



financial intelligence centre

REPUBLIC OF SOUTH AFRICA

**ISSUE PAPER ON GUIDANCE REQUIRED TO IMPLEMENT
THE FINANCIAL INTELLIGENCE CENTRE AMENDMENT
ACT, 2016**

AUGUST 2016

INTRODUCTION

Purpose of the Issue Paper

1. The Issue Paper is intended to elicit comments on aspects where accountable institutions will require guidance when the amendments to the Financial Intelligence Centre Act, 2001 (the FIC Act), to be introduced by the Financial Intelligence Amendment Act, 2016 (the Amendment Act), take effect.
2. The focus areas identified in the Issue Paper are not the actual guidance which the Financial Intelligence Centre (the Centre) will issue on the areas identified. The views and proposals contained in this Issue Paper should therefore not be regarded as the Centre's final position on any particular matter.
3. The responses from commentators to the focus areas discussed in the Issue Paper will assist the Centre in developing a more comprehensive set of guidance products. Further consultation on the content of those guidance products will follow. Thereafter the Centre will issue a final set of guidance products, based on all the comments and contributions received during the two rounds of consultation.

Anticipated Date of Publication of Guidance

4. The guidance products will take effect at the same time as when the Amendment Act comes into operation.
5. The Centre's objective is to develop guidance products which will assist accountable institutions with the transition from a rules-based approach to a risk-based approach as well as to effectively implement the customer due diligence requirements that will be new to the FIC Act.

Method of Submission

6. Respondents are requested to only submit written comments, representations or requests to the Centre electronically on the online response form which will be accessible by clicking [here](#). The online commentary period runs from Thursday 01 September 2016 and closes on Monday, 19 September 2016, by close of business.
7. Respondent institutions forming part of an accountable institution group (comprising more than one accountable institution) are requested to submit one response encompassing all responses from that group.
8. An electronic version of this Issue Paper is available on the Internet at: www.fic.gov.za.
9. The Centre will assume that respondents agree to the Centre quoting from or referring to comments or attributing comments to respondents, unless representations are marked confidential.
10. The Centre can be contacted for further information at the following telephone numbers: Ms Poovindree Naidoo (012) 641 6236 / Ms Adri Potgieter (012) 641 6252.

1 ADOPTION OF A RISK-BASED APPROACH TO CUSTOMER DUE DILIGENCE

The Concept of Risk in the Risk Based Approach

- 1.1 The concept of “risk” covered by the risk-based approach relates to money laundering risk or terrorist financing risk (ML/TF).
- 1.2 It is accepted that there is no single clear definition of money laundering risk or terrorist financing risk adopted at the international level.
- 1.3 However, the expectation is that the concept of “risk” and risk management must always be contextualised within the particular business of an accountable institution, and as having an impact on the operational, line management and strategic objectives of that accountable institution.
- 1.4 In this context ML/TF risk refers to the risk that the products and services of an accountable institution may be abused by persons intent on carrying out ML/TF activities.
- 1.5 The concept of “risk” is often described as “the effect of uncertainty on objectives”, and that an effect is a positive or negative deviation from what is expected.
- 1.6 According to ISO 31000: 2009, risk may be managed or dealt with, as follows:
 - Avoiding the risk by deciding not to start or continue with the activity that gives rise to the risk;
 - Accepting or increasing the risk in order to pursue an opportunity;
 - Removing the risk source;
 - Changing the likelihood;
 - Changing the consequences;
 - Sharing the risk with another party or parties (including contracts and risk financing);
 - Retaining the risk by informed decision.

