

# MONEY LAUNDERING CONTROL REGULATIONS

ACT

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## 1 Definitions

In these regulations 'the Act' means the Financial Intelligence Centre Act, 2001 (Act 38 of 2001), and, unless the context otherwise indicates, any word or expression to which a meaning has been assigned in the Act has that meaning, and-

**'close corporation'** means a corporation as defined in section 1 of the Close Corporations Act, 1984 (Act 69 of 1984);

**'foreign company'** means an association of natural or legal persons incorporated outside the Republic which has legal personality or enjoys a similar status in terms of which it may enter into contractual relations and legal proceedings in its own name;

**'guidance notes'** means guidance notes issued by the Centre in terms of regulation 28;

**'identification document'**, in respect of a natural person who-

- (a) is a citizen of, or resident in the Republic, means an official identity document; or
- (b) is not a citizen of the Republic and not resident in the Republic, means a passport issued by the country of which that person is a citizen;

**'manager'**, in respect of a South African or foreign company, means the natural person who is the principal executive officer of the company, by whatever name he or she may be designated and whether or not he or she is a director of that company;

**'South African company'** means a company as defined in section 1 of the Companies Act, 1973, (Act 61 of 1973); and

**'trust'** means a trust as defined in section 1 of the Trust Property Control Act, 1988 (Act 57 of 1988), other than a trust established-

- (a) by virtue of a testamentary writing;
- (b) by virtue of a court order;
- (c) in respect of persons under curatorship; or
- (d) by the trustees of a retirement fund in respect of benefits payable to the beneficiaries of that retirement fund,

and includes a similar arrangement established outside the Republic.

## CHAPTER 1 ESTABLISHMENT AND VERIFICATION OF IDENTITY PART 1

## **INTRODUCTION**

### **2 Introductory**

(1) No accountable institution may knowingly establish or maintain a business relationship or conduct a single transaction with a client who is entering into that business relationship or single transaction under a false name.

(2) When an accountable institution in terms of the Act must establish and verify the identity of a natural or legal person or a trust, the institution must establish and verify identity in accordance with regulations 2 to 18.

## **PART 2**

### **NATURAL PERSONS**

### **3 Information concerning South African citizens and residents**

(1) An accountable institution must obtain from, or in respect of, a natural person who is a citizen of, or resident in, the Republic, that person's-

- (a) full names;
- (b) date of birth;
- (c) identity number;
- (d) income tax registration number, if such a number has been issued to that person; and
- (e) residential address.

(2) In the case where the accountable institution is aware or ought reasonably to be aware that the person referred to in subregulation (1) does not have the legal capacity to establish a business relationship or conclude a single transaction without the assistance of another person the accountable institution must, in addition to obtaining the particulars referred to in subregulation (1), obtain from, or in respect of, of that other person-

- (a) his or her full names;
- (b) his or her date of birth;
- (c) his or her identity number;
- (d) his or her residential address; and
- (e) his or her contact particulars.

### **4 Verification of information concerning South-African citizens and residents**

(1) An accountable institution must verify the full names, date of birth and identity number of a natural person referred to in regulation 3 (1) (a), (b) or (c), or 3 (2) (a), (b) or (c) by comparing these particulars with-

- (a) (i) an identification document of that person; or
- (ii) in the case where that person is, for a reason that is acceptable to the institution, unable to produce an identification document, another document issued to that person, which, taking into account any guidance notes concerning the verification of identities which may apply to that institution, is acceptable to the institution and bears-
  - (aa) a photograph of that person;
  - (bb) that person's full names or initials and surname;
  - (cc) that person's date of birth; and
  - (dd) that person's identity number; and

- (b) any of these particulars with information which is obtained from any other independent source, if it is believed to be reasonably necessary taking into account any guidance notes concerning the verification of identities which may

apply to that institution.

(2) An accountable institution must verify the income tax registration number referred to in regulation 3 (1) (d) by comparing this number with a document issued by the South African Revenue Service bearing such a number and the name of the natural person.

(3) An accountable institution must verify the residential address referred to in regulation 3 (1) (e) or 3 (2) (f) by comparing these particulars with information which can reasonably be expected to achieve such verification and is obtained by reasonably practical means, taking into account any guidance notes concerning the verification of identities which may apply to that institution.

## **5 Information concerning foreign nationals**

(1) An accountable institution must obtain from, or in respect of, a natural person who is a citizen of another country and is not resident in the Republic, that person's-

- (a) full names;
- (b) date of birth;
- (c) nationality;
- (d) passport number;
- (e) South African income tax registration number, if such a number has been issued to that person; and
- (f) residential address.

