



# FINANCIAL INTELLIGENCE CENTRE

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## DIRECTIVE NO 01 OF 2022

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## EFFECTIVENESS OF SANCTIONS SCREENING SYSTEMS

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## 1. BACKGROUND

The Financial Intelligence Centre (FIC) as part of its continuous efforts to assist the Government of the Republic of Namibia in combatting Money Laundering (ML), Terrorism Financing (TF) and Proliferation Financing (PF), hereby issues a Directive in terms of Sections 9(2)(e), (g) and 54(2)(c) to (d) of the Financial Intelligence Act, 2012 (Act No. 13 of 2012) as amended (hereinafter referred to as the FIA).

Namibia is a United Nations (UN) Member State and has an obligation to comply with United Nations Security Council (UNSC) Resolutions. The sanctions issued by the UN are considered and composed by the Security Council, under the authority of Article 41, Chapter VII of the UN Charter. FATF Recommendation 6<sup>1</sup> and 7<sup>2</sup> requires Namibia to implement targeted financial sanctions regimes to ensure risk mitigation and thus compliance with the UNSC Resolutions relating to the prevention and suppression of Terrorism, weapons Proliferation and the financing thereof.

At a practical level, relevant institutions are required to ensure effective customer due diligence<sup>3</sup> that enables screening to detect persons listed by the UNSC, when such persons attempt to transact with or make use of certain designated services. This is in line with the definition of “Monitoring”<sup>4</sup> as defined in the FIA Regulations.

The FIC conducts periodic tests to gain reasonable assurance that monitoring (screening) mechanisms implemented at institutional level duly provide effective controls that will not unduly expose designated services to risks of TF, PF. Such control failures can unduly

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<sup>1</sup> As per Targeted United Nations Financial Sanctions related to the Combatting of Terrorism and Terrorist Financing.

<sup>2</sup> As per Targeted United Nations Financial Sanctions related to the Combatting of Proliferation.

<sup>3</sup> In terms of FIA Regulations 1 and 15, as well as Section 24 of the FIA - read with Section 25 of the Prevention and Combating of Terrorist and Proliferation Activities Act, 2014 (Act No. 4 of 2014) (PACOTPA).

<sup>4</sup> *Regulation 1 of the FIA*: “monitoring” for purposes of Section 23, 24 and 25 of the Act includes - (a) the monitoring of transactions and activities carried out by the client to ensure that such transactions and activities are consistent with the knowledge that the accountable institution has of the client, the commercial or personal activities and risk profile of the client; (b) the enhanced monitoring of transactions and activities of identified high risk clients in order to timeously identify suspicious transactions and activities; and (c) the screening of the name of a client or potential client, and the names involved in transactions, against the sanctions lists issued by the United Nations Security Council under Chapter VII of the United Nations Charter; for purposes of combating money laundering, the financing of terrorism and the funding of proliferation activities.

expose Namibia to potential international sanctions. Given the significance of potential consequences these failures can expose the country to, there is no tolerance for inadequate risk mitigation.

## **2. OBJECTIVE OF THIS DIRECTIVE**

Over the years, the FIC has observed room for improvement in sanction screening mechanisms employed by institutions. This Directive reiterates the minimum requirements for mechanisms implemented to safeguard the financial system from abuse to advance Terrorism, weapons Proliferation and the financing thereof.

## **3. SCOPE OF DESIGNATED PERSONS**

The UN designates different categories of persons, as deemed necessary to advance the suppression of Terrorism, weapons Proliferation and the financing thereof. Institutions are required to acquaint themselves with the UNSC sanctions lists when such are gazetted domestically in terms of section 23 of the PACOTPAA<sup>5</sup>. Such should further ensure that monitoring systems are duly structured to take cognisance of the different types of persons who could attempt to circumvent controls to advance TF and PF risks. It is essential to note that unless the UNSC specifies otherwise, the categories of persons who could be listed/designated include:

- a. designated persons or organisations;
- b. persons or organisation controlled or owned (directly or indirectly) by a person or organisation mentioned in paragraph (a);
- c. persons or organisation controlled or owned directly or indirectly by a designated country;
- d. persons or organisations acting on behalf of (or at the direction of) a person or organisation mentioned in paragraph (a), or

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<sup>5</sup> Prevention and Combating of Terrorist and Proliferation Activities Act, 2014 (Act No. 4 of 2014).

