

## **CONSULTATION FEEDBACK NOTE**

Relating to the draft public compliance communications 119 that provide guidance on the definitions of, and industry risks relating to high-value goods dealers and the issuance thereof in public compliance communication 58

**March 2024**

## INTRODUCTION

1. The Financial Intelligence Centre (FIC) issued for consultation draft public compliance communication 119 (PCC 119) 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 began on Thursday, 15 December 2022 closed on Friday, 20 January 2023. Comments were received from banks, financial services providers, industry associations and consultants.
3. The final version of draft PCC 119 has been issued as [PCC 58](#).

## CONSULTATION FEEDBACK

4. Feedback on the consultation comments received on draft PCC 119 are noted below:

Comment	Response
<p>Whilst the definition is clear and it refers to moveable and tangible items such as vehicles and vehicle parts, we want to confirm if vehicle services are specifically excluded.</p> <p>1.5.6 It is recommended that 1.5.6 includes a referral to section 3: examples of business activities that fall within the HVGD. What is the basis for the Centre's view? On what basis are other high value (Rand- value based) goods excluded?</p>	<p>The high-value good (HVG) must be a physical, tangible item. Vehicles and vehicle parts above the value of R100 000. fall within the ambit of a HVG.</p> <p>The category of HVGDs is broad and includes all persons who meet the definition as set out in item 20 to Schedule 1 of the FIC Act. Paragraph 3 merely sets out some examples of high value good dealers (HVGDs) which may face a higher risk of being abused for money laundering, terrorist financing and proliferation financing.</p>

<p>Will immovable property be included - these are tangible?</p> <p>1.5.7 With reference to the previous comment under paragraph 1.5.6, if immovable property is deemed to be excluded, it should be listed here; and the rationale mentioned.</p> <p>There is no mention / guidance how to treat items with a commercial / market value &gt;R100k, but where a discount is allowed to bring the price below R100k (possibly to avert the reporting requirement). It is not clear which “value” should be used. Provide clear guidance how cases of this nature should be treated. Define value – is it book value, market value, advertised price, sale price before discount, before or after VAT, etc?</p>	<p>Immovable property may be considered as a high value good. Where property owners trade immovable property exceeding the threshold of R100 000. in the ordinary course of business dealings, that dealings falls within the definition of an HVGD.</p> <p>The selling price of the HVG must be taken into account when considering whether a person is a HVGD.</p> <p>Where it is found that businesses are trading HVG which has a market value above R100 000. per item but selling at a price below R100 000. per item, to intentionally avoid being designated as an HVGD, that may result in non-compliance with the FIC Act requirement to register with the FIC.</p>
<p>1.5.9.2 Does this include financed transactions, where the motor dealer receives payment from the financial institution that financed the vehicle for the customer?</p> <p>What is meant by the HVGD "facilitating" the credit agreement? The F&amp;I at a motor dealer assist a customer to apply for credit with various credit providers and these credit providers will then have to conduct a CDD in terms of the draft PCC 23A. Does this mean that a motor dealer will then also need</p>	<p>The institution remains an HVGD regardless of the transaction type.</p> <p>Where a motor vehicle dealer deals in HVGDs, and is also a credit provider, (and not just facilitating the credit agreement between the credit provider and the client), it must register both in terms of item 11 and item 20 to Schedule 1 to the FIC Act.</p>

<p>to register as a credit provider as well due to them "facilitating" the conclusion of a credit agreement between the credit provider and the customer?</p>	
<p>It would seem that although the person/entity may fall in the definition of HVGD, its FICA obligations only pertains to HVG transactions of R100K and more.</p> <p>Transactions for lesser valued items do not seem to attract same obligations. Would the consideration of single transaction/business relationship also apply? Given the value of transactions, even if deemed single transaction full CDD would be required. However, the PEP dispensation only applies to business relationships and will not apply in case of single transactions, however, the purchase of HVGs is prevalent in bribery/corruption matters.</p>	<p>The entity is only an accountable institution in so far as it deals in HVGs which are R100 000. or more. This is a ringfenced approach.</p> <p>The accountable institution must determine for itself, whether or not it has entered into a single transaction or a business relationship with the client.</p> <p>Where the accountable institution has entered into a business relationship, certain additional obligations apply in terms of the FIC Act.</p>
<p>In order for screening and reporting to take place, CDD information will be required. In many instances even the non-HVG single transactions will be above the single transaction threshold and should therefore attract full CDD</p>	<p>The entity is only an accountable institution in so far as it deals in HVGs which are R100 000. or more. This is a ringfenced approach (unless the entity falls within another category of accountable institution as per Schedule 1 to the FIC Act). The threshold of a single transaction is applicable when the entity is an HVGD accountable institution within the ambit of item 20.</p>

<p>1.8 read with Example 4: There is no mention / guidance how to treat items with a commercial / market value &gt;R100k, but where a discount is allowed to bring the price below R100k (possibly to avert the reporting requirement). Provide clear guidance how cases of this nature should be treated – should it be reportable as STR’s if a client request such a discount?</p>	<p>Where an entity is an HVGD, but provides certain goods below the R100 000. threshold, these dealings will not attract the FIC Act obligations that apply to accountable institutions. Section 29 of the FIC Act does, however, apply to all businesses and the entity remains obligated to report suspicious and unusual transactions.</p>
<p>2.10 It would however seems as if PEP dispensation not applicable - see previous note in this regard.</p> <ul style="list-style-type: none"> <li>- If a prescribed transaction has been concluded and CDD applied, and client returns for lesser transaction, must ODD be applied?</li> </ul> <p>2.13 - What is the case where there is qualifying repeat transactions does it then become a “business relationship”? is each transaction then deemed as trigger event for ODD? Will ODD be applicable?</p> <ul style="list-style-type: none"> <li>- What if a recurring client’s transactions varies between &gt; and &lt; than 100K – if there is recurring transactions in general will this become a business relationship and will all obligations become applicable to all transactions irrespective of value?</li> </ul>	<p>The accountable institution must determine for itself, whether or not it has entered into a single transaction or a business relationship with the client. Where the accountable institution has entered into a business relationship, certain additional obligations apply in terms of the FIC Act. For example, the obligation to obtain senior management approval for onboarding a politically exposed person and conducting ongoing due diligence.</p> <p>There may be scenarios where clients return to deal in goods less than R100 000. with the entity. For transactions where the goods are less that R100 000. the entity is not deemed an accountable institution. However, suspicious and unusual transaction/activity reporting is still applicable.</p>
<p>With the premium luxury models ... it often happens that parts are more than R100 000 per transaction. It would be very</p>	<p>Where a motor vehicle part costs R100 000 or more per item, then it falls within the definition of a HVG. And the entity</p>

onerous on Motor Vehicle Dealers to gear up the whole Parts Department to conduct CDDs on transactions which is above R100 000.

is an HVGD accountable institution for purposes of that transaction.

## CONCLUSION

5. The Centre thanks all commentators and notes that all comments received have been considered and incorporated in the final PCC 58 where appropriate.
6. The final PCC 58 has been issued on 28 March 2024.

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

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