(2) In the case where the accountable institution is aware or ought reasonably to be aware that the person referred to in subregulation (1) does not have the legal capacity to establish a business relationship or conclude a single transaction without the assistance of another person the accountable institution must, in addition to obtaining the particulars referred to in subregulation (1), obtain from, or in respect of, of that other person-

- (a) his or her full names;
- (b) his or her date of birth;
- (c) his or her nationality;
- (d) his or her passport number;
- (e) his or her residential address; and
- (f) his or her contact particulars.

## **6 Verification of information concerning foreign nationals**

(1) An accountable institution must verify the particulars obtained in terms of regulation 5 (1) (a), (b), (c) and (d) or 5 (2) (a), (b), (c) and (d) from or in respect of a natural person who is not a citizen of the Republic and not resident in the Republic, by comparing those particulars with an identification document of that person.

(2) An accountable institution must verify the income tax registration number obtained in terms of regulation 5 (1) (e) from or in respect of a natural person who is not a citizen of the Republic and not resident in the Republic, by comparing those particulars with a document issued by the South African Revenue Service bearing such a number.

(3) An accountable institution must verify any of the particulars referred to in subregulation (1) or (2) with information which is obtained from any other independent source, if it is believed to be reasonably necessary taking into account any guidance notes concerning the verification of identities which may apply to that institution.

## **PART 3 LEGAL PERSONS**

## **7 Information concerning close corporations and South African companies**

An accountable institution must obtain from the natural person acting or purporting to act on behalf of a close corporation or South African company with which it is establishing a business relationship or concluding a single transaction-

- (a) the registered name of the close corporation or company;
- (b) the registration number under which the close corporation or company is incorporated;
- (c) the registered address of the close corporation or company;
- (d) the name under which the close corporation or company conducts business;
- (e) the address from which the close corporation or company operates, or if it operates from multiple addresses-
  - (i) the address of the office seeking to establish a business relationship or to enter into a single transaction with the accountable institution; and
  - (ii) the address of its head office;
- (f) in the case of a company-
  - (i) the full names, date of birth and identity number, referred to in regulation 3 (1) (a), (b) and (c) or full names, date of birth and name of the country referred to in regulation 5 (1) (a), (b) (c), as may be applicable, concerning-
    - (aa) the manager of the company; and
    - (bb) each natural person who purports to be authorised to establish a business relationship or to enter into a transaction with the accountable institution on behalf of the company; and
  - (ii) the full names, date of birth, identity number, referred to in regulation 3 (1) (a), (b) and (c), full names, date of birth and name of the country, referred to in regulation 5 (1) (a), (b) and (c), registered name, registration number, registered address, trade name and business address referred to in regulation 7 (a), (b), (c), (d) and (e), names, numbers and addresses referred to in regulation 9 (a), (b), and (c), name, address and legal form referred to in regulation 11 (a), (b) and (c), name referred to in regulation 13 (a) or name and number referred to in regulation 15 (a), as may be applicable, concerning the natural or legal person, partnership or trust holding 25% or more of the voting rights at a general meeting of the company concerned;
- (g) in the case of a close corporation the full names, date of birth and identity number, referred to in regulation 3 (1) (a), (b) and (c) or the full names, date of birth and name of the country, referred to in regulation 5 (1) (a), (b) and (c), as may be applicable, concerning-
  - (i) each member; and
  - (ii) each natural person who purports to be authorised to establish a business relationship or to enter into a transaction with the accountable institution on behalf of the close corporation; and
- (h) the income tax and value added tax registration numbers of the close corporation or company, if such numbers were issued to that close corporation or company;
- (i) in the case of a company, the residential address and contact particulars of-
  - (i) the manager;
  - (ii) each natural or legal person, partnership or trust holding 25% or more of the voting rights at a general meeting of the company concerned; and

- (iii) each natural person who purports to be authorised to establish a business relationship or to enter into a transaction with the accountable institution on behalf of the company;
- (j) in the case of a close corporation, the residential address and contact particulars of-
  - (i) each member; and
  - (ii) each natural person who purports to be authorised to establish a business relationship or to enter into a transaction with the accountable institution on behalf of the close corporation.

