

## MEDIA RELEASE

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### **FINANCIAL INTELLIGENCE REPORTS: FIC ROLE CLARIFIED**

**Wednesday, 4 September 2019:** The Financial Intelligence Centre (FIC) has recently had several queries from the media about whether it had acted lawfully in providing certain information to the Office of the Public Protector.

The FIC generally does not comment on the assistance it provides to specific institutions which, by law, it is obliged to assist. Whilst the FIC also does not usually address issues through the media, it has a duty to correct inaccurate reporting and misinterpretation of its mandate in the public domain. These inaccuracies, if left uncorrected, can potentially harm the reputation of the FIC and create the impression that it acts pursuant to forces other than the law. The FIC wishes to state emphatically that the information provided to the Office of the Public Protector was both obtained and disseminated lawfully in terms of the Financial Intelligence Centre Act (FIC Act).

The FIC is created by statute and conducts itself strictly in accordance with the principles of the Constitution and the FIC Act. The organisation is governed by the rule of law, and it is neutral and objective in applying the FIC Act.

The FIC's role and mandate is to assist in the identification of the proceeds of crime, in combating money laundering and the financing of terrorism. It does this by receiving regulatory reports from accountable institutions, which includes banks, on suspicious and unusual transactions, on cash transactions above the threshold of R24 999.99 and on terrorist property.

The FIC responds to requests for information from legislated authorities and disseminates financial intelligence reports to them where necessary. In the 2017/18 financial year, the FIC disseminated 1 470 proactive financial intelligence reports (referrals) and responded to 2 243 requests for information.

In terms of section 40 of the FIC Act, legislated authorities include: the National Prosecuting Authority, the Office of the Public Protector, the State Security Agency, the Intelligence Division of the National Defence Force, the South African Revenue Service, the Special Investigating Unit and the Independent Police Investigative Directorate and investigating authorities in the Republic.

Accountable institutions, as well as other businesses, that have access to clients' transactions first hand, are in the best position to notice when those transactions are suspicious or do not make business sense. The source, contents and information contained in the regulatory reports they submit are confidential and only shared within the boundaries of the FIC Act.

Upon receipt of these reports the FIC analyses, assesses and interprets the information therein to develop financial intelligence reports. In discharging its mandate, the FIC is guided by the principle of 'follow the money', which is an internationally accepted principle for financial intelligence units globally. The financial intelligence reports tell a story on the flow of funds, ultimate beneficiaries and benefactors. In this, it adds considerable value to the fight against crime in the country.

The FIC's mandate does not extend to investigation and prosecution. It is for this reason that the FIC works closely with legislated authorities in the broader criminal justice system and related areas. The financial intelligence provided to these authorities consists of a combination of factual information and the FIC's analysis of those facts.

In terms of the FIC Act, legislated authorities are required to use the information they have obtained from the FIC within the scope of their powers and duties, as well as the purpose for which it was requested. As such, the FIC does not control how the legislated authorities handle the information received from the FIC during the course of their investigations.

In terms of section 40(1) of the FIC Act, the FIC must make available the financial intelligence reports generated by its analysis, to officers who are authorised to receive this information. This duty to make information obtained by the FIC available to specific requesting institutions (of which the Office of the Public Protector is one) is also imposed by section 3(2)(a)(viii) of the FIC Act. Section 4(b) of the FIC Act enjoins the FIC to inform, advise and co-operate with these legislated institutions.

The FIC is monitoring the pending litigation between the President and the Office of the Public Protector closely, and should there be a need, it shall seek permission to intervene solely for the purposes of clarifying its mandate and to assist the Court to ensure that there is no misleading of the Court.

Issued by:

**The Financial Intelligence Centre**