

# FINANCIAL INTELLIGENCE CENTRE

No. R.

20 May 2005

## FINANCIAL INTELLIGENCE CENTRE ACT, 2001

### AMENDMENT OF MONEY LAUNDERING CONTROL REGULATIONS

The Minister of Finance has, in terms of section 77 of the Financial Intelligence Centre Act, 2001 (Act No. 38 of 2001), made the regulations set out in the Schedule.

#### SCHEDULE

##### Definitions

1. In these regulations, "the Regulations" means the Money Laundering Control Regulations, 2002, promulgated by Government Notice No. R. 1595 of 20 December 2002.

##### Amendment of Regulation 1

2. Regulation 1 of the Regulations is hereby amended by—
- (a) the insertion after the definition of "close corporation" of the following definition:  
"**days**", for the purpose of regulation 24, means all days of the week excluding Saturdays, Sundays and public holidays;";
  - (b) the insertion after the definition of "manager" of the following definition:  
"**property associated with terrorist and related activities**" means property referred to in section 28A (1) (a) and (b) of the Act;"; and
  - (c) the insertion after the definition of "South African company" of the following definition:

**"suspicious or unusual transaction or series of transactions"** means any transaction or series of transactions referred to in section 29 (1) or (2) of the Act;".

### **Substitution for Regulation 22**

3. The following regulation is hereby substituted for regulation 22 of the Regulations:

#### **"Manner of reporting**

22. (1) Subject to subregulation (2), a report made under Part 3 of Chapter 3 of the Act must be made in accordance with the format specified by the Centre, and sent to the Centre electronically by means of—

- (a) the internet-based reporting portal provided by the Centre for this purpose at the following internet address: <http://www.fic.gov.za>, or
- (b) a method developed by the Centre for this purpose and made available to a person wishing to make such reports.

(2) If a person wishing to make a report under Part 3 of Chapter 3 of the Act—

- (a) does not have the technical capability to make a report in accordance with subregulation (1), or
- (b) is for another reason indefinitely unable to make a report in accordance with subregulation (1),

that person shall make the report on a form specified by the Centre from time to time for this purpose and provide it to the Centre at the contact particulars specified by the Centre from time to time for this purpose."

**Insertion of Regulation 22A**

4. The following regulation is hereby inserted after regulation 22 of the Regulations:

**"Information to be reported concerning property associated with terrorist and related activities**

**22A.** (1) When an accountable institution makes a report concerning property associated with terrorist and related activities under section 28A of the Act, the report must contain full particulars in respect of the accountable institution making the report, of—

- (a) the name of the accountable institution;
- (b) the identifying particulars of the accountable institution for example an identity number, registration number or practise number;
- (c) the address of the accountable institution;
- (d) the type of business or economic sector of the accountable institution;
- (e) the surname and initials of a contact person, and
- (f) the contact particulars of a contact person.

(2) In respect of the property concerning which a report under section 28A is made, the report must contain as much information as is readily available of—

- (a) a description of the type of property;
- (b) any identifying particulars concerning the property for example registration particulars, unique numbers or other particulars;
- (d) the estimated value of the property, and
- (e) the physical address where the property is located.

(3) In respect of a person or entity exercising control over the property on behalf of the accountable institution making the report, the report must contain full particulars of—

- (a) the name of the person or entity;
- (b) the identifying particulars of the person or entity for example an identity number or registration number;
- (c) the physical address of the person or entity;
- (d) in the case of a natural person, the person's contact particulars, and
- (e) in the case of a legal person or an entity, the surname, initials and contact particulars of a contact person.