Assessment and Understanding of Risk

- 1.7 The Amendment Act makes provision for accountable institutions to apply a risk-based approach when carrying out customer due diligence measures. A risk-based approach to customer due diligence requires that accountable institutions conduct enhanced due diligence for higher risk clients and business relationships and are able to decide on simplified due diligence for low risk clients and business relationships.
- 1.8 The starting point of a risk-based approach is for accountable institutions to understand the risk that their products or services may pose to be used for ML/TF purposes. This implies that accountable institutions understand the ML/TF risks they face in their businesses and how these risks apply to each product or service they offer to their customers. In this context ML/TF risk refers to the risk that the products and services of an accountable institution may be abused by persons intent on carrying out ML/TF activities. Therefore the assessment of ML/TF risk indicates to an accountable institution to what extent it is vulnerable to money laundering and terrorist financing.
- 1.9 In order to understand the ML/TF risks, an accountable institution must have adequate processes, proportionate to the size and complexity of the institution, to identify and assess such ML/TF risks. These processes must identify the specific products and services that the accountable institution offers to its clients and consider how each of these is vulnerable to money laundering and terrorist financing.
- 1.10 Although money laundering and terrorist financing can emanate from many different sources, certain products, services, clients and geographic locations may be more vulnerable or have been proved historically to have been abused more often by criminals. Various factors, such as the number and volume of transactions, geographic locations, and nature of the client relationships should be

considered when an accountable institution assesses its ML/TF risks. The ML/TF risks may vary depending on how these factors apply to the specific characteristics of a particular product or service.

1.11 The following are examples of factors which accountable institutions should consider when identifying risk:

- the nature, size and complexity of the accountable institution;
- the type of products and services offered by the accountable institution - certain products and services offered by accountable institutions may pose a higher risk of ML/TF depending on the nature of the specific product or service offered;
- the type of transactions the accountable institution is involved in;
- characteristics and client types, including duration of relationships, source of funds, jurisdiction of clients and transaction values;
- delivery channels and payment processes – examples include non-face-to-face transactions and cash over the counter;
- geographic location from where clients are engaging with an institution or where clients are conducting their operations – examples include areas known for applying excessive client confidentiality, areas with weak regulatory measures against money laundering and terrorist financing, areas with weak transparency requirements for beneficial ownership of corporate structures, areas with high financial crimes, drug trafficking or gang related activities and areas with weak institutional frameworks such as supervisory, law enforcement and prosecuting agencies;
- the period for which a person had been a client of an institution;
- the size, speed, volume and frequency of transactions performed by clients;
- the nature of clients' businesses - examples include businesses that handle large amounts of cash and businesses with a complex ownership structures which could conceal underlying beneficial owners;
- the complexity of clients' transactions or accounts.

- 1.12 An assessment of ML/TF risks relating to clients could entail an assessment for each individual client or for groups of clients.
- 1.13 Once ML/TF risks have been identified, a level should be attributed to each risk. A risk matrix could serve as a tool to provide an objective basis to the assessment of several risk indicators. As no two accountable institutions are the same, the level of risk and therefore the risk ratings attributed to particular business relationships may vary between accountable institutions.
- 1.14 The assessment should ultimately draw together the factors relating to products and services used by the client and it is up to the accountable institution to determine the risk assigned to each client or group of clients. The conclusions reached through the processes to identify and assess ML/TF risks must be documented in the accountable institution's Risk Management and Compliance Programme (RMCP).
- 1.15 The mechanisms used in a particular accountable institution to assess ML/TF risk must be proportionate to the size and complexity of the institution. The risk assessment process therefore might be quite simple or very sophisticated depending on the size and structure of the accountable institution and the nature and range of products and services it offers.

Management of risk

- 1.16 An accountable institution should apply its knowledge and understanding of its ML/TF risks in the development of control measures to mitigate the risks identified. This implies that an accountable institution manages the risks by establishing systems and controls in response to the assessed risks. An accountable institution's systems and controls should provide for more information to be obtained about their clients, more secure confirmation of clients' information to be applied and closer scrutiny to be conducted to their clients' transaction activities where they assess the risk of abuse to be higher (enhanced due diligence). By

the same token an accountable institution's systems and controls may allow for less information to be obtained, less secure confirmation of information to be applied and less frequent scrutiny to be conducted where they assess the risk of abuse to be lower (simplified due diligence). Hence, the risk assessment process will assist accountable institutions in determining the nature and extent of resources necessary to mitigate and manage identified risks.

