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# **FINANCIAL INTELLIGENCE CENTRE**

## **INDUSTRY GUIDANCE NOTE NO.1 OF 2012**

### **ON**

### **LEGAL PRACTITIONERS**

# AUGUST 2012

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## 1. INTRODUCTION

### 1.1 General

The Financial Intelligence Centre (FIC) performed compliance assessments during the first quarter of 2012 with the aim of gauging the level of compliance by legal practitioners with the provisions of the Financial Intelligence Act, 2007 (Act no 3 of 2007) (FIA).

Due to generic weaknesses found in the Anti-Money Laundering (AML) programs of the various law firms that has been assessed, the FIC decided to issue a formal guidance to the industry to ensure that:

- a) Identified weaknesses are addressed;
- b) that no competitive advantage exists in terms of compliance or non-compliance with the FIA; as well as
- c) ensuring that the overall compliance level is increased across the industry.

All firms are thus hereby requested to take into account this guidance in reviewing their AML program, align their respective AML programs to the guidance herein provided in order to avoid any sanctions for non-compliance with the provisions of the FIA in the future.

### 1.2 Definitions

"**FATF**" means the Financial Action Task Force;

"**Act**" refers to the Financial Intelligence Act, 2007 (Act No 3 of 2007);

"**Cash**" in the context of this guidance note refer to any property transaction financed in any other form except a mortgage or other form of loan from a licenced financial institution;

“**FIC**” means the Financial Intelligence Centre;

“**POCA**” refers to the Prevention of Organized Crime Act, 2004 (Act No.29 of 2004), as amended;

“**Regulations**” refer to the regulations made under the provisions of section 48 of the FIA and published by Government Notice No 74 of 2009, promulgated in Government Gazette No 4253 dated 5 May 2009;

“**Reporter**” refers to the person or entity making the report;

“**STR**” refers to a suspicious transaction report submitted to the FIC in terms of section 21 of the Act.

### **1.3 Application of this Guidance Note**

The FIC has prepared this Guidance Note to assist legal practitioners in private practice in meeting their obligations in terms of the FIA. The Guidance Note provides specific guidance on practical compliance with the provisions of the Act, with key interpretations and definitions provided on general misconceptions about the Act. This Guidance Note does not replace previous guidance notes issued in terms of the Act, but compliments such guidance notes.

The guidance provided by the FIC in this Guidance Note, although authoritative, is provided as general information only, intended to assist legal practitioners in private practice to enhance the quality of their implemented AML programs. It should be noted that failure to comply with the Act and its regulations constitutes an offence as defined in the Act. As this guidance merely explains to legal practitioners in private practice on how to go about complying with the Act and its regulations, non-adherence to the guidance may result in the AI being non-compliant with the Act and its regulations and subject the AI to sanctions provided for in the Act.

## 2 LEGAL PRACTITIONERS – DESIGNATED HIGH RISK SERVICES

### 2.1 General overview

The Financial Action Task Force (FATF), as the international standard setter for Anti-Money Laundering and Combatting the Financing of Terrorism (AML/CFT) preventative measures, limits the services to be captured by a country's AML/CFT regime. For Legal Practitioners, the services are limited to the preparation and carrying out of certain specific activities on behalf of their client, namely:

- a) **Buying and selling of real estate (Conveyancing);**
- b) Managing of client money, securities or other assets;
- c) Management of bank, savings or securities accounts;
- d) Organization of contributions for the creation, operation or management of companies or other legal persons; and
- e) Creation, operation or management of legal persons or arrangements, and when facilitating the buying and selling of business entities.

This guidance is limited to point (a) above, in that this service has been identified as the most vulnerable to possible Money Laundering (ML) abuse in the Namibian context, with the Namibian property market currently experiencing a boom and attracting potential buyers from across the world.

The FIC observed that there are quite a number of law firms performing the services as mentioned under points (b) to (e) above, which are also regarded as highly vulnerable to ML abuse. Practitioners are as such cautioned to be vigilant when performing these services.

