ANNEXURE A – DETAILED OVERVIEW OF AMENDMENTS TO CHAPTER 4 OF GUIDANCE NOTE 7A

Guidance Note 7 was issued in October 2017, after a detailed consultation on the document.

Draft Guidance note 7A was issued for consultation during 2024, and a final version of Guidance Note 7A was published in February 2025. Guidance Note 7A replaces Guidance Note 7 from the date of publication of Guidance Note 7A.

Guidance Note 7A reflects amendments relating only to Chapter 4 in relation to the discussion of the risk management and compliance programme (RMCP).

The paragraph numbering of Guidance Note 7 has been retained in Guidance Note 7A to align with the existing Chapter 4 number sequencing. Where new paragraphs have been inserted, they have been referenced with revised numbering (e.g. paragraph “181A”).

The amendments to Chapter 4 of Guidance Note 7A are reflected below:

GENERAL EXPLANATORY NOTE:

[ ]	Words in bold type in square brackets indicate omissions from existing guidance.
________	Words underlined with a solid line indicate insertions in existing guidance.

180. Accountable **[Section 42 of the FIC Act places an obligation on accountable]** institutions must **[to]** develop, document, maintain and implement a risk management and compliance programme (RMCP) for anti-money laundering (AML), counter-terrorist financing (CTF) and counter proliferation financing (CPF). The accountable **[An accountable]** institution's RMCP documentation must record all the elements of the programme as set out in section 42 of the FIC Act.

181. **[ability to apply a risk-based approach effectively is largely dependent on the quality of its RMCP. An accountable institution's RMCP must be sufficient for countering the ML/TF risks facing the institution.]** It is important that **[for]** accountable institutions acknowledge **[to bear in mind that a RMCP not only comprises of policy documents, but also of procedures, systems and controls that must be implemented with]**in their RMCPs **[the institution. The RMCP can therefore be described as the foundation of an accountable institution's efforts to comply with its obligations under the FIC Act on a risk sensitive basis.]**

[It is important also that accountable institutions note] that the board of directors (where the accountable institution is a legal **[senior management or the]** person with a board of directors), or the senior management of an accountable institution without a board of directors **[the highest level of authority]** is ultimately responsible for ensuring that the accountable institution implements and complies with their RMCPs. **[maintains an effective internal AML/CFT control structure through a RMCP]**

Role of the **[The]** *board of directors* **[or]** *senior management, or the persons with the highest level of authority in the accountable institution*

Responsibilities relating to approval and compliance

181A. The accountable institution's board of directors, or senior management, or the person(s) with the highest authority must **approve** the RMCP and **ensure compliance** by the accountable institution and its employees with the provisions of the FIC Act and its RMCP.

181B. An accountable institution that is a legal person must have a compliance function and assign a person with sufficient competence and seniority to assist the board of directors or senior management in complying with the FIC Act and their RMCP. An accountable institution that is not a legal person (except a sole proprietor) must appoint a person with sufficient competence as the compliance officer.

181C. The obligation to approve the RMCP and accountability of the board of directors, senior management, persons or group of persons with the highest authority of an accountable institution that is a legal person, cannot be delegated to other persons, group of persons, employees, committees or structures within the accountable institution. The RMCP must be approved by the board of directors or senior management itself and cannot be delegated to any other persons.

Example 1: Obligation and accountability of the board cannot be delegated

The board of directors of Bank K must approve the RMCP, the board cannot delegate its obligations in terms of the FIC Act. The board may have a committee that provides advise on the suitability of the RMCP, however the committee cannot take the decision to approve the RMCP. The obligation to approve the RMCP remains with the board.

181D. Where an accountable institution that is a legal person does not have a board of directors, the obligation for approval of the RMCP and accountability of the senior management or person or group of person(s) with the highest authority, cannot be delegated to other persons, employees, committees or structures within the accountable institution.

181E. Where the accountable institution is a sole proprietor, the obligation for approval of the RMCP and accountability of the person(s) with the highest authority cannot be delegated to another person or group of persons.

Adequacy of RMCP approval

181F. The RMCP must adequately address the full scope of section 42 of the FIC Act. The board of directors, senior management or other person(s) with the highest authority should ensure that the RMCP is **adequate, suitable and effective** for the accountable institution.