- 1.17 The systems and controls by which an institution decides to manage ML/TF risks and the levels of due diligence it chooses to apply in relation to various risk levels must be documented in its RMCP. Again, the systems and controls for the management of ML/TF risk in a particular accountable institution must be proportionate to the size and complexity of the institution. Therefore the management of ML/TF risk might be quite simple or very sophisticated depending on the size and structure of the accountable institution and the nature and range of products and services it offers.

Existing exemptions under the FIC Act

- 1.18 The Minister of Finance has made several exemptions from a variety of obligations under the FIC Act. Some of these have exempted accountable institutions completely from compliance with the "know-your-client" requirements of the FIC Act in certain scenarios while others have reduced the "know-your-client" requirements to a simplified form. In addition the Money Laundering and Terrorist Financing Control Regulations made under the FIC Act (the Regulations) contain many prescriptive requirements on how accountable institutions are to implement "know-your-client" measures of the Act.
- 1.19 With the introduction of the risk-based approach, accountable institutions will be able to determine which client relationships are higher or lower risk and therefore which mechanisms it will use to obtain the information it requires to perform customer due diligence. Moreover the flexibility afforded by the risk-based approach will be inconsistent with the prescriptive nature of the relevant parts of

the Regulations. The Regulations and the exemptions will therefore need to be amended significantly with large parts being withdrawn when the Amendment Act comes into operation.

Issues to be taken into consideration

1.20 Taking the above-mentioned factors into account, the Centre would like commentators to comment on the following specific issues:

A. Issues relating to the risk assessment of products and services:

- The Centre would appreciate receiving the views of commentators on their understanding of the concept of risk and how it should be contextualised in relation to ML/TF risk.
- Commentators are requested to comment on the application of the concept of risk given the context in their particular institution.
- What other risk factors particular to your industry and institution do you think should be considered when conducting a risk assessment?
- Are there any products or services that are a lesser risk for money laundering or terrorist financing?
- Are there any products or services that are a higher risk for money laundering or terrorist financing?
- Are there any other factors particular to your institution to be taken into consideration when categorising a business relationship as a higher risk or lower risk?
- What is the expectation of commentators on the extent of guidance that the Centre should provide in relation to identifying the risks and the conducting of the risk assessment across the different sectors?
- What is the expectation of commentators on the extent of guidance that the Centre should provide in relation to developing a risk matrix?
- Would smaller firms have difficulty conducting a risk assessment and if so what challenges are institutions faced with when assessing risk?
- Would de-risking pose a threat to the concept of a risk-based approach?

B. Issues relating to the management of risk:

- What mechanisms are available to accountable institutions to manage higher ML/TF risk?
- Are there sector specific measures available to categories of accountable institutions to manage higher ML/TF risk?
- What guidance would accountable institutions require from the Centre to manage higher ML/TF risk as opposed to lower risk?

C. Issues relating to the withdrawal of exemptions:

- The following exemptions may be withdrawn:
 - Exemption 2 relating to timing of verification
 - Exemption 4 relating to reliance on another accountable institution to establish and verify a client's identity
 - Exemption 5 relating to reliance on verification done by an institution in a foreign country
 - Exemption 6 relating to publicly listed companies
 - Exemption 7 related to insurance and investment providers
 - Exemption 8 related to members of exchanges
 - Exemption 9 related to members of exchanges for legal persons and non-controlled clients
 - Exemption 10 related to services performed by attorneys and administrators of property
 - Exemption 11 related to estate agents
 - Exemption 12 relating to entertainment activities in gambling institutions
 - Exemption 13 related to gambling institutions in respect of single transactions
 - Exemption 14 related to gambling institutions in respect of single transactions

- Exemption 15 related to banks in respect of unsecured loans
- Exemption 16 related to business relationships with foreign counter-parts
- Exemption 17 related to banks in respect of low value products
- Exemption on prepaid instruments
- Exemption on low-value cross-border remittances
- Commentators' views are sought on how they would apply graduated customer due diligence measures (varying from simplified due diligence for low risk relationships to enhanced due diligence for high-risk relationships) in the absence these exemptions
- Commentators' views are sought on whether there are areas of their business which pose no ML/TF risk and may therefore continue to be exempted completely from compliance with the customer due diligence requirements of the FIC Act.
- What guidance would accountable institutions require from the Centre to apply customer due diligence measures in the absence of the relevant exemptions?

