

NATIONAL TREASURY

NO. 2943

20 January 2023

**FINANCIAL INTELLIGENCE CENTRE ACT, 2001: AMENDMENT OF MONEY
LAUNDERING AND TERRORIST FINANCING CONTROL REGULATIONS**

The Minister of Finance has, in terms of section 77 of the Financial Intelligence Centre Act, 2001 (Act No. 38 of 2001), made the regulations set out in the Schedule.

SCHEDULE

GENERAL EXPLANATORY NOTE:

[] Words in bold type in square brackets indicate omissions from existing enactments.

 Words underlined with a solid line indicate insertions in existing enactments.

Definitions

1. In these regulations, “**the Regulations**” mean the Money Laundering and Terrorist Financing Control Regulations, 2002, published in Government Notice R.1595 of 20 December 2002, as amended by Government Notice R456 in Government Gazette 27580 of 20 May 2005, Government Notice R867 in Government Gazette 33596 of 01 October 2010, Government Notice 1107 in Government Gazette 33781 of 26 November 2010 and Government Notice R1062 in Government Gazette 41154 of 29 September 2017.

Amendment of regulation 1

2. Regulation 1 of the Regulations is hereby amended by—

(a) the insertion after the definition of “guidance” of the following definition:

“**international funds transfer report**’ means a report which must be submitted in terms of section 31 of the Act;” and

(b) the substitution for the definition of “reporter” of the following definition:

“**reporter**’ means—

- (a) an accountable institution or reporting institution making a cash threshold report under section 28 of the Act as contemplated in regulation 22C;
- (b) an accountable institution making a terrorist property report under section 28A of the Act as contemplated in regulation 22A; **[and]**
- (c) a natural or legal person making a suspicious or unusual transaction report, suspicious or unusual activity report, terrorist financing transaction report or terrorist financing activity report, under section 29

of the Act as contemplated in regulations 23, 23A, 23B or 23C, or other entity on whose behalf such a report is made; and

- (d) an accountable institution making an international funds transfer report under section 31 of the Act as contemplated in regulation 23E;”.

Insertion of new regulations

3. The following regulations are hereby inserted after regulation 23C of the Regulations:

“Prescribed amount for the reporting of an international funds transfer report

23D. The prescribed amount of funds above which a transaction must be reported to the Centre under section 31 of the Act is R19 999,99.

Information to be reported concerning an international funds transfer report

23E. (1) When a reporter makes an international funds transfer report, the report must contain full particulars of—

- (a) the name of the accountable institution making the report;
- (b) the identifying particulars of the accountable institution on whose behalf the report is made including a registration or license number;
- (c) the contact address of the accountable institution on whose behalf the report is made;
- (d) the type of business or economic sector of the accountable institution on whose behalf the report is made;
- (e) in the case of a legal person or an entity making a report, the surname, first name, date of birth and contact particulars of a contact person who may be contacted in relation to the report; and
- (f) if the contact person mentioned in paragraph (e) is—
 - (i) a South African citizen or resident, the identifying particulars of that person and the type of identifying document from which the particulars were obtained; or
 - (ii) not a South African citizen or resident, the identifying particulars of that contact person and the source of identifying information

from which the particulars referred to were obtained and the issuing country thereof.

(2) In respect of any transaction for which an international funds transfer report is made, the report must contain—

(a) full particulars of—

- (i) the location where the transaction took place;
- (ii) the date of the transaction;
- (iii) the value of the transaction in local currency; and
- (iv) a description of how the transaction was conducted; and

(b) as much of the following information as is readily available—

- (i) the foreign currency value, currency code and conversion rate applied by the reporter, if the funds or any portion of the funds were converted into foreign currency;
- (ii) the unique internal reference number for the transaction, if such a number was allocated to the transaction;
- (iii) the Internet Protocol address pertaining to the device by means of which the transaction was conducted if the transaction was conducted by means of an internet transaction facility;
- (iv) the merchant location if the transaction was conducted by means of a credit or debit card;
- (v) a description of the South African Reserve Bank Balance of Payments category;
- (vi) a description of the South African Reserve Bank Balance of Payments subcategory; and
- (vii) the stated purpose for the transaction.

(3) In respect of a transaction by which funds are sent out of the Republic for which an international funds transfer report is made, the report must contain—

(a) full particulars of—

- (i) the location of the institution where the funds will be received; and
- (ii) the SWIFT code of the institution or institution code where the funds will be received; and

(b) as much of the following information as is readily available—

- (i) the particulars of the recipient of the funds; and

(ii) the number of the account to which the funds will be credited, if the funds are to be credited to an account.

(4) In respect of a transaction by which funds are received in the Republic for which an international funds transfer report is made, the report must contain—

(a) full particulars of—

(i) the location of the institution from where the transaction originated; and

(ii) the SWIFT code of the institution or institution code from where the transaction originated; and

(b) as much of the following information as is readily available—

(i) the particulars of the originator of the transaction; and

(ii) the number of the account from which the funds are sent, if the funds are sent from an account.

