

ROADMAP FOR THE SHORT TERM IMPLEMENTATION OF THE FINANCIAL INTELLIGENCE CENTRE AMENDMENT ACT, 2017 (ACT NO. 1 OF 2017) FOR SUPERVISORS AND ACCOUNTABLE INSTITUTIONS

1. INTRODUCTION

- 1.1 The Financial Intelligence Centre Amendment Act, 2017 (Act No. 1 of 2017) (Amendment Act) was assented to by the President on 26 April 2017. This Roadmap notes the dates when various sections come into operation, and the deadlines for the consultation and implementation process.
- 1.2 Section 61 of the Amendment Act requires the Minister of Finance to determine the coming into operation of provisions of the Amendment Act by notice in the Government Gazette. The Minister may determine different commencement dates for different provisions of the Act. The Minister may also determine different commencement dates for different categories of accountable institutions or transactions. The dates of 13 June and 2 October for most provisions in the Act was gazetted on 13 June. Dates for the remaining sections related to the UN Security Council Resolution provisions are not gazetted, but are expected to come into operation within the course of the year.
- 1.3 The roadmap sets out the steps to be taken and timeframes by which the Amendment Act will be brought into operation. The intention is for the date of operation for the different sections to apply to all categories of accountable institutions and transactions.
- 1.4 A number of sections of the Amendment Act are not dependent on any subordinate legislation and may come into operation without any further actions being required. These sections also do not impact on the obligations of accountable institutions and therefore do not require any consultations on guidance related products.

- 1.5 Some sections of the Amendment Act, however, require that the current regulations be amended and the Exemptions to the Financial Intelligence Centre Act, 2001 (Act No. 38 of 2001) (FIC Act) be withdrawn before or at the same time the Amendment Act comes into operation. These sections mainly relate to the customer due diligence (CDD) and recordkeeping requirements placed on accountable institutions.
- 1.6 The amendment to the regulations and the withdrawal of the exemptions requires that guidance also be in place before or at the same time these sections come into operation to assist institutions in meeting their obligations such as the implementation of a risk based approach and the customer due diligence requirements emanating from the Amendment Act.
- 1.7 The amendment to the current regulations, the withdrawal of the exemptions as well as the accompanying guidance requires consultations with affected stakeholders and this is factored into the roadmap.
- 1.8 In addition to the above, there are some sections in the Amendment Act that could come into operation at a future date, that is, when the mechanisms required for these sections are developed and are in place. These include the provisions relating to the financial sanctions in terms of the UN Security Council Resolutions.
- 1.9 Also factored into the roadmap are the dates on which South Africa is expected to provide the Financial Action Task Force with a progress report on the implementation of the Amendment Act in its follow-up reports on addressing the deficiencies emanating from South Africa's Mutual Evaluation Report. South Africa is expected to report on the country's progress in June and in October. In June, South Africa is expected to report on the assent of the Amendment Act and the timeframe in which the Amendment Act will come into operation. By October South Africa

is expected to have addressed all outstanding deficiencies relating to CDD and recordkeeping through the implementation of the Amendment Act in order to exit the follow-up process.

2. DATES ON WHICH SECTIONS IN THE AMENDMENT ACT COME INTO OPERATION

SECTION	IMMEDIATE COMMENCEMENT (13 JUNE)	COMMENCE WITH PUBLICATION OF REGULATIONS (2 OCTOBER)	FUTURE DATE (December 2017)
SECTION 1 – DEFINITIONS			
1(a) ‘administrative sanction’	YES		
1(b) ‘authorised officer’	YES		
1(c) amends ‘bearer negotiable instrument	YES		
1(d) ‘beneficial owner’		YES	
1(e) ‘client’		YES	
1(f) deletion of definition of ‘Council’	YES		
1(g) ‘domestic prominent influential person’		YES	
1(h) amends ‘entity’	YES		
1(i) foreign prominent public official’		YES	
1(i) ‘Independent police Investigative Directorate’	YES		
1(j) ‘Intelligence Division of the National Defence Force’	YES		
1(k) ‘investigative division in an organ of state	YES		
1(k) ‘legal person’		YES	
1(l) ‘National Prosecuting Authority’	YES		
1(m) ‘non-compliance’	YES		
1(n) ‘offence relating to the financing of terrorist and related activities’		YES	
1(o) ‘Public Protector’	YES		
1(p) ‘Risk Management and Compliance Programme’		YES	
1(q) ‘single transaction’		YES	
1(r) Special Investigating Unit’	YES		
1(s) deletion of ‘offences relating to the financing of terrorist and related offences’ and ‘transaction’		YES	
1(t) ‘trust’		YES	
SECTION 2 (Objectives)			
Section 2(a) (Extends the objectives of the Centre in respect of financial sanctions relating to UNSCR			YES

