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CIRCULAR 01 OF 2025

CLARIFICATION ON DETERMINATION 2 OF 2024: SHARING OF INFORMATION BETWEEN ACCOUNTABLE AND REPORTING INSTITUTIONS

DATED: 11 AUGUST 2025

1. Purpose and Introduction

- 1.1. This Circular builds upon the issuance of Determination 2 of 2024 (the Determination), relating to sharing of information between Accountable Institutions (AIs) and Reporting Institutions (RIs) in terms of section 44A of the Financial Intelligence Act No.13 of 2012, as amended (FIA).
- 1.2. Section 44A of the FIA authorises the Director of the Financial Intelligence Centre (FIC) to determine the nature and manner that AIs and RIs may share information, to enhance efforts against Money Laundering, Terrorist Financing, and Proliferation.
- 1.3. The purpose of section 44A of the FIA and the issuance of the Determination is to support AIs and RIs in fulfilling their FIA obligations in relation to the prevention and combating of Money Laundering, Terrorist Financing, Proliferation Financing, and related predicate offences.

2. Limitations to sharing information

- 2.1. In terms of section 44A (2) of the FIA, AIs and RIs must only request and or share information for the following purposes:
 - 2.1.1. Investigation and reporting of any suspicious transaction in terms of the FIA;
 - 2.1.2. Establishing the identity of a client or beneficial owner in terms of the FIA;
 - 2.1.3. Risk assessment of a client or beneficial owner in terms of the FIA;

2.1.4. Conducting due diligence on a correspondent banking relationship; or

2.1.5. Compliance with the requirements for the screening of electronic funds transfer and wire transfer.

2.2. Als and RIs are limited to making requests or sharing information solely for the purposes outlined in section 44A (2) of the FIA and for no other reason.

3. Non-obligatory nature of the Determination

3.1. There is no obligation on Als and RIs to request for information in terms of the Determination.

3.2. Similarly, Als and RIs do not have an obligation to respond to a request for information.

3.3. However, Als and RIs may not unreasonably refuse to respond to information requests without just cause, except in cases of legal professional privilege¹. The objective of section 44A of the FIA is to:

3.3.1. strengthen efforts to combat Money Laundering and Financing of Terrorism and Proliferation activities; and

3.3.2. support Als and RIs in fulfilling their FIA obligations.

¹ Legal professional privilege refers to the legal right that protects communications between a lawyer and their client from being disclosed without the client's consent.

4. Obligation for AIs and RIs to conduct Customer Due Diligence

- 4.1. AIs and RIs are reminded that the Determination does not relieve them of their statutory duty to perform Customer Due Diligence (CDD) in accordance with sections 21, 21A and 22 of the FIA. Consequently, AIs and RIs must not depend solely on information from other institutions to meet their CDD obligations.

5. Information that may be shared

- 5.1. Client name(s);
- 5.2. ID and registration information;
- 5.3. Address information;
- 5.4. Contact information;
- 5.5. Occupation and industry information;
- 5.6. Client's account information (including source of wealth/funds);
- 5.7. Client risk rating and where need be, factors that inform such rating;
- 5.8. Transactional behaviour information;
- 5.9. Links to any other persons or entities (including beneficial ownership information);
- 5.10. Whether transactions have taken place with the specified persons or entities;
- 5.11. Any other relevant information or supporting documentation, for purposes of the request.

6. Expected actions from Accountable and Reporting Institutions

- 6.1. In implementing the Determination, AIs and RIs are required to take the following actions:

- 6.1.1. Develop and maintain adequate internal procedures and to ensure that the customers' confidential and personal information is secure.
- 6.1.2. Conduct a risk assessment on the transmission of the client's information and develop appropriate safeguards thereof.
- 6.1.3. Only request for information and share same for the purposes stipulated in the Determination.
- 6.1.4. When requesting information, refer to the details outlined in Annexure I (Standard Request Template). Institutions may modify the template to fit their internal format, but the information specified in Annexure I must be included in their internal request forms.
- 6.1.5. The AIs and RIs should develop and implement their own procedures for requesting and exchanging information, including the platforms and methods used to facilitate this communication.
- 6.1.6. AIs and RIs are required to submit a report to the FIC, detailing any information shared or requested in accordance with Annexure II of the Determination, whenever requested by the FIC.

7. Conclusion

- 7.1. All correspondence relating to this matter should be directed to the Legal Policy and Enforcement Department at +264 61 285 0055 or fic.legal@fic.na.

B. EISEB

DIRECTOR