

AVOID TAKING A GAMBLE: UNDERSTAND FIC ACT OBLIGATIONS

The gambling sector in South Africa is at high-risk for money laundering due to the variety, frequency and volumes of transactions that take place at these institutions.

These institutions can reduce their risk of being abused for financial crime and protect their customers, employees, and their reputation by putting in place the safeguards and protective measures provided through the Financial Intelligence Centre Act (FIC Act).

By understanding and meeting their FIC Act obligations, the gambling sector also plays its part in South Africa's efforts to combat money laundering, terrorist financing and proliferation financing (ML, TF and PF).

The National Gambling Board, in its mandated capacity to oversee the regulation of the gambling sector, supports the tenets and prescripts of the FIC Act and encourages all legally licensed gambling operators to comply with the Act.

Listed as accountable institutions in terms of the FIC Act, gambling institutions must meet certain obligations such as filing regulatory reports to the Financial Intelligence Centre (FIC). These include reports on suspicious and unusual transactions, on cash transactions above the prescribed threshold, and where a person has been identified as a designated person on a targeted financial sanctions (TFS) list.

To implement adequate and effective controls against ML, TF and PF, a gambling institution must conduct risk assessments on its different businesses, products, services and client types. For example, high-stakes tables might pose a heightened risk of being abused by criminals to launder the proceeds of crime, in comparison to low value slot machines.

For this reason, gambling entities may choose to conduct enhanced monitoring as an adequate control on high stakes table clientele. The controls implemented must be proportionate to the risks

This is part of the risk-based approach which is a key element to understanding and mitigating the ML, TF and PF risks the sector faces..

Gambling entities must perform customer due diligence where a client conducts a single transaction or establishes a business relationship. For once-off transactions below R5 000 the gambling entity must still obtain and record some information on the client. Where a client returns to conduct further transactions, the gambling entity must identify and verify the client. Guidance Note 7, which is available on the FIC website, provides further information in this regard. Gambling entities must also conduct ongoing due diligence (ODD) at periods as set out in its risk management and compliance programme (RMCP).

Gambling entities must scrutinise their client information against the targeted financial sanctions lists as published on the FIC website, in terms of section 28A of the FIC Act, to determine whether their clients are designated persons. No person may provide services to a designated person.



In addition, gambling entities must determine whether their clients are domestic politically exposed persons (DPEP), foreign politically exposed persons (FPEP), or prominent influential persons (PIP), or their immediate family members or known close associates. See Schedules 3A, 3B and 3C in the FIC Act for a list of positions that are classified as DPEP, FPEP and PIP.

Gambling entities must monitor client transactions and activity to identify reportable transactions and activity. There are three main regulatory reporting streams for accountable institutions:

- Cash threshold reports (CTRs) – on transactions i.e., cash received or issued, – exceeding R49 999.99.
- Suspicious and unusual transaction reports (STRs) – on transactions that are unusual or arouse suspicion in terms of money laundering or terrorist financing activities. Depending on whether the transaction is completed or incomplete you would submit a suspicious transaction report (STR) or a suspicious activity report (SAR) respectively.
- Terrorist property reports (TPRs) – where the accountable institution has in its possession property of a person designated on a targeted financial sanctions (TFS) list. This is factual reporting.

Suspicious and unusual transaction and activity reports

Where a gambling entity suspects a transaction or activity is potentially linked to money laundering or terrorist financing, they must report the suspicion to the FIC.

STRs must be filed when the institution knows or suspects that an activity or transaction:

- Is linked to the proceeds of unlawful activity,
- Facilitates the transfer of proceeds of unlawful activities,
- Has no apparent business or lawful purpose,
- May be relevant to the investigation of an evasion or attempted evasion of a duty to pay tax,
- Relates to the offence of financing of terrorist and related activities,

- Relates to the contravention of the prohibition to provide finance to a sanctioned person under section 26B of the FIC Act,
- Is structured with the purpose to avoid being reported in terms of the FIC Act.

An STR must be reported as soon as possible without delay and no later than 15 days from when the gambling entity or its employees become aware of the suspicious or unusual transaction or activity. Guidance note 4B provides information on how to report STRs.

Where a gambling entity processes high volumes of transactions, it may use an automated transaction monitoring system. See the FIC's Directive 5 on the use of automated transaction monitoring systems, read together with public compliance communication (PCC) 45.

Failure to file an STR with the FIC can result in a sanction amounting to R50 million or imprisonment.

The gambling entity must appoint a compliance officer, provide training to all its employees and register with the FIC on its registration and reporting system called goAML. Refer to the registration user guide on the FIC website.

Importantly, the controls the gambling entity implements to comply with its FIC Act obligations must be documented in an RMCP. See PCC 53 for guidance on how to draft a RMCP.

For more compliance information and guidance offered to accountable institutions, refer to the FIC website (www.fic.gov.za). The FIC's compliance contact centre can be reached on +27 12641 6000 or log an online compliance query by clicking on:

<http://www.fic.gov.za/ContactUs/Pages/ComplianceQueries.aspx>