## 2.2 Conveyancing services

### 2.2.1 Introduction

When performing conveyancing work for clients, regardless of whether the legal practitioner is representing the buyer or the seller, he/she should identify both parties in accordance with the requirements of the Act. Due to the nature of conveyancing work, both parties will be providing identification data in the process of finalizing the agreement of sale (Deed of sale) and as such, the legal practitioner should merely ensure that the data is recorded in a consistent manner. The FIC has, for this reason, developed a standard checklist to be used as guidance for legal practitioners in private practice when evaluating the client identification documents used in identifying and verifying their client's identities and obtaining additional or supplementary information required by the Act.

Please refer to **Annexure A** for a sample template that may be used by legal practitioners as a guide in order to ensure that they are best equipped to comply with the identification and record keeping requirements under the Act.

### 2.2.2 ML Risk posed by providing Conveyancing services

The ML risk posed by the provision of conveyancing services is heightened by the risk of receiving potential proceeds of crime into the trust account of the legal practitioner. As such the risk each client poses should be evaluated properly, based on the nature of each transaction and then be considered in the context of the risk pose by conveyancing work. See **Annexure B** for a list of indicators to use in terms of identifying and assessing the risk each respective client poses.

Primarily it is worth noting that a lack of information in respect of the buyer and the source of funds to be used in the transaction, places the legal practitioner in a very unfavorable position as far as meeting the obligation of identifying any unusual or suspicious transactions. This is largely due to the fact that the identification of unusual or suspicious transactions relies on the availability and accuracy of relevant client information. As both parties in a conveyancing transaction are already identified by

virtue of the agreement of sale being completed, legal practitioners are simply required to ensure that the information collected is accurate and that the relevant forms are fully completed.

Should the behavior of the client or the terms on which the transaction is settled not conform to the information collected, the legal practitioner should have a procedure in place to ensure that these deviations be evaluated and a suspicious transaction is filed, if any efforts to obtain an explanation, fail to deliver any results.

### **3. INDUSTRY AML CONTROLS**

#### **3.1 General controls mitigating potential industry ML risks**

It is important to note that due to the nature of conveyancing services, a lot of industry controls exist inherently, such as various declarations that are required to be provided by the clients (e.g. marital status), information collected pertaining the contracting parties, etc. The information so collected, should however be used by the law firm/legal practitioner in establishing whether a ML risk exist when dealing with certain clients.

##### **3.1.1 Developing of adequate AML Programs**

An AML Program is simply considered as any documented proof of how the law firm intends to comply with the provisions of the FIA. As such it may consist of only one document or a bundle of documents detailing the procedures, controls, rules, etc. implemented with the aim of protecting the entity from potential abuse by criminals aiming to use the business, its products or services for the purpose of laundering proceeds of crime.

The AML program must be approved at the highest management level and failure to adhere to the procedures outlined must attract disciplinary steps for the respective involved staff members.

An AML Compliance Officer should be designated at management level, preferably the partner responsible for the conveyancing department in the firm. This person will be responsible for the implementation of the AML compliance program as well as being the

contact between the firm and the FIC.

The AML program should at a minimum include the following:

- a) Overview of the background, governance structure and management of the business;
- b) Commitment and approval of senior management to comply with the Act;
- c) Description of the key internal rules, procedures, policies, etc. designed and implemented to ensure compliance with the Act;
- d) Description of the key controls implemented to ensure that the above internal rules, procedures, policies are adhered to and that these are operating effectively;
- e) Details on AML training provided to staff;
- f) Brief overview on the ML risks faced by the firm as identified by the management, considering the client base, services or products offered by the firm and the location of the business;
- g) Description of the independent review function implemented to provide management assurance that the key AML controls are working and that the entity complies with the FIA; and
- h) Copies of the relevant documents supporting any of the above.

