

FIC ACT OBLIGATIONS FOR GAMBLING ENTITIES

DUE TO THE HIGH VOLUME AND FREQUENCY OF LARGE CASH TRANSACTIONS AT GAMBLING ENTITIES, CRIMINALS MAY SEE IT AS A SAFE BET TO HIDE THEIR PROCEEDS OF CRIME AND LEGITIMISE ILL-GOTTEN GAINS.

It is therefore important that the gambling sector be aware of the money laundering and terrorist financing risks they face, and the measures designed to help mitigate these threats. Gambling entities, such as casinos, can play their part in assisting in the fight against financial crime by meeting their mandatory Financial Intelligence Centre Act (FIC Act) obligations.

In 2019, the Financial Intelligence Centre (FIC) conducted a preliminary risk assessment of the inherent money laundering and terrorist financing risks affecting the gambling sector in South Africa. Earlier this month, the FIC shared the findings of preliminary report. The money laundering risks, vulnerabilities and indicators associated within the gambling sector point to inherent risks associated with money laundering as being high.

As part of the control measures, as set out in the FIC Act, certain obligations are imposed upon this sector to assist in identifying the proceeds of crime, combating money laundering and terrorist financing. The FIC Act obligations include:

- Registering via the FIC's electronic registration and reporting system
- Applying a risk-based approach to identifying and verifying customers
- Developing a risk management and compliance programme (RMCP) in managing money laundering and terrorist financing
- Keeping records of transactions
- Submitting regulatory reports to the FIC
- Providing ongoing training to employees on their RMCP and FIC Act requirements
- Appointing a compliance officer.

Registration with the FIC

Gambling entities, as item 9 of Schedule 1 in the FIC Act, must register with the FIC as accountable institutions. The FIC has published a user guide and public compliance communication 5C (PCC 5C) which provide information on how to register and report via the FIC's online registration and reporting system, called goAML.



Adopting a risk-based approach

Gambling entities must have a good understanding of their clients i.e. their clients' source of funds for transactions, changes in client conduct in relation to transactions or client undertakings, and identification and verification information.

This is done through the client due diligence process of establishing and verifying clients (natural person or legal entity) whether it is a new or existing business relationship. Gambling entities can vary their approach to customer identification and verification, depending on factors such as the type of customer, business relationship, product or service offering, and location.

The FIC's guidance note 7, which is available on www.fic.gov.za, describes some examples of risk factors that may be considered.

Customer due diligence

Gambling entities must know their clients and may not conduct business with an anonymous client. It is therefore required that the gambling entity identifies and verifies clients and/or the clients' beneficial owners when establishing a business relationship or conducting a single, once-off transaction. The gambling entity must have a good understanding of its clients, including their source of funds and nature of their business.

Account monitoring and reporting

Gambling entities are required to register on and file regulatory reports on the goAML system. These reports contain transactional and other client information. There are three primary regulatory reporting streams for all accountable institutions:

- Cash threshold reporting - on cash received or paid by the accountable institution exceeding the amount of R24 999.99
- Suspicious and unusual transaction reporting - where a person becomes aware that a transaction is unusual or arouses suspicion in terms of money laundering, terrorist financing activities or proliferation financing.
- Terrorist property reporting - property associated with terrorism, proliferation financing and related activities.

Regulatory reports may include information about the client's financial transactions, amounts involved, bank account details and account balances. The FIC uses the regulatory reports it receives to conduct analysis to identify possible links to unlawful activities.

Record-keeping

Gambling entities must keep records of client identification and verification information, transactional information and regulatory reports submitted to the FIC. These records must be kept for five years from the date of the business relationship being established and/or the transaction being concluded.

Risk management and compliance programme

The gambling entity must develop, document, maintain and implement an RMCP, setting out how the entity will manage their money laundering, terrorist and proliferation financing risks, as set out in section 42 of the FIC Act. The board of directors, or senior management are responsible to ensure the gambling entity and its employees comply with the provisions of the FIC Act and the RMCP.

Training of employees

The gambling entity must provide training for employees on their FIC Act obligations and the entities RMCP.

The National Gambling Board (NGB) is established in terms of the National Gambling Act, 2004 (Act 7 of 2004) (NGA), to regulate gambling activities in a legal, safe and crime-free environment.

The NGA contains a range of measures that incorporate the FIC Act into the gambling licensing regime to regulate the sector and effectively mitigate the risks of money laundering or terrorist financing.

Licensees must comply with provisions of the NGA, FIC Act and applicable laws within the provinces in which they conduct, engage in, or make available the licensed activities.

in terms of the NGA or applicable provincial law, when considering an application to operate a gambling entity, a provincial licensing authority may request information from the FIC to determine whether a person is disqualified from holding an interest in a licence, licensee, licensed premises, or the business to which a licence relates.

Each provincial licensing authority is responsible for supervising and enforcing compliance by licensees in terms of their FIC Act obligations, insofar as it applies to the gambling industry. ■

CONTACT US FOR MORE INFORMATION AND GUIDANCE

- FIC Compliance Contact Centre +27 12 641 6000
- Visit www.gov.za for guidance notes and public compliance communications
- Log an online compliance query on the FIC website or following this link <http://www.fic.gov.za/ContactUs/Pages/ComplianceQueries.aspx>



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