## **8 Verification of information concerning close corporations and South African companies**

An accountable institution must verify the particulars obtained in respect of a close corporation or company in terms of regulation 7 (a) to 7 (h) by comparing-

- (a) the registered name, registration number and registered address referred to in regulation 7 (a), (b) and (c) with-
  - (i) in the case of a company, the most recent versions of the Certificate of Incorporation (form CM1) and Notice of Registered Office and Postal Address (form CM22), bearing the stamp of the Registrar of Companies and signed by the company secretary; or
  - (ii) in the case of a close corporation, the most recent versions of the Founding Statement and Certificate of Incorporation (form CK1), and Amended Founding Statement (form CK2) if applicable, bearing the stamp of the Registrar of Close Corporations and signed by an authorised member or employee of the close corporation;
- (b) the trade name and business address referred to in regulation 7 (d) and (e) with information which can reasonably be expected to achieve such verification and is obtained by reasonably practical means, taking into account any guidance notes concerning the verification of identities which may apply to that institution;
- (c) the particulars referred to in regulation 7 (f) and (g) with information obtained in accordance with regulation 4 (1), 6 (1), 6 (3), 8 (a), 8 (b), 8 (e), 10 (a), 10 (b), 10 (f), 12 (a), 12 (d), 14 (a), 14 (c), 16 (a) or 16 (d), as may be applicable;
- (d) the tax numbers referred to in subregulation 7 (h) with documents issued by the South African Revenue Service bearing such numbers; and
- (e) any of these particulars with information which is obtained from any other independent source, if it is believed to be reasonably necessary taking into account any guidance notes concerning the verification of identities which may apply to that institution.

## **9 Information concerning foreign companies**

An accountable institution must obtain from the natural person acting or purporting to act on behalf of that foreign company with which it is establishing a business relationship or concluding a single transaction-

- (a) the name under which it is incorporated;
- (b) the number under which it is incorporated;
- (c) the address where it is situated for purposes of its incorporation;
- (d) the name under which it conducts business in the country where it is

- incorporated;
- (e) the name under which it conducts business in the Republic;
  - (f) the address from which it operates in the country where it is incorporated, or if it operates from multiple addresses the address of its head office;
  - (g) the address from which it operates in the Republic, or if it operates from multiple addresses the address of the office seeking to establish a business relationship or to enter into a single transaction with the accountable institution;
  - (h) the income tax and value added tax registration numbers of the company, if such numbers were issued to that company;
  - (i) the full names, date of birth and identity number, referred to in regulation 3 (1) (a), (b) and (c) or full names, date of birth and name of the country, referred to in regulation 5 (1) (a), (b) and (c), as may be applicable, concerning-
    - (i) the manager in respect of its affairs in the Republic; and
    - (ii) each natural person who purports to be authorised to establish a business relationship or to enter into a transaction with the accountable institution on behalf of the foreign company;
  - (j) the full names, date of birth, identity number, referred to in regulation 3 (1) (a), (b) and (c), full names, date of birth and name of the country, referred to in regulation 5 (1) (a), (b) and (c), registered name, registration number, registered address, trade name and business address referred to in regulation 7 (a), (b), (c), (d) and (e), names, numbers and addresses referred to in regulation 9 (a), (b) and (c), name, address and legal form referred to in regulation 11 (a), (b) and (c), name referred to in regulation 13 (a) or name and number referred to in regulation 15 (a), as may be applicable, concerning each natural or legal person, partnership or trust holding 25% or more of the voting rights in the foreign company;
  - (k) the residential address and contact particulars of-
    - (i) the manager in respect of its affairs in the Republic;
    - (ii) each natural or legal person or trust holding 25% or more of the voting rights in the company; and
    - (iii) each natural person who purports to be authorised to establish a business relationship or to enter into a transaction with the accountable institution on behalf of the company.

## **10 Verification of information concerning foreign companies**

An accountable institution must verify the particulars obtained in respect of a foreign company in terms of regulation 9 (a) to 9 (j) by comparing-

- (a) the name, number and address referred to in regulation 9 (a), (b) and (c) with an official document issued by an authority for recording the incorporation of companies of the country of incorporation of the foreign company, witnessing its incorporation and bearing its name and number of incorporation and the address where it is situated for purposes of its incorporation;
- (b) the names and addresses referred to in regulation 9 (d) to 9 (g) with information which can reasonably be expected to such verification and is obtained by reasonably practical means, taking into account any guidance notes concerning the verification of identities which may apply to that institution;
- (c) the tax numbers referred to in subregulation 9 (h) with documents issued by the

