



Financial Intelligence Centre Republic of Namibia

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FREQUENTLY ASKED QUESTIONS (“FAQs”)

1. What is the Financial Intelligence Centre (FIC)?

The FIC is the Financial Intelligence Unit of the Government of the Republic of Namibia. It was created under section 7 of the Financial Intelligence Act, 2012 (Act No. 13 of 2012) and became operational on 09 May 2009.

2. How can the FIC be contacted?

The FIC can be contacted via <https://www.fic.na/index.php?page=contact-us> and <mailto:helpdesk@fic.na>

3. What is the Financial Intelligence Act?

The Financial Intelligence Act, 2012 (Act No 13 of 2012) (FIA) is a piece of Namibian legislation that provides for the powers of the FIC and sets out the obligations to Accountable and Reporting institutions so as to prevent their businesses from being abused for money laundering or the financing of terrorism or proliferation. The FIA is administered by the FIC.

4. What is the function and role of the FIC?

The FIC is a creature of statute mandated to act within the ambit of the Namibian Constitution and the Financial Intelligence Act, 2012 (Act No. 12 of 2013) (FIA). It is governed by the rule of law and remains neutral and objective in application of the law.

The FIC's role is to assist in the identification of the proceeds of crime and in combating money laundering, the financing of terrorism and the financing of weapons of mass destruction (also known as proliferation financing) It does this by:

- receiving and analysing various types of reports from accountable and reporting institutions, which include banking institutions, on suspicious and

unusual transactions as well as on cash transactions above a specified threshold, amongst others. The source, contents and information contained in the reports they submit are confidential and only shared within the boundaries of the FIA.

- disseminating financial intelligence reports to competent authorities for purposes of investigation and prosecution. In discharging its mandate, the FIC is guided by the principle of 'follow the money', an internationally accepted principle for financial intelligence units globally. The financial intelligence reports tell a story on the flow of funds, ultimate beneficiaries and benefactors. In this, it adds considerable value to the fight against crime in the country.
- responding to requests for information from competent authorities and disseminates financial intelligence reports to them where necessary, which enables Law Enforcement to record massive successes in cases of national importance which amongst others, involve large scale corruption.

5. What is a Competent Authority?

Competent Authority is defined in section 1 of the FIA to be any supervisory body, the Namibian Police Force, the Anti-Corruption Commission, the Namibian Central Intelligence Service, the Prosecutor General, or any other authority that may, in terms of any law, investigate unlawful activities.

6. What is money laundering?

Money laundering is the process whereby 'dirty money', produced through criminal activity, is transformed into 'clean money' whose criminal origin is difficult to trace. Criminals do this by disguising the sources, changing the form, or moving the funds to a place where they are less likely to attract attention.

The money earned from criminal activity (proceeds of crime) can originate from all kinds of criminal offences. These include, but are not limited to illegal drug trafficking, bribery, fraud, forgery, murder, robbery, tax evasion, and illegal financial schemes.

7. How is money laundered?

Criminals who have generated an income from their criminal activities usually follow three common steps to launder their money:

- The first step is called "placement" and occurs when the criminal introduces the funds derived illegally into legitimate financial systems. An example is splitting a large amount of money into smaller sums and thereafter depositing it into a bank account or converting it into negotiable instruments.
- The second step is called "layering", and involves a series of transactions, conversions, or movements of funds in order to hide the trail and separate them from their illegal source. An example is the purchase and sale of investment instruments, purchasing and selling or property, purchasing and returning

motor vehicles. The launderer might also simply transfer funds through a series of bank accounts across various institutions around the world.

- The third step is called “integration” and occurs when the previous stages of placement and layering have been successful. During this stage, the launderer may return the funds and invest them now that they appear to be from a legitimate source.

If money laundering is suspected through the processing of a financial transaction, FIC needs to know.

8. What is terrorist financing?

Terrorist financing involves collecting or providing funds in order to enable a terrorist organisation or individuals to commit an act that is regarded as a terrorist act. Funds raised may come from legitimate sources, such as personal donations and profits from businesses and charitable or non-profit organisations, as well as from criminal sources, such as the drug trade, the smuggling of weapons and other goods, fraud, kidnapping and extortion.