Legal practitioners are also referred to the Guidance Note No. 4 of 2009 on the implementation of a compliance regime previously issued.

### **3.2 Specific controls recommended to Legal Practitioners to mitigate the ML risks associated with conveyancing services**

#### **3.2.1 Establish a policy not to accept cash above a certain threshold**

In general, it is recommended not to allow clients to pay for any services in cash above a certain threshold, especially if the client has the ability or rights to the money in the future. No threshold amount is suggested as firms of different sizes would have to assess the potential ML risk associated with its business and determine its own applicable threshold.



It is **not** recommended that legal practitioners refer clients to deposit cash directly into their bank account without performing the required customer due diligence. This does **not** reduce the ML risk posed by a cash transaction as the legal practitioner would be regarded as the client by the bank in such a scenario. Thus no assurance is offered to the legal practitioner as the bank would not subject the person depositing the money into the firm's account to any customer due diligence procedures. The bank might however still report a suspicious transaction to the FIC should they believe that this transaction might involve proceeds of crime. This poses a risk to the legal practitioner as the report might lead to a ML investigation being launched by Law Enforcement which may eventually lead to charges of ML being instituted against the legal practitioner in line with the provisions of the Prevention of Organized Crime Act, 2004 (Act No.29 of 2004) as amended (POCA). (See sections 4-6 of the POCA for ML offences)

### **3.2.2 Cash or partial cash transactions subject to management approval before commencement of administrative work**

Should the client (specifically the buyer) indicate an intention to settle the whole purchase price or part of the purchase price in cash, it is recommended that this transaction first be approved by the relevant legal practitioner responsible for the conveyancing client. A cash transaction is defined in terms of this guidance note, to include all transactions where property (real estate) is acquired without a mortgage bond by a licensed financial institution to fund the transaction. Meaning that it includes both physical cash (in a bag), electronic fund transfers (EFT), cheques, all loans from non-licensed financial institutions and persons, or any other means without a bond being registered against the property or other asset, in order to finance the transaction.

It is recommended that the legal practitioner:

- a) Ensure that all the required identification information has been collected and verified;
- b) Evaluate the information obtained in respect of the source of funds to be used in

the transaction in line with the other client information obtained;

- c) Subject the client to enhanced due diligence measures aimed at gaining enough information to reduce the potential ML risk (probability that the funds might be proceeds of crime); and
- d) Ensure that existing/regular conveyancing clients are adequately identified in order to establish the nature of the client's business activities, their reasons for selling/buying real estate in order to enhance the client profile.

### **3.2.3 Transfer of ownership of legal persons and donation of property**

It is recommended that transactions where the change of ownership in a legal person is performed on behalf of a client and that legal person owns an underlying property, be subjected to enhanced scrutiny by the responsible legal practitioner in order to ensure that the potential ML risk is addressed, e.g. the sale of membership interest in a close corporation (CC) where that CC owns property.

The beneficial owners exercising significant control over the legal person should also be properly identified with the supporting documentation being obtained.

It is also recommended that transactions where property is being donated between seemingly unrelated parties, be subjected to enhanced scrutiny to ensure that the transaction was not settled in cash "under the table", which may involve proceeds of crime.

### **3.2.4 Upon finalization of the transaction, the legal practitioner should again ensure that all the required identification and transaction data are on the file, before approving the archiving of the file**

It is important that management ensure that the required records in terms of the FIA are kept in a safe storage space. Management should thus sign off on each conveyancing file before files are archived. Should records be kept by a third party, notice should be given to the FIC as required by the FIA and its regulations.

### **3.2.4 Approval and scrutiny of any refunds of (incorrectly) paid deposits by**

**management**

No refunds should be made to clients before the circumstances relating to the reason for such refund are evaluated as part of a formal process. Related to this is the fact that the firm's banking details should be removed from all correspondence such as letterheads, corporate stationery, etc. to avoid criminals from deliberately depositing money into a firm's trust or business account with the sole aim of requesting a refund directly into another existing bank account. A cheque or transfer from a legal practitioner's account would be a very plausible explanation if provided by an individual when his/her bank enquires as to source of funds.

