

Ref.: 15/8/1/3

To: All accountable institutions falling under the supervision of the Prudential Authority in terms of Schedule 1 read with Schedule 2 of Financial Intelligence Centre Act 38 of 2001 (Act No. 38 of 2001)

Proposed Directive issued by the Prudential Authority in terms of section 43A(3) of the Financial Intelligence Centre Act 38 of 2001

Requirement to submit anti-money laundering and counter-financing of terrorism risk returns to the Prudential Authority on a quarterly basis

Executive summary

In terms of section 45 of Financial Intelligence Centre Act 38 of 2001 (the FIC Act), it is the responsibility of the Prudential Authority (PA) as a supervisory body to ensure that it supervises and enforces compliance with the provisions of the FIC Act by accountable institutions falling within its supervision. In terms of Schedule 1 read with Schedule 2 of the FIC Act, the PA is the supervisory body for the following accountable institutions: (i) a person who carries on the 'business of a bank' as defined in the Banks Act 94 of 1990, (ii) a mutual bank as defined in the Mutual Banks Act 24 of 1993 and (iii) a person who carries on a 'long-term insurance business' as defined in the Long-Term Insurance Act 52 of 1998 read with the Insurance Act 18 of 2017 (hereinafter referred to as 'supervised entities').

This Directive is issued by the PA in terms of Section 43A(3) of the FIC Act and serves to direct supervised entities to on a quarterly basis, submit information linked to the assessment of compliance with its obligations in terms of the FIC Act to the PA.

1. Introduction

- 1.1 The PA is a supervisory body in terms of Schedule 1 read with Schedule 2 of the FIC Act for the following accountable institutions: (i) a person who carries on the 'business of a bank' as defined in the Banks Act 94 of 1990, (ii) a mutual bank as defined in the Mutual Banks Act 24 of 1993 and (iii) a person who carries on a 'long-term insurance business' as defined in the Long-Term Insurance Act 52 of 1998, read with the Insurance Act 18 of 2017.
- 1.2 As a supervisory body, the PA, in seeking to further its understanding and assessment of money laundering (ML), terrorist financing (TF) and proliferation financing (PF) risk, and the efficiency of associated controls in the banking and life insurance sector requires that information at an institutional level be provided to the PA on a regular basis.

- 1.3 The PA takes note of Financial Action Task Force recommendations and in line with its own risk-based approach to supervision, the PA utilises a combination of off-site and on-site supervisory tools to achieve effective risk-based supervision. The information received from the banks and life insurers will assist the PA in its supervisory duties.
- 1.4 Core Principle 12 of the Core Principles (CP) for Effective Banking Supervision issued by the Basel Committee on Banking Supervision (BCBS) states that an essential element of banking supervision is that supervisors supervise the banking group on a consolidated basis, and adequately monitor and, as appropriate, apply prudential norms to all aspects of the business conducted by the group worldwide.

2. Directive and format of submission

- 2.1 The following supervised entities are directed to complete and submit the pertinent ML/TF/PF risk returns to the PA as provided for below:
- a. banks;
 - b. branches of foreign institutions;
 - c. cross-border banking operations of domestic banking groups (branches and subsidiaries), where applicable;
 - d. mutual banks; and
 - e. life insurers¹.
- 2.2 The information required is both quantitative and qualitative in nature and requires supervised entities to maintain requisite data to be in a position to provide the details required.
- 2.3 Where banking or insurance groups are concerned, information requested in respect of cross-border subsidiaries and branches should be completed by the relevant in country subsidiary/branch and submitted to the PA via the controlling company or head office located in South Africa.
- 2.4 In aid of the aforementioned, supervised entities will be required to electronically complete and submit the ML/TF/PF risk return through the PA's webpage by using the link: (to be provided).

3. Frequency of the ML/TF/PF risk returns

- 3.1 Supervised entities are to submit ML/TF/PF returns to the PA quarterly, and are to cover the following reporting periods:
- a. Quarter 1: January, February, March
 - b. Quarter 2: April, May, June
 - c. Quarter 3: July, August, September
 - d. Quarter 4: October, November, December

¹ A life insurer is person who carries on life insurance business in the "Life Annuities" class, "Individual Investments" class or "Income drawdown" class as described in Table 1 of Schedule 2 to the Insurance Act, 2017 (Act 18 of 2017) or provide rider benefits, as defined in that Act, relating to these classes, but excludes reinsurance business as defined in that Act.

3.2 Completed ML/TF/PF risk returns must be submitted to the PA within 30 business days from the end of each quarter.

4. Failure to complete and submit a submission

4.1 This proposed Directive is issued in terms of section 43A(3) of the FIC Act. The submission of ML/TF/PF risk returns are thus mandatory.

4.2 Failure to complete and submit a risk return is considered non-compliance with this Proposed Directive and may result in administrative sanctions in accordance with section 62E of the FIC Act.

5. Effective date

5.1 This Proposed Directive is effective from date of publication in the government gazette.

6. Enquiries

6.1 Any enquiries related to the local bank risk returns submission may be submitted to localbank.riskreturn@resbank.co.za.

6.2 Any queries relating to the banking sector subsidiary risk return submission may be submitted to AMLCFTreturn@resbank.co.za.

6.3 Any queries relating to life insurance sector risk return submission may be submitted to: Insurancesurvey2@resbank.co.za.

7. Acknowledgement of receipt

7.1 Kindly ensure that a copy of this proposed Directive is made available to your institution's external auditors. An acknowledgement of receipt must be provided, completed and by both the chief executive officer of the institution and the said auditors should be returned to the PA at the earliest convenience of the aforementioned signatories.

8. Invitation for comment

8.1 The PA has previously received feedback on the risk returns and invites supervised entities to submit further comments for consideration to localbank.riskreturn@resbank.co.za by no later than 20 days from the date of publication of this proposed Directive.



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Date: 23 March 2022