2 CUSTOMER DUE DILIGENCE MEASURES

- 2.1 Customer due diligence refers to the knowledge that an accountable institution has about its client and the institution's understanding of the business that the client is conducting with it.
- 2.2 A customer due diligence programme, if properly implemented, enables an accountable institution to better manage its relationships with clients and to better identify possible attempts by clients to abuse the institution's products and services for illicit purposes.

Establishing and verifying clients' identities

- 2.3 Customer due diligence starts with an accountable institution knowing the identity of its client. In terms of amended section 21 of the FIC Act an accountable institution must, in the course of establishing a business relationship or entering into a single transaction, establish and verify the identity of the client or the person representing the client or another person on whose behalf the client is acting. This must be done in accordance with the measures contained in the accountable institution's RMCP.
- 2.4 Previously accountable institutions were required to establish and verify the identity of a client in accordance with the regulations to the Act. With the application of a risk-based approach, instead of relying on rigid requirements in regulations and exemptions granted at the executive level, accountable institutions will have greater discretion to determine the appropriate compliance steps to be taken in given instances, in accordance with their RMCP.
- 2.5 As a result, the regulations and exemptions relating to client identification and verification will be amended significantly with most of the regulations and exemptions being withdrawn. Instead of following the rigid steps provided for in the Regulations accountable institutions will determine the appropriate verification measures to be taken, in accordance with their RMCP. This means that accountable institutions will have the flexibility to choose the type of information by means of which it will establish clients' identities and also the means of verification of clients' identities.
- 2.6 Moreover, accountable institutions will also be able to differentiate between the means of identification and verification used in respect of clients in different risk categories, applying simplified measures in cases of lower risk and applying enhanced measures in cases of higher risk. As mentioned above, accountable institutions will have to record the manner in which and processes it follows when applying enhanced or reduced due diligence in its RMCP.

2.7 Taking the above-mentioned factors into account, the Centre would like commentators to comment on the following specific issues:

D. Issues relating to establishing and verifying clients' identities:

- What information would an accountable institution typically use to establish the identity of a natural person?
- What means of verification would an accountable institution use to confirm a natural person's identity?
- Are there examples of documents or other means of verification particular to your institution that may be used to establish and verify the identity of lower risk clients?
- Are there examples of documents or other means of verification particular to your institution that may be used to establish and verify the identity of higher risk clients?
- Are there more flexible verification mechanisms available to accountable institutions such as digital data enabled verification and if so, please provide specific examples?
- What is the expectation of commentators on the extent of guidance that the Centre should provide in relation to establishing and verifying the identity of a lower risk clients across the different sectors taking into account that much of the regulations and exemptions relating to identification and verification of clients will be withdrawn?
- What is the expectation of commentators on the extent of guidance that the Centre should provide in relation to establishing and verifying the identity of a higher risk clients across the different sectors taking into account that much of the regulations and exemptions relating to identification and verification of clients will be withdrawn?
- To what extent will accountable institutions continue to rely on the existing regulations and exemptions as a benchmark to establish and verify the identities of clients, as a transition to a more mature application of a risk-based approach?

Single transaction threshold

- 2.8 The amendments provide for a single transaction threshold. An accountable institution is not required to carry out the full scope of due diligence measures in respect clients conducting single transactions below a value to be set by the Minister of Finance in regulations.
- 2.9 The threshold amount for a single transaction does not apply to the obligations set out in section 20A of the Act. This means that, in spite of the single transaction threshold, accountable institutions will be prohibited from establishing a business relationship or concluding any single transaction with an anonymous client or a client with an apparent false or fictitious name. Accountable institutions will be required to set out in its RMCP the basic information upon which it will rely in order to avoid dealing with anonymous clients.
- 2.10 Taking the abovementioned factors into account, the Centre would like commentators to comment on the following specific issues:

E. Issues relating to a single transaction threshold:

- What is the expectation of commentators on the value of the single transaction below which no identification and verification will be conducted?
- What information will be considered sufficient to ensure that accountable institutions do not transact with anonymous clients?

