

South Africa strengthens financial crime prevention



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Following South Africa's financial greylisting by the Financial Action Task Force (FATF), the global financial crime watchdog, for not fully complying with international standards around the prevention of money laundering and terrorist financing, significant amendments have been made to the Financial Intelligence Centre Act (FICA). These amendments mean that any business dealing with significant financial transactions (also known as accountable institutions) must carry out due diligence or risk facing penalties. The same compliance requirements now apply to banks, estate agents, conveyancing attorneys and vehicle dealerships, which are considered accountable institutions. This means that such businesses can be held liable for non-compliance.

Serious warning, take heed

The South African Reserve Bank's Prudential Authority (PA) has already shown that this is no idle threat, with their decision to impose sanctions on a major South African bank. This was for non-compliance with the Financial Intelligence Centre (FIC) Act, in that the institution had failed to timeously determine when a transaction was reportable in terms of the FIC Act. The bank was issued with a reprimand and a directive to take remedial action, along with a financial penalty of R35 million.

Fighting financial crime

South Africa established the Financial Intelligence Centre Act (FICA) in 2001 to combat money laundering and terrorist financing. Accountable institutions, such as accountants, banks, casinos, estate agents, legal practitioners, jewelers and money remitters must implement anti-money laundering measures, report suspicious transactions, and cooperate with FIC investigations.

Compliance is critical to reverse greylisting

"The shift to holding institutions accountable will not change. Enforcement will continue to increase to reverse the greylisting for insufficiently tackling illicit financial flows," notes Sameer Kumandan, Managing Director of SearchWorks.

Compliance with FICA is essential to restoring the integrity of South Africa's financial system in the wake of being greylisted, by helping to protect reputations, avoid penalties and combat illicit activities. As mentioned, non-compliance will lead to financial penalties, criminal prosecution and reputational damage. This makes it essential for institutions to take robust steps to evidence their accountability.

The enhanced compliance requirements for accountable institutions in terms of FICA require such businesses to:

- 1. Perform customer due diligence (CDD):** Accountable institutions are required to identify and verify the identity of their customers. This includes obtaining information such as the customer's name, address, date of birth and identity document number.
- 2. Report suspicious transactions:** Accountable institutions are required to report any suspicious transactions to the Financial Intelligence Centre (FIC). A suspicious transaction is one that gives rise to a reasonable suspicion that it may involve money laundering or terrorist financing.
- 3. Implement anti-money laundering and counter-terrorist financing (AML/CFT) measures:** Accountable institutions are required to implement AML/CFT measures to prevent and detect money laundering and terrorist financing. These measures may include:
 - Maintaining records of customer transactions;
 - Training staff on AML/CFT matters;
 - Conducting internal audits; and
 - Cooperating with the FIC's investigations.

Accountability through data

“There are business partners out there that can assist accountable institutions ensure they carry out their due diligence in terms of accurate KYC (know your customer) and KYB (know your business) checks, accurately and without hassle,” Kumandan continues. The best of these run data aggregation platforms that provides information on individuals, businesses trusts, and properties in South Africa, offering a variety of search types that can be used for a number of purposes, including KYC, AML/CFT and due diligence.

Proactive prevention

Of particular importance in the prevention of corrupt individuals and their networks from infiltrating the legitimate financial system, is the ability to run comprehensive Politically Exposed Person (PEP) and sanctions checks during customer onboarding and ongoing client reviews. A PEP refers to an individual in a prominent public role, who poses a higher risk of being involved in bribery and corruption due to their position and influence. Additionally, sanctions screening checks ensure compliance with global law enforcement and sanctions lists, preventing unauthorised financial transactions. These efficient and cost effective checks empower accountable businesses with vital data to proactively mitigate potential financial and reputational damage.

Adapt or face penalties

“You may wish to consider a provider that is able to do an ID photo verification search, enabling the retrieval of an individual's latest identity or passport image using their ID number alone. In addition, a spousal verification check may be needed to verify the availability of associated spousal information, enhancing the efficiency of KYC checks,” Kumandan says. The compliance pressure on accountable institutions is unlikely to lessen. With this in mind, it is advisable for organisations to adapt to this pressure and use it to create additional business value by reducing fraud, safeguarding their reputation and capital while simplifying their reporting and compliance duties.