(4) In respect of every person who, according to the knowledge of the accountable institution making the report, may have an interest in the property, the report must contain as much information as is readily available of—

- (a) in the case of a natural person, full particulars of—
  - (i) the person's names and surname, or initials and surname, if the person's full names are not available;
  - (ii) the person's identifying number;
  - (iii) the type of identifying document from which the particulars referred to in subparagraphs (i) and (ii) were obtained;
  - (iv) the person's address in the Republic;
  - (v) the person's country of residence;
  - (vi) if the person's country of residence is other than the Republic, the person's address in the country of residence;
  - (vii) the person's contact telephone number;
  - (viii) the person's occupation, and

- (ix) the source of the funds with which the person acquired the interest in the property; and
- (b) in the case of an legal person or other entity, full particulars of—
  - (i) the person's or entity's name;
  - (ii) the person's or entity's identifying number, if it has such a number;
  - (iii) the person's or entity's address in the Republic;
  - (iv) the type of business conducted by the person or entity;
  - (v) the person's or entity's country of origin;
  - (vi) if the country of origin is other than the Republic, the person or entity's address in the country of origin, and
  - (vii) the source of the funds with which the person acquired the interest in the property.

(5) A report under section 28A of the Act must contain a description of the grounds on which the accountable institution making the report has reached the conclusion that the entity which owns or controls the property in question, or on whose behalf, or at whose direction, the property in question is owned or controlled, is an entity referred to in subsection (1)(a) or (b) of section 28A of the Act."

### **Substitution for Regulation 23**

4. The following regulation is hereby substituted for regulation 23 of the Regulations:

**"Information to be reported concerning a suspicious or unusual transaction report**

23. (1) When a report concerning a suspicious or unusual transaction or series of transactions is made under section 29 of the Act, the

report must contain full particulars in respect of the natural or legal person making the report or other entity on whose behalf the report is made, of—

- (a) the name of the person or entity;
- (b) the identifying particulars of the person or entity such as an identity number, registration number or practise number for example;
- (c) the address of the person or entity;
- (d) the type of business or economic sector of the accountable institution;
- (e) in the case of a natural person, the person's contact particulars, and
- (f) in the case of a legal person or an entity, the surname, initials and contact particulars of a contact person.

(2) In respect of the transaction or series of transactions concerning which a report under section 29 is made, the report must contain as much of the following information as is readily available—

- (a) the date and time of the transaction, or, in the case of a series of transactions, the period over which the transactions were conducted;
- (b) a description of the type of transaction or series of transactions;
- (c) the manner in which the transaction or series of transactions was conducted;
- (d) if the transaction or series of transactions involved funds, a description of the type of funds involved;
- (e) if the transaction or series of transactions involved property, a description of the type of property and all identifying characteristics of the property;
- (f) the amount of the funds, or the estimated value of the property, involved in the transaction or series of transactions;
- (g) the currency in which the transaction or series of transactions was conducted;

- (h) if the funds or property involved in the transaction or series of transactions were disposed of—
  - (i) the manner in which the funds or property were disposed of;
  - (ii) the amount of the disposition of the funds, or, in the case of property the value for which the property was disposed of, and
  - (iii) the currency in which the funds were disposed of, or, in the case of property the currency used in the disposition of the property;
- (i) if another institution or person was involved in the transaction or series of transactions—
  - (i) the name of the other institution or person, and
  - (ii) the number of any account at the other institution involved in the transaction or series of transactions;
- (j) the name and identifying particulars such as the address and a unique number or code, for example, of the branch or office where the transaction or series of transactions was conducted, and
- (k) the purpose of the transaction or series of transactions;
- (l) any remarks, comments or explanations which the person conducting the transaction or series of transactions may have made or given.

(3) If any account was involved in the transaction or series of transactions concerning which a report under section 29 is made, the report must contain as much of the particulars as are readily available in respect of each such account, of—

- (a) the account number;
- (b) the name and identifying particulars such as the address and a unique number or code, for example, of the branch or office where the account is held;

- (c) the type of account;
- (d) the name of each account holder;
- (e) the date on which the account was opened;
- (f) if the account was closed—
  - (i) the date on which the account was closed, and
  - (ii) the name of the person who gave the instruction to close it;
- (g) the highest amount paid into the account in each of the three complete calendar months immediately preceding the date on which the report is made;
- (h) the highest amount paid out of the account in each of the three complete calendar months immediately preceding the date on which the report is made;
- (i) the number of payments made into the account in each of the three complete calendar months immediately preceding the date on which the report is made;
- (j) the number of payments made out of the account in each of the three complete calendar months immediately preceding the date on which the report is made;
- (k) the balance in the account immediately before the transaction or series of transactions was carried out;
- (l) the balance in the account on the date on which the report is made.
- (m) the status of the account immediately before the reported transaction or series of transactions was carried out;
- (n) any previous activity in the preceding 180 days which had been considered for reporting in connection with the account, whether the activity was reported or not, and

- (o) the reference numbers allocated by the Centre and the person or entity making the report to any previous reports made in connection with the account.

