



## financial intelligence centre REPUBLIC OF SOUTH AFRICA

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### UPDATE NOTICE TO ALL ATTORNEYS IN SOUTH AFRICA

#### REGISTRATION OBLIGATION OF ATTORNEYS IN TERMS OF THE FIC ACT

The Financial Intelligence Centre (the Centre) reminds all attorneys of the obligation to register with the Centre in terms of section 43B of the Financial Intelligence Centre Act No 38 of 2001, as amended (the FIC Act).

The period for accountable and reporting institutions to register with the Centre ended on **01 March 2011**. The Centre strongly recommends that attorneys that have not as yet registered do so as soon as possible. Late registrations closer to 01 March 2011 will be viewed more favourably, as sanctions will be issued for late registration in due course.

Each branch of an attorneys firm will be regarded as a separate accountable institution and will be required to acquire separate secure login credentials from the Centre. For example: Attorneys firm ABC has two (2) branches in Cape Town, one (1) branch in Bloemfontein and another branch in Pretoria. All of these branches will have to acquire separate secure login credentials from the Centre.

All necessary documentation for registration with the Centre is available on the Centre's website at [www.fic.gov.za](http://www.fic.gov.za).

#### ENFORCEMENT CAPACITY OF THE CENTRE

The Centre has recently established its enforcement capability and is now in a position to commence inspections in terms of section 45B of the FIC Act for

purposes of determining compliance with the relevant provisions of the FIC Act, including the registration requirement.

The Centre reserves the right to issue sanctions or penalties for late registrations under the FIC Act. The failure of institutions to register with the Centre constitutes a contravention of the FIC Act, which carries a maximum criminal fine of R10 million or 5 years in prison, or an administrative sanction. The administrative sanction may include, but is not limited to, a reprimand, a restriction of business activities or a financial penalty not exceeding R10 million for natural persons and R50 million in respect of any legal person.

### **APPEAL BOARD**

The Minister of Finance has also formally appointed the members of the Appeal Board for those who wish to challenge decisions of the Centre or a supervisory body.

Attorneys are therefore encouraged to ensure that they are fully compliant with the provisions of the FIC Act to avoid the criminal and/or administrative sanctions being imposed in terms of the FIC Act.

### **CASH THRESHOLD REPORTING**

Attorneys are reminded of their obligation to file cash threshold reports with the Centre in terms of section 28 of the FIC Act. Section 28 of the FIC Act requires that accountable and reporting institutions must within 2 business days, report to the Centre the prescribed particulars concerning a cash transaction concluded with a client in excess of R25 000 which:

- (a) Is paid by the accountable institution or reporting institution to the client, or to a person acting on behalf of the client, or to a person on whose behalf the client is acting; or
- (b) Is received by the accountable institution or reporting institution from the client, or from a person acting on behalf of the client, or from a person on whose behalf the client is acting.

## **SUSPICIOUS AND UNUSUAL TRANSACTION REPORTING**

The obligation to report suspicious transactions to the Centre in terms of section 29 of the FIC Act applies to all businesses in South Africa, including attorneys. Even though some businesses are actively reporting suspicious and unusual transactions to the Centre, our experience to date is that some attorneys are not filing suspicious transaction reports with the Centre.

The FIC Act requires the following persons to report in terms of section 29 to the Centre:

- A person who carries on a business of an attorney;
- A person who is in charge of or manages an attorneys firm; or
- A person who is employed by an attorney.

The requirement to report suspicious or unusual transactions applies to all attorneys practicing as single practitioners or as part of an attorneys firm. By reporting suspicious and unusual transactions to the Centre, attorneys will indirectly and, at times, directly help the fight against crime. This can lead to a more safer and stable business operating environment which encourages and improves investor confidence.

## **FEEDBACK AND ENQUIRIES**

Enquiries may be sent to the Centre by e-mail to [fic\\_feedback@fic.gov.za](mailto:fic_feedback@fic.gov.za).

You may also telephone the Centre on +27 860 FIC FIC (342 342).

Kindly consult the Centre's website at [www.fic.gov.za](http://www.fic.gov.za) to keep abreast of further developments.

**Financial Intelligence Centre**

**09 September 2011**