



Financial
Intelligence Centre

PUBLIC COMPLIANCE COMMUNICATION

**PUBLIC COMPLIANCE
COMMUNICATION No 31A (PCC 31A)**
ON THE RECEIPT AND ACCEPTANCE
OF FUNDS BY ACCOUNTABLE
INSTITUTIONS PRIOR TO
COMPLETION OF THE CUSTOMER
DUE DILIGENCE MEASURES
REQUIRED IN TERMS OF THE
FINANCIAL INTELLIGENCE CENTRE
ACT, 2001 (ACT NO. 38 OF 2001)

The Financial Intelligence Centre (the Centre) provides the guidance contained in this Public Compliance Communication (PCC) in terms of its statutory function in terms of section 4(c) of the Financial Intelligence Centre Act, 2001 (Act No. 38 of 2001 (the FIC Act) read together with Regulation 28 of the Money Laundering and Terrorist Financing Control Regulations (the Regulations) issued in terms of the FIC Act.

Section 4(c) of the FIC Act empowers the Centre to provide guidance in relation to a number of matters concerning compliance with the obligations of the FIC Act. Guidance provided by the Centre is the only form of guidance formally recognised in terms of the FIC Act and the Regulations issued under the FIC Act. Accordingly, guidance provided by the Centre is authoritative in nature and must be taken into account when interpreting the provisions of the FIC Act or assessing compliance with the obligations it imposes.

It is important to note that enforcement action may follow from non-compliance with the FIC Act. Where it is found that an accountable or reporting institution has not followed guidance which the Centre has issued, the institution must be able to demonstrate that it has complied with the relevant obligations under the FIC Act in an equivalent manner nonetheless.

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PCC Summary

The Centre provides its view on the receipt and acceptance of funds by an accountable institution prior to the completion of customer due diligence (CDD) measures. Accountable institutions should not make their banking details available to prospective clients before they have completed the CDD measures.

Objective

The objective of this PCC is to provide the Centre's view on-

- a) the receipt and acceptance of funds prior to CDD measures; and**
- b) the undesirability of receiving funds from prospective clients prior to CDD measures being completed.**

1. Application of this PCC

- 1.1. PCC31A is applicable to all accountable institutions listed in Schedule 1 to the FIC Act.
- 1.2. This PCC31A replaces PCC31, and comes into effect on date of publication of this PCC31A.

2. Introduction

- 2.1 A client's identity and, where applicable, the identities of beneficial owners and other persons associated with a client, must be established and verified in the course of conducting a single transaction or entering into a business relationship (refer to section 21 of the FIC Act and [guidance note 7](#) for a detailed discussion on this obligation).
- 2.2 This means that an accountable institution may initiate the processes related to the conclusion of a single transaction or entering into a business relationship while it is verifying the relevant persons' identities, but the institution must complete the verification before the institution concludes a transaction in the course of the resultant business relationship or performs any act to give effect to the resultant single transaction.

3. Acceptance of funds in relation to the completing of CDD measures

- 3.1 The term acceptance in the context of this PCC is used to indicate the intention of an accountable institution to receive the funds from the prospective client for the purpose of the business relationship to be formed or a single transaction being concluded.

- 3.2 A prospective client is deemed to be a person with whom the accountable institution does not have a business relationship or with whom it is in the process of concluding a single transaction (refer to chapter 2 of [guidance note 7](#) for a further discussion on this matter).
- 3.3 The manner and processes for the identification of clients and verification of their identities must be described in an accountable institution's Risk Management and Compliance Programme (RMCP). Accountable institutions should consider including, in the RMCP, that funds will not be accepted prior to the completion of the CDD measures.

