

MEDIA RELEASE

9/5/1/3

CONSEQUENCES OF NON-COMPLIANCE WITH THE FINANCIAL INTELLIGENCE CENTRE ACT FOR ALL ACCOUNTABLE INSTITUTIONS

4 December 2023: The Financial Intelligence Centre (FIC) brings to the attention of all accountable institutions, important information regarding penalties and administrative sanctions for non-compliance. This information applies also to those institutions included on Schedule 1 of the Financial Intelligence Centre Act, 2001 (Act 38 of 2001) since December 2022.

The administrative sanctions that the FIC may impose in terms of section 45C (3) of the Financial Intelligence Centre Act, 2001 (Act 38 of 2001) (FIC Act) for non-compliance with the FIC Act is any one or more of the following sanctions:

- (a) A caution not to repeat the conduct which led to the non-compliance
- (b) A reprimand
- (c) A directive to take remedial action or to make specific arrangements
- (d) The restriction or suspension of certain specified business activities; or
- (e) A financial penalty not exceeding R10 million in respect of natural persons and R50 million in respect of any legal person.

The FIC emphasises that it is neither a court of law nor an enforcement agency and may not order imprisonment of individuals. Also, administrative sanctions are not of a criminal nature. Some non-compliance issues could also be criminal

offences and may be pursued by law enforcement and may result in criminal prosecution and imprisonment and/or a fine.

The FIC may refer matters to the South African Police Service, the National Prosecuting Authority or other enforcement agencies for criminal investigation and prosecution. However, criminal investigation and prosecution is not within the mandate of the FIC, which enforces compliance with the FIC Act through administrative sanctions and not criminal prosecution.

The FIC strongly urges all accountable institutions including new items in Schedule 1 to the FIC Act, to ensure that they are now registered with the FIC, as the timeline for their registration ended on 20 March 2023.

Accountable institutions are required to ensure they have complied with any directive issued by the FIC, including Directive 7, which required the online submission of a risk and compliance return to the FIC by Monday, 31 July 2023.

Also, accountable institutions are required to provide a copy of their Risk and Compliance Management Programme to the FIC, upon request by the FIC, in a timely manner.

The FIC refers affected accountable institutions to the FIC Final Notice of 22 November 2023, of the intent of the FIC to issue administrative sanctions, which includes the following caution:

'This notice cautions the accountable institutions mentioned above, who have not registered with the FIC, and/or those who have not submitted their risk and compliance return, to register with the FIC and then to submit the outstanding risk and compliance returns by no later than 17H00 on Friday, 1 December 2023, failing which they remain in a state of non-compliance and will be liable to be sanctioned with an administrative sanction (which may include a financial penalty).'

The FIC Final Notice of 22 November 2023, of its intent to issue administrative sanctions may be accessed [here](#).

Issued by the Financial Intelligence Centre
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Note to editors: As South Africa's national centre for the gathering and analysis of financial data, the role of the Financial Intelligence Centre (FIC) is to safeguard the integrity of the country's financial system and its institutions. In pursuit of this, the Financial Intelligence Centre Act, 2001 (Act 38 of 2001), mandates the FIC to assist in the identification of the proceeds of crime and assist in combating money laundering, terrorist financing and proliferation financing, to facilitate effective supervision and enforcement of the Act.

Under this legislation, financial and non-financial institutions are required to fulfil certain compliance obligations, including registering with, and filing various regulatory reports to the FIC. The information provided in these reports forms the basis for the FIC's analysis to develop financial intelligence reports for use by a wide range of law enforcement and other competent authorities, and other institutions to facilitate the administration and enforcement of the laws of the Republic. The FIC Act also sets out the enforcement and penalty regime for non-compliance with the FIC Act.

In February 2023, the country was placed under increased monitoring listed by the Financial Action Task Force, the global anti-money laundering and combating of terrorist financing watchdog organisation. Work to address South Africa's grey listing was under way in earnest in 2022/23 and will continue in the coming period. The FIC will continue its contribution in work towards exiting South Africa from the grey list as soon as possible. In the FIC environment, the 2022/23 financial year saw several legislative and regulatory changes being implemented, which speak to some of the concerns raised by FATF. Among them were changes to the FIC Act, and an increase in the types of financial and non-financial institutions required to comply with obligations of the FIC Act. Altogether, these amendments and other measures enable the FIC to source, for interpretation and analysis, transactional and other information from a broader playlist. In this way, the FIC will continue to improve its support in the justice and crime prevention arena domestically and internationally.

For more about the FIC visit www.fic.gov.za

ITEM	2022/23
Total institutions registered as at year end	45 392
Compliance events and attendees	33 events and 16 801 attendees
Compliance inspections	402 FIC and 544 supervisory bodies
Regulatory reports received	>5.3 million
Cash threshold reports received	>4.2million
Suspicious and unusual transaction reports received	558 348
Financial intelligence reports disseminated	2 393 reactive, 976 proactive, 55 on illicit financial flows
Proactive financial intelligence reports disseminated	976, of which 144 related to high priority matters
Value of suspected criminal proceeds frozen	R92.2 million
Value of proceeds of crime recovered, in which the FIC's financial intelligence was used	>R5.82 billion