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GUIDANCE NOTE NO 6 OF 2015

GUIDANCE NOTE ON SUSPICIOUS TRANSACTION REPORTS, SUSPICIOUS ACTIVITY REPORTS, CASH TRANSACTION REPORTS AND ELECTRONIC FUND TRANSFERS

First issued: July 2009

Revised and issued: December 2015

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1. INTRODUCTION

1.1 General:

This guidance note is issued under Section 9(1)(h) of the Financial Intelligence Act, 2012 (Act No.13 of 2012)(FIA) as amended by Section 63 of the Prevention and Combating of Terrorist and Proliferation Activities Act, 2014 (Act No. 4 of 2014), for compliance purposes.

Accountable and Reporting Institutions are expected to file with the Financial Intelligence Centre (FIC) Suspicious Transaction Reports (STRs), Suspicious Activity Reports (SARs), Cash Transactions above prescribed limit (CTRs), and Electronic Fund Transfers (EFTs) above the prescribed threshold/limit.

1.2 Definitions:

"Act" OR "FIA" refers to the Financial Intelligence Act, 2012 (Act No 13 of 2012) as amended by Section 63 of the Prevention and Combating of Terrorist and Proliferation Activities Act, 2014 (Act No. 4 of 2014);

"Cash" means coin and paper money of Namibia or of another country which coin or paper money is designated as legal tender and which circulates as, and is customarily used and accepted as, a medium of exchange in the country of issue;

"CTRs" refers to Cash Transaction Reports on cash transactions above prescribed limit;

"EFTs" refers to Electronic Fund Transfers above prescribed limit;

"FATF" refers to the Financial Action Task Force;

"FIC" refers to the Financial Intelligence Centre established by virtue of section 7 of FIA;

"POCA" refers to the Prevention of Organized Crime Act, 2004 (Act No.29 of 2004);

"Prescribed" means prescribed by regulation**;**

"SARs" refers to Suspicious Activity Reports filed with the FIC;

"STRs" refers to the Suspicious Transaction Reports filed with the FIC;

"Transaction" means a transaction concluded between a client and an accountable or reporting institution in accordance with the type of business carried on by that institution, and includes attempted transactions;

1.3 Application of this Guidance Note:

All Accountable and Reporting Institutions described under schedule 1 & 3 of the Financial Intelligence Act, 2012 (Act No. 13 of 2012) are obliged to comply with this guidance note, failure which constitutes an offence as defined in Section 63 of the Act.

Supervisory bodies under schedule 2 are also expected to comply with this guidance note by ensuring that institutions under their watchful eye are compliant, as well as by reporting to the FIC when there are reasonable grounds to suspect that a transaction facilitated or to be facilitated by institutions they are supervising carry the element of money laundering or financing of terrorism and proliferation activities.

2. Suspicious Transaction Reports (STRs):

2.1 Overview:

When the institution has knowledge of any suspicious transactions concluded by it, or suspect that it has received or is about to receive the proceeds of unlawful activities or has been used or is about to be used in any other way for money laundering or financing of terrorism or proliferation purposes, must within **15 working days** after the suspicion or belief concerning the transaction that gave rise to the requirement to report arose [Sec 33 of the Act, and Regulation 22(1)].

2.2 What is suspicious?

The Act does not define what constitutes a “suspicion” and as such, its ordinary meaning must prevail. The ordinary meaning of the term “suspicion” includes the state of mind of someone who has an impression of the existence or presence of something or who believes something without adequate proof, or the notion of a feeling that something is possible or probable.

2.3 What are the reasonable grounds?

What is reasonable should be interpreted to mean anything that a reasonable man would consider suspicious under the present circumstances. A reasonable person would match the transaction with the client’s profile to determine whether or not the transaction is suspicious and worthy of reporting to the FIC. When it turns out there to be no match between the client’s profile and the transaction in question, such transaction is considered to be suspicious.

2.4 Identifying a Suspicious Transaction:

2.4.1 Factors to consider in identifying a Suspicious Transaction:

- The manner in which the transaction was conducted or is attempted is a significant factor in assessing the suspicion.

- This will vary from business to business and from client to client.

- A transaction should be evaluated in terms of what seems appropriate and is within normal practice in a particular line of business, and based on knowledge of who the client is.

- The fact that transactions do not appear to be in keeping with normal industry practices may be a relevant factor for determining whether there are reasonable grounds to suspect that the transactions are related to money laundering or terrorist or proliferation financing.

- Factors, including the knowledge of the customer's business, economic/financial status, employment history, general background and behavior of the client are to be assessed in line with the type and value of the transaction to determine whether or not the transaction is suspicious.

- All circumstances surrounding the transaction such as the source and destination parties, the jurisdiction as well as beneficial owners where applicable should be thoroughly analyzed.

2.4.2 Indicators of Suspicious Transactions:

- Client conducts transactions at different physical locations to avoid detection.

- Client is always accompanied by unknown person(s) and is being watched when transacting.

- Client curious about anti-money laundering, and prevention and combating of financing of terrorism and proliferation control measures.

- Client presents contradictory 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 is secretive and reluctant to provide details regarding the transaction.

- Client appears nervous, and in a hurry.

- Client particulars incorrect: - telephone number provided not operational, residential address non-existent etc.