9. What is Proliferation Financing?

Proliferation financing is defined by the FATF as the provision of funds or financial services used for the manufacture, acquisition, possession, development, export, trans-shipment, brokering, transport, transfer, stockpiling or use of nuclear, chemical or biological weapons and their means of delivery and related materials (including both technologies and dual-use goods used for non-legitimate purposes), in contravention of national laws or, where applicable, international obligations.

Preventing proliferation financing is an important part of combatting proliferation. It is essential to disrupt the financial flows available to proliferators and to obstruct and complicate the procurement of the illicit goods, services and technology needed for the development of weapons of mass destruction and their means of delivery.

10. Where can the latest laws relating to money laundering, terrorist financing and proliferation financing be found?

The latest relevant Acts, Regulations, Directives, Guidance Notes, Notices and Circulars can be accessed on the FICs website through the following links:

- Financial Intelligence Act and Regulations
<https://www.fic.na/index.php?page=aml-cft-legal-framework>
- Guidance Notes, Notices, Circulars and Directives
<https://www.fic.na/index.php?page=publications>

11. What is an Accountable Institution?

The term is defined in section 1 of the FIA as a person or institution referred to in Schedule 1, including branches, associates or subsidiaries outside of that person or institution and a person employed or contracted by such person or institution. Thus, it is a person or institution that carries out any business or activity listed under Schedule 1 of the Act.

12. What is a Reporting Institution?

The term is defined in section 1 of the FIA as a person referred to in Schedule 3 of the FIA. It is thus a person or institution that carries out any business or activity listed under Schedule 3 of the Act.

13. Does the FIC have the power to investigate potential crimes and make arrests?

The FIC's power is limited to the receipt, analysis and dissemination of intelligence products, which alerts law enforcement authorities on the possible criminal conduct by natural or legal persons, or both. The powers of the FIC do not extend to investigation and prosecution and as such, it cannot investigate and prosecute matters involving financial crime. It is for this reason that the FIC works closely with law enforcement authorities in the broader criminal justice system and related areas. The financial intelligence provided to these authorities consists of a combination of factual information and the FIC's analysis of those facts.

14. Can I give the FIC information on someone that I think is involved in something illegal?

If you believe that the information you have is serious and requires an immediate response, then you may wish to provide this information to your local police station.

If it is still a suspicion, you may file a suspicious activity report with the FIC. The FIC may receive information from the public about suspicions of money laundering, terrorist financing, proliferation financing or other suspected criminal activities.

15. Does the FIC have the power to freeze my bank account?

The FIC has the authority to issue intervention orders in terms of section 42 of the FIA, if the Centre has reasonable grounds to suspect that a transaction or a proposed transaction may involve the proceeds of unlawful activities or may constitute money laundering or the financing of terrorism, it may direct the institution in writing not to proceed with a transaction or any other transaction in respect of the funds affected by that transaction. The intervention on the funds affected may not be more than 12 days.

16. Do I have to declare any amount of cash I carry across Namibian borders?

Travellers must declare cash or bearer negotiable instruments in Namibia dollar or foreign currency if the combined value of NAD 100,000.00 or more. You make a declaration by completing a form when entering or leaving Namibia. If you fail to declare or make a false declaration, it constitutes a criminal offence and you may be fined for up to NAD 100 million or be imprisoned for up to 30 years, or both fined and imprisoned. The funds found will be seized and confiscated to the State.

17. Who should register with the FIC?

In terms of section 39(2) of the Financial Intelligence Act, all accountable and reporting institutions as listed on schedule 1 and 3 of the Act, are to register with the Financial Intelligence Centre.