- e. persons or organisations acting on behalf of (at the direction of) a designated country.

Institutions are thus required to ensure that monitoring systems duly consider the above categories of persons or variables. Institutions should have regard to their operational needs, systems, risk exposure and devise the most suitable monitoring and sanctions screening mechanisms that ensures prompt detection and reporting when the need arises. The FIC tests the effective functioning of such mechanisms.

Parties to attempted transactions (those transactions proposed by for some reason not completed), should equally be screened.

#### **4. SCREENING AGAINST VARIOUS SANCTIONS LISTS/REGIMES**

##### **4.1 Screening against the UNSC Sanctions List**

Institutions are required to ensure all parties<sup>6</sup> to transactions are screened against the UNSC designated sanctions lists in accordance with the PACOTPAA and FIA<sup>7</sup> as follows:

- a. at client (including single transactions) on-boarding; and
- b. whenever such lists are updated by the UNSC.

##### **4.2 Non-UNSC Lists and Risk Management**

Domestically, the requirement to screen is only limited to the UNSC sanctions lists. The regulatory activities of the FIC are premised on the Risk Based Approach (RBA). Many high risk persons who may undermine a country's efforts to minimize ML/TF/PF risks, may *not* be on the UNSC lists but could be on such other various lists including the OFAC and HMT lists. The RBA guides that considerations be made, at institutional level, to gain reasonable assurance that high risk clients/persons who may not be on the UNSC sanctions lists, but appear on other sanctions lists, can be reasonably detected. This is especially relevant in the financial sector or institutions involved in cross border

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<sup>6</sup> Includes both originators/senders and receivers/beneficiaries in domestic and cross border transactions. This also includes scope of categories of such persons/clients as mentioned in section 3 above.

<sup>7</sup> Section 24 and Regulations 15(5) of the FIA.

operations. It is on that basis that tests are undertaken to consider the possibility of effective screening when a high risk person not listed by the UNSC may do business through a local institution.

The FIC's testing of screening mechanisms against non-UNSC lists is to enhance its overall understanding of effective ML/TF/PF risk management within a particular institution. Therefore, tests outside of the mandatory requirements (UNSC screening) are under normal circumstances not treated in the same way as the PACOTPAA obligations. Institutions should (re)consider the risk profile of a person or client it is involved with, if such person or client is listed by any other body other than the UNSC. In practice, risk management principles dictate that the inherent high ML/TF/PF risks of persons/clients such as Ultimate Beneficial Owners (UBOs) or Politically Exposed Persons (PEPs) will naturally be further heightened or escalated if they are listed by non-UNSC bodies. So will the risk level of an otherwise low to medium risk client/person who may not be a UBO or PEP (if listed by non-UNSC bodies). The listing by non-UNSC bodies is relevant as it escalates the overall risk profile of a client/person and this naturally requires that effective risk management measures be implemented to reduce residual risk exposure emanating from such listing. This is purely a risk management requirement, as per sections 23 and 24 of the FIA, separate from the PACOTPAA requirement limited to the UNSC designations or listing.

There are other obligations which arises from local institutions' dealings with international institutions or involvement in cross border transactions. Correspondent Banking Relationships (CBRs) and the trading in specific currencies such as the United States Dollars, the EUROS, etc., give rise to obligations for institutions in Namibia to screen persons/clients against such other relevant lists including the OFAC, EU and HMT lists. Failures in this regard could expose the local institution to sanctions from such relevant bodies. Internationally, the loss of CBRs or an institution's ability to do business internationally could negatively affect financial sectors. The potential impacts in this regard could thus attract prudential regulatory concerns and the FIC may share such observations with relevant prudential authorities.

## 5. COMPLIANCE TESTS AND EXPECTED OUTCOMES

The FIC's tests conducted on sanctions screening systems employed by institutions may consist of the following two components, namely:

- a. Control test – testing effectiveness of screening against sanctioned/listed person/client details as they appear on the sanction source; and
- b. Manipulation test – testing effectiveness of screening against sanctioned/listed persons'/clients' names and related person/client details that have been manipulated/changed using an algorithmic or any relevant type of manipulation deemed appropriate by the FIC to fulfil assessment objectives.