4. Receipt of funds and the managing of risk

- 4.1 An accountable institution incurs increased money laundering and terrorist financing (ML/TF) risk when it receives funds from an unidentified person, who may or may not become a prospective client.
- 4.2 An accountable institution must take care to mitigate ML/TF risks by, for example, not enabling a prospective client to provide funds to the accountable institution that may have to be returned before the accountable institution has made a decision to on-board the prospective client.
- 4.3 The Centre's view is that only once a prospective client has been satisfactorily identified and verified, and the accountable institution has then taken a decision to accept the prospective client as a client, can they accept funds from the client in respect of the single transaction or business relationship. Therefore, an accountable institution can only make a decision to on-board a client after the client identification and verification measures have been successfully completed.
- 4.4 An accountable institution must, within their risk management and compliance programme (RMCP), contain measures to mitigate ML/TF risk. The Centre recommends that the RMCP includes measures to reduce the possibility of the receipt of funds from an unidentified person or entity.
- 4.5 The receipt of an application from a prospective client to conduct business with an accountable institution should not amount to an agreement and should not be relied upon to request the prospective client to provide funds to the accountable institution before the identity of the client has been established and verified.

Example 1: Example of how risk may arise

An accountable institution, ABC Asset Managers, provides services as a registered Financial Services Provider and is also an accountable institution in terms of the FIC Act. The bank account details of the accountable institution is published on its website and prospective clients are requested to deposit funds into this account and to provide the accountable institution with the proof of payment together with the completed application form and other documents required in terms of the FIC Act.

Upon requesting information from prospective client X, the accountable institution becomes suspicious of the prospective client and the source of funds for the investment. To protect itself against possible reputational risk, the institution decides not to accept the prospective client's business. However, if the funds are then returned to prospective client X, ABC Asset Managers will appear to be the legitimate source of the funds and may be regarded as a party to the money laundering process.

The refund in this scenario increased the ML/TF risk as the accountable institution is now deemed to be the source of funds. The accountable institution should not put themselves in this position by soliciting funds.

5. Bank account details of accountable institutions

- 5.1 An accountable institution should not accept funds from a prospective client prior to the customer due diligence process being completed. An accountable institution should not request funds from a prospective client before it has completed the process of establishing and verifying that person's identity and has made a decision to enter into a business relationship with that prospective client.
- 5.2 The Centre strongly recommends that accountable institutions not make their bank account details public, e.g. by including the institutions banking details on application forms or by placing them on websites or in advertising material, so as to minimise the possibility that prospective clients may take the initiative to deposit funds into their accounts of the accountable institution prior to the identification and verification process being completed.
- 5.3 Accordingly, the Centre recommends that the accountable institution's bank account details be communicated to the client only in the acceptance communication sent to the client.

- 5.4 Should it happen that a person takes the initiative to deposit funds into the bank account of the accountable institution prior to the client identification and verification process being completed, the Centre strongly advises that the accountable institution consider this behaviour and must report the transaction or activity to the Centre in terms of section 29 of the FIC Act if it appears to be suspicious or unusual. The practice of depositing unsolicited funds into an accountable institution's bank account can easily be manipulated to perpetrate money laundering or terror financing, as illustrated below.

Example 2:

An accountable institution, ABC Insurance Company, provides services as a registered Financial Services Provider and is also an accountable institution in terms of the FIC Act. Person X deposits funds into the accountable institution's bank account providing Person (Prospective Client) Y's identity number as a reference for the deposit. Person Y, purporting to be the owner of the funds of Person X, then contacts the institution for a refund of the funds deposited. The accountable institution then transfers the funds, not knowing that the depositor was Person X, into Person Y's bank account as it appears to the institution from the reference provided for the deposit that Person Y is legitimately entitled to receive the funds.

If the funds in question are criminal proceeds or connected to support for a terrorist group, the insurer inadvertently would have assisted in the laundering of proceeds of crime or the funding of a terrorist organisation by facilitating the transfer of the funds from one person to another while providing the appearance of a legitimate source for the funds.

6. Conclusion

- 6.1 The Centre's view is that an accountable institution should not accept funds and must reduce the possibility of receiving funds, from a prospective client prior to the completion of CDD measures.
- 6.2 The accountable institution's RMCP should clearly detail the processes to ensure compliance with the above.

- 6.3 To ensure that the risk of the receipt of funds prior to CDD measures being completed is mitigated, the accountable institution should ensure that they do not make their banking details available to prospective clients at any time.

Queries on this and other compliance matters can be logged using the web portal on the Centre's website ([click here](#)) or visit www.fic.gov.za for alternative contact details.

Issued By:
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FINANCIAL INTELLIGENCE CENTRE
11 February 2019