollars), or pay in their local currency, and therefore not all crossborder transactions for purchases would have a foreign amount.</p> <p>1) BASA proposes that para 43 be amended to delete the second sentence as follows: "When reporting an IFTR, all cross-border transactions, when converted from a foreign currency into rand and vice versa, must be recorded on the date when the conversion into rand or vice versa took place.</p>	<p>Section 31 of the FIC Act, and the associated Regulations, do not make reference to the currency type. Rather, where there is an electronic transfer of money inside or outside the Republic. The guidance refers to the rand equivalent to be ascertained where a currency conversion is made.</p> <p>The paragraph has been updated to clarify the principle.</p>

CONCLUSION

- The Centre thanks all commentators and notes that all comments received have been considered and incorporated in Guidance Note 9 where appropriate.

COMMUNICATION WITH THE CENTRE

- 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 <https://www.fic.gov.za/compliance-queries/> or visiting the Centre's website and submitting an online compliance query.

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