(5) In respect of a person conducting a transaction for which an international funds transfer report is made, or an entity for which a natural person is conducting such a transaction, the report must contain as much of the following information as is readily available—

(a) in the case of a natural person—

(i) the person's title, gender, names and surname;

(ii) the person's identifying number, nationality and date of birth;

(iii) the source of identifying information from which the particulars referred to in subparagraphs (i) and (ii) were obtained;

(iv) the person's contact address in the Republic;

(v) the person's contact number;

(vi) the person's occupation;

(vii) the person's country of residence;

(viii) if the person's country of residence is other than the Republic, the person's contact address in the country of residence;

(ix) the person's alias, if any;

(x) the person's source of funds;

(xi) the person's income tax number; and

(xii) the person's employer's name, contact address and contact particulars; and

- (b) in the case of a legal person or entity—
- (i) the person's or entity's name;
 - (ii) the person's or entity's identifying number, if it has such a number;
 - (iii) the information referred to in paragraph (a) in respect of the natural person with authority to conduct the transaction on behalf of the person or entity; and
 - (iv) in the case of a company, the information referred to in paragraph (a) in respect of at least one director of that company; or
 - (v) in the case of another type of legal person or other entity, the information referred to in paragraph (a) in respect of at least one natural person associated with that legal person or entity and the role of such person in the legal person or entity.
- (6) If any account held at the reporter was involved in the transaction for which an international funds transfer report is made, the report must contain—
- (a) full particulars in respect of each such account, of—
- (i) the account number;
 - (ii) the name and identifying particulars of the branch or office of the reporter where each account is held;
 - (iii) the type of account;
 - (iv) the currency in which this account is denominated; and
 - (v) the date on which the account was opened; and
- (b) as much of the following information as is readily available in respect of each signatory on each such account—
- (i) the person's title, gender, names and surname;
 - (ii) the person's identifying number, nationality and date of birth;
 - (iii) the source of identifying information from which the particulars referred to in subparagraphs (i) and (ii) were obtained;
 - (iv) the person's alias, if any;
 - (v) the person's contact address in the Republic;
 - (vi) the person's country of residence;
 - (vii) if the person's country of residence is other than the Republic, the person's contact address in the country of residence;
 - (viii) the person's contact number;

- (ix) the person's occupation;
- (x) the source of funds of the person;
- (xi) the person's income tax number; and
- (xii) the person's employer's name, contact address and contact particulars.

(7) In respect of each holder of each account referred to in subregulation (6), the report must contain—

(a) in the case of a natural person—

(i) full particulars of—

(aa) the person's names and surname;

(bb) the person's identifying number and date of birth; and

(ii) as much of the following information as is readily available—

(aa) the person's title, gender, nationality and alias, if any;

(bb) the person's contact address in the Republic;

(cc) the person's country of residence;

(dd) if the person's country of residence is other than the Republic, the person's contact address in the country of residence;

(ee) the person's contact number;

(ff) the person's occupation;

(gg) the person's source of funds;

(hh) the person's income tax number; and

(ii) the person's employer's name, contact address and contact particulars; or

(b) in the case of a legal person or other entity—

(i) full particulars of—

(aa) the person's or entity's name; and

(bb) the person's or entity's identifying number, if it has such a number; and

(ii) as much of the following information as is readily available—

(aa) the person's or entity's contact address in the Republic;

(bb) the type of business conducted by the person or entity;

(cc) the person's or entity's country of incorporation or origin;

- (dd) if the country of incorporation or origin is other than the Republic, the person's or entity's contact address in the country of incorporation or origin;
 - (ee) in the case of a company, the information referred to in paragraph (a)(i) and (ii), in respect of at least one director of that company; and
 - (ff) the tax number of the person or entity.
- (8) An international funds transfer report must contain an indicator or indicators in respect of the circumstances that gave rise to the submission of the report."

Amendment of regulation 24

4. Regulation 24 of the Regulations is hereby amended by the insertion after subregulation (4) of the following subregulation:

"(5) A report under section 31 of the Act must be sent to the Centre as soon as possible but not later than 3 days after a natural person or any of his or her employees, or any of the employees or officers of a legal person or other entity, has become aware of a fact of an international funds transfer that has exceeded the prescribed limit."

Amendment of regulation 29

5. Regulation 29 of the Regulations is hereby amended by the insertion after subregulation (6L) of the following subregulations:

"(6M) Any person or institution which fails to provide the information to be reported concerning an international funds transfer report in accordance with regulation 23E is guilty of an offence.

(6N) Any person or institution which fails to provide the information to be reported concerning an international funds transfer report in accordance with regulation 23E is non-compliant and is subject to an administrative sanction."

Commencement

6. These regulations take effect on 1 February 2023.