

An overview of Financial Intelligence Centre Act: the reporting obligations for accountable institutions

The Financial Intelligence Centre Act, 2001 (Act 38 of 2001) (FIC Act) establishes South Africa's framework for the FIC to assist in combating money laundering (ML), proliferation financing (PF) and terrorist financing (TF).

A crucial pillar of the FIC Act is the obligation for accountable institutions to submit regulatory reports, such as suspicious and unusual transaction reports (STRs), cash transaction reports (CTRs), terrorist property reports (TPRs) and international funds transfer reports (IFTRs), to the Financial Intelligence Centre (FIC).

The obligation to submit STRs is contained in section 29 of the FIC Act. All businesses in South Africa have the obligation to report suspicious and unusual transactions to the FIC where a person or institution knows, suspects, or reasonably ought to have suspected that a transaction or activity involves the proceeds of unlawful activities, money laundering, or terrorist financing. There is no monetary threshold for STRs, and the obligation applies even when a transaction is attempted or proposed but not completed i.e. a suspicious activity report (SAR). Once suspicion arises, the report must be submitted as soon as possible, but by *no later than 15 days* after becoming aware of the facts that give rise to suspicion, although the FIC stresses that once suspicion is formed, the report must be filed without delay. The FIC Act strictly prohibits "tipping off" or disclosing the existence of the report to the client or any third party.

The obligation for filing CTRs is contained in section 28 of the FIC Act. These reports are triggered purely by the value and form of a transaction rather than by any suspicion of wrongdoing. Where a cash transaction exceeds the prescribed threshold of R49 999.99, the accountable institution should submit a CTR to the FIC as soon as possible but not later than three working days after becoming aware that a cash transaction has exceeded the prescribed amount. CTRs allow the FIC to monitor significant cash movements, which are widely recognised as presenting elevated ML risks, even where the underlying activity appears legitimate. The 2022 amendments removed the requirement to report aggregated cash transactions (CTRA). Institutions no longer need to aggregate multiple smaller cash transactions to meet the threshold. "Cash" includes banknotes, coins and travellers' cheques, but excludes EFTs, wire transfers, drafts or any instrument that does not involve physical cash.

The FIC Act further addresses the risk of terrorist financing and targeted financial sanctions. Targeted financial sanctions (TFS) emanate from United Nations Security Council resolutions, and prohibit transactions with sanctioned individuals, entities, or countries. Accountable institutions must screen clients against sanctions lists during onboarding, on an ongoing basis, and whenever new measures are introduced. If a client is identified as a sanctioned person or entity, institutions must immediately freeze all related activity and, in terms of section 28A of the FIC Act, submit a TPR to the FIC.

Section 31 of the FIC Act requires the reporting of certain electronic cross-border transactions through IFTRs. These reports are submitted to the FIC on electronic cross-border transactions (inbound or outbound) that exceed R19 999.99 and enable the FIC to monitor the movement of funds across borders. The obligation to report under section 31 is limited specifically to accountable institutions authorised to conduct cross-border electronic funds transfers. These accountable institutions must file IFTRs within three business days of being aware of the transaction. The threshold applies to the actual value transferred across the border, excluding any transaction fees. For example, if the transfer amount itself is below R20 000, no IFTR is required even if total fees paid exceed the threshold.

Overall, the reporting obligations under the FIC Act form the cornerstone of South Africa's anti-money laundering and counter-terrorist financing framework. Through the submission of STRs, CTRs, TPRs, and IFTRs, the FIC Act enhances transparency within the financial system and strengthens the ability of authorities to detect and respond to financial crime risks in a timely manner.