See **Annexure C** for generic indicators of potential suspicious transactions which should be considered by management in designing, implementing and evaluating the internal controls within the business.

**4. IMPORTANCE OF KYC AND RECORD KEEPING IN REPORTING SUSPICIOUS TRANSACTIONS**

Clients deliberately engaging the services of any legal practitioner in a ML scheme do not necessarily care whether or not the legal practitioner might get fined for a failure to report a suspicious transaction, identify a client or keep the appropriate records as required by the FIA. They also do not care whether the firm is likely to be charged for ML offences when accepting proceeds of crime into its possession or for facilitating or assisting a person in a ML scheme. As such, the importance of identifying clients and using the information to identify and report suspicious transactions, cannot be overemphasized.

In terms of the POCA, filing a suspicious transaction is considered the only valid defense when an AI is charged with a ML offence. The FIA also offers the added comfort of protection of the confidentiality of the person or institution who filed the suspicious transaction report, thus there is no risk in losing any legitimate clients as a result of filing a report to the FIC. As such it can only be to the benefit of the firm to rather file the report than to hope that the transaction suspected of involving proceeds of

crime is not detected by the National AML system.

For more comprehensive details on how and when to file suspicious transaction reports, please refer to Guidance Note 1 of 2009<sup>1</sup> on Suspicious Transaction Reporting.

## 5. COMMENTS

This Guidance Note shall be reviewed from time to time. If you have any comments or suggestions to help improve this Guidance Note, please send your comments to the FIC by using the particulars provided herein below.

## 6. HOW TO CONTACT THE FIC

You can contact the FIC at the following telephone and fax numbers and email address:

- a) **The Director:** 061-2835283 and fax number 061-2835259;
- b) **The Deputy Director: Financial Investigations and Analysis:** 061-2835026 and fax number 061-2835259;
- c) **The Deputy Director: Legal and Compliance:** 061-2835215 and fax number 061-2835259; and
- d) [fichelpdesk@fic.na](mailto:fichelpdesk@fic.na)

**ISSUED AND PUBLISHED BY THE FINANCIAL INTELLIGENCE CENTRE - OCTOBER 2012**

All Correspondence and enquiries must be directed to:

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<sup>1</sup> Log onto [www.fic.na](http://www.fic.na), click on Financial Intelligence Centre and click on the drop down menu for Guidance Notes.

**The Director  
Financial Intelligence Centre  
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**Annexure A**

**SECTION A: ESTABLISHMENT AND VERIFICATION OF IDENTIFICATION**

**1. Establishment and verification of Identity of Natural Persons (Namibian citizens)**

<b>Information to be obtained</b>	<b>Method of Verification</b>
1.1 Full names:	Official identification document of that person, i.e. ID document or passport.
1.2 Nationality:	Or
1.3 Identity or Passport number or date of Birth:	Document bearing photograph of the person, his or her names, initials and surname, date of birth and identity number, i.e. driver's license/ voter's card/ birth certificate.
1.4 Contact Particulars:	
1.5 Occupation or source of income:	<i>It is important that the Accountable Institution obtains adequate information to be able to detect when a client could be dealing in financial or transactional values beyond the expected or stated norms.</i>
1.6 Source of income involved in the transaction (s):	
1.7 Nature and location of business activities:	
	<i>This makes it easier to raise suspicions or enquire for reasonable explanations from client.</i>
1.8 Residential address:	Under the FIA, it is not a requirement to verify client's residential address. However, verification is recommended when there is a need to carry out enhanced due diligence.
1.9 All of the above information also in respect of persons assisting legally incompetent persons should be obtained.	