SECTION	IMMEDIATE COMMENCEMENT (13 JUNE)	COMMENCE WITH PUBLICATION OF REGULATIONS (2 OCTOBER)	FUTURE DATE (December 2017)
Section 2(b) (Extends the objectives of the Centre by allowing it to make information available to certain bodies)	YES		
Section 2(c) (Extends the objectives of the Centre in respect of financial sanctions relating to UNSCR)			YES
SECTION 3 (Functions)			
Section 3(a) Extends the functions of the Centre to initiate analysis based on information other than from STRs	YES		
Section 3(b) Extends the functions of the Centre to inform, advise and co-operate with certain bodies	YES		
Section 3(c) (Extends the functions of the Centre in respect of guidance on financial sanctions relating to UNSCR)			YES
SECTION 4 (Appointment of Director)			
The whole (Provides for the deletion of the reference to the CMLAC)	YES		
SECTION 5 (CMLAC)			
The whole (Provides for the repeal of the provisions relating to the CMLAC)	YES		
SECTION 6 (Heading)			
The whole (Technical amendment)		YES	
SECTION 7 (Heading)			
The whole (Technical amendment)		YES	
SECTION 8 (Anonymous clients and clients acting under false or fictitious names)			
The whole (Provides that accountable institutions may not establish a business relationship or conclude a single transaction with an anonymous client or a client with an apparent false or fictitious name)		YES	
SECTION 9 (Identification of clients and other persons)			
The whole (Provides for the risk based approach to customer due diligence)		YES	
SECTION 10 (sections 21A – 21H)			
The whole (Provides for the obtaining of additional information during the on-boarding of a new client, including enhanced due diligence in respect of legal persons, partnerships, trusts and prominent persons and their family members and close associates)		YES	
SECTION 11 (Obligation to keep CDD records)			

SECTION	IMMEDIATE COMMENCEMENT (13 JUNE)	COMMENCE WITH PUBLICATION OF REGULATIONS (2 OCTOBER)	FUTURE DATE (December 2017)
The whole (Provides for a more flexible manner in which records are kept as well as records of information now required during the customer due diligence process)		YES	
SECTION 12 (Obligation to keep transaction records)			
The whole (Relates to the accountable institution's obligation to keep records in respect of a client's transactional activity)		YES	
SECTION 13 (periods for which records must be kept)			
The whole (Provides for clarity regarding the period for which records must be kept in instances where an accountable institution has made a suspicious transaction report)		YES	
SECTION 14 (Records may be kept in electronic form and by 3rd parties)			
The whole (Provides for records to be kept in electronic format and readily available to the Centre and supervisory bodies)		YES	
SECTION 15 (Admissibility of records)			
The whole (Technical amendment)		YES	
SECTION 16 (Centre's access to records)			
The whole (Technical amendment)		YES	
SECTION 17 (Financial sanctions)			
The whole (Provides for the mechanism to identify and initiate proposals for designations of persons and entities targeted by UNSCR)			YES
SECTION 18 (Accountable, reporting institutions to advise Centre of clients)			
The whole (Provides for accountable institutions, reporting institutions, as well as any person required to make a report to advise the FIC whether a specified account number corresponds with a client, as well as the type and status of the business relationship.	YES		
SECTION 19 (Powers of access by authorised representatives to records in respect of reports required to be submitted to the Centre)			
The whole (The current section 26 of the FIC Act is moved and inserted as section 27A)		YES	
SECTION 20 (Property associated with terrorist and related activities and financial sanctions pursuant to Resolutions of United Nations Security Council)			
The whole (Provides for an accountable institution to report to the FIC property in its possession or under its control that is owned or controlled by or on behalf of a person or an entity identified pursuant to a UNSC Resolution)			YES
SECTION 21 (Suspicious and unusual transactions)			