Tests using manipulated data are essential in gaining reasonable assurance. This is because persons listed or sanctioned usually make use of aliases or change their names, identification, date of birth, address, nationality details etc., to circumvent controls at institutional level aimed at detecting them.

It is therefore directed that institutions' monitoring mechanisms/systems are structured in such a manner that they can reasonably detect manipulations (where data is amended, misspelled, incomplete or missing). This should further include multinational and linguistic variations in spelling, date formats for dates etc.

The regulatory expectations in terms of sanctions screening systems for the UNSC lists are as follows:

Test	Expected score/Level of ability to match
Control	100% at all times
Manipulation	Between 95% and 100%

## 6. GENERAL EFFICIENCY GUIDANCE

Key performance indicators of a sanctions screening system are very important to provide management with information relating to the effectiveness of the system. Over the years, and especially with the thematic reviews conducted in mid-2021, the FIC learned that some of the screening mechanisms implemented in some institutions raise alerts that the risk management framework cannot cope with. For example, some systems produced too many returns or alerts per hit indicating that the systems are producing too many false positives which the institution does not have capacity (e.g in terms of personnel) to review. If an alert is raised but cannot be attended to or cleared, it indicates that the relevant sanctions screening framework is not effective in ensuring alerts can be promptly reviewed and:

- a. false positives (noise) set-a-side; while
- b. true matches are promptly and without delay, subjected to relevant controls in terms of the PACOTPAA.

The FIC needs to gain reasonable assurance that the entire institutional sanctions screening framework/risk management around sanctions screening is efficient and effective. It is accordingly expected that institutions have key performance indicators in relation to sanctions screening alerts and the management thereof.

### 6.1 Aligning alert levels to capacity (entire risk management framework)

The key performance indicators such as number of alerts, number of returns per input, total number of hits and misses as well as the percentage of returns per input should guide management in the prudent deployment of resources and adjustment of systems. Additionally, this will ensure the system settings do not allow for the generation of too many returns (false positives/noises) flagged by the system. Equally, the volume of legitimate alerts is aligned to risk exposure and the capacity of the institution's resources.

## **6.2 Positive Matches**

When a close match is suspected or detected, such must be promptly investigated to confirm its accuracy and if need be, reported to the relevant authorities, without delay, as per the PACOTPAA. It is directed that institutions document and implement<sup>8</sup> clear internal controls and reporting processes enabling responsible employees to promptly report and disclose information relating to a positive match without delay. Such established procedures should be communicated to all relevant employees.

Sections 24 and 25 of the PACOTPAA, along with section 2.5 of Guidance Note 02 of 2015 are essential guidance on risk mitigation with regards to positive matches.

## **6.3 Responsibility to demonstrate compliance**

Institutions required to comply with the FIA and PACOTPAA have the responsibility to demonstrate how they are complying with such laws when so requested by the FIC. Given the nature of sanctions screening solutions, the FIC may make use of automated mechanisms to assess, review or test the efficiency and effectiveness of such compliance. When automated (or any other forms) of assessments, reviews or tests are undertaken, institutions need to ensure there are relevant expertise at hand to help demonstrate their compliance levels. It therefore remains essential for institutions to ensure that those (internal or external parties) entrusted with the implementation and functioning of the automated sanctions screening mechanisms are able to demonstrate such to the FIC within the given parameters and timelines.

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<sup>8</sup> As part of its AML/CFT/CPF program referred to in section 39 of the FIA.



## **7. COMMENCEMENT**

This Directive shall come into force on 02 March 2022 and shall be published on the FIC website ([www.fic.na](http://www.fic.na)), under *Publications*.

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

Institutions have a duty to manage risks, and thus comply with the FIA and PACOTPAA. Equally, the FIC is required to obtain reasonable assurance that relevant institutions are effectively managing such risks. This Directive sets the standards which are used to measure the level of effective risk management.

Failure to comply with this Directive undermines the ability to demonstrate effective compliance with Namibia's international obligations in preventing and combatting TF/PF. It exposes the country to sanctions for such failures and may negatively impact the financial system. Failure to comply with this Directive will result in subjecting non-adhering institutions to enforcement measures as per the FIA.

## **9. 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 shall be reviewed as and when the FIC sees fit.

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**DIRECTOR: FINANCIAL INTELLIGENCE CENTRE**