

DRAFT PUBLIC COMPLIANCE COMMUNICATION

**DRAFT PUBLIC COMPLIANCE
COMMUNICATION**

No 107 (PCC 107)

ON DIRECTIVE 5 OF 2019 IN RELATION TO
THE USAGE OF AUTOMATED
TRANSACTION MONITORING SYSTEMS

FOR CONSULTATION PURPOSES ONLY

PCC SUMMARY

Directive 05 of 2019 on automated transaction monitoring system (ATMS) issued in terms of section 43A of the Financial Intelligence Centre Act, 2001 (Act 38 of 2001) (FIC Act) and published in Government Gazette Notice 42357 of 29 March 2019 (Directive 5) places certain obligations on all accountable and reporting institutions and other persons (collectively referred to as reporters) who use an ATMS, to enable them to detect potential reportable suspicious and unusual activities and transactions. This Public Compliance Communication (PCC) provides guidance to the reporters regarding certain requirements as set out in the Directive 5.

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OBJECTIVE

This PCC provides guidance to the reporters regarding certain requirements as set out in the Directive 5.

GLOSSARY

“**ATMS**” refers to an Automated Transaction Monitoring System as defined by Directive 5 to the FIC Act

“**The Centre**” means the Financial Intelligence Centre established in terms of section 2 of the FIC Act.

“**Days**” refer to all days of the week excluding Saturdays, Sundays and public holidays (aligned to the definition as set out in the MLTFC Regulations)

“**Directive 5**” refers to the Directive 05 of 2019 on ATMS issued in terms of section 43A of the FIC Act and published in Government Gazette Notice 42357 of 29 March 2019.

“**FIC Act**” refers to the Financial Intelligence Centre Act, 2001 (Act 38 of 2001).

“**MLTFC Regulations**” refer to the Money Laundering and Terrorist Financing Control Regulations, 2002, made in terms of section 77 of the FIC Act and published in Government Notice 1595 in Government Gazette 24176 of 20 December 2002, as amended by Government Notice R456 in Government Gazette 27580 of 20 May 2005 and Government Notice R867 in Government Gazette 33596 of 01 October 2010 and Government Notice 1107 in Government Gazette 33781 of 26 November 2010 and Government notice 1062 in Government Gazette 41154 of 29 September 2017.

“**PCC**” refers to Public Compliance Communication.

“**Reporter**” refers to the person or entity making the report, accountable institutions and reporting institutions.

“**STR**” refers to a suspicious and unusual transaction report and all other reports filed in terms of section 29 of the FIC Act.

APPLICATION OF THIS GUIDANCE NOTE

1. The objective of this public compliance communication is to provide guidance on Directive 5 of 2019 which sets the conditions for the use of ATMS by reporters to identify potentially suspicious and unusual activities or transactions or series of transactions.
2. This PCC must be read together with the provisions of Directive 5 of 2019.
3. It is not mandatory for a reporter to use an ATMS. However, should the reporter opt to make use of an ATMS, they must do so in line with Directive 5.
4. Monitoring of transaction activity in order to identify STR's is different from payment screening and client screening against the Targeted Financial Sanctions consolidated list and the United Nations Security Council Consolidated Sanctions lists. Directive 5 and this public compliance communication relates to the monitoring of transaction activity only.

Part A - Time periods relating to alert generation and the management thereof

5. It is the Centre's expectation that "attend to alerts" as set out in Directive 5 means employees must start working on all ATMS alerts within 48 hours of the alert being generated, in order to determine whether the transaction and/or activity should be reported in terms of section 29 of the FIC Act. It is not the expectation of the Centre that an investigation of the alert must be completed within 48 hours (two days) of the alert being generated.
6. It is the Centre's view that the 48-hour period must be considered as 2 (two) days, therefore the 48 hours includes all days of the week excluding Saturdays, Sundays and public holidays.
7. The 48 hours (2 days) as stated in paragraph 5 above, is included in the 15 day period within which the STRs must be submitted to the Centre. When an alert is automatically generated on the ATMS, the 15 day reporting period starts.

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8. Reporters must ensure that all alerts are generated without delay from the date when the relevant activity and or transaction/s takes place, to prevent delays on the duty to report to the Centre within 15 days of becoming aware of the suspicious or unusual activity.

Part B - The effectiveness of an ATMS is dependent on certain factors

9. The board of directors, senior management or other person or group of persons exercising the highest level of authority in a reporter, remain responsible for the appropriate and effective use of an ATMS. When deciding on the relevant authority to make the required informed decisions regarding ATMS, the reporter must ensure that this authority/group of persons has the seniority, relative knowledge and oversight required to make informed decisions.
10. Where suspicious or unusual transactions or activities are detected by a reporter in an instance other than through an ATMS, the reporter should determine whether the ATMS can be enhanced to enable future detection of similar scenarios via the ATMS.
11. Where the ATMS is unable to monitor for activities and/or transactions for suspicious and unusual activity, manual monitoring is still required, to ensure that there is no monitoring gaps.
12. To ensure the optimal and overall effective functionality of ATMS, all reporters must ensure a continuous review of the ATMS employed, to ensure it is fit for purpose, that regular updates are undertaken, and that data integrity as well as correctness is maintained.

CONCLUSION

13. As part of its objectives, the Centre remains committed to assist reporters in the fight against crime, through combating the financing of terrorism and related activity, as well as money laundering.
14. The Centre has a dedicated Compliance Call Centre that may assist reporters to understand their obligations in terms of the FIC Act.
15. Should you have any queries please contact the Compliance Call Centre on 012 641 6000 and selecting option 1, or submit an online query by clicking on: <http://www.fic.gov.za/ContactUs/Pages/ComplianceQueries.aspx>, or visiting the Centre's website and submitting an online query.

Issued By:

The Director Financial Intelligence Centre

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