- South African Revenue Service bearing such numbers;
- (d) the particulars referred to in regulation 9 (i) with information obtained in accordance with regulation 4 (1), 6 (1) or 6 (3), as may be applicable;
- (e) the particulars referred to in regulation 9 (j) with information obtained in accordance with regulation 4 (1), 6 (1), 6 (3), 8 (a), 8 (b), 8 (e), 10 (a), 10 (b), 10 (f), 12 (a), 12 (d), 14 (a), 14 (c), 16 (a) or 16 (d), as may be applicable; and
- (f) any of these particulars with information which is obtained from any other independent source, if it is believed to be reasonably necessary taking into account any guidance notes concerning the verification of identities which may apply to that institution.

#### **11 Information concerning other legal persons**

An accountable institution must obtain from the natural person acting or purporting to act on behalf of a legal person other than a company, close corporation or foreign company with which it is establishing a business relationship or concluding a single transaction-

- (a) the name of the legal person;
- (b) the address from which it operates;
- (c) its legal form;
- (d) the income tax registration number of the legal person, if such a number was issued to that legal person;
- (e) the full names, date of birth and identity number, referred to in regulation 3 (1) (a), (b) and (c) or full names, date of birth and name of the country, referred to in regulation 5 (1) (a), (b) and (c), as may be applicable, concerning the identity of each natural person who purports to be authorised to establish a business relationship or to enter into a transaction with the accountable institution on behalf of the legal person; and
- (f) the residential address and contact particulars of each natural person who purports to be authorised to establish a business relationship or to enter into a transaction with the accountable institution on behalf of the legal person.

#### **12 Verification of information concerning other legal persons**

An accountable institution must verify the particulars obtained in respect of a legal person in terms of regulation 11 (a) to 11 (e) by comparing-

- (a) the name, address and legal form referred to in regulation 11 (a), (b) and (c) with the constitution or other founding document in terms of which the legal person is created and information which can reasonably be expected to such verification and is obtained by reasonably practical means, taking into account any guidance notes concerning the verification of identities which may apply to that institution;
- (b) the income tax registration number referred to in subregulation 11 (d) with a document issued by the South African Revenue Service bearing such a number;
- (c) the particulars referred to in regulation 11 (e) with information obtained in accordance with regulation 4 (1), 6 (1) or 6 (3), as may be applicable; and
- (d) any of these particulars with information which is obtained from any other independent source, if it is believed to be reasonably necessary taking into account any guidance notes concerning the verification of identities which may apply to that institution.

## **PART 4 PARTNERSHIPS**

### **13 Information concerning partnerships**

An accountable institution must obtain from a natural person acting or purporting to act on behalf of a partnership, other than a partnership formed by qualified persons to carry on a profession and designated by notice in the *Gazette* by virtue of section 30 (2) of the Companies Act, 1973 (Act 61 of 1973), with which it is establishing a business relationship or concluding a single transaction-

- (a) the name of the partnership;
- (b) the full names, date of birth, identity number, referred to in regulation 3 (1) (a), (b) and (c), full names, date of birth and name of the country, referred to in regulation 5 (1) (a), (b) and (c), registered name, registration number, registered address, trade name and business address referred to in regulation 7 (a), (b), (c), (d) and (e), names, numbers and addresses referred to in regulation 9 (a), (b) and (c) name, address and legal form referred to in regulation 11 (a), (b) and (c) or name and number referred to in regulation 15 (a), as may be applicable, concerning-
  - (i) every partner, including every member of a partnership *en commandite*, an anonymous partnership or any similar partnership;
  - (ii) the person who exercises executive control over the partnership; and
  - (iii) each natural person who purports to be authorised to establish a business relationship or to enter into a transaction with the accountable institution on behalf of the partnership.

### **14 Verification of information concerning partnerships**

An accountable institution must verify the particulars obtained in respect of a partnership in terms of regulation 13 by comparing-

- (a) the name of the partnership referred to in regulation 13 (a) with the partnership agreement in terms of which the partnership was formed;
- (b) the particulars referred to in regulation 13 (b) with information obtained in accordance with this regulation or regulation 4 (1), 6 (1), 6 (3), 8 (a), 8 (b), 8 (e), 10 (a), 10 (b), 10 (f), 12 (a), 12 (d), 16 (a) or 16 (d), as may be applicable; and
- (c) any of these particulars with information which is obtained from any other independent source, if it is believed to be reasonably necessary taking into account any guidance notes concerning the verification of identities which may apply to that institution.

