

MEDIA RELEASE

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FINANCIAL INTELLIGENCE CENTRE CONCLUDES PUBLIC AND PRIVATE SECTOR CONSULTATION ON BENEFICIAL OWNERSHIP

26 January 2024: The Financial Intelligence Centre (FIC), in collaboration with the Inter-departmental Committee on Beneficial Ownership Transparency (IDC BOT), this week concluded consultations held from 19 to 25 January, with private and public sector stakeholders on beneficial ownership reforms in South Africa.

Beneficial ownership information can help manage the risks associated with opaque corporate structures and is a critical resource to assist law enforcement and other competent authorities identify the warm body who owns and controls a company, trust, or other corporate vehicle. The establishment of complex corporate structures are often abused by criminals to conceal illicitly acquired wealth.

The FIC recently issued draft guidance on beneficial ownership, and beneficial ownership implementation to strengthen measures on anti-money laundering, countering the financing of terrorism and combating of proliferation financing (AML, CFT and CPF). The draft guidance formed part of the consultations.

The FIC-IDC BOT consultations, held in Pretoria, benefited from technical advisory support of the European Union Global Facility on Anti-Money Laundering and Countering the Financing of Terrorism (EU Global Facility). Their technical assistance was aimed at enhancement of a uniform understanding and implementation of BO standards across the country.

EU Global Facility beneficial ownership experts, Alexandre Taymans and Igor Bereza, provided their insights on disclosure standards, AML, CFT and CPF obligations, and overcoming BO implementation challenges.

Team leader of the EU Global Facility, David Hotte noted: "The high level of commitment and engagement demonstrated by the FIC, as well as the depth of discussion and expertise developed by South African authorities and supervisors, are a testament to the effectiveness of the ongoing reforms and the substantial progress made by the country in the field of beneficial ownership.

"As a long standing partner, the EU Global Facility is by your side, focusing not only on the immediate goal of delisting but also on building a robust, long-term framework that will benefit South Africa and the global community," he added.

The consultations included dedicated sessions with representatives from financial institutions and designated non-financial institutions and professions, supervisory bodies, as well as law enforcement and prosecution authorities. As the custodians of beneficial ownership information, also included in the consultations were the Companies and Intellectual Property Commission and the Office of the Chief Master of the High Court.

Attendees were able to provide inputs on the guidance, draft public compliance communication 121. In addition, delegates discussed challenges to, and mechanisms for, access to reliable beneficial ownership information, as well as implementation challenges. Also covered was the use of beneficial ownership information in practice, using practical tools, case studies and typologies.

The General Laws (Anti-Money Laundering and Combating Terrorism Financing) Amendment Act, 2022 amended the definition of beneficial ownership in the FIC Act and section 21B of the Act, which widened the application of the section. The amendments were part of broader beneficial ownership reforms in South Africa, which brought the country's legislation in step with Financial Action Task Force (FATF) Recommendations.

The global standard setting body for combating money laundering and terrorist financing requires that law enforcement agencies and financial intelligence units, among others, can access adequate, accurate and up-to-date beneficial ownership information held by relevant parties in a timely manner.

Pieter Smit, acting Director of the FIC said: “South Africa has made significant progress in improving the effectiveness of its legal, regulatory, and institutional frameworks on beneficial ownership transparency.

“The implementation of these BO reforms has started in earnest, which is a testament to our commitment to prevent the misuse of legal persons and legal arrangements.”

Christopher Malan, executive manager for Compliance and Prevention at the FIC and co-chair of the IDC-BOT said: “Corporate structures are abused to hide the proceeds of criminality, whether it is from business, government, or the public, by disguising the true identity of who owns, controls and ultimately benefits from such arrangements.

“FATF beneficial ownership requirements are extensive and cut across the FATF Standards. They require accountable institutions to identify and verify the identities of the natural person(s) who owns or exercises effective control of a legal person or legal arrangement client.

“The FIC and supervisory bodies need to ensure that accountable institutions adequately assess, understand, identify and mitigate the money laundering and terrorist financing risks posed by the beneficial ownership in respect of the legal person and arrangement clients of accountable institutions. This is a challenging area of risk mitigation, compliance and supervision that we must get right as a country.

“It is necessary to have in place an adequate beneficial ownership regime, and the effective accessing and utilisation of the beneficial ownership information by law

enforcement agencies, to improve the prevention and deterrence of the misuse of legal persons by criminals.”

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