- Client appears to be acting on behalf of a third party, but does not tell.

- Client insists that a transaction be done quickly.

- The transaction does not appear to make sense or is out of keeping with usual or expected activity for the client.

- 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 provides false information or information that is believed to be unreliable.

- Client offers money, gratuities or unusual favors 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.

- Information obtained from reliable source (media or other open sources) indicate that a client is suspected of being involved in illegal activity.

- Client is a Politically Exposed Person (PEP), and has unexplained wealth.

- Client is a PEP and receives funds from unusual sources.

- Client is a PEP and is servicing loans with cash from unknown sources.

- Client is a PEP and his/her lifestyle is extravagant: - vacations financed with cash from unknown sources.

- Client is a PEP and his/her salary paid in the bank is not being utilized.

- Client is a PEP and his salary is depleted by way of servicing loans and nothing appears to have been left for his/her livelihood, but still lives a lavishing life.

- 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).

- 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 seems very conversant with money laundering or financing of terrorism and proliferation activities.

- Client is quick to volunteer that funds are "clean" or "not being laundered."
- Client appears to be structuring amounts to avoid reporting thresholds.
- Client appears to be collaborating with others to avoid reporting thresholds.
- Client produces seemingly false identification or identification that appears to be false, altered or inaccurate.
- 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 the transaction after being asked for identity documents.
- Client presents different identification documents each time a transaction is

conducted.

- 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 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 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.

- 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.

- Opening accounts when the client's address is outside the local service area.

- Opening accounts in other people's names.

- Opening accounts with names very close to other established business entities.

- Attempting to open or operating accounts under a false name.

- Account with a large number of small cash deposits and a small number of large cash withdrawals.

- Funds are being deposited into several accounts, consolidated into one and transferred outside the country.

- Client frequently uses many deposit locations outside of the home branch location.

- Multiple transactions are carried out on the same day at the same branch but with an apparent attempt to use different tellers.

- Activity far exceeds activity projected at the time of opening of the account.

- Establishment of multiple accounts, some of which appear to remain dormant for extended periods.

- Account that was reactivated from inactive or dormant status suddenly sees significant activity.

- Reactivated dormant account containing a minimal sum suddenly receives a deposit or series of deposits followed by frequent cash withdrawals until the transferred sum has been removed.

- Unexplained transfers between the client's products and accounts.

- Large transfers from one account to other accounts that appear to be pooling money from different sources.

- Multiple deposits are made to a client's account by third parties.

- Deposits or withdrawals of multiple monetary instruments, particularly if the instruments are sequentially numbered.

- Frequent deposits of bearer instruments (for example, cheques, money orders) in amounts just below a determined threshold.

- Unusually large cash deposits by a client with personal or business links to an area associated with drug trafficking.

- Regular return of cheques for insufficient funds.

- Correspondent accounts being used as "pass-through" points from foreign jurisdictions with subsequent outgoing funds to another foreign jurisdiction.

- Multiple personal and business accounts are used to collect and then funnel funds to a small number of foreign beneficiaries, particularly when they are in locations of concern, such as countries known or suspected to facilitate money laundering activities.

- Client and other parties to the transaction have no apparent ties to Namibia.

- Transaction crosses many international lines.

- Use of a credit card issued by a foreign bank that does not operate in Namibia by a client that does not live and work in the country of issue.

- Cash volumes and international remittances in excess of average income for migrant worker clients.

- Excessive demand for migrant remittances from individuals or entities based on migrant worker population.

- Transactions involving high-volume international transfers to third party accounts in countries that are not usual remittance corridors.

- Transaction involves a country known for highly secretive banking and corporate law.

- Transactions involving any countries deemed by the Financial Action Task Force as requiring enhanced surveillance.

- Foreign currency exchanges that are associated with subsequent wire transfers to locations of concern, such as countries known or suspected to facilitate money laundering and financing of terrorism and proliferation activities.

- Deposits followed within a short time by wire transfer of funds to or through locations of concern, such as countries known or suspected to facilitate money laundering and financing of terrorism and proliferation activities.

- Transaction involves a country where illicit drug production or exporting may be prevalent, or where there is no effective anti-money-laundering and prevention and combating of the financing of terrorism and proliferation activities regime.

- Transaction involves a country known or suspected to facilitate money laundering and financing of terrorism and proliferation activities.

- Accumulation of large balances, inconsistent with the known turnover of the client's business, and subsequent transfers to overseas account(s).

- Frequent requests for traveler's cheques, foreign currency drafts or other negotiable instruments.

- Loans secured by obligations from offshore banks.

- Loans to or from offshore companies.

- Offers of multimillion-dollar deposits from a confidential source to be sent from an offshore bank or somehow guaranteed by an offshore bank.

- Transactions involving an offshore "shell" bank whose name may be very similar to the name of a major legitimate institution.

- Unexplained electronic funds transfers by client on an in and out basis.

- Use of letter-of-credit and other method of trade financing to move money between countries when such trade is inconsistent with the client's business.

- Use of a credit card issued by an offshore bank.

- Client appears to have accounts with several financial institutions in one geographical area.

- Client has no employment history but makes frequent large transactions or maintains a large account balance.

- The flow of income through the account does not match what was expected based on stated occupation of the account holder or intended use of the account.