***NB: Where a person purports to act on behalf of any person or entity that seeks to establish a business relationship, reasonable steps should be taken to ensure such person has authority, and the information and verification as per part 1 or 2, (whichever is applicable), must be obtained and made in respect of that person.***

## 2. Establishment and verification of Identity of Natural Persons (Non - Namibian citizens)

Information to be obtained	Method of Verification
2.1 Full names:	Passport from the country of which that person is a citizen,  And  Information obtained from any other independent source.
2.2 Nationality:	
2.3 National identity or Passport number or date of Birth:	
2.4 Contact Particulars:	Where possible, contact details need to be verified.
2.5 Occupation or source of income:	<i>It is important that the Accountable Institution obtains adequate information to be able to detect when a client could be dealing in financial or transactional values beyond the expected or stated norms.</i>  <i>This makes it easier to raise suspicions or enquire for reasonable explanations from client.</i>
2.6 Source of income involved in the transaction (s):	
2.7 Nature and location of business activities:	
2.8 Residential address:	Under the FIA, it is not a requirement to verify client's residential address. However, verification is recommended when there is a need to carry out enhanced due diligence.
2.9 All of the above information also in respect of persons assisting legally incompetent persons should be obtained.	

### 3. Establishment and verification of Identity of Companies and Close corporations

Information to be obtained	Method of Verification
3.1 Registered names:	<p>In respect of a company, the most recent versions of:</p> <p>Certificate of incorporation (CM1) and Notice of registered office and the postal address (CM22), both bearing the stamp of the Registrar of Companies and signed by the company secretary.</p> <p>The Memorandum of Association in the case of a company.</p> <p>And</p> <p>The founding statement in the case of a close corporation is normally adequate.</p>
3.2 The name under which it conducts business:	
3.3 Its registration number:	
3.4 The address from which it operates:	
3.5 In the case of a foreign company, the name under which it conducts business in Namibia and the registered address in the country where it is incorporated:	
3.6 The nature of its business activities:	
3.7 Income tax and VAT numbers:	<p>If possible, copies of official documentation citing company name and its respective number from the Ministry of Finance.</p>
3.8 The information as set out in part 1 or 2 above, whichever is applicable, for each of the following natural persons:	<p>Simply obtain information as cited in part 1 or 2 of this section (which ever is applicable).</p>
3.8.1 <i>The manager of the company or in the case of a close corporation, each member;</i>	
3.8.2 <i>Each natural persons who purports to establish a business relationship on behalf of the company or a close corporation;</i>	
3.8.3 <i>Each person holding 25% or more of the voting rights in a company.</i>	
3.8.4 <i>If the entity seeking to establish a business relationship on behalf of the close corporation or company is not a natural person, the information required in the relevant paragraph dealing with such entity must also be obtained and verified.</i>	



#### 4. Establishment and verification of Identity of Partnerships

Information to be obtained	Method of Verification
4.1 Registered name of the Partnership, if any:	The deed of Partnership, contract between partners or any other founding document by which the Partnership was established.
4.2 Registered number, if any:	
4.3 The full name (or trade name if different from the registered name), if any:	
4.4 The management company of the Partnership, if any:	In the case of a <i>foreign</i> Partnership, the document from that country reflecting these particulars.
4.5 The country where the Partnership was set up:	If possible, establish local residential address and contact details of such <i>foreign</i> Partnership, if it has local operations/ activities in Namibia.
4.6 The information as set out in part 1 or 2 above, whichever is applicable, for each natural persons who seeks to establish a business relationships on behalf of the Partnership.	Identification documents sufficient to verify the natural person's identity number, passport number or date of birth.