SECTION	IMMEDIATE COMMENCEMENT (13 JUNE)	COMMENCE WITH PUBLICATION OF REGULATIONS (2 OCTOBER)	FUTURE DATE (December 2017)
Section 21(a) (Technical amendment)	YES		
Section 21(b) (Provides for the reporting to suspicious transaction reporting to extend to persons or entities listed in the UNSCR)			YES
Section 21(c) (The amendment aligns this section to the proposed amendments to section 45B relating to access of information reported in terms of section 29)	YES		
SECTION 22 (Reporting procedures and furnishing of additional information)			
The whole (The amendment enhances the FIC's analysis capability in respect of the information that should be provided by persons making a report to the FIC, and makes further provision for the additional information to be provided in the prescribed manner and within the prescribed period)		YES	
SECTION 23 (Intervention by Centre)			
The whole (The section increases the number of days during which an accountable institution may be prevented from continuing with a transaction based on a report submitted to the FIC from 5 to 10 days. Provision is also made for the intervention by the FIC to be extended to include property owned or controlled by or on behalf of, or at the direction of a person or entity identified pursuant to a UNSCR)	YES		
SECTION 24 (Monitoring orders)			
The whole (Allows for the monitoring order issued by a judge to be extended to include property owned or controlled by or on behalf of, or at the direction of a person or entity identified pursuant to a UNSCR)			YES
SECTION 25 (Access to information held by Centre)			
The whole (Extends the ability of the FIC to share information held by it to support other government entities more effectively in carrying out their mandates)	YES		
SECTION 26 (protection of personal information)			
The whole (Provides for measures to be taken to prevent the loss of or damage to information and to prevent the unlawful access to or processing of information, other than in accordance with the FIC Act or the Protection of Personal Information Act)	YES		
SECTION 27 (Risk management and compliance programme)			
The whole (Provides details in respect of the content for the Risk Management and Compliance Programme, including, among other		YES	

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matters, measures to assess the risks that the products or services that the accountable institution provides may involve money laundering or the financing of terrorism)			
SECTION 28			
Section 42A (Governance of anti-money laundering and counter terrorist financing compliance) (The section sets out the governance obligations for accountable institutions. The board of directors or the senior management of an accountable institution is responsible for ensuring compliance with the FIC Act and its Risk Management and Compliance Programme)		YES	
Section 42B (Consultation process for issuing guidance) (Sets out the consultation process for the issuing of guidance)	YES		
SECTION 29 (Training)			
The whole (The section places the obligation on the accountable institution to ensure that its employees are trained to enable them to comply with the FIC Act as well as its Risk Management and Compliance Programme)		YES	
SECTION 30 (Directives)			
The whole (The section expands the Centre as well as a supervisory body's ability to issue a directive which may reasonably be required to give effect to the Centre's objectives)	YES		
SECTION 31 (Responsibility for supervision of accountable institutions)			
The whole (The section specifies the content of the memorandum of understanding between the Centre and a supervisory body to enhance information sharing, cooperation, assistance and provide for a dispute resolution mechanism)	YES		
SECTION 32 (Inspections)			
The whole (Provide for a warrant requirement and states in which circumstances a warrant would not be required. The section also enable inspectors of the FIC and specified supervisory bodies to access during inspections information from accountable and reporting institutions regarding reporting on suspicious and unusual transactions in terms of section 29)	YES		
SECTION 33 (Financial penalty to be paid into National Revenue Fund)			
The whole (Provides for financial penalties to be paid into National Revenue Fund instead of the CARA)	YES		

