

## **PROPERTY PRACTITIONERS' OBLIGATION TO REPORT SUSPICIOUS AND UNUSUAL TRANSACTIONS TO THE FINANCIAL INTELLIGENCE CENTRE**

The investment in property provides a stable, high-value and secure asset, which makes this sector particularly vulnerable to money laundering (ML). Non-financial institutions additionally are vulnerable to terrorist financing (TF) and should always be aware of potential terrorist financing risk. To add to the risk of criminal exploitation, property transactions by their nature allows for the integration of illicit funds into the legal economy, while allowing for criminals to derive an income from their investment and allows for camouflaging of the origin of the illicit proceeds through sale of the property or through rental income of a property.

It is therefore important for property practitioners to be vigilant against potential criminal abuse and report suspicious and unusual transactions and behaviour to the Financial Intelligence Centre (FIC). This is in line with their Financial Intelligence Centre Act (FIC Act) obligations which are geared towards combating ML and TF.

Property practitioners must first register with the FIC and obtain their organisational identification (ORG ID) number before they can fulfil their FIC Act obligations. If you are a property practitioner and have not yet registered with the FIC, please do so urgently on the FIC website.

The FIC has issued [Public compliance communication 56 \(PCC 56\)](#) which provides specific guidance for property practitioners.

### **Suspicious Transaction Reporting obligation**

Property practitioners, as accountable institutions, must file regulatory reports on suspicious and unusual transactions and activities (STRs and SARs). Information contained in STRs and SARs is then analysed by the FIC for the production of financial intelligence reports. These are in turn shared with competent authorities for use in investigations, prosecutions, and asset forfeiture.

These reports must be filed without delay but no later than 15 days from a person becoming aware of the suspicious and unusual transaction or activity. These reports must be filed regardless of the amount of money involved.

The property sector risk assessment on the FIC website ([link](#)) provides examples of indicators of potential ML, TF and PF, which could raise a suspicion:

- Customer is reluctant or refuses to produce personal identification documents for the transaction to be completed
- Customer pays rent in advance and thereafter requests a refund
- Customer makes a substantial down payment in cash and balance is financed by an unusual source, such as, a third party or private lender
- Purchases carried out on behalf of any natural person who appears to lack the economic capacity to make such purchases
- Customer is known to have a criminal background
- Customer uses or produces identification documents with different names
- Customer does not want to put their name on any document that would connect them to the purchase or rental
- Customers concerned that they may be reported to the FIC
- Customer may appear to want to finalise the purchase as a matter of urgency
- The purchase price appears to be beyond the customer's means based on their stated or known occupation and/or income
- Structuring cash deposits below the reporting threshold, or purchasing properties with sequentially numbered checks or money orders
- Accepting third-party payments, particularly from jurisdictions with ineffective or weak money laundering controls
- Customers renting property are hesitant to allow the agent access to the property or appears to be hiding something.
- Where the customer is making use of complex legal structures and is one of the parties to the transaction.

For high value properties, property practitioners must be particularly vigilant when conducting business that deals in high-value property, as this is recognised internationally as being attractive to criminals.

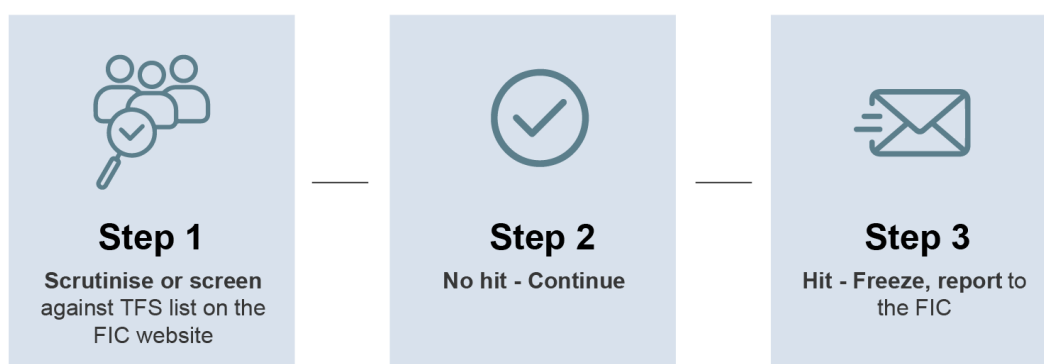
There is no obligation for a property practitioner to prove that the funds involved in the transaction are linked to a crime, the report can be based on a mere suspicion.

An STR is filed:

- irrespective of the amount involved.
- Irrespective of a threshold amount of funds,
- Whether it is an electronic funds transfer or cash directly received, or paid into a bank account

### **Targeted Financial Sanctions**

## **Targeted financial sanctions screening process**



### **Scrutinising client information**

A property practitioner must scrutinise their client information to determine whether the client, beneficial owner, person acting on behalf of the client, person on whose behalf the client is acting or party to a transaction is a designated person or entity on the targeted financial sanctions (TFS) list. Client information must be scrutinised regardless of the risk assigned to the business relationship or single transaction. [PCC 44A is a useful resource to view](#) guidance on TFS.

The FIC hosts the TFS list on its [website](#) that property practitioners can search against, for free. The TFS list reflects the current identity particulars of persons and entities contained in notices published by the Director of the FIC, in terms of section 26A of the FIC Act.

### **Freezing of property**

In terms of section 26B, no one may provide financial or other services to persons or entities designated on a TFS list. PPs are prohibited from establishing a business relationship or conducting a single transaction with designated persons or entities. This may include not releasing any property to the designated person or entity. This is referred to as an “asset freeze”. Property practitioners must have processes in place to ensure that ‘freezing’ occurs immediately where it is in the possession or control of a designated person’s property.

Section 28A of the FIC Act requires accountable institutions MUST

- file a TPR report with the FIC if the business knows that it possesses, or controls property linked to terrorism or designated persons and entities (see FIC [guidance note 6A](#)).
- NOT continue with the transaction when a TPR has been submitted to the FIC.
- reported without delay and no later than five days from becoming aware. See FIC [guidance note 6A](#).

### **Risk and compliance return**

Property practitioners are urged to file their risk and compliance returns (RCR) in terms of FIC Directive 6 of 2023 with the FIC, failure to do so may result in an administrative penalties. RCRs must be submitted for every branch which has an ORG ID. The ORG ID is the identification number used for institutions and is issued by the FIC one the institution is successfully registered on goAML.

The RCR covers the reporting period from 1 April 2022 to 31 March 2023. RCRs enable the FIC to better assess the inherent ML, TF and proliferation financing risks an accountable institution faces.

The RCR questionnaire is available on the FIC website at [www.fic.gov.za](http://www.fic.gov.za) and selecting the “[file your 2023 risk and compliance return today](#)” link which appears on the home page.

For more information and guidance refer to the [FIC website](#) for various guidance notes and public compliance communications. Alternatively, contact the FIC's compliance contact centre on +27 12 641 6000 or log an [online compliance query](#) on the FIC website.