Additional client information

- 2.11 Sections 21A to 21H set out the requirements for additional information relating to customer due diligence.
- 2.12 Additional information is required at the outset of the business relationship in order to form an understanding of the client and the risks associated with the client relationship. This will allow accountable institutions to direct resources more

efficiently and to monitor client behaviour more accurately to identify suspicious or anomalous transactions or activities on the part of the client.

- 2.13 Section 21A of the FIC Act requires accountable institutions to ascertain from a prospective client what the purpose and intended nature of the business relationship will be, as well as to obtain information on the source of funds that the prospective client expects to use in the course of the business relationship. The purpose of section 21A is to understand who the client is and to determine the type of risk the client may pose to the institution.
- 2.14 Accountable institutions are only required to obtain the necessary information from the client and are not required to verify the information the client provides.
- 2.15 Taking the abovementioned factors into account, the Centre would like commentators to comment on the following specific issues:

F. Issues relating to understanding and obtaining information on business relationship:

- What is the expectation of commentators on the extent of guidance that the Centre should provide in relation to understanding and obtaining information on business relationships across the different sectors?

Beneficial ownership

- 2.16 Accountable institutions will be required to obtain and verify a set of basic information about a client that is a legal person when performing the identification elements of the customer due diligence process in relation to that client. The basic information should be contained in the institution's RMCP and should be sufficient to prove the existence of the legal person and describe the legal person's identity. This may include:
- the name of the legal person;
 - the legal form, for example, whether it is a company or a close corporate;
 - the registration number;

- the powers that regulate and bind the legal person, for example, the Memorandum of Articles of Association; and
- the address of the registered office.

2.17 Section 21B of the FIC Act will set out additional due diligence measures relating to legal persons, trusts and partnerships. This section will require that accountable institutions establish the nature of the client's business, the ownership and control structure of the client and the beneficial ownership of clients that are not natural persons. A "beneficial owner" will be defined in respect of a legal person as the natural person who, independently or together with another person, owns the legal person, or exercises effective control of the legal person.

2.18 Requiring the identification of the beneficial ownership of legal persons is a key step to bring greater transparency to activities in a financial system. These provisions will make it more difficult for people to transact "at arm's length" with accountable institutions without revealing their own identities. This will enhance accountable institutions' ability to assess client related risks in the course of managing business relationships and will improve the ability of authorities to detect, investigate and prosecute abuses of accountable institutions for money laundering and terrorism financing purposes.

2.19 Section 21B(2) will provide for a process of elimination which accountable institutions will be required to follow to determine the beneficial ownership of legal persons:

- The process starts with the identity of each natural person who, independently or together with another person, has a controlling ownership interest in the legal person.
- If the ownership interests do not indicate a beneficial owner, or if there is doubt as to whether the person with the controlling ownership interest is the beneficial owner, the accountable institution will have to establish who the natural person is who exercises control of the legal person through other

means, for example, persons exercising control through different classes of shares or shareholders agreements.

- If no natural person can be identified who exercises control through other means, the accountable institution will have to establish who the natural person is who exercises control over the management of the legal person, including in the capacity of an executive officer, non-executive director, independent non-executive director, director or manager.

2.20 Once the accountable institution determines who the natural person is who is considered to be the beneficial owner of a legal person, the institution must take reasonable steps to verify that person's identity. The underlining element of this requirement is that the accountable institution must be satisfied that it knows who the beneficial owner is.

