



Republic of Namibia

Financial Intelligence Centre

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DIRECTIVE NO 06 OF 2016

**DIRECTIVE TO AUCTIONEERS ON MANDATORY CASH
TRANSACTIONS REPORTING**

NOVEMBER 2016

1. INTRODUCTION

- 1.1 The Financial Intelligence Centre (FIC) as part of its continuing 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 Section 9(2)(c) of the Financial Intelligence Act, 2012 (Act No. 13 of 2012) as amended (hereinafter referred to as the FIA).
- 1.2 Section 32 of the FIA requires that accountable and reporting institutions must, within the prescribed period, [i.e. five (5) working days prescribed by FIA regulation 23(1)], report to the Centre the prescribed particulars concerning a transaction concluded with a client if in terms of the transaction an amount of cash in excess of the prescribed amount [i.e. N\$99 999.99 prescribed by FIA regulation 23(1)] –
- (a) is paid by the accountable or reporting institution to the client, or to a person acting on behalf of the client, or to a person on whose behalf the client is acting; or
 - (b) is received by the accountable or reporting institution from the client, or from a person acting on behalf of the client, or from a person on whose behalf the client is acting.

2. PURPOSE

The purpose of this Directive is to provide clarity to auctioneers on the Cash Transaction Reporting obligation as outlined in paragraph 1.2 above, and direct them to comply with this obligation.

3. APPLICATION

This Directive applies to all auctioneers, and takes force and effect on the date of issue.

4. OBSERVATIONS

4.1 It came to the attention of the FIC that:

4.1.1 not all auctioneers comply with the Cash Transaction Reporting obligation;

4.1.2 some auctioneers misunderstood the term “cash received” to mean only cash received outside of the financial system (i.e. physical cash received at the auction house and not as deposits into the bank accounts held by auctioneers at commercial banks), which resulted in non-reporting of cash in excess of the threshold received as deposits into bank accounts held by these auctioneers.

4.1.3 the majority of auctioneers do not have measures in place to keep record and report cash transactions in excess of the threshold in terms of Section 32 of FIA and supplementary regulation 23.

4.2 The FIC herewith clarify that:

4.2.1 The term “cash received” applies to an amount of cash in excess of N\$ 99 999.99 received from outside the banking system, as well as in the form of deposits into a bank account.

4.2.2 The cash transaction reporting obligation applies to auctioneers, and as such, may not rely on a third party (such as commercial banks) to comply with the obligation on their behalf. The fact that two different accountable or reporting institutions file a cash transaction report in respect of the same transaction has both analytical and supervisory value to the FIC.

5. DIRECTIVE

All auctioneers are directed as follows:

- 5.1 To understand the term “cash received” as applying to cash above the amount of N\$ 99 999.99 received from outside the banking system, as well as in the form of deposits into bank accounts.
- 5.2 To report to the FIC within five (5) working days all cash transactions in excess of N\$ 99 999.99 as a result of:
 - 5.2.1 cash paid by auctioneers to the client, or to a person acting on behalf of the client, or to a person on whose behalf the client is acting; or
 - 5.2.2 cash received from the client, or from a person acting on behalf of the client, or from a person on whose behalf the client is acting.
- 5.3 To have appropriate measures in place in order to report cash transactions above N\$ 99 999.99 under CTR report type.

6. NON-COMPLIANCE WITH THE PROVISIONS OF THIS DIRECTIVE

- 6.1 Non-compliance with this Directive amounts to a failure to implement Section 32, read with regulation 23 of the FIA.
- 6.2 Non-Compliance may also expose the auctioneers’ industry to abuse by Money Launderers and Financiers of Terrorist and Proliferation Activities.
- 6.3 Any auctioneer who contravenes this Directive, and ultimately Section 32 of FIA, commits an offence and can upon conviction, be liable to a fine not exceeding N\$100 million or, where the commission of the offence is attributable to a representative of the auctioneer, to such fine or imprisonment for a period not exceeding 30 years, or to both such fine and such imprisonment.

The information contained herein is intended to provide a general overview.

This document may contain statements of policy which reflect FIC's administration of the legislation in carrying out its statutory functions.

The Directive can be accessed at www.fic.na.

Date issued: **November 2016**

Director: Financial Intelligence Centre