## 5 Establishment and verification of Identity of Trusts

Information to be obtained	Method of Verification
5.1 Registered name of the Trust, if any:	The deed of Trust, or any other founding document by which the Trust was established.
5.2 Registration number, if any:	
5.3 The country where the Trust was set up:	
5.4 The full name (or operating / business name of Trust if different from the registered name), if any:	The authorization from the Master of the High Court given to each trustee to act on behalf of the Trust,
5.5 The management company of the Trust, if any:	Or,  In case of a <i>foreign</i> Trust, the document from that country reflecting these particulars.  And,  If possible, establish local residential address and contact details of such <i>foreign</i> Trust, if it has local operations/ activities in Namibia.
5.6 The information as set out in part 1 or 2 above, whichever is applicable, for each natural persons who seeks to establish a business relationships on behalf of the Trust.	Identification documents sufficient to verify the natural person's identity number, passport number or date of birth.
5.7 In respect of each trustee, each beneficiary if named in the Trust deed and the founder of the Trust, the following:  - ID number  - Passport number  - Date of birth	

## 6. Establishment and verification of Identity of Associations and other Entities

Information to be obtained	Method of Verification
6.1 Registered name of the entity:	Constitution or other founding documents of such entity,  AND  Information obtained from an independent source.
6.2 Place of business:	
6.3 Its registration number:	
6.4 Principle activities:	
6.5 The information as set out in part 1 or 2 above, whichever is applicable, for each natural persons who seeks to establish a business relationship on behalf of that entity.	Identification documents sufficient to verify the natural person's identity number, passport number or date of birth.

## SECTION B: RECORD KEEPING REQUIREMENTS

**Ideal procedures on information to be kept and stored for record keeping purposes by the firm.**

### 1. Records to be kept

#### 1.1 Identification records

- a. Identify of the client;  
*(If any persons who acts on behalf of another, the Accountable Institution will obtain such a person's identity and the principle person's authority permitting such relationship)*
- b. The manner in which the identity was established and by whom;
- c. Nature of the business relationship;
- d. All accounts that are involved;

- e. Name of person(s) who obtained the information
- f. Records will be kept onsite and only transferred to a record keeping third party after closure. The Accountable Institution will have immediate access to such records, when stored offsite.
- g. All such identification records will be kept for a minimum of five years

### **1.2 Transaction records**

- a. Identity and address of the beneficiary or beneficial owner or person on whose behalf the transaction is conducted, as far as reasonably possible;
- b. Identity and address of the person in whose name the transaction is concluded;
- c. Type of transaction involved in (e.g. conveyancing, creation of legal persons, transfer to be made through the Accountable Institution, etc.);
- d. Identity of Accountable Institution where transaction occurred;
- e. Date, time, and amount of transaction.
- f. Records will be kept onsite and only transferred to a record keeping third party after closure. The Accountable Institution will have immediate access to such records, when stored offsite.
- g. All such transaction records will be kept for a minimum of five years

### **1.3 Record of Suspicious Transaction Reports (STR)**

- a. The Accountable Institution will keep records in both electronic format and hardcopies. Such records will be kept to enable reconstruction of any reported STRs/ transactions;
- b. The STR records will only be kept onsite and access thereto only isolated to the MLCO, relevant authorities or specific persons authorized accessed by the MLCO;
- c. Such records will be kept for a minimum period of five years.

## Annexure B

Factors to consider in assessing the ML/TF risk a client poses

### Client Risk

1. Determining the potential money laundering or terrorist financing risks posed by a client, or category of clients, is critical to the development and implementation of an overall risk-based framework and an effective AML program. Based on its own criteria, a legal professional should seek to determine whether a particular client poses a higher risk and the potential impact of any mitigating factors on that identified risk. Application of risk variables may mitigate or exacerbate the risk assessment. Categories of clients whose activities may indicate a higher risk include:
  - a) Non-resident clients depending on the type of service they require from the legal practitioner, the origin or source of funds to be used in the transaction – Due to the fact that it is very difficult to perform enhance due diligence on non-resident clients especially with regard to verifying details pertaining occupation or source of funds to be used in the transaction.
  - b) Politically Exposed Persons (PEPs) – If a legal practitioner is advising a client who is a PEP, or where a PEP is the beneficial owner of the client, with respect to the activities specified on page 5 of this guidance note, then the legal practitioner will need to carry out appropriate enhanced CDD. Relevant factors that will influence the extent and nature of the CDD include the particular circumstances of a PEP, the PEP's home country (in the case of a foreign PEP), the type of work the PEP is instructing the legal practitioner to perform or carry out, and the scrutiny to which the PEP is under in the PEP's home country (in the case of a foreign PEP);
  - c) Clients that are cash (and cash equivalent) intensive businesses including:
    - Money services businesses (e.g. remittance houses, currency exchange)

