



# **FINANCIAL INTELLIGENCE CENTRE**

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**DIRECTIVE NO 04 OF 2020**

**DIRECTIVE FOR NON-PROFIT ORGANISATIONS TO COMPLY WITH  
THE FINANCIAL INTELLIGENCE ACT 13 (ACT NO. 13 OF 2012, AS  
AMENDED (FIA))**

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## 1. Introduction

The Financial Intelligence Centre (FIC) is tasked with the coordination of Namibia's Anti-Money Laundering, Combatting the Financing of Terrorism and Proliferation (AML/CFT/CPF) activities<sup>1</sup>. In furtherance of this mandate, the FIC's responsibility includes supervision of various sectors that deal in specified services as per Schedules 1 and 3 of the Financial Intelligence Act 13 (Act No. 13 of 2012), as amended (FIA).

Non-Profit Organisations (NPO) play an important role in the local and global community. NPOs provide essential and valuable services to people (including the environment, nature etc.) in need, locally and globally. Despite such immense importance, financial controls within NPOs are open to abuse in the advancement of financial crimes such as Money Laundering (ML), Terrorism Financing (TF) and Proliferation Financing (PF). Global trends indicate an increase in the abuse of NPOs to advance financing of Terrorism. It is for this reason that applicable UN Conventions and mandatory UN Security Councils as encapsulated in FATF Recommendation 8, requires of jurisdictions to understand TF risk exposure and accordingly implement measures to mitigate same. In furtherance of such obligations, the FIA was amended through Government Notice No. 339/2019 to include NPOs under the Schedule of Accountable Institutions. By virtue of this inclusion, NPOs are expected to implement relevant measures to combat ML, TF and PF, in terms of the FIA.

This Directive is issued in terms of sections 9(2)(c) read with 54(1) of the FIA.

The Directive has a twofold purpose namely: to enable effective FIA compliance by the NPO sector; and enabling FIC to conduct effective FIA supervision over the NPO sector. As NPOs commence taking measures to comply with the FIA, the first point of departure in building an effective FIA compliance framework, is to register the NPO with the FIC. Registration should be followed by the implementation of necessary controls to mitigate relevant ML/TF/PF risks. Amongst various sources of guidance on how NPOs can ensure

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<sup>1</sup> the Financial Intelligence Act, 2012 (Act No. 13 of 2012) (FIA), as amended, section 9(1) (f) and (g)

effective FIA compliance, the FIA Regulations and Guidance Note 01 of 2020, avail detailed guidance on how to ensure effective compliance with the FIA.

## **2. NPOs required to comply with the FIA**

Despite the FIA Schedule I amendment speaking to NPOs in general, only NPOs whose activities or services involve the ***raising, disbursing and cross border movement of funds*** are subject to and must comply with FIA, as per this Directive. The FIC therefore calls on such NPOs to register their particulars with the FIC **on or before Friday, 29 January 2021** and implement relevant controls to ensure effective compliance with the FIA.

## **3. How to comply with the FIA**

### **3.1 Registration process**

The starting point in building an effective FIA compliance regime is, ensuring registration with the FIC as an Accountable Institution, as per FIA section 39(2) **on or before Friday, 29 January 2021**.

### **3.2 Implementing relevant controls to comply with the FIA**

Amongst various FIA requirements, the following are regarded as essential controls that NPOs, as Accountable Institutions, are required to comply with:

**3.2.1 Availing a compliance program upon registration with the FIC:** As per Directive 03 of 2020, all institutions applying for FIA registration are expected to submit a copy of their AML/CFT/CPF Compliance Programme, which has been duly approved by relevant management, as per FIA sections 39(3) and (4). An AML/CFT/CPF Compliance Programme is a document that outlines how institutions comply with relevant provisions of the FIA;

3.2.2 **Ensure registration with the relevant authority:** This could be the relevant Ministry, the Business and Intellectual Property Authority or relevant self-regulatory body that supervises or regulates its activities. For NPOs that are not certain whether they meet the criteria to register with the FIC, please engage the FIC to explain the nature of your activities. The FIC will then advise on the way forward;

3.2.3 **Implementing internal operational controls to maintain adequate identification information of all donors and beneficial owners (section 23 and 24):** Donors and Beneficial owners in this context are those who exercise control or significant influence over funding or operations of a NPO including its creators, funders, administrators, managers etc. The following is essential:

- a) having measures to **confirm the identity, credentials and good standing of donors and beneficial owners**. This is necessary for the NPO to gain assurance that such persons are not involved, nor are they at risk of abusing the charitable causes, operations or funds to advance financial crimes such as tax evasion, dealing in prohibited substances, supporting Terrorist activities etc.;
- b) **managing risks of beneficiaries:** Where the NPO is involved in funding and/or resourcing other NPOs, arrangements, persons (or any other beneficiaries), the funding or resourcing NPO has a responsibility to gain assurance that such funds or resources being availed are not to advance financial crimes and Terrorism Financing;
- c) NPOs need to ensure that identification information of all donors, beneficial owners and beneficiaries is **publicly available or can be readily accessed** by the public and competent authorities such as the FIC, Law Enforcement and licensing and registration bodies such as Government Ministries. Such records should be kept for a minimum period of five years (section 27);

d) **Sanctions screening:** ensure to screen all donors, beneficial owners and clients against the United Nations Security Council (UNSC) sanctions lists before any services are availed, for purposes of combatting the financing of Terrorism and the funding of Proliferation activities as per FIA section 24, FIA Regulations 1, 15 and section 25 of the Prevention and Combating of Terrorist and Proliferation Activities Act, 2014 (Act No. 4 of 2014) as amended; and

3.2.4 **Maintaining a record of information on the activities, purpose and objective(s) of the NPO (section 27).** The activities, purpose and objective(s) could be reflected on the founding or incorporation documents of the NPO. Such records or any other record serving similar purpose should be readily availed to competent authorities;

3.2.5 **Accounting for expenditure:** Having appropriate controls in place to ensure that all funds are fully accounted for, and are used in a manner that is consistent with the stated activities, purpose and objective(s) of the NPO's (section 24); and

3.2.6 **Record keeping:** Maintaining, for a period of five years (section 27), records of all financial transactions including domestic and international funds transfers. Records should be adequate to assist in the verification that funds were received or used to advance the objectives of the NPO (intended purpose) (section 23 and 24). Such records should be detailed enough to enable reconstruction of transactions by competent authorities. This information should be available for viewing by competent authorities.

#### **4. Non-compliance with the provisions of this Directive**

The consequence of failure to register with the FIC and effectively comply with the FIA undermines the ability to ensure effective supervision of NPOs in terms of the FIA. Such failure hampers the effective functioning of the national AML/CFT/CPF framework and may result in sanctions (criminal, administrative or both) against non-adhering institutions, as per the FIA.

## **5. General**

This document may contain statements of policy which reflect the FIC's administration of the legislation in carrying out its statutory functions. This directive is issued without prejudice to the FIA and its complementing Regulations. The information contained in this document is intended only to provide a summary on these matters and is not intended to be comprehensive.

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

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**DIRECTOR: FINANCIAL INTELLIGENCE CENTRE**