SECTION	IMMEDIATE COMMENCEMENT (13 JUNE)	COMMENCE WITH PUBLICATION OF REGULATIONS (2 OCTOBER)	FUTURE DATE (December 2017)
SECTION 34 (Appeals)			
The whole (Provides for a more streamlined appeal process)	YES		
SECTIONS 35, 36, 37, 38 (offences relating to CDD)			
The whole (Provides for certain acts of non-compliance in respect of the obligations in the FIC Act to carry only an administrative sanction)		YES	
SECTION 39 (Offences relating to UN sanctions)			
The whole (Relates to contraventions in respect of UNSCR obligations)			YES
SECTION 40 (Failure to advise Centre of client)			
The whole (Technical amendment)	YES		
SECTION 41 (Failure to report cash transactions)			
The whole (Provides for criminal as well as administrative sanctions)	YES		
SECTION 42 (Failure to report property associated with terrorist and related activities and financial sanctions pursuant to Resolutions of United Nations Security Council)			
The whole (Failure to report property associated with terrorist and related activities and financial sanctions pursuant to Resolutions of United Nations Security Council)			YES
SECTION 43 (Failure to report electronic transfers)			
The whole (Failure to report electronic transfers)			YES
SECTION 44 (Failure to comply with direction of Centre)			
The whole (Failure to comply with direction of Centre)	YES		
SECTION 45 (Misuse of information)			
The whole (Misuse of information)	YES		
SECTION 46			
Failure to comply with duty in respect of Risk Management and Compliance Programme (section 61)		YES	
Failure to register with Centre (section 61A)	YES		
SECTION 47 (Failure to comply with duty in regard to governance)			
The whole (Failure to comply with duty in regard to governance)		YES	
SECTION 48 (Failure to provide training)			
The whole (Failure to provide training)		YES	
SECTION 49 (Failure to comply with directives of Centre or supervisory body)			
The whole (Failure to comply with directives of Centre or supervisory body)	YES		

SECTION	IMMEDIATE COMMENCEMENT (13 JUNE)	COMMENCE WITH PUBLICATION OF REGULATIONS (2 OCTOBER)	FUTURE DATE (December 2017)
SECTION 50 (penalties)			
Sections 61 and 62 (Penalties)		YES	
Section 61A (Penalties)	YES		
SECTION 51 (Defences)			
The whole (Defences)		YES	
SECTION 52 (Amendment of list of accountable institutions)			
The whole (Provides for the deletion of the reference to the CMLAC)	YES		
SECTION 53 Exemption for accountable institutions)			
The whole (Provides for the deletion of the reference to the CMLAC)	YES		
SECTION 54 (Amendment of list of supervisory bodies)			
The whole (Provides for the deletion of the reference to the CMLAC)	YES		
SECTION 55 (Amendment of list of reporting institutions)			
The whole (Provides for the deletion of the reference to the CMLAC)	YES		
SECTION 56 (Regulations)			
The whole (Provides for the deletion of the reference to the CMLAC)	YES		
SECTION 57 (Arrangements for consultations with stakeholders)			
The whole (Provides that the FIC must establish and give effect to arrangement to facilitate consultation and information sharing with stakeholders)	YES		
SECTION 58			
The whole (Amendment of list of domestic prominent influential persons)		YES	
The whole (Amendment of list of foreign prominent public officials)		YES	
SECTION 59			
Schedule 3A - Domestic prominent influential persons The whole		YES	
Schedule 3B - Foreign prominent public official The whole		YES	
SECTION 60			
The whole (Amends the long title of the FIC Act)	YES		