## **PART 5 TRUSTS**

### **15 Information concerning trusts**

An accountable institution must obtain from the natural person acting or purporting to act on behalf of a trust with which it is establishing a business relationship or concluding a single transaction-

- (a) the identifying name and number of the trust;
- (b) the address of the Master of the High Court where the trust is registered, if applicable;
- (c) the income tax registration number of the trust, if such a number was issued to that trust;

- (d) the full names, date of birth, identity number, referred to in regulation 3 (1) (a), (b) and (c), full names, date of birth and name of the country, referred to in regulation 5 (1) (a), (b) and (c), registered name, registration number, registered address, trade name and business address referred to in regulation 7 (a), (b), (c), (d) and (e), names, numbers and addresses referred to in regulation 9 (a), (b) and (c), name, address and legal form referred to in regulation 11 (a), (b) and (c), name referred to in regulation 13 (a) or name and number referred to in regulation 15 (a), as may be applicable, concerning-
  - (i) each trustee of the trust; and
  - (ii) each natural person who purports to be authorised to establish a business relationship or to enter into a transaction with the accountable institution on behalf of the trust;
- (e) the-
  - (i) full names, date of birth, identity number, referred to in regulation 3 (1) (a), (b) and (c), full names, date of birth and name of the country, referred to in regulation 5 (1) (a), (b) and (c), registered name, registration number, registered address, trade name and business address referred to in regulation 7 (a), (b), (c), (d) and (e), names, numbers and addresses referred to in regulation 9 (a), (b) and (c), name, address and legal form referred to in regulation 11 (a), (b) and (c), name referred to in regulation 13 (a) or name and number referred to in regulation 15 (a), as may be applicable, concerning each beneficiary of the trust referred to by name in the trust deed or other founding instrument in terms of which the trust is created; or
  - (ii) particulars of how the beneficiaries of the trust are determined;
- (f) the full names, date of birth, identity number, referred to in regulation 3 (1) (a), (b) and (c), full names, date of birth and name of the country, referred to in regulation 5 (1) (a), (b) and (c), registered name, registration number, registered address, trade name and business address referred to in regulation 7 (a), (b), (c), (d) and (e), names, numbers and addresses referred to in regulation 9 (a), (b) and (c), name, address and legal form referred to in regulation 11 (a), (b) and (c), name referred to in regulation 13 (a) or name and number referred to in regulation 15 (a), as may be applicable, concerning the founder of the trust; and
- (g) residential address and contact particulars of-
  - (i) each trustee of the trust;
  - (ii) each natural person who purports to be authorised to establish a business relationship or to enter into a transaction with the accountable institution on behalf of the trust;
  - (iii) each beneficiary of the trust referred to by name in the trust deed or other founding instrument in terms of which the trust is created; and
  - (iv) the founder of the trust.

## **16 Verification of information concerning trusts**

(1) An accountable institution must verify the particulars obtained in respect of a trust in terms of regulation 15 by comparing-

- (a) the name, number and other particulars referred to in regulation 15 (a) and 15 (e)
  - (ii) with the trust deed or other founding document in terms of which the trust is created and-

- (i) in the case of a trust created in the Republic, the authorisation given by the Master of the High Court in terms of section 7 of the Trust Property Control Act, 1988, (Act 57 of 1988) to each trustee of the trust to act in that capacity; or
  - (ii) in the case of a trust created outside the Republic, an official document which reflects these particulars, issued by an authority in the country where the trust is created which administers or oversees laws relating to trusts in that country;
- (b) the address referred to in regulation 15 (b) with the authorisation given by the Master of the High Court in terms of section 7 of the Trust Property Control Act, 1988, (Act 57 of 1988) to each trustee of the trust to act in that capacity;
- (c) the income tax registration number of the trust referred to in regulation 15 (c) with a document issued by the South African Revenue Service bearing such a number;
- (d) the particulars referred to in regulation 15 (d), (e) (i) or (f) with information obtained in accordance with this regulation or regulation 4 (1), 6 (1), 6 (3), 8 (a), 8 (b), 8 (e), 10 (a), 10 (b), 10 (f), 12 (a), 12 (d), 14 (a), 14 (c), 16 (a) or 16 (e), as may be applicable and-
- (i) in the case of a trust created in the Republic, the authorisation given by the Master of the High Court in terms of section 7 of the Trust Property Control Act, 1988, (Act 57 of 1988) to each trustee of the trust to act in that capacity; or
  - (ii) in the case of a trust created outside the Republic, an official document which reflects these particulars, issued by an authority in the country where the trust is created which administers or oversees laws relating to trusts in that country; and
- (e) any of these particulars with information which is obtained from any other independent source, if it is believed to be reasonably necessary taking into account any guidance notes concerning the verification of identities which may apply to that institution.