- Client makes one or more cash deposits to general account of foreign correspondent bank (i.e., pass-through account).

- Client makes frequent or large payments to online payment services.
- Client runs large positive credit card balances.
- Client uses cash advances from a credit card account to purchase money orders or drafts or to wire funds to foreign destinations.
- Client takes cash advance to deposit into savings or cheque account.
- Large cash payments for outstanding credit card balances.
- Client makes credit card overpayment and then requests a cash advance.
- Client visits the safety deposit box area immediately before making cash deposits.
- Client wishes to have credit and debit cards sent to international or domestic destinations other than his or her address.
- Client has numerous accounts and deposits cash into each of them with the total credits being a large amount.
- Client deposits large endorsed cheques in the name of a third-party.
- Client frequently makes deposits to the account of another individual who is not an employer or family member.
- Client frequently exchanges currencies.
- Client frequently makes automatic banking machine deposits just below the reporting threshold.

- Funds frequently withdrawn from the client's account at various ATMs (Automatic Teller Machines) in a foreign jurisdiction where money laundering and financing of terrorism are rife.

- Client's access to the safety deposit facilities increases substantially or is unusual in light of their past usage.

- Many unrelated individuals make payments to one account without rational explanation.

- Third parties make cash payments or deposit cheques to a client's credit card.

- Client gives power of attorney to a non-relative to conduct large transactions.

- Client has frequent deposits identified as proceeds of asset sales but assets cannot be substantiated.

- Client acquires significant assets and liquidates them quickly with no explanation.

- Client acquires significant assets and encumbers them with security interests that do not make economic sense.

- Client requests movement of funds that are uneconomical.

- High volume of wire transfers are made or received through the account.

- Client applies for secondary debit cards, which will eventually handed over to unknown individuals in jurisdictions were terrorism is rife.

- Accounts are used to receive or disburse large sums but show virtually no normal business-related activities, such as the payment of payrolls, invoices, etc.

- Accounts have a large volume of deposits in bank drafts, cashier's cheques, money orders or electronic funds transfers, which is inconsistent with the client's business.

- Accounts have deposits in combinations of monetary instruments that are atypical of legitimate business activity (for example, deposits that include a mix of business, payroll, and social security cheques).

- Accounts have deposits in combinations of cash and monetary instruments not normally associated with business activity.

- Business does not want to provide complete information regarding its activities.

- Financial statements of the business differ noticeably from those of similar businesses.

- Representatives of the business avoid contact with the branch as much as possible, even when it would be more convenient for them.

- Deposits to or withdrawals from a corporate account are primarily in cash rather than in the form of debit and credit normally associated with commercial operations.

- Client maintains a number of trustee or client accounts that are not consistent with that type of business or not in keeping with normal industry practices.

- Client operates a retail business providing cheque-cashing services but does not make large withdrawals of cash against cheques deposited.

- Client pays in cash or deposits cash to cover bank drafts, money transfers or other negotiable and marketable money instruments.

- Client purchases cashier's cheques and money orders with large amounts of cash.

- Client deposits large amounts of currency wrapped in currency straps.

- Client makes a large volume of seemingly unrelated deposits to several accounts and frequently transfers a major portion of the balances to a single account at the same bank or elsewhere.

- Client makes a large volume of cash deposits from a business that is not normally cash-intensive.

- Client makes large cash withdrawals from a business account not normally associated with cash transactions.

- Client consistently makes immediate large withdrawals from an account that has just received a large and unexpected credit from abroad.

- Client makes a single and substantial cash deposit composed of many large bills.

- Small, one-location business makes deposits on the same day at different branches across a broad geographic area that does not appear practical for the business.

- There is a substantial increase in deposits of cash or negotiable instruments by a company offering professional advisory services, especially if the deposits are promptly transferred.

- There is a sudden change in cash transactions or patterns.

- Client wishes to have credit and debit cards sent to international or domestic destinations other than his or her place of business.

- There is a marked increase in transaction volume on an account with significant changes in an account balance that is inconsistent with or not in keeping with normal business practices of the client's account.

- Asset acquisition is accompanied by security arrangements that are not consistent with normal practice.

- Unexplained transactions are repeated between personal and commercial accounts.

- Activity is inconsistent with stated business.

- Account has close connections with other business accounts without any apparent reason for the connection.

- Activity suggests that transactions may offend securities regulations or the business prospectus is not within the requirements.

- A large number of incoming and outgoing wire transfers take place for which there appears to be no logical business or other economic purpose, particularly when this is through or from locations of concern, such as countries known or suspected to facilitate money laundering activities.

- Inconsistencies between apparent modest sources of funds of the organization (e.g., communities with modest standard of living) and large amounts of funds raised.

- Inconsistencies between the pattern or size of financial transactions and the stated purpose and activity of the organization.

- Sudden increase in the frequency and amounts of financial transactions for the organization, or the inverse, that is, the organization seems to hold funds in its account for a very long period.

- Large and unexplained cash transactions by the organization.

- Absence of contributions from donors located in Namibia.

- The organization's directors are outside Namibia, particularly if large outgoing transactions are made to the country of origin of the directors and especially if that country is a high-risk jurisdiction.

- Large number of non-profit organizations with unexplained links.

