



MINISTRY OF FINANCE
REPUBLIC OF SOUTH AFRICA

**STATEMENT ON THE IDENTIFICATION OF EXISTING CLIENTS IN
TERMS OF THE FINANCIAL INTELLIGENCE CENTRE ACT, NO.38
OF 2001**

**MR TREVOR A. MANUEL, MP
MINISTER OF FINANCE**

The Financial Intelligence Centre Act was passed by Parliament in November 2001 to provide us with another weapon to fight crime. The Money Laundering Control Regulations, promulgated under the Act in order to provide more substance to the “know your client” provisions of the Act, were published in December 2002. The “know your client” provisions of the Act and the Regulations in respect of new clients took effect six months later on 30 June 2003 in order to afford institutions an opportunity to prepare for their implementation. The same provisions in respect of existing clients will take effect on 1 July 2004.

Today I had a meeting with the Money Laundering Advisory Council. The purpose was for me to take advice from it’s members on proposals regarding the requirements for accountable institutions to comply with the section of the Financial Intelligence Centre Act whereby accountable institutions need to identify their existing clients by 30 June 2004.

Some of the accountable institutions, mainly banks, but also providers of investment services have had difficulties in meeting their obligations to know their existing customers. As a result they made submissions to me requesting exemptions. After the discussion today, given the difficulties that many of them have had, and not wanting to create an unnecessary burden for their clients, the ordinary citizens of our country, I have decided to respond as follows:

I have decided to grant the banks an extension of time within which they will be required to do this. But such an extension will only be granted with certain strict conditions.

These conditions include the following provisions:

- Banks will be required to submit a risk-based framework by the end of July to the Registrar of Banks for his consideration and approval.
- Thereafter, banks will be required to complete verification in respect of categories of clients, according to a series of time frames. This process will be completed by 30 September 2006.
- They are also required to make quarterly progress reports to the Registrar.

In addition to the banks, brokers and investment managers will be exempt for a period of 12 months until 30 June 2005, with certain similar conditions. These industries will report to the JSE Securities Exchange and the Registrar of Financial Markets.

The following table is a summary of the salient features to the conditions on which this extension is based:

31 July 2004	31 October 2004	31 December 2004	30 April 2006	31 May 2005	30 June 2005	30 September 2005	30 September 2006
Banks complete risk-framework	Banks complete all trusts, partnerships and to 20% of individuals and corporates	Banks complete all other high risk clients		Banks complete 50% of medium risk clients		Banks complete all other medium risk clients	Banks complete all low risk clients
	Brokers and investment managers complete all trusts, partnerships and to 20% of individuals and corporates		Brokers and investment managers complete next 30% of individuals and corporates		Brokers and investment managers complete all other clients		

I have also tasked the Financial intelligence Centre to liaise closely with the relevant Supervisory Bodies to ensure that accountable institutions meet their obligations.

Should accountable institutions not complete this verification of clients process and thereafter continue transacting with unidentified clients, they will face the possibility of 15 years imprisonment or a R10 million fine.

The extension affords the affected institutions a window of opportunity to obtain the required information while continuing to transact legally with their clients. This means that relations between clients and institutions will not be disrupted as from 1 July 2004, and the institutions will be able to continue doing business with their clients as normal without fear of breaking the law. The extension does not negate any provision of the legislation. The extension is simply a mechanism to ease the implementation of the legislation. The institutions have to make use of this additional period to obtain the information they may still need. For this they would still require the assistance of their clients in this process.

The Act intends to minimise the chances of money resulting from criminal activities being introduced into the financial system – for example, into banks and insurance companies, or being used to buy property. Money launderers view the financial system as a device to transfer the proceeds of their crime and to legitimise their activities. When they involve the financial system in money laundering schemes, they necessarily involve the institutions that provide access to the system. This can lead to the involvement of financial institutions in criminal activity, even if unknowingly. It can result in the erosion of public confidence of our financial institutions and undermine the stability of the system. If financial institutions are indifferent to this, it may cause them to suffer losses through fraud and the effects of being associated with criminals. None of us – not the banks, not ordinary citizens – want this to happen.

The Act therefore requires banks and other financial institutions to implement “Know your Customer” policies and procedures. The “know your customer” policies will help contribute to the overall safety and soundness of these institutions. They will also help to protect the integrity of the banks and prevent them from becoming vehicles for money laundering. Our aim is for as clean a financial system in this country as is possible.

In addition to this extension of the relevant time-frames I also discussed with the Council issues concerning the implementation of the legislation in general and the impact it has on their relationships with certain clients. We specifically discussed the issue of the impact this has on so-called low-risk clients. I have asked the Council to report back to me by October 2004 on options to adapt the current set of provisions in a way that will facilitate the provision of financial services to potential clients who are currently excluded therefrom, while preserving the need for compliance with the general requirements for financial institutions to know who they are doing business with.

It is my belief that all relevant institutions will continue working together to implement this legislation so that we minimise the risk of banks and other institutions being undermined by criminals and syndicates. I therefore call on all customers and clients to continue assisting their institutions to meet their obligations under the legislation.

The provisions I have outlined will be published shortly in the Government Gazette.

Ends

MINISTRY OF FINANCE

17 June 2004