(2) In the case where the natural or legal person, partnership or trust referred to in regulation 15 (f) has died or no longer exists an accountable institution must verify the particulars referred to in that regulation by comparing those particulars with information which can reasonably be expected to achieve such verification and is obtained by reasonably practical means, taking into account any guidance notes concerning the verification of identities which may apply to that institution.

## **PART 6 GENERAL**

### **17 Additional requirements when person acts on authority of another**

(1) When a natural person seeking to establish a business relationship or to conclude a single transaction with an accountable institution on behalf of another natural person, a legal person or a trust, the institution must, in addition to the other steps as may be applicable in terms of regulations 3 to 16, obtain from that person information which provides proof of that person's authority to act on behalf of that other natural person, legal person or trust, taking into account any guidance notes concerning the verification of identities which may apply to that institution.

(2) An accountable institution must verify the information obtained in terms of subregulation (1) by-

- (a) comparing the particulars of the natural or legal person, partnership or trust referred to in subregulation (1) with information obtained by the institution in accordance with regulation 4, 6, 8, 10, 12, 14 or 16, as may be applicable, from or in respect of those persons or that trust; and
- (b) establishing whether that information, on the face of it, provides proof of the necessary authorisation.

### **18 Verification in absence of contact person**

If an accountable institution obtained information in terms of these regulations about a natural or legal person, partnership or trust without contact in person with that natural person, or with a representative of that legal person or trust, the institution must take reasonable steps to establish the existence or to establish or verify the identity of that natural or legal person, partnership or trust, taking into account any guidance notes concerning the verification of identities which may apply to that institution.

### **19 Accountable institution maintain correctness of particulars**

An accountable institution must take reasonable steps, taking into account any guidance notes concerning the verification of identities which may apply to that institution, in respect of an existing business relationship, to maintain the correctness of particulars which are susceptible to change and are provided to it under this Chapter.

## **CHAPTER 2 RECORD-KEEPING**

### **20 Particulars of third parties keeping records**

If an accountable institution appoints a third party to keep on its behalf any records which that institution must retain in terms of the Act, that institution must without delay provide the Centre with-

- (a) the third party's-
  - (i) full name, if the third party is a natural person; or
  - (ii) registered name, if the third party is a close corporation or company;
- (b) the name under which the third party conducts business;
- (c) the full name and contact particulars of the individual who exercises control over access to those records;
- (d) the address where the records are kept;
- (e) the address from where the third party exercises control over the records; and
- (f) the full name and contact particulars of the individual who liaises with the third party on behalf of the accountable institution concerning the retention of the records.

## **CHAPTER 3 CLIENT PROFILE**

### **21 Information to identify proceeds of unlawful activities or money laundering activities**

(1) An accountable institution must, in the circumstances referred to in subregulation (2), obtain the information referred to in subregulation (3) from or in respect of-

- (a) a client who has established a business relationship or concludes a single transaction; or

- (b) a prospective client seeking to establish a business relationship or conclude a single transaction.

(2) An accountable institution must obtain the information referred to in subregulation (3) whenever it is reasonably necessary, taking into account any guidance notes concerning the verification of identities or the reporting of suspicious and unusual transactions which may apply to that institution, with a view to obtaining additional information-

- (a) concerning a business relationship or single transaction which poses a particularly high risk of facilitating money laundering activities; or
- (b) to enable the accountable institution to identify the proceeds of unlawful activity or money laundering activities.

(3) The information which an accountable institution must obtain in the circumstances referred to in subregulation (2) must be adequate to reasonably enable the institution to determine whether transactions involving a client referred in subregulation (1) are consistent with the institution's knowledge of that client and that client's business activities and must include particulars concerning-

- (a) the source of that client's income; and
- (b) the source of the funds which that client expects to use in concluding the single transaction or transactions in the course of the business relationship.

#### **CHAPTER 4**

#### **REPORTING OF SUSPICIOUS AND UNUSUAL TRANSACTIONS**

(Date of commencement of Chapter 4 (regs 22 to 24 inclusive): 3 February 2003.)