2.21 Taking the above-mentioned factors into account, the Centre would like commentators to comment on the following specific issues:

G. Issues relating to beneficial ownership

- Are there any products and services, or clients in respect of which reduced or simplified measures should be applied (due to there being substantially less risk of money laundering or terrorist financing) in so far as the requirement to obtain beneficial ownership information is concerned?
- Should guidance provide an indication of a percentage of shareholding or ownership interest to indicate who may be a beneficial owner?
- If so, what percentage of shareholding or ownership interest would realistically indicate who may be a beneficial owner?
- What reliable sources of information do accountable institutions envisage using to verify information relating to legal persons?
- Which of the concepts or terminology used in the provisions creates uncertainty and requires guidance so that it can be contextualized in greater detail?

- Are there specific challenges in relation to applying customer due diligence measures for legal persons, trusts and partnerships that commentators believe should be addressed in guidance?

Foreign prominent public officials and domestic prominent influential persons

- 2.22 The starting point for the effective implementation of measures relating to persons who are entrusted in prominent public or private sector positions, is for accountable institutions to have effective measures in place to know who their clients are and to understand their clients' business.
- 2.23 If an accountable institution finds out that it is dealing with a foreign prominent public official, senior management approval will be required to establish the business relationship. Accountable institutions will also be required to take reasonable measures to establish the source of wealth and source of funds of the client and conduct enhanced ongoing monitoring of the business relationship. Accountable institutions will not be required to verify the information about the client's source of wealth and source of funds, but will have to include this information in its client profile which will be used as the basis for enhanced ongoing monitoring.
- 2.24 If a client is a domestic prominent influential person, the accountable institution will need to decide if there is any reason to conclude that a relationship with the client brings higher risk of abuse for money laundering and terrorist financing purposes. If so, the accountable institution will need to apply the same requirements as for foreign prominent public officials. These requirements will also apply to immediate family members of such prominent persons, as well as known close associates.
- 2.25 Schedule 3A to the FIC Act will contain a list of positions that will be considered domestic prominent influential persons. The Centre does not envisage providing a list of names of individuals occupying the positions contained in the Schedule. However, the Centre will assist accountable institutions, through as much guidance

as is practicable, to determine where the information of those persons may be found. The same approach will apply to persons occupying positions listed as foreign prominent public officials in Schedule 3B to the FIC Act.

- 2.26 In respect of the category of persons who provide goods and services to any organ of state, it is envisaged that the Minister will delay the operational date of this paragraph in the legislation, given that information about persons who may fall in this category is not publically available currently. The National Treasury will explore ways to make such information readily available to enable easier compliance by accountable institutions.
- 2.27 The Centre will provide examples of relationships that may indicate ‘known close associates’ in the guidance to assist accountable institutions in determining if such persons fall within Schedules 3A and 3B.
- 2.28 Taking the above-mentioned factors into account, the Centre would like commentators to comment on the following specific issues:

H. Issues relating to foreign prominent public officials and domestic prominent influential persons:

- Commentators are requested to express their views on the challenges in developing its RMCP to provide for the manner in which and processes by which institutions determine whether a prospective client is a foreign prominent public official or a domestic prominent influential person.
- Are there specific challenges in relation to applying additional customer due diligence measures for clients who are foreign prominent public officials or a domestic prominent influential persons?

3 RISK MANAGEMENT AND COMPLIANCE PROGRAMME (RMCP)

- 3.1 All ML/TF controls must be properly documented, regularly updated and communicated to employees of the institution.

- 3.2 Section 42 of the amended FIC Act places a responsibility on accountable institutions to develop, document, maintain and implement a RMCP. The effective implementation and application of risk based approach is largely dependent on the accountable institution's RMCP.
- 3.3 The customer due diligence measures discussed earlier in this document are linked with an accountable institution's application of a risk based approach through the institution's RMCP. The content of the RMCP is contained in section 42(2) of the amended FIC Act.
- 3.4 Taking the above-mentioned factors into account, the Centre would like commentators to comment on the following specific issues:

I. Issues in relation to the Risk Management and Compliance Program:

- Commentators are requested to specify any challenges in relation to the development of the RMCP that may require guidance in order to ease the compliance obligations.