181G. The RMCP must be described comprehensively in the documentation tabled for approval by the board of directors, senior management or person(s) with the highest authority. The RMCP documentation should not merely reference other documents but must include an adequate and substantial description of the elements of the RMCP.

181H. The accountable institution must be able to demonstrate that there is sufficient information in the RMCP documentation to enable the board, senior management and the person(s) with the highest authority, to apply their minds to determine whether the RMCP is adequate for the accountable institution.

181I. The RMCP documentation must include substantial information that would enable the board, senior management or person(s) with the highest authority, to gain full appreciation for the ML, TF and PF risks the accountable institution faces and the controls that are in place to mitigate and manage the risk, and whether the RMCP enables compliance by the accountable institution with its obligations as set out in the FIC Act.

181J. Where the RMCP documentation does not sufficiently describe the RMCP, it cannot be demonstrated that the board of directors, senior management or person(s) with the highest authority have applied their minds to determine whether the RMCP complies with section 42 of the FIC Act. This may be indicative of non-compliance with section 42(2B) and section 42A of the FIC Act.

181K. A board of directors, senior management or person(s) with the highest authority who demonstrates an underdeveloped understanding of the accountable institution's RMCP will be unable to discharge their obligation in terms of section 42A(1) of the FIC Act.

181L. The RMCP documentation provided to the Centre or supervisory body, on request or during an inspection, must include the approval of the RMCP by the board of directors, senior management or person or group of person(s) with the highest authority.

181M. An inadequate RMCP and RMCP documentation provided to the Centre or supervisory body, may constitute non-compliance with the FIC Act and may lead to administrative sanctions being imposed. The board of directors, senior management or other person or group of person(s) with the highest authority may be sanctioned in terms of section 61 of the FIC Act.

Example 2: Inadequate RMCP

During an inspection, Bank M provides RMCP documentation which does not describe the bank’s risk-based approach, neither does it adequately detail the bank’s specific inherent and residual ML, TF and PF risks. Bank M thereafter seeks to add further documentation, which did not form part of the documentation that was provided to the board for approval.

In this scenario a supervisory body could conclude that the board of directors did not discharged its responsibility of determining whether the RMCP adequately addresses the ML, TF and PF risk. Further that the board of directors did not ensure compliance with the FIC Act and approve an adequate RMCP.

Culture of compliance

182. The board of directors or senior management or person(s) with the highest authority should ensure that **[must create]** a culture of compliance within the accountable institution is maintained, including **[,]** ensuring that the accountable institution's policies, procedures and processes are designed to identify, assess, monitor, mitigate **[limit]** and control risks of ML, TF **[money laundering]** and PF **[terrorist financing]** and are fully consistent with FIC Act obligations **[the law]** and that employees **[staff]** adhere to them.

183. The board of directors, **[or]** senior management and person(s) with the highest authority is solely responsible for the adequateness of the RMCP and **[they**

should be fully engaged in decision making processes and take ownership of the risk-based measures adopted since] will be held accountable if the RMCP is found to be inadequate.

Example 3: Approval of an RMCP without adequate application of mind
Bank O's AML, CFT and CFP risk committee approved the RMCP documentation, and the board approved the committee's decision without having reviewed and applied their minds to determine whether the RMCP sufficiently and adequately enables compliance with the FIC Act as well as manages and mitigate the ML, TF and PF risk. This constitutes non-compliance by the board of directors, in terms of its obligations with the FIC Act.

Example 4: Inadequate RMCP documentation
During an inspection, financial services provider M (FSP M) provides RMCP documentation that is merely an outline and does not provide a description of the RMCP which has been approved by the board of directors. This scenario may indicate that FSP M's RMCP has not been approved by the board. This may constitute non-compliance with the board of director's obligations in terms of the FIC Act.

Example 5: Version control
During an inspection, financial services provider Q (FSP Q) provides the approved RMCP to the supervisory body. However, after the approval of the RMCP, FSP Q updated and implemented a revised RMCP that has not been approved by the board of directors. This scenario may constitute non-compliance by the board of directors in terms of its obligations with the FIC Act.