houses, casas de cambio, bureaux de change, money transfer agents and other businesses offering money transfer facilities);

- Casinos, betting and other gambling related businesses;
- Businesses that while not normally cash intensive generate substantial amounts of cash;
- Charities and other “not for profit” organisations (NPOs) that are not subject to monitoring or supervision (especially those operating on a “cross-border” basis);
- Clients using financial intermediaries, financial institutions or legal professionals that are not subject to adequate AML/CFT laws and measures and that are not adequately supervised by competent authorities or SROs.

d) Existing clients whose behavior or profile conforms to the following:

- Clients having convictions for proceeds generating crimes who instruct the legal professional (who has actual knowledge of such convictions) to undertake specified activities on their behalf;
- Clients who have no address, or multiple addresses with multiple contact numbers without legitimate reasons;
- Clients who change their settlement or execution instructions without appropriate explanation;
- The use of legal persons and arrangements without any apparent legal or legitimate tax, business, economic or other reason.

## Annexure C

### SPECIFIC EXAMPLES OF INDICATORS OF SUSPICIOUS TRANSACTIONS

The following are examples of common indicators that may point to a suspicious transaction:

#### General

- Client admits or makes statements about involvement in criminal activities.
- Client does not want correspondence sent to home address.
- Client appears to have accounts with several financial institutions in one area for no apparent reason.
- Client conducts transactions at different physical locations in an apparent attempt to avoid detection.
- Client repeatedly uses an address but frequently changes the names involved.
- Client is accompanied and watched.
- Client shows uncommon curiosity about internal systems, controls and policies.
- Client has only vague knowledge of the amount of a deposit.
- Client presents confusing details about the transaction or knows few details about its purpose.
- Client appears to informally record large volume transactions, using unconventional bookkeeping methods or “off-the-record” books.
- Client over justifies or explains the transaction.
- Client is secretive and reluctant to meet in person.
- Client is nervous, not in keeping with the transaction.
- Client is involved in transactions that are suspicious but seems blind to being involved in money laundering activities.
- Client’s home or business telephone number has been disconnected or there is no such number when an attempt is made to contact client shortly after

opening account.

- Normal attempts to verify the background of a new or prospective client are difficult.
- Client appears to be acting on behalf of a third party, but does not tell you.
- Client is involved in activity out-of-keeping for that individual or business.
- Client insists that a transaction be done quickly.
- Inconsistencies appear in the client's presentation of the transaction.
- The transaction does not appear to make sense or is out of keeping with usual or expected activity for the client.
- Client appears to have recently established a series of new relationships with different financial entities.
- Client attempts to develop close rapport with staff.
- Client uses aliases and a variety of similar but different addresses.
- Client spells his or her name differently from one transaction to another.
- Client uses a post office box or General Delivery address, or other type of mail drop address, instead of a street address when this is not the norm for that area.
- Client provides false information or information that you believe is unreliable.
- Client offers you money, gratuities or unusual favours for the provision of services that may appear unusual or suspicious.
- Client pays for services or products using financial instruments, such as money orders or traveler's cheques, without relevant entries on the face of the instrument or with unusual symbols, stamps or notes.
- You are aware that a client is the subject of a money laundering.
- You are aware or you become aware, from a reliable source (that can include media or other open sources), that a client is suspected of being involved in illegal activity.
- A new or prospective client is known to you as having a questionable legal reputation or criminal background.
- Transaction involves a suspected shell entity (that is, a corporation that has



no assets, operations or other reason to exist).