#### **22 Manner of reporting**

(1) Subject to subregulation (2), a report made under section 29 of the Act must be made in accordance with the format specified by the Centre and by means of the internet-based reporting portal provided by the Centre for this purpose at the following internet address: <http://www.fic.aov.za>.

(2) If a natural or legal person who wishes to make a report under section 29 of the Act, does not have the technical capability to make a report in accordance with the subregulation (1), that person shall make the report on a form which substantially corresponds with Form 1 of the Annexure to these regulations and-

- (a) send it by facsimile to the Centre at the following fax number: (012) 315-5828; or
- (b) deliver it to the Centre at the 14th Floor, 240 Vermeulen Street, Pretoria.

(Date of commencement of reg 22: 3 February 2003.)

#### **23 Information to be reported**

(1) In respect of the natural or legal person making a report under section 29 of the Act, or other entity on whose behalf such a report is made, the report must contain full particulars of-

- (a) the name of the person or entity;
- (b) the identifying number of the person or entity;
- (c) the full address of the person or entity;
- (d) the surname and initials of a contact person; and
- (e) the contact particulars of a contact person.

(2) In respect of the transaction 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) the type of funds or property involved;
- (c) the amount or the value of the property involved;
- (d) the currency in which the transaction was conducted;
- (e) the method in which the transaction was conducted;
- (f) the method in which the funds or property were disposed of;
- (g) the amount of the disposition of the funds; and
- (h) the currency in which the funds were disposed of;
- (i) the purpose of the transaction;
- (j) the name of any other institution or person involved in the transaction;
- (h) the number of any account at another institution involved in the transaction;
- (k) the name and identifying number of the branch or office where the transaction was conducted; and
- (l) any remarks, comments or explanations which the person conducting the transaction may have made or given.

(3) In respect of any account which may have been involved in the transaction concerning which a report under section 29 is made, the report must contain as much of the particulars as are readily available, of-

- (a) the account number;
- (b) the name and identifying number 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) the date on which the account was closed;
- (g) if the account was closed, the name of the person who gave the instruction to close it;
- (h) the status of the account;
- (i) 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
- (j) the report number of any previous reports made in connection with the account.

(4) In respect of the natural or legal person conducting the transaction, or other entity on whose behalf the transaction 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 surname;
  - (ii) the person's first name;
  - (iv) the person's other initials;
  - (v) the person's identifying number;
  - (vi) the type of identifying document from which the particulars referred to in subparagraphs (i) to (v) were obtained;
  - (vii) the person's country of residence; and

- (vii) the person's address;
- (b) in the case of a natural person, as much of the particulars as are readily available, of the person's-
  - (i) contact telephone number; and
  - (ii) occupation; and
- (c) 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 type of business conducted by the person or entity;
  - (iv) the person's or entity's country of origin;
  - (v) the names of the natural person's with authority to conduct the transaction on behalf of the person or entity; and
  - (vi) the person's or entity's address.

(5) In respect of a natural person conducting the transaction 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 surname;
- (b) the person's first name;
- (c) the person's other initials;
- (d) the person's identifying number;
- (e) the type of identifying document from which the particulars referred to in paragraphs (a) to (d) were obtained;
- (f) the person's address;
- (g) the person's country of residence;
- (h) the person's contact telephone number; and
- (i) the person's occupation.

(6) A report under section 29 must-

- (a) contain a full description of the suspicious or unusual transaction, 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 concerning which the report is made; and
- (c) indicate what documentary proof is available in respect of the transaction concerning which the report is made and the reasons referred to in paragraph (a).

(Date of commencement of reg 23: 3 February 2003.)

## **24 Period for reporting**

A report under section 29 of the Act must be sent to the Centre as soon as possible but not later than fifteen days, excluding Saturdays, Sundays and public holidays, 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.

(Date of commencement of reg 24: 3 February 2003.)

## **CHAPTER 5 INTERNAL RULES**

## **25 Internal rules concerning establishment and verification of identities**

The internal rules of an accountable institution concerning the establishment and verification of identities must-

- (a) provide for the necessary processes and working methods which will cause the required particulars concerning the identities of the parties to a business relationship or single transaction to be obtained on each occasion when a business relationship is established or a single transaction is concluded with the institution;
- (b) provide for steps to be taken by the relevant staff members aimed at the verification of the required particulars concerning the identities of the parties to a business relationship or single transaction;
- (c) provide for the responsibility of the management of the institution in respect of compliance with the Act, these regulations and the internal rules;
- (d) allocate responsibilities and accountability to ensure that staff duties concerning the establishment and verification of identities are complied with;
- (e) provide for disciplinary steps against the relevant staff members for non-compliance with the Act, these regulations and the internal rules; and
- (f) take into account any guidance notes concerning the verification of identities which may apply to that institution.

