



Republic of Namibia  

---

Financial Intelligence Centre

---

## **FINANCIAL INTELLIGENCE CENTRE (FIC)**

**REPUBLIC OF NAMIBIA**

**P.O.BOX 2882, Windhoek**

**Tel: + 264 61 283 5100, Fax +264 61 283 5259**

**Web address: [www.fic.na](http://www.fic.na)**

**E-mail address: [helpdesk@fic.na](mailto:helpdesk@fic.na)**

**DIRECTIVE NO 02 OF 2017**

**AVAILING RECORDS AND INFORMATION TO FIC/NAMFISA TIMELY**

**06 OCTOBER 2017**

---

## 1. INTRODUCTION AND PURPOSE

The Financial Intelligence Centre (FIC) as part of its continuing efforts to assist the Government of the Republic of Namibia in:

- a) identifying, assessing and mitigating (where applicable) Money Laundering (ML), Terrorism Financing (TF) and Proliferation Financing (PF) risks; and
- b) preventing and combatting ML, TF and PF activities,

herewith issues Directive 02 of 2017 in terms of Sections 9, 31 and 54(2) of the Financial Intelligence Act, 2012 (Act No. 13 of 2012), as amended (FIA).

In advancement of the objects stated in (a) and (b) above, the FIC and the Namibian Financial Institutions Supervisory Authority (NAMFISA)<sup>1</sup> engages various stakeholders including Accountable and Reporting Institutions, as well as other government and non-government agencies, primarily to solicit relevant records and information.

As far as the solicitation of relevant records and information from Accountable Institutions (AIs) and Reporting Institutions (RIs) are concerned, the following is worth noting:

- a) **FIA Compliance reviews:** When information is availed timely, compliance reviews<sup>2</sup> can be conducted timely and efficiently. Importantly, this further demonstrates an AI/RI's effectiveness in terms of:
  - i. record keeping as envisaged in sections 26, 27 and 31 read with relevant complementing regulations of the FIA; and
  - ii. customer behaviour monitoring and due diligence controls (section 24 read with its complementing FIA regulations): availability of such records and information timely, impacts effectiveness of such (daily) due diligence.

---

<sup>1</sup> The Namibia Financial Institutions Supervisory Authority established in terms of the Namibia Financial Institutions Supervisory Authority Act, 2001 (Act No. 3 of 2001) is listed as a Supervisory Body in terms of Schedule 2 of the FIA

<sup>2</sup> Reviews conducted by FIC/NAMFISA to assess the effectiveness of AML/CFT/CPF controls in AIs and RIs.

- b) **Report analysis and related investigative activities:** Most often, the AI and RI's timely availment of requested records and information to FIC/NAMFISA, enhances the effectiveness of FIC/NAMFISA's contribution to prevention and combatting ML/TF/PF activities. Timely taking of required action can often be the difference between:
- i. recovering illicit proceeds or losing same; and
  - ii. enabling law enforcement to intervene timely (proactively) or fail to intervene timely.

Many a time additional requests emanating from the FIC could be avoided if AIs/RIs include as far as possible all relevant information/source documents at the time of filing an STR/SAR.

The FIC and NAMFISA remain appreciative of notable efforts made by most AIs and RIs to avail requested records and information timely. A need for improvement has however been identified and this Directive is herewith issued to enhance timeliness of availing of requested records and information to the FIC and NAMFISA.

## **2. APPLICATION**

This Directive applies to all:

- a) Accountable Institutions;
- b) Reporting Institutions;
- c) Supervisory and Regulatory Bodies (as per section 31);
- d) Relevant Law Enforcement Agencies;
- e) any other person or institution that holds relevant records or information, including information on a commercially held database; and
- f) any office, ministry or agency within the Government.

### 3. SPECIFIC DIRECTIVES

As provided for under section 31 of the FIA, the FIC or its authorised representative(s) or competent authorities have access, during ordinary working hours, to any record kept by relevant stakeholders in terms of the FIA. This Directive, hereby directs that such access be equally availed to NAMFISA as per section 54(2) of the FIA.

Depending on the nature of prevailing circumstances and the urgency that accompanies same, the FIC herewith directs all institutions referred to under clause 2 of this Directive, as follows:

- a) **avail records and information within three (3)<sup>3</sup> working days:** when records and information is requested by FIC/NAMFISA, same should be availed within the most reasonable time<sup>4</sup>. Such reasonable time should not exceed **three (3) working days**;
- b) **emergencies/exceptions to the three (3) working days:** in the event that records or information is required in a period shorter than the stated three (3) working days, the FIC/NAMFISA will specifically communicate such position accordingly; and
- c) **inability to avail records and information timely:** if requested institutions, bodies or agencies, for various reasons, are unable to avail such requested records and information as per paragraphs (a) and (b) above in a timely manner, such position should be communicated to the FIC/NAMFISA in writing, as soon as possible after receiving such FIC/NAMFISA request. Any notification to FIC/NAMFISA in terms of this Section, shall include, as a minimum, the following:
  - i. reasons for such inability; and
  - ii. proposed date of the earliest opportunity to avail same.

---

<sup>3</sup> The three (3) working-day period commences from the time such request is received by the institution

<sup>4</sup> Earliest opportunity to avail same to FIC/NAMFISA

This Directive further emphasize that the records and information requested<sup>5</sup> ought to be availed at the earliest opportunity. The three-day period only indicates FIC/NAMFISA's tolerable waiting period.

#### **4. NON-COMPLIANCE WITH THE PROVISIONS OF THIS DIRECTIVE**

The consequence of failure to observe instructions contained in this Directive not only undermines national ML, TF and PF prevention and combating, as well as risk mitigation efforts, but may negatively impact the country's overall effectiveness<sup>6</sup>.

Any non-compliance with the directions and specifications contained in this Directive amounts to an offence. The FIC will consider appropriate measures when such offences are observed, including administrative sanctions as per section 56 of the FIA, for Accountable and Reportable Institutions.

---

The information contained in this document is intended only to provide a summary and a general overview on these matters and is not intended to be comprehensive. This document may contain statements of policy, which reflect FIC/NAMFISA's administration of the legislation in carrying out their statutory functions.

The Directive can be accessed at [www.fic.na](http://www.fic.na).

**DATE ISSUED: 06 OCTOBER 2017**

**DIRECTOR: FINANCIAL INTELLIGENCE CENTRE**

---

<sup>5</sup> Especially for FIA Compliance Reviews (Assessments) and Financial Investigations and Analysis. Any records or information that relates to investigations or could lead to investigations by Competent Authorities or FIC analysis. This includes records and information related to Suspicious Transaction Reports (STRs), Suspicious Activity Reports (SARs) etc.

<sup>6</sup> Namibia has been and will again be subjected to an evaluation to assess its AML/CFT/CPF effectiveness. The effectiveness of key measures such as combative and preventive efforts are tested. The availing and sharing of records and information amongst key stakeholders impacts the effectiveness or such combative and preventive measures. In this regard, Effectiveness is defined as "*The extent to which the defined outcomes are achieved*". In the AML/CFT context, effectiveness is the extent to which financial systems and economies mitigate the risks and threats of money laundering, and financing of terrorism and proliferation.