- The non-profit organization appears to have little or no staff, no suitable offices or no telephone number, which is incompatible with their stated purpose and financial flows.

- The non-profit organization has operations in, or transactions to or from, high-risk jurisdictions.
- Client is reluctant to give an explanation for the remittance.

- Client orders wire transfers in small amounts in an apparent effort to avoid triggering identification or reporting requirements.

- Client transfers large sums of money to overseas locations with instructions to the foreign entity for payment in cash.

- Client receives large sums of money from an overseas location and the transfers include instructions for payment in cash.

- Client makes frequent or large funds transfers for individuals or entities who have no account relationship with the institution.

- Client receives frequent funds transfers from individuals or entities who have no account relationship with the institution.

- Client receives funds transfers and immediately purchases monetary instruments prepared for payment to a third party which is inconsistent with or outside the normal course of business for the client.

- Client requests payment in cash immediately upon receipt of a large funds transfer.

- Client gives instructions to transfer funds abroad and to expect an equal incoming transfer.

- Immediately after transferred funds have cleared, the client moves the funds to another account or to another individual or entity.

- Client shows unusual interest in funds transfer systems and questions the limit of what amount can be transferred.

- Client transfers funds to another country without changing the currency.

- Large incoming wire transfers from foreign jurisdictions are removed immediately by company principals.

- Client sends frequent wire transfers to foreign countries, but does not seem to have connection to such countries.

- Wire transfers are received from entities having no apparent business connection with client.

- Size of funds transfers is inconsistent with normal business transactions for that client.

- Rising volume of remittances exceeds what was expected from the client when the relationship was established.

- Several clients request transfers either on the same day or over a period of two to three days to the same recipient.

- Different clients request transfers that are all paid for by the same client.

- Several clients requesting transfers share common identifiers, such as family name, address or telephone number.

- Several different clients send transfers that are similar in amounts, sender names, test questions, free message text and destination country.

- A client sends or receives multiple transfers to or from the same individual.

- Stated occupation of the client or the client's financial standing is not in keeping with the level or type of activity (for example a student or an unemployed individual who receives or sends large numbers of wire transfers).

- Migrant remittances made outside the usual remittance corridors.

- Personal funds sent at a time not associated with salary payments.

- Country of destination for a wire transfer is not consistent with the nationality of the individual client.

- Client requests transfers to a large number of recipients outside Namibia who do not appear to be family members.

- Client does not appear to know the recipient to whom he or she is sending the transfer.

- Client does not appear to know the sender of the transfer from whom the transfer was received.

- Beneficiaries of wire transfers involve a large group of nationals of countries associated with terrorist activity.

- Client makes funds transfers to free trade zones that are not in line with the client's business.

- Client conducts transactions involving countries known as narcotic source countries or as trans-shipment points for narcotics or known for highly secretive banking and corporate law practices.

- Client remits funds as gifts to multiple recipients in foreign jurisdictions where terrorism is rife.

- Client suddenly repays a problem loan unexpectedly.

- Client makes a large, unexpected loan payment with unknown source of funds, or a source of funds that does not match what you know about the client.

- Client repays a long term loan, such within a relatively short time period.

- Source of down payment is inconsistent with borrower's background and income.

- Down payment appears to be from an unrelated third party.

- Down payment uses a series of money orders or bank drafts from different financial institutions.

- Client shows income from "foreign sources" on loan application without providing further details.

- Client's employment documentation lacks important details that would make it difficult for you to contact or locate the employer.
- Client's documentation to ascertain identification, support income or verify employment is provided by an intermediary who has no apparent reason to be involved.

- Client has loans with offshore institutions or companies that are outside the ordinary course of business of the client.

- Client offers you large deposits or some other form of incentive in return for favorable treatment of loan request.

- Client asks to borrow against assets held by another financial institution or a third party, when the origin of the assets is not known.

- The loan transaction does not make economic sense (for example, the client has significant assets, and there does not appear to be a sound business reason for the transaction).

- Customer seems unconcerned with terms of credit or costs associated with completion of a loan transaction.

- Client applies for loans on the strength of a financial statement reflecting major investments in or income from businesses incorporated in countries known for highly secretive banking and corporate law and the application is outside the ordinary course of business for the client.

- Down payment or other loan payments are made by a party who is not a relative of the client.
- Client wants to use cash for a large transaction.
- Client proposes to purchase an insurance product using a cheque drawn on an account other than his or her personal account.
- Client requests an insurance product that has no discernible purpose and is reluctant to divulge the reason for the investment.
- Client who has other small policies or transactions based on a regular payment structure makes a sudden request to purchase a substantial policy with a lump sum payment.
- Client conducts a transaction that results in a conspicuous increase in investment contributions.
- Scale of investment in insurance products is inconsistent with the client's economic profile.
- Unanticipated and inconsistent modification of client's contractual conditions, including significant or regular premium top-ups.
- Unforeseen deposit of funds or abrupt withdrawal of funds.
- Involvement of one or more third parties in paying the premiums or in any other matters involving the policy.
- Overpayment of a policy premium with a subsequent request to refund the surplus to a third party.

- Funds used to pay policy premiums or deposits originate from different sources.

- Use of life insurance product in a way that resembles use of a bank account, namely making additional premium payments and frequent partial redemptions.