Elements of an effective RMCP and the documentation of an RMCP

183A. Sections 42(1), 42(2) and 42(2A) of the FIC Act indicates what must be included in an accountable institution's RMCP. The Centre recommends that the RMCP documentation includes the following three parts as a minimum:

Part 1 – Identification and assessment of the risk **[content of the RMCP (or its application in]** the accountable institution faces of being abused for ML, TF and PF (e.g. the risk-based approach assessment, methodology, framework, entity, product and service offerings, developing technologies, delivery mechanisms, enablement processes, business processes and client risk assessments etc.) as well as an indication of the accountable institution's risk tolerance level or appetite **[is found to be inadequate.]**

Part 2 – Mitigation and management of risks identified through applying appropriate controls, including customer due diligence (CDD), reporting and record keeping etc.

Part 3 – Monitoring whether the controls implemented are adequate and effective to mitigate and manage the risks as identified and assessed.

Risk identification

183B Accountable institutions must first conduct an entity wide AML/CFT/CFP risk assessment to identify the ML, TF and PF risks the accountable institution faces, before determining the controls required to mitigate the risk, which controls form part of the RMCP. Before the board approves the RMCP, the board must consider whether the RMCP adequately mitigates the ML, TF and PF risk, therefore the board must be satisfied, that an entity wide AML/CFT/CFP risk assessment has been conducted, and all the relevant risk factors have been taken into account.

183C The accountable institution's entity wide AML/CFT/CFP risk assessment is an important first step in ensuring that an appropriate RMCP can be developed, as it should be comprehensive enough to enable an accountable institution to clearly identify, assess and appreciate the inherent and residual ML, TF and PF risks and threats it faces. This includes taking into account the nature, size, products, service offerings, industry, client base, geographic location(s), complexity of business, delivery mechanisms, third party service providers and any other relevant factors of the accountable institution.

183D. Where the accountable institution forms part of a group, separate entity risk assessments should be conducted by each accountable institution, which should feed into the group's entity wide AML/CFT/CFP risk assessment. An accountable institution should clearly indicate in the RMCP, whether all accountable institutions that form part of a group structure have been covered when conducting the group entity wide AML/CTF/CPF risk assessment. The entity wide AML/CFT/CFP risk assessment must adequately cover all of the accountable institution's businesses, products, service offerings, technologies, delivery mechanisms, enablement processes, business processes and client base etc.

183E. The risk assessments should also be informed by published national and sector risk assessments that must be reflected in the RMCP as applicable to the business of the accountable institution.

Documentation considerations

183F. The RMCP documentation constitutes the identifiable and readily accessible information that comprehensively records the RMCP. The accountable institution must make the RMCP available to employees and also use it for training. Most importantly, it would be the documentation provided to the FIC or other supervisory body, on their request, for examination purposes in terms of section 42(4) of the FIC Act.

183G. RMCP documentation must reference related documentation that constitutes and enables the full implementation of the RMCP. Documentation that is not referenced in the RMCP is not considered to be part of the RMCP.

184. The RMCP documentation [**A RMCP**] should include a description of the board of directors, [**directors' or**] senior management or person(s) with the highest authority, and a description of the compliance function that assists. The RMCP documentation should also include a description of the [**management's accountability and the appointment of a person with adequate**] seniority and experience of the person who assists in [**to assist with**] ensuring compliance with the FIC Act.

184A. [**It is suggested that this description also indicate how the function to manage the establishment and maintenance of effective AML/CFT systems and controls is discharged in the accountable institution.**] The accountable institution's RMCP documentation should also cover, among other aspects[**others**]:

- Appropriate training on ML, TF and PF [**money laundering and terrorist financing**] to ensure that employees are aware of and understand their legal and regulatory responsibilities and their role in handling possible criminal information or property and ML, TF and/or PF [**money laundering/terrorist financing**] risk management.
- Appropriate provision for[**of**] regular and timely information to the board of directors, [**or**] senior management or person(s) with the highest authority relevant to the management of the institution's ML, TF [**money laundering**] and PF [**terrorist financing]** risks.
- Appropriate documentation of the institution's risk management policies, risk assessment methodologies and risk profile in relation to ML, TF [**money laundering**] and PF [**terrorist financing**], including documentation of the institution's application of those policies.
- Appropriate descriptions of decision-making processes regarding [**in respect of the application of**] different categories of customer due diligence [**CDD**] and other risk management measures, including escalation of decision-making to higher levels of seniority in the accountable institution where necessary[**and]**
- Appropriate measures to ensure that ML, TF and PF [**money laundering**] risks are escalated and considered in the day-to-day operation of the institution, including in relation to:
    - The development of new products, services, delivery mechanisms, practices and technologies
    - Taking on or onboarding of new clients [**and**]
    - Ongoing monitoring of business relationships
    - Changes in the institution's entity wide AML/CFT/CFP risk assessment [**business]** profile.

