
MEDIA STATEMENT

Invitation for public comments on draft regulations on international financial transactions in terms of section 31, and amendment of regulations on cash transaction reporting and aggregation in terms of section 28 of the Financial Intelligence Centre Act (FIC Act)

National Treasury invites public comments on draft regulations on international financial transactions in terms of section 31, and amendment of regulations on cash transaction reporting and aggregation in terms of section 28 of the Financial Intelligence Centre Act 38 of 2001 (FIC Act) that are published today together with a consultation paper prepared by the FIC that sets out the policy rationale for the draft regulations.

The draft regulations and the FIC's consultation paper are published for comment on the National Treasury website (www.treasury.gov.za). Comments on the proposed amendments to the regulations should be submitted to National Treasury at commentdraftlegislation@treasury.gov.za on or before 01 April 2019.

Background

The proposed regulations mark the next phase in enhancing the integrity of the country's financial system by continuing the fight against the criminal abuse of the financial system through money laundering, terrorist financing and the activities of organised crime syndicates. The FIC Amendment Act 1 of 2017 sought to address some of the weaknesses that had been identified in the country's Anti-Money Laundering system. The main weaknesses that had been identified included compliance, supervision and sanctions in respect of non-bank financial institutions and non-financial professions, tracking and sharing of information on cross-border cash flows and the pursuit of money laundering and terrorist financing investigations, prosecutions, international cooperation and extradition by law enforcement and prosecuting authorities.

Government's current Programme of Action includes priorities to intensify efforts to combat crime (including corruption), build safer communities and create drivers of economic recovery thereby improving economic growth. Failure to implement an effective Anti-Money Laundering and Combating of the Financing of Terrorism (AML/CFT) system weakens the credibility of the South African financial system, undermines the ability to accelerate economic growth and job creation, and compromises the security of the country and its people. Against this background, enhancing South Africa's system to combat money laundering and terrorist financing will contribute to the attainment of Government's Medium-Term Strategic Framework outcomes.

The proposed regulations and amendments seek to improve the generation of quality financial intelligence information so as to assist investigating and prosecuting authorities, and to increase the chances of securing convictions. It is more beneficial to have a smaller volume of quality Cash Transaction Reports (CTRs) and Suspicious and Unusual Transaction Reports (STRs) that investigating and prosecuting authorities can work on to secure successful convictions, than to have a large volume of CTRs and STRs that does not adequately aid in the fight against money laundering and other financial crimes.

Cash Threshold Reporting and Aggregation

A summary of the proposed changes to Regulations 22B (prescribed amount for cash transaction reporting), 22C (information to be reported concerning a CTR) and 24 (time period for reporting) include:

- a) increasing the cash threshold amount from R24 999.99 to R49 999.99. The obligation to report information concerning cash transactions in terms of section 28 of the FIC Act will arise when a transaction is concluded with a client by means of which cash in the amount of R50 000,00 and above:
 - is paid by the accountable or reporting institution to the client, or to a person acting on behalf of the client, or to a person on whose behalf the client is acting; or
 - is received by the accountable or reporting institution from the client, or from a person acting on behalf of the client, or from a person on whose behalf the client is acting.
- b) dispensing with the aggregation requirement in terms of regulation 22B issued in terms of section 28 of the FIC Act. In this regard, cash transactions in excess of the applicable threshold over a 24 hour period will not be treated as a single transaction.

- c) The period for reporting CTRs to the FIC has been increased from 2 days to 3 days. The proposed changes will impact all reporting and accountable Institutions in relation to their obligation to submit a CTR in terms of the FIC Act.

International Funds Transfer Reporting

Section 31 of the FIC Act applies to the movement of funds into and out of South Africa via electronic transfers. The objective of section 31 is to ensure that information relating to cross-border electronic funds transfers is made available to the FIC as soon as possible to enhance its ability to analyse information concerning financial flows. This in turn, strengthens the FIC's ability to detect possible suspicious or unusual activity and to disseminate the relevant information to investigating and prosecuting authorities.

A summary of the proposed Regulations, namely, 23D (prescribed amount for reporting an International Funds Transfer Report (IFTR)), 23E (prescribed information to be reported concerning an IFTR) and proposed changes to Regulation 24 (time period for reporting an IFTR) and 29 (penalties applicable for failing to provide the prescribed information in an IFTR) include:

- a) Setting the prescribed amount of funds above which a transaction must be reported to the FIC at R4 999,99. All electronic cross-border transactions (the sending of funds out of South Africa and the receiving of funds from outside of South Africa) from a value of R5 000,00 and above will have to be reported to the FIC. The FIC reviewed IFTR thresholds in other jurisdictions, and the practice is that IFTR thresholds are generally set at low levels. This is because terror financing can be executed using small amounts of money.

Issued by National Treasury

Date: 28 February 2019