(4) In respect of each natural person conducting the transaction or series of transactions, or legal person or other entity on whose behalf the transaction or series of transactions is conducted, concerning which a report under section 29 is made, the report must contain as much of the following information as is readily available—

- (a) in the case of a natural person, full particulars of—
  - (i) the person's names and surname, or initials and surname, if the person's names are not available;
  - (ii) the person's identifying number;
  - (iii) the type of identifying document from which the particulars referred to in subparagraphs (i) and (ii) were obtained;
  - (iv) the person's address in the Republic;
  - (v) the person's country of residence;
  - (vi) if the person's country of residence is other than the Republic, the person's address in the country of residence;
  - (vii) the person's contact telephone number, and
  - (viii) the person's occupation; and
- (b) in the case of a legal person or other entity, full particulars of—
  - (i) the person's or entity's name;
  - (ii) the person's or entity's identifying number, if it has such a number;
  - (iii) the person's or entity's physical address in the Republic;
  - (iv) the type of business conducted by the person or entity;

- (v) the names of the natural person's with authority to conduct the transaction on behalf of the person or entity;
- (vi) the person's or entity's country of origin, and
- (vii) if the country of origin is other than the Republic, the person or entity's address in the country of origin.

(5) In respect of a natural person conducting the transaction or series of transactions concerning which a report under section 29 is made, on behalf of another natural person or a legal person or other entity, the report must contain as much of the particulars as is readily available, of—

- (a) the person's names and surname, or initials and surname, if the person's names are not available;
- (b) the person's identifying number;
- (c) the type of identifying document from which the particulars referred to in subparagraphs (i) and (ii) were obtained;
- (d) the person's physical address;
- (e) the person's contact telephone number, and
- (f) the person's occupation.

(6) A report under section 29 must—

- (a) contain a full description of the suspicious or unusual transaction or series of transactions, including the reason why it is deemed to be suspicious or unusual as contemplated in that section;
- (b) indicate what action the natural or legal person making the report, or other entity on whose behalf the report is made, has taken in connection with the transaction or series of transactions concerning which the report is made, and

- (c) indicate what documentary proof is available in respect of the transaction or series of transactions concerning which the report is made and the reasons referred to in paragraph (a).".

#### **Substitution for Regulation 24**

5. The following regulation is hereby substituted for regulation 24 of the Regulations:

##### **"Period for reporting**

24. (1) A report under section 28A of the Act must be sent to the Centre as soon as possible but not later than 5 days after a natural person who is an accountable institution or is in charge of, manages or is employed by an accountable institution, had established that the accountable institution has property associated with terrorist and related activities in its possession or under its control, unless the Centre has approved of the report being sent after the expiry of this period.

(2) A request for a report referred to in subregulation (1) to be sent to the Centre after the period referred to in that subregulation must reach the Centre before the expiry of that period.

(3) A report under section 29 of the Act must be sent to the Centre as soon as possible but not later than fifteen days after a natural person or any of his or her employees, or any of the employees or officers of a legal person or other entity, has become aware of a fact concerning a transaction on the basis of which knowledge or a suspicion concerning the transaction must be reported, unless the Centre has approved of the report being sent after the expiry of this period.".

### **Amendment of Regulation 30 of the Regulations**

6. Regulation 30 of the Regulations is hereby amended by the substitution for subregulation (1) of the following subregulation:

" (1) These regulations are called the Money Laundering and Terrorist Financing Control Regulations."

### **Deletion of Form 1 to the Regulations**

7. Form 1 in the Annexure to the Regulations is hereby deleted.

### **Commencement**

8. These regulations shall come into operation on 20 May 2005.