4 RECORD KEEPING

- 4.1 The amendments to the FIC Act will provide for an obligation on accountable institutions to keep customer due diligence records.
- 4.2 The FIC Act will further provide for an obligation to keep records of every transaction which that accountable institution has with a client. Transaction records will have to be sufficient to enable the transaction to be reconstructed and will have to include the amount, currency, date of transaction, parties to the transaction, the nature of the transaction, business correspondence and also the identifying particulars of all accounts and account files related to the transaction if the accountable institution provides account facilities.

- 4.3 This will ensure that adequate information will be captured in an accountable institution's records to enable the reconstruction of a trail of transactions with a view to assist investigators in determining flows of funds when performing their investigative functions.
- 4.4 The amendments further provide that records may be kept in electronic form and must be capable of being reproduced in a legible format.
- 4.5 Taking the above-mentioned factors into account, the Centre would like commentators to comment on the following specific issues:

J. Issues relating to record keeping requirements:

- Commentators are requested to specify any challenges in the implementation of the record keeping requirements that may require guidance in order to ease the compliance obligations?
- Commentators are requested to provide examples of electronic forms of storage that accountable institutions could utilise for storage of records?
- Commentators are requested to specify any challenges it anticipates in respect of the Centre, supervisory bodies and law enforcement accessing electronically stored records for inspection and investigative purposes.

5 IMPLEMENTATION OF THE UNITED NATIONS SECURITY COUNCIL (UNSC) RESOLUTIONS RELATING TO THE FREEZING OF ASSETS

- 5.1 The amendments will empower the Centre to administer the targeted financial sanctions measures adopted by the United Nations Security Council (UNSC) in its Resolutions. These will require accountable institutions to freeze property and transactions pursuant to financial sanctions imposed in the UNSC Resolutions. Mechanisms for the implementation of the UNSC Resolutions include the publication in the Government Gazette by the Minister of Finance of a Notice of the adoption of the UNSC Resolution, and the publication of a Notice by the director of the Centre of persons who are subject to the sanction measures (the

sanctions list). These Notices may be revoked if it is considered that they are no longer necessary to give effect to the applicable UNSC Resolutions.

- 5.2 The acquisition, collection or use of the property of persons or an entity whose names appear in the sanctions list will be prohibited. This will include the provision of financial services and products to those persons or entities. Access to financial services and products by persons identified in sanctions lists will only be for ordinary and necessary expenses, such as food, rent or mortgage and medical treatment. An obligation will be placed on accountable institutions to report to the Centre, the property in the accountable institution's possession or under its control which is owned or controlled by or on behalf of a person or an entity identified in the sanctions list.
- 5.3 Accountable institutions would be required to have a screening process in place to determine whether a client of the institution appears on the sanctions list. This will apply to existing clients (in order to determine whether accountable institutions have existing clients who may be affected by new sanctions measures), as well as prospective clients (in order to determine, during the client-take-on process whether the person is affected by existing sanctions measures).
- 5.4 Taking the above-mentioned factors into account, the Centre would like commentators to comment on the following specific issues:

K. Issues relating to implementation of UNSCR and freezing of assets:

- Commentators are requested to specify any challenges in relation to the screening of clients to determine whether a client of the institution appears on the sanctions list.
- Commentators are requested to specify any challenges in the implementation of the UNSCR and freezing of assets requirements that may require guidance in order to ease the compliance obligations?

6 IMPLEMENTATION OF CUSTOMER DUE DILIGENCE MEASURES IN RESPECT OF EXISTING CLIENTS

- 6.1 The amendments relating to customer due diligence is applicable to prospective clients when the Act takes effect. It is the intention of the Centre to issue guidance relating to the amended customer due diligence measures to be applied to existing clients of accountable institutions.

L. Issues relating to implementation of the FIC Act in respect of prospective and existing clients:

- Commentators are requested to specify any challenges and/or issues that may arise when implementing the amended FIC Act in relation to existing clients that may require guidance?

7 CONCLUSION

- 7.1 The issues raised in this Issue Paper do not represent a closed list of issues to be considered for guidance purposes. In this regard it is important, at this stage of the consultative process, that commentators indicate any further issues that will assist the Centre in this process.