

Estate Agency Affairs Board

FIC AMENDMENT ACT



human settlements

Department:
Human Settlements
REPUBLIC OF SOUTH AFRICA



ESTATE AGENCY AFFAIRS BOARD
OF SOUTH AFRICA

FIC Amendment Act

This is an overview of the significant changes brought about by the FIC Amendment Act which comes into effect 02 October 2017.

- The changes in the FIC Amendment Act are relevant to supervisory bodies and accountable institutions;
 - Full range of customer due diligence measures.
 - Understand and obtaining information about the client.
 - On-going due diligence.
 - Foreign prominent public official

FIC Amendment Act cont.

- - Enforcement of FIC: Inspection Process
 - Domestic prominent influential person
 - Risk Management and Compliance Programme
 - Implementation of the UN Security Council Resolutions

Old Sect 42 of FIC:

- Formulation and implementation of internal rules
- Sect 42(1) – an accountable institution(Estate Agency) must formulate and implement internal rules

FIC Amendment Act:

- Risk Management and Compliance Programme(replacing Internal Rules)
- Sect 42(1- an accountable institution(Estate Agency) must develop, document, maintain and implement a programme for anti-money laundering and counter-terrorist financing risk management and compliance

Old Sect 43 of FIC:

- Training and monitoring of compliance
- Sect 43(b) – an accountable institution must appoint a person(Compliance Officer) with the responsibility to ensure compliance of the Act(by employees and Estate Agency)

FIC Amendment Act:

- Governance of anti-money laundering and counter terrorist financing compliance
- Sect 42A(2) – an accountable institution which is a legal person must – have a compliance function to assist the board of directors or the senior management, as the case may be, of the institution in discharging their obligations under subsection (1); and assign a person with sufficient competence and seniority to ensure the effectiveness of the compliance function contemplated

Old Sect 43 of FIC:

- Training and monitoring of compliance
- Sect 43(a) – An accountable institution must **provide training** to its employees ...

FIC Amendment Act:

- Sect 43 – An accountable institution must **provide ongoing** training to its employees ...

Inspection Process

- **Inspection Certificate:**
 - Appointment letter for Inspectors.
- **Conducting Inspection:**
 - Private Premises- with or without warrant.
 - Business premises
- **Scope of Inspection:**
 - 7 Pillar of Compliance

Inspection Process cont.

- **Inspection Procedures:**
 - Inspections notice
 - Inspections - at reasonable times
 - Decorum – decency with little disturbances

RISK BASED APPROACH

- The application of a RBA means that accountable institutions should identify, assess and understand its ML/TF risks in respect of the products and services it offers to clients
- An accountable institution should then apply its knowledge and understanding of its ML/TF risks when developing the control measures to manage and mitigate the risks identified
- Where higher risks are identified, accountable institutions are to take enhanced measures to manage and mitigate the risks
- Simplified measures may be applied where lower risks have been identified
- All of the above must be documented in the accountable institution's Risk Management and Compliance Programme

Contents of RMCP

“how- manner in which & process”

- RMCP should contain
 - How AI identifies, assess, monitors,mitigates and manage money laundering risks
 - How AI determines if person is prospective/ existing client
 - How AI ensures “no anonymous client”
 - How AI determine if future transactions consistent with AI’s knowledge of prospective clients
 - How AI conduct additional customer due diligence for legal persons, partnerships and trust
 - How AI conducts ongoing due diligence and account monitoring

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Contents of RMCP cont./

- How AI examines and keep written findings of complex/ unusually large transactions and unusual patterns of transactions which have no lawful purpose
- How AI will confirm information relating client where there are doubts about veracity of previously obtained information
- How AI will perform CDD in the course of business relationship where AI suspects the activity transaction is suspicious
- How AI will terminate existing business relationship if unable to conduct CDD

CONTENTS OF RMCP cont./

- How AI determines if prospective client is foreign/
domestic prominent person
- How AI conducts enhanced due diligence for high
risk relationships and when simplified CDD may be
permitted
- How and where records are kept
- Provide process for reporting information to FIC
- How RMCP is implemented in branches,
subsidiaries etc.

Full range of customer due diligence measures

- Some new Sections introduced:
- Sect 20A; 21A; 21B; 21C; 21D; 21E; 21G; 21H
- Sec 21F – Foreign prominent public official
- Sec 21G – Domestic prominent influential person
- Sec 21H – Family members and known close associates

Sanctions

- Sanctioning non-compliance with the new requirements of the FIC Act will be delayed in order to allow sufficient time for Accountable Institutions to make necessary adjustments to implement the changes;
- Enforcement of the provisions of the FIC Act that are not amended,
example; registration, reporting
obligations will continue;



THANK YOU