- Client cancels investment or insurance soon after purchase.

- Early redemption takes place in the absence of a reasonable explanation or in a significantly uneconomic manner.

- Client shows more interest in the cancellation or surrender of an insurance contract than in the long-term results of investments or the costs associated with termination of the contract.

- Client makes payments with small denomination notes, uncommonly wrapped, with postal money orders or with similar means of payment.

- The first (or single) premium is paid from a bank account outside the country.

- Client accepts very unfavorable conditions unrelated to his or her health or age.

- Transaction involves use and payment of a performance bond resulting in a cross border payment.

- Repeated and unexplained changes in beneficiary.

- Relationship between the policy holder and the beneficiary is not clearly established.

- Accounts that have been inactive suddenly experience large investments that are inconsistent with the normal investment practice of the client or their financial ability.

- Any dealing with a third party when the identity of the beneficiary or counter-party is undisclosed.

- Client attempts to purchase investments with cash.

- Client uses securities or futures brokerage firm as a place to hold funds that are not being used in trading of securities or futures for an extended period of time and such activity is inconsistent with the normal investment practice of the client or their financial ability.

- Client wishes monies received through the sale of shares to be deposited into a bank account rather than a trading or brokerage account which is inconsistent with the normal practice of the client.

- Client frequently makes large investments in stocks, bonds, investment trusts or other securities in cash or by cheque within a short time period, inconsistent with the normal practice of the client.

- Client makes large or unusual settlements of securities in cash.

- The entry of matching buying and selling of particular securities or futures contracts (called match trading), creating the illusion of trading.

- Transfers of funds or securities between accounts not known to be related to the client.

- Several clients open accounts within a short period of time to trade the same stock.

- Client is an institutional trader that trades large blocks of junior or penny stock on behalf of an unidentified party.

- Unrelated clients redirect funds toward the same account.

- Trades conducted by entities that you know have been named or sanctioned by regulators in the past for irregular or inappropriate trading activity.

- Transaction of very large dollar size.

- Client is willing to deposit or invest at rates that are not advantageous or competitive.

- All principals of client are located outside Namibia.

- Client attempts to purchase investments with instruments in the name of a third party.

- Payments made by way of third party cheques are payable to, or endorsed over to, the client.

- Transactions made by your employees, or that you know are made by a relative of your employee, to benefit unknown parties.

- Third-party purchases of shares in other names (i.e., nominee accounts).

- Transactions in which clients make settlements with cheques drawn by, or remittances from, third parties.

- Unusually large amounts of securities or stock certificates in the names of individuals other than the client.

- Client maintains bank accounts and custodian or brokerage accounts at offshore banking centers with no explanation by client as to the purpose for such relationships.

- Proposed transactions are to be funded by international wire payments, particularly if from countries where there is no effective anti-money-laundering system.

- Client requests a transaction at a foreign exchange rate that exceeds the posted rate.

- Client wants to pay transaction fees that exceed the posted fees.

- Client exchanges currency and requests the largest possible denomination bills in a foreign currency.

- Client knows little about address and contact details for payee, is reluctant to disclose this information, or requests a bearer instrument.

- Client wants a cheque issued in the same currency to replace the one being cashed.

- Client wants cash converted to a cheque and you are not normally involved in issuing cheques.

- Client wants to exchange cash for numerous postal money orders in small amounts for numerous other parties.

- Client enters into transactions with counter parties in locations that are unusual for the client.

- Client instructs that funds are to be picked up by a third party on behalf of the payee.

- Client makes large purchases of traveler's cheques not consistent with known travel plans

- Client makes purchases of money orders in large volumes.
- Client requests numerous cheques in small amounts and various names, which total the amount of the exchange.
- Client requests that a cheque or money order be made out to the bearer.
- Client requests that a large amount of foreign currency be exchanged to another foreign currency.
- Client appears to be living beyond his or her means.
- Client has cheques inconsistent with sales (i.e., unusual payments from unlikely sources).
- Client has a history of changing bookkeepers or accountants.
- Client is uncertain about location of company records.
- Company carries non-existent or satisfied debt that is continually shown as current on financial statements.
- Company has no employees, which is unusual for the type of business.
- Company is paying unusual consultant fees to offshore companies.
- Company records consistently reflect sales at less than cost, thus putting the company into a loss position, but the company continues without reasonable explanation of the continued loss.
- Company shareholder loans are not consistent with business activity.

- Examination of source documents shows misstatements of business activity that cannot be readily traced through the company books.

- Company makes large payments to subsidiaries or similarly controlled companies that are not within the normal course of business.

- Company acquires large personal and consumer assets (i.e., boats, luxury automobiles, personal residences and cottages) when this type of transaction is inconsistent with the ordinary business practice of the client or the practice of that particular industry.

- Company is invoiced by organizations located in a country that does not have adequate money laundering laws and is known as a highly secretive banking and corporate tax haven.

- Client presents a significant amount of cash.

- Client purchases property in the name of a nominee such as an associate or a relative (other than a spouse).

- Client does not want to put his or her name on any document that would connect him or her with the property or uses different names on Offers to Purchase, closing documents and deposit receipts.

- Client inadequately explains the last minute substitution of the purchasing party's name.