## **26 Internal rules concerning the keeping of records**

The internal rules of an accountable institution concerning the keeping of records in terms of section 22 of the Act must-

- (a) provide for the necessary processes and working methods to ensure that the relevant staff members of the institution obtain the information of which record must be kept on each occasion when a business relationship is established or a transaction is concluded with the institution;
- (b) provide for the responsibility of the management of the institution in respect of compliance with the Act, these regulations and the internal rules;
- (c) allocate responsibilities and accountability to ensure that staff duties concerning the establishment and verification of identities are complied with;
- (d) provide for disciplinary steps against the relevant staff members for non-compliance with the Act, these regulations and the internal rules;
- (e) provide for the necessary processes and working methods to ensure that the accuracy and that the integrity of those records are maintained for the entire period for which they must be kept;
- (f) provide for the necessary processes and working methods to ensure that access as may be required or authorised under the Act by the relevant staff members to those records can be obtained without undue hindrance; and
- (g) take into account any guidance notes concerning the verification of identities which may apply to that institution.

## **27 Internal rules concerning reporting of information**

The internal rules of an accountable institution concerning reporting of suspicious and unusual transactions must-

- (a) provide for the necessary processes and working methods which will cause suspicious and unusual transactions to be reported without undue delay;
- (b) provide for the necessary processes and working methods to enable staff to

- recognise potentially suspicious and unusual transactions or series of transactions;
- (c) provide for the responsibility of the management of the institution in respect of compliance with the Act, these regulations and the internal rules;
  - (d) allocate responsibilities and accountability to ensure that staff duties concerning the reporting of suspicious and unusual transactions are complied with;
  - (e) provide for disciplinary steps against the relevant staff members for non-compliance with the Act, these regulations and the internal rules; and
  - (f) take into account any guidance notes concerning the reporting of suspicious or unusual transactions which may apply to that institution.

## **CHAPTER 6 MISCELLANEOUS**

### **28 Guidance notes**

- (1) The Centre may issue guidance notes concerning-
- (a) the verification of identities;
  - (b) reporting of suspicious and unusual transactions; and
  - (c) any other obligations imposed on accountable institutions under the Act.
- (2) Guidance notes referred to in subregulation (1) may differ for different accountable institutions or persons, or categories of accountable institutions or persons and different categories of transactions.

### **29 Offences and penalties**

- (1) Any accountable institution which contravenes regulation 2 (1) is guilty of an offence.
- (2) Any accountable institution which fails to obtain the particulars referred to in regulation 3, 5, 7, 9, 11, 13, 15 or 17 (1) is guilty of an offence.
- (3) Any accountable institution which fails to verify any particulars referred to in regulation 3, 5, 7, 9, 11, 13, 15 or 17 (1) in accordance with regulation 4, 6, 8, 10, 12, 14, 16 or 17 (2) is guilty of an offence.
- (4) Any accountable institution which fails to take reasonable steps to verify information obtained without contact with a natural person or a representative of a legal person, partnership or trust in accordance with regulation 18 is guilty of an offence.
- (5) Any accountable institution which fails to take reasonable steps to maintain the correctness of particulars in accordance with regulation 19 is guilty of an offence.
- (6) Any accountable institution which fails to inform the Centre of particulars concerning third parties keeping records in accordance with regulation 20 is guilty of an offence.
- (7) Any person or institution which fails to send a report under section 29 of the Act to the Centre within the period referred to in regulation 24 is guilty of an offence.  
(Date of commencement of subreg (7): 3 February 2003.)
- (8) Any accountable institution which fails to develop internal rules in accordance with regulation 25, 26 or 27 is guilty of an offence.
- (9) Any person or institution convicted of an offence under this section is liable to imprisonment for a period not exceeding six months or a fine not exceeding R100000.  
(Date of commencement of subreg (9): 3 February 2003.)

### **30 Title and commencement**

- (1) These regulations are called the Money Laundering Control Regulations.

(2) Chapter 4 and regulations 29 (7) and (9) shall come into operation on 3 February 2003.

(3) Regulation 1, Chapters 1, 2, 3, and 5 and regulations 28 and 29 (1), (2), (3), (4), (5), (6) and (8) shall come into operation on 30 June 2003.