185. An accountable institution's RMCP must [**always**] be commensurate with the size, [**and**] complexity [**of the institution**] and the nature of the institution's

[**its**]business. This implies that the [**a**] RMCP for an accountable institution which does not provide a wide range of products and/or services, or which does not deal with a diverse range of clients, could be relatively simple. Complex [**while that of a complex**] financial institutions which provide a wide range of products and services or that deal with a diverse range of clients [**institution**] would be expected to have a [**be)** much more complicated and multi-faceted RMCP.

185A. [**complex**] An accountable institution is required to indicate in the documentation of its RMCP whether [**if**] any of the elements described in section 42 of the FIC Act do not apply to that particular institution. The institution is also required to indicate in its RMCP [**the reason**] why such processes are not applicable to the institution or what alternative control measures have been implemented.

186. The nature and extent of an accountable institution's internal systems and controls which form part of its RMCP depends on a variety of factors, including:

- The nature, scale and complexity of the accountable institution's business
- The diversity of its operations, including geographical locations [**diversity**]
- Its client, product or services profile **[;]**
- Its distribution channels, delivery mechanisms, and use of technology [**;**]
- The value, volume and size of its transactions [**;and**]
- The degree of risk associated with each area of its operations [**operation**].

187. Accountable institutions which operate in groups of companies may implement group-wide RMCPs. In doing so, accountable institutions must ensure that the various elements of group-wide RMCPs, including internal processes, systems and controls are appropriate for the different entities or branches within the group and are adequately tailored to specific entities or branches within the group, commensurate with their individual risks, where necessary. The group wide RMCP should indicate what elements are applicable to different entities and what is not applicable to different entities within the group and why this is so.

188. Accountable institutions situated in South Africa and operating in foreign jurisdictions [**outside of South Africa**] should also be aware of the local AML, CFT and CFP [**/CFT**] obligations in all jurisdictions where they operate. This should be reflected in the accountable institution's RMCP document. Procedures

should be in place to meet local AML, CFT and CFP obligations in each jurisdiction where an accountable institution operates. If there are variations or conflicts between the South African and the foreign jurisdiction's [**local**] AML, [*/*] CFT and CFP compliance requirements, and if the foreign jurisdictions [**meeting local**] requirements would result in a lower standard than in [**the**] South Africa, the accountable institution must implement measures which meet the South African requirements. Unless there is a reason that prevents the accountable institution from doing so, then the accountable institution must inform the supervisory bodies, and take into consideration the level of risk in the foreign jurisdiction and apply appropriate additional measures to manage the risk.

189. It is important that the RMCP and the content of an accountable institution's documentation of their RMCP is communicated widely throughout the institution, as may be applicable, and the implementation thereof monitored consistently and audited periodically to increase the effectiveness of its implementation.

190. An accountable institution must review its RMCP at regular intervals to ensure that it remains relevant to the institution's operations and the identified risks. The review, and any amendments made to the RMCP must be documented and approved as described above.

190A. Accountable institutions that are designated non-financial businesses and professions (DNFBPs) are urged to refer to public compliance communication (PCC) 53 for a detailed explanation on how a RMCP may be documented, including using a template that could aid in the documentation of an RMCP.

Supervisory approach

190AA. When conducting an inspection, the supervisory body may inspect whether the board of directors, senior management or person(s) with the highest authority approved the RMCP, in terms of section 42(2B) of the FIC Act.

190BB. The supervisory body will analyse and apply its mind to determine whether the accountable institution's board of directors, senior management or person(s) with the highest authority, understand the risks, which is translated into appropriate and adequate controls, including monitoring and oversight measures as part of the RMCP.

190CC. This is a holistic assessment of whether Part 1, Part 2 and Part 3 stated above have been covered in the accountable institution's RMCP, whether it has been described in the RMCP documentation, and whether the RMCP documentation (including reviews and amendments) has been approved by the board of directors, senior management or person(s) with the highest authority.