- Client negotiates a purchase for market value or above asking price, but records a lower value on documents, paying the difference "under the table".

- Client sells property below market value with an additional "under the table" payment.
- Client pays initial deposit with a cheque from a third party, other than a

spouse or a parent.

- Client pays substantial down payment in cash and balance is financed by an unusual source or offshore bank.

- Client purchases personal use property under corporate veil when this type of transaction is inconsistent with the ordinary business practice of the client.

- Client purchases property without inspecting it.

- Client purchases multiple properties in a short time period, and seem to have few concerns about the location, condition, and anticipated repair costs, etc. of each property.

- Client pays rent or the amount of a lease in advance using a large amount of cash.

- Client is known to have paid large remodeling or home improvement invoices with cash, on a property for which property management services are provided.

- Client insists on providing signature on documents by fax only.

- Client buys back a property that he or she recently sold.

- Any casino transaction where an individual receives payment in casino cheques made out to third parties or without a specified payee.

- Client requests a winnings cheque in a third party's name.

- Acquaintances bet against each other in even-money games and it appears that they are intentionally losing to one of the party.

- Client attempts to avoid the filing of a report for cash by breaking up the transaction.

- Client requests cheques that are not for gaming winnings.

- Client enquires about opening an account with the casino and the ability to transfer the funds to other locations when you do not know the client as a regular, frequent or large volume player.

- Client purchases large volume of chips with cash, participates in limited gambling activity with the intention of creating a perception of significant gambling, and then cashes the chips for a casino cheque.

- Client puts money into slot machines and claims accumulated credits as a jackpot win.

- Client exchanges small denomination bank notes for large denomination bank notes, chip purchase vouchers or cheques.

- Client is known to use multiple names.

- Client requests the transfer of winnings to the bank account of a third party or a known drug source country or to a country where there is no effective anti-money-laundering system.

3. SUSPICIOUS ACTIVITY REPORT (SARs):

A suspicious activity report is different from a suspicious transaction report described above, in that a suspicious activity is not a transaction per se but activities that may escalate to a future transaction. This involves the behavior of a client, or potential client or someone acting on behalf of the client, which is suspicious in terms of money laundering and the financing of terrorism and proliferation activities.

Suspicious activities are indicative of the potential abuse of the financial system by criminals, money launderers and financiers of terrorism and proliferation activities. Therefore, reporting of suspicious activities is a pro-active effort which renders the anti-money laundering and the prevention and combating of terrorist and proliferation activities regime effective in detection and prevention of these mischiefs.

In other words reporting of suspicious activities alerts the regime on the planned money laundering activities and the financing of terrorism and proliferation activities.

3.1 Indicators of suspicious activities include but not limited to the following:

- An attempt to open a bank account with false documents.
- Reluctance by the potential client to provide documentations required to open a bank account.
- Attempt by individuals on the UN sanction lists to open bank accounts.
- Notification given on expected funds with no documentary proof, or sometimes falsified documents are provided to this effect. This is an indication of a potential abuse of the financial system by money launderers and financiers of terrorist and proliferation activities.
- Instructions to transfer funds to a high risk jurisdiction generally associated with money laundering or terrorist activity. Accordingly, a suspicious Activity Report is to be filed before the transaction is conducted.

- Requests for secondary debit cards by individuals from high risk jurisdictions generally associated with money laundering or terrorist activity.

4. CASH TRANSACTION REPORTS (CTRs):

4.1 These are mandatory reports to be submitted to the FIC on all cash transactions above the threshold/limit of **N$ 99 999.99**, within **five (5)** working days. The obligation in this regard is twofold:

(a) *Cash received by accountable and reporting institutions in the course of business:*

- Receiving in this regard should be construed to include both physical cash received by hand as well as cash received by way of deposit in a bank account.

- Accountable and Reporting institutions under schedule 1 and 3 of FIA have a duty to report cash transactions above the prescribed threshold/limit. In this regard, institutions under schedule 3 of FIA (Reporting Institutions) should not shift the duty of reporting to banks. This is because clients or individuals acting on behalf of clients to reporting institutions under schedule 3 are not necessarily in a business relationship with banks. For instance, a law firm cannot shift its reporting obligation in this regard to banks where its accounts are held, to detect and report cash transactions above prescribed threshold/limit received by way of a deposit in a trust account from a client of the said law firm, or from a person acting on behalf of the client or the person on whose behalf the client is acting.

(b) *Cash received by accountable and reporting institutions in the course of business:*

- Reporting obligation goes further to include cash payouts above prescribed threshold/limit by Accountable and Reporting Institutions to their clients, or to individuals acting on behalf of their clients. This implies that reporting obligation in this regard include cash payments by accountable and reporting institutions to their clients or individuals acting on behalf of their clients or to a persons on whose behalves their clients are acting.

- The threshold/limit is different in respect of reporting obligation for Casinos. Casinos are obligated to report within **five (5) working days**, any transaction concluded by or on behalf of a client which involves *cash payments presented to and received by it, or cash pay outs made by the accountable institution in excess of* a threshold amount of **N$24 999.99.**

- It should be noted that criminals might be aware of the threshold/limit, and as such, the possibility exists that splitting may take place under the threshold to avoid detection. Therefore, care should be exercised to detect all related cash transactions below the threshold which may add up to equal the reportable amount. These may include:

✓ Cash received from the same person or different people acting on behalf of the same person. In other words, multiple cash transactions below the threshold involving cash originated from the same source; and

✓ Cash payouts to the same person or persons acting on behalf of the same person. This entails multiple cash transactions below the threshold, of which destination party is the same.