### **Knowledge of Reporting or Record Keeping Requirements**

- Client attempts to convince an employee not to complete any documentation required for the transaction.
- Client makes inquiries that would indicate a desire to avoid reporting.
- Client has unusual knowledge of the law in relation to suspicious transaction reporting.
- Client seems very conversant with money laundering or terrorist activity financing issues.
- Client is quick to volunteer that funds are “clean” or “not being laundered.”
- Client appears to be structuring amounts to avoid record keeping, client identification or reporting thresholds.
- Client appears to be collaborating with others to avoid record keeping, client identification or reporting thresholds.

### **Identity Documents**

- Client provides doubtful or vague information.
- Client produces seemingly false identification or identification that appears to be counterfeited, altered or inaccurate or more than one customer tries to use the same identification.
- Client refuses to produce personal identification documents.
- Client only submits copies of personal identification documents.
- Client wants to establish identity using something other than his or her personal identification documents.
- Client’s supporting documentation lacks important details such as a phone number.
- Client inordinately delays presenting corporate documents.
- All identification presented is foreign or cannot be checked for some reason.
- All identification documents presented appear new or have recent issue dates.

- Client presents different identification documents at different times.
- Client alters or refuses to proceed with the transaction after being asked for identity documents.
- Client presents different identification documents each time a transaction is conducted.

### **Cash Transactions**

- Client starts conducting frequent cash transactions in large amounts when this has not been a normal activity for the client in the past.
- Client frequently exchanges small bills for large ones.
- Client uses notes in denominations that are unusual for the client, when the norm in that business is different.
- Client presents notes that are packed or wrapped in a way that is uncommon for the client.
- Client deposits musty or extremely dirty bills.
- Client makes cash transactions of consistently rounded-off large amounts (e.g., N\$4, 900, N\$4,500, etc.).
- Client consistently makes cash transactions that are just under the reporting threshold amount in an apparent attempt to avoid the reporting threshold.
- Client consistently makes cash transactions that are significantly below the reporting threshold amount in an apparent attempt to avoid triggering the identification and reporting requirements.
- Client presents uncounted funds for a transaction. Upon counting, the client reduces the transaction to an amount just below that which could trigger reporting requirements.
- Client conducts a transaction for an amount that is unusual compared to amounts of past transactions.
- Client frequently purchases traveler's cheques, foreign currency drafts or other negotiable instruments with cash when this appears to be outside of normal activity for the client.
- Client asks you to hold or transmit large sums of money or other assets when

- this type of activity is unusual for the client.
- Shared address for individuals involved in cash transactions, particularly when the address is also for a business location, or does not seem to correspond to the stated occupation (for example, student, unemployed, self-employed, etc.)
  - Stated occupation of the client is not in keeping with the level or type of activity (for example a student or an unemployed individual makes daily maximum cash withdrawals at multiple locations over a wide geographic area).
  - Cash is transported by a cash courier.
  - Large transactions using a variety of denominations.

### **Economic Purpose**

- Transaction seems to be inconsistent with the client's apparent financial standing or usual pattern of activities.
- Transaction appears to be out of the normal course for industry practice or does not appear to be economically viable for the client.
- Transaction is unnecessarily complex for its stated purpose.
- Activity is inconsistent with what would be expected from declared business.
- A business client refuses to provide information to qualify for a business discount.
- No business explanation for size of transactions or cash volumes.
- Transactions of financial connections between businesses that are not usually connected (for example, a food importer dealing with an automobile parts exporter).
- Transaction involves non-profit or charitable organization for which there appears to be no logical economic purpose or where there appears to be no link between the stated activity of the organization and the other parties in the transaction.