3. SUPERVISION AND ENFORCEMENT

- 3.1 The FIC Act requires supervisory bodies to play a key role in overseeing the implementation of the Act over the sector that they supervise. The implementation, compliance and enforcement of the new features of the FIC Act such as customer due diligence and the application of a risk-based approach will require extensive engagement between supervisory bodies and their respective supervised accountable institutions. Supervisory bodies are mindful of the fact that a transitional period is required to achieve full compliance with the new requirements of the FIC Act. They will provide for a transitional period for institutions they supervise to achieve full compliance with the new requirements of the amended FIC Act, in line with guidance from the FIC and National Treasury.
- 3.2 Oversight by supervisory bodies and the FIC will continue as usual while accountable institutions transition to the implementation of the new requirements of the FIC Act. During this period supervisory bodies and the FIC will continue to apply a risk-based supervisory approach in supervising compliance with the FIC Act. Supervisory bodies will therefore engage with accountable institutions in setting clear milestones and timeframes for achieving compliance with these requirements on a priority based and incremental manner. Supervisory bodies will also advise accountable institutions as to how to proceed with remedial actions in relation to non-compliance with the current provisions of the FIC Act that the supervisory bodies have imposed previously.
- 3.3 Accountable institutions will be expected to demonstrate progress towards full compliance with the new requirements of the FIC Act at agreed milestones and agreed regular intervals. Supervisory bodies and the FIC will use inspections and other oversight activities during the transition period to monitor, guide and advise accountable institutions on implementation of the new features of the FIC Act. It is important to take into account that large financial institutions may be well resourced and equipped to meet compliance expectations much quicker than smaller financial institutions and most non-financial accountable institutions.

- 3.4 Sanctioning non-compliance with the new requirements of the FIC Act will be delayed in order to allow sufficient time to accountable institutions to make the necessary adjustments to implement these. Enforcement of the provisions of the FIC Act that are not amended e.g. registration and reporting obligations will continue. The FIC and supervisory bodies will work together in deciding when to start enforcing the new requirements of the FIC Act. Supervisors will consult regularly with industries and other stakeholders and will develop appropriate feedback mechanisms to enable implementation of the new requirements.
- 3.5 At no point should accountable institutions not know who they are doing business with and must ensure that proper records are kept of transactional activities at all times.

4. TIMEFRAMES AND ACTIONS TO BE TAKEN FOR THE DIFFERENT SECTIONS TO COME INTO OPERATION

ITEM	ACTION STEP	TIMEFRAME
A. PROCESS TO BRING SECTIONS OF THE AMENDMENT ACT INTO OPERATION IMMEDIATELY		
1	Publication of notice in Gazette of the commencement date of 13 June of the identified sections in the Amendment Act that will come into operation immediately and 2 October for CDD and recordkeeping provisions	June
2	Establishment of a task team to formulate processes for establishing formal structures to replace CMLAC	June
3	Provide progress report to FATF on the country's progress in addressing deficiencies	Mid-June
B. PROCESS TO BRING THE SECTIONS THAT WILL COMMENCE WITH THE REGULATIONS AND WITHDRAWAL OF EXEMPTIONS		
4	Draft regulations and the Minister's intention to withdraw Exemptions together with draft guidance (Joint Consultation Paper) is published for comments + Notice published in gazette stating where the published documents are to be found	June
5	Consultative meetings with banking industry and SARB	30 June (TBC)
6	Consultative meetings with Insurance industry and FSB	7 July (TBC)
7	Consultative meetings with non-financial sector and respective supervisory bodies	14 July (TBC)
8	Additional public consultative workshops to be held in Cape Town and Pretoria	Mid July (TBC)
9	FSB to hold initial consultative workshops with industry bodies	Mid June (13 June with industry)
10	SARB to hold initial consultative workshops with industry body	15 June 2017
11	Deadline for submission of written comments	Mid-July
12	Evaluation of inputs received and further drafting to incorporate inputs	End July
13	Conduct an on-line survey with accountable institutions on the readiness to implement the new amendments	End July
14	Second round of consultative meeting with key stakeholder to discuss readiness of institutions to implement new amendments and present final regulations/withdrawal of exemptions/guidance	August
15	Submission to the Minister for regulations and notices for exemptions to be tabled in Parliament and thereafter to publish in Gazette	End August/Early September
16	Publication of regulations and withdrawal notices for exemptions in Gazette	End September/Early October
17	Provide progress report to FATF on the commencement of the Amendment Act in order to exit follow-up process	Mid-October
C. PROCESS TO BRING THE SECTIONS IN THE AMENDMENT ACT AT A FUTURE DATE		
18	Develop mechanisms required to implement requirements set out in section 17	December