5. Electronic Fund Transfers (EFTs):

5.1 EFTs are divided into two categories, namely; cross-border and domestic

EFTs.

5.1.1 Cross-border EFTs:

- Accountable and Reporting Institutions have the obligation to report to the FIC all electronic transfers of money in or out of Namibia, irrespective of the amount involved, **within five (5) working days**. This implies that all funds leaving Namibia or coming to Namibia in electronic form should be reported to the FIC, irrespective of the value involved.

- The reports in this regard should include the basic information as to the name of the originator; the originator account number where such an account is used to process the transaction or in the absence of an account, a unique transaction reference number which permits traceability of the transaction; the address of the originator, or national identity number, customer identification number or date and place of birth; the name of the beneficiary; and the account number of the beneficiary where such an account is used to process the transaction or in the absence of an account, a unique transaction reference number which permits traceability of the transaction.

- It is of utmost importance to verify the identity of the beneficiary in respect of funds transferred in and out of Namibia. This will assist the FIC to make an assessment of the possibility of money laundering and financing of terrorism and proliferation activities.

5.1.2 Domestic EFTs:

- Accountable and Reporting Institutions are also expected to file **within five (5) working days** domestic EFTs in excess of a threshold amount of **N$99 999.99** together with information pointing to the name of the originator, the originator account number where such an account is used to process the transaction or in the absence of an account, a unique transaction reference number which permits traceability of the transaction, the address of the originator or national identity number, customer identification number or date and place of birth, the name of the beneficiary, and the account number of the beneficiary where such an account is used to process the transaction or in the absence of an account, a unique transaction reference number which permits traceability of the transaction.

- However, there are exceptions to the reporting obligation in respect of EFTs. These are:

(a) Any transfer that flows from a transaction carried out using a credit or debit card for the purchase of goods or services as long as the credit or debit card number accompanies all transfers flowing from the transaction; and

(b) Transfers and settlements from financial institution to financial institution where both the originator person and the beneficiary person are financial institutions acting on their own behalf.

6. How to file STRs, SARs, CTRs and EFTs:

6.1 STRs:

STRs should be reported electronically to the FIC by means of the internet-based reporting portal provided by the Centre for this purpose.

If a person or Accountable or Reporting Institution required to file an STR does not at that time have the technical capability or for another reason acceptable to the FIC is unable to file an STR electronically, such a person must file the STR substantially in the forms as set out in Annexure 1 of FIA regulations and must provide such completed form to the FIC, by sending it by facsimile to the Director at the facsimile number specified in writing by the FIC from time to time for this purpose OR deliver it to the FIC to an address specified in writing by the FIC from time to time, or sending it by another method determined by the FIC whether as an alternative means or as an exclusive means.

6.1.1 Electronic submission:

- **XML Submission:** Reporting entities can use electronic extensible mark up language form (XML'S), must submit STR's electronically using this technical tool. As such, reporting entities are required to register online with the FIC in order to be able to submit the electronically generated XML's to the FIC.

  Once a reporting entity has been registered, it will receive an identification password that will enable it to transmit XML's electronically. The user profile of the entities and reporting persons can be updated online once logged on to the FIC website. Persons who experience any difficulty with obtaining or using their passwords should contact the FIC at telephone number 00264-61-2835100 or 00264-61-2835253 or 00264-61-283 5287.

- **Web Based Online STR Submission:** To be able to submit Suspicious Transaction Reports (STRs) online to the FIC, institutions must be registered with the FIC. Registration will enable online submission of STRs. Once the reporting entity has been registered, the Compliance Officers (reporting persons) for the institution can register online. Online registration encompasses the following:

  - Registration is done through the FIC Website: www.fic.na, →Select: Reporting Suspicious Transactions.

  - The institution's approved Compliance Officer (reporting person's) details are required to be completed on the web based form under Public Documents: Entity User Registration.

  - The reporting person will then be issued with a user-id and default password. (The user must change the password when logging on for the first time)

  - The above user-name and password can be used to log in to the FIC website, as explained under paragraph (i) hereto.

  - The user can hereafter start submitting online STRs by clicking on the link, Online Reports List Add a new Report.

- Submitted Reports per user can be viewed under Submitted Reports available on each user profile.

6.1.2 Manual submission/reporting:

- If a person or institution is unable to file electronically due to reasons provided above that entity or person can submit the manually completed STR form by delivering it to the FIC. Apart from the manner of delivery described earlier, delivery can be effected by tendering the STR in a specially designated receiving box available at the reception of the Bank of Namibia building on the ground floor. The Bank of Namibia is situated at number 71 Robert Mugabe Avenue; Windhoek. The STR form is available on the FIC website and it can be downloaded at ***http://www.fic.na.***

- The STR form has been designed to capture information that will be required for analytical purposes. Therefore it is necessary that you complete the form as prescribed and where applicable, provide as much information as may be necessary depending on the nature of the circumstances that may be prevailing. It is important to emphasise that the STR must capture the information about the transaction and what led to your suspicion.

- Provide as many details as possible in your report about what led to your suspicion including anything that made you suspect that it might be related to money laundering. You should enclose photostat copies of document facilitating the identification of the party or parties to the transaction. Other forms of supporting documents can be Identity Cards, Birth Certificates, Passport and References from banks. Also enclose handwriting samples and a photograph of the suspected party or parties, if available. When completing a STR, you should note that the fields in the form are mandatory and they must be completed if the specific field is applicable to the transaction in question.

6.2 SARs:

6.2.1 SARs should be reported electronically to the FIC by means of the internet-based reporting portal provided by the Centre for this purpose.

6.2.2 If a person or accountable or reporting institution required to file a SAR does not at that time have the technical capability or for another reason acceptable to the FIC is unable to file a SAR electronically, such a person must file the SAR substantially in the forms as set out in Annexure 2 of FIA regulations and must provide such completed form to the FIC, by sending it by facsimile to the Director at the facsimile number specified in writing by the FIC from time to time for this purpose OR deliver it to the FIC to an address specified in writing by the FIC from time to time, or sending it by another method determined by the FIC whether as an alternative means or as an exclusive means.

6.3 CTRs:

6.3.1 CTRs should be reported electronically to the FIC by means of the internet-based reporting portal provided by the Centre for this purpose.

6.3.2 If a person or accountable or reporting institution required to file a CTR does not at that time have the technical capability or for another reason acceptable to the FIC is unable to file a SAR electronically, such a person must file the CTR substantially in the forms as set out in Annexure 6 of FIA regulations and must provide such completed form to the FIC, by sending it by facsimile to the Director at the facsimile number specified in writing by the FIC from time to time for this purpose OR deliver it to the FIC to an address specified in writing by the FIC from time to time, or sending it by another method determined by the FIC whether as an alternative means or as an exclusive means.

6.4 EFTs:

6.4.1 SARs should be reported electronically to the FIC by means of the internet-based reporting portal provided by the Centre for this purpose

6.4.2 If a person or accountable or reporting institution required to file an EFT does not at that time have the technical capability or for another reason acceptable to the FIC is unable to file an EFT electronically, such a person must file the EFT substantially in the forms as set out in Annexure 7 of FIA regulations and must provide such completed form to the FIC, by sending it by facsimile to the Director at the facsimile number specified in writing by the FIC from time to time for this purpose OR deliver it to the FIC to an address specified in writing by the FIC from time to time, or sending it by another method determined by the FIC whether as an alternative means or as an exclusive means.

7. Consultations with the FIC:

7.1 In certain situations especially in those instances where you are not sure as to what procedures you should adopt in a given scenario, we encourage you to immediately contact the Director of the FIC by telephone at 00264-61-2835283 or 00264-61-283 5026 or 00264-61-283 5100 and seek further guidance.

7.2 The same approach my be followed in urgent situations or in situations where the suspicious activity has the effect of removing the funds to a foreign jurisdiction if executed, or where it may be difficult for a law enforcement agency to trace such funds after the transaction has been executed.

8. Protection of persons making the report (Sec 45 of FIA):

8.1 Persons who make reports in good faith are competent but not compellable witnesses in proceedings emanating from such reports. They are also having immunity from civil and or criminal litigation ensuing from such reports. No criminal or civil proceedings may be brought against you for making a report in good faith concerning an STR, SAR, CTR and EFT.

8.2 The legal effect of this is that, you cannot be compelled to testify in courts of law about the reports you have made, your identity is protected from disclosure and you can only testify in court proceedings if you wish to do so but you cannot be compelled if you do not want to.

9. Prohibition of Tipping Off (Sec 46 of FIA):

9.1 As a reporting person or institution, you are not allowed to inform anyone, including the client, about the contents of a suspicious transaction report or even that you have made such a report. As it is important not to tip your client off that you are making a suspicious transaction report.

9.2 It should be noted that customer due diligence should not be perceived as tip off when information is requested from the client as to the source and destination of funds. However, if a demand for clarity on a single transaction or attempted transaction may lead to tipping off, a report (STR or SAR) should be filed immediately with the FIC to look into the matter.

10. Non-compliance

Failure to report STRs, SARs, CTRs, and EFTs is a criminal offence which attracts a fine not exceeding N$100 million or to imprisonment for a term not exceeding 30 years, or to both such fine and such imprisonment.

Non-compliance with the provisions of this Guidance Note: The Guidance provided herein is enforceable. Any non-compliance with the directions and guidance contained in this Guidance Note is an offence in terms of section 63 of the FIA.

In terms of Section 56 of the FIA non-compliance with this Guidance Note may also attract administrative sanctions and penalties.

11. Comments

This Guidance Note shall be reviewed from time to time depending on the global developments in the fight against Money Laundering, the Financing of Terrorism and Proliferation Activities.

How to contact the FIC:

All Correspondence and enquiries must be directed to:

The Director
Financial Intelligence Centre (FIC)
P.O. Box 2882
No.71 Robert Mugabe Avenue
Windhoek
Republic of Namibia
Tel: +264 61 2835100
Fax: +264 61 2835259
Email: helpdesk@fic.na