18. How do I register with the FIC?

To register with the FIC:

- Download the registration form from the FICs website [FIA Registration Form.docx \(live.com\)](#)
- Submit the downloaded form to register@fic.na
- The Following documents should be attached for submission:
 - I. All institutions applying for registration are expected to submit a copy of their AML/CFT/CPF Compliance Programme, which has been duly approved by relevant management, as per sections 39(3) and (4) of the FIA. An AML/CFT/CPF Compliance Programme is a document that outlines how institutions comply with relevant provisions of the FIA.
 - II. A copy of the entity/company's registration documents
 - III. A copy of Identity Document (ID)
- After all due diligence is completed, the FIC will send a Confirmation Letter to the Compliance officer of such entity/company, as per the registration details provided.
- For the full guide click on this link: [Directive 03 of 2020 - FIC Registration Requirements.pdf](#)

19. What is a Suspicious Transaction Report ?

If a person or an accountable or reporting institution or business suspects or believes there are reasonable grounds to suspect that, as a result of a transaction which it is asked to conclude or about which enquiries are made, it may receive the proceeds of unlawful activities or in any other way be used for money laundering or financing of terrorism or proliferation purposes should the transaction be concluded, it must, within the prescribed period after the suspicion or belief arose, report to the Centre.

A person or an accountable or reporting institution or business which made or is to make a report in terms of this section must not disclose that fact or any information

regarding the contents of that report, to any other person, including the person in respect of whom the report is or to be made.

If you fail to comply, you will be guilty of committing an offence and will be liable to a fine not exceeding N\$100 million or, where the commission of the offence is attributable to a representative of the accountable or reporting institution, to such fine or imprisonment for a period not exceeding 30 years, or to both such fine and such imprisonment.

20. What is a Suspicious Activity Report?

A suspicious activity report is different from a suspicious transaction report described above, in that a suspicious activity is not a transaction *per se* but activities that may escalate to a future transaction. This involves the behavior of a client, or potential client or someone acting on behalf of the client, which is suspicious in terms of money laundering and the financing of terrorism or proliferation activities.

Suspicious activities are indicative of the potential abuse of the financial system by criminals, money launderers and financiers of terrorism and proliferation activities. Therefore, reporting of suspicious activities is a proactive effort which renders the anti-money laundering and the prevention and combating of terrorist and proliferation activities regime effective in detection and prevention of these mischiefs.

21. What does FIC do with the reports it receives?

The FIC analyses suspicious transaction or activity reports in combination with publicly available information, voluntary information provided by law enforcement, and other information to determine whether there are reasonable grounds to suspect that the information warrants the investigation or prosecution of a money laundering or terrorist or proliferation financing or any other offence. Once such reasonable grounds are established, the FIC provides financial intelligence to competent authorities, including law enforcement and national security agencies to combat money laundering, terrorist financing, proliferation financing and threats to the security of Namibia.

As part of its mandate, FIC must ensure that the confidential information it receives is protected from unauthorised disclosure. Any unauthorised use or disclosure of information is prohibited in the Financial Intelligence Act, Act No 13 of 2012, and can result in severe criminal penalties.

22. What happens if I tell a client or an entity of a STR or an ongoing FIC investigation?

A person who tips off somebody or an entity who is under investigation by the Financial Intelligence Centre commits an offence and is liable to a fine not exceeding N\$100 million or to imprisonment for a term not exceeding 30 years, or to both such fine and such imprisonment under Section 46(a)(b) of the FIA.

23. Do I have to report a suspicious financial transaction that was not completed?

You must report an attempted transaction if you have reasonable grounds to suspect that the attempted transaction is related to a money laundering or terrorist or proliferation financing offence. An attempted transaction is one that a client intended to conduct and took some form of action. It would include negotiations or discussions to conduct a transaction and involve concrete measures taken by either you or the client. If you don't suspect that the attempted transaction is related to money laundering or terrorist or proliferation financing, there is no reporting requirement.

24. What are Politically Exposed Persons?

A Politically Exposed Persons ("PEP") is the term used for an individual who is or has in the past been entrusted with prominent public functions in a particular country. The FIC has issued Guidance and a Directive on PEPs

Directive Link:

<https://www.fic.na/uploads/Publications/Directives/2020%20Directives/Directive%202%20of%202020%20-%20Politically%20Exposed%20Persons.pdf>

Guidance Note Link:

<https://www.fic.na/uploads/Publications/Guidance%20Notes/2019%20Guidance%20Notes/Guidance%20Note%20No%2001%20of%202019%20on%20the%20Treatmen%20of%20Politically%20Exposed%20Persons.pdf>

25. Can the FIC issue a clearance certificate or certificate of good standing?

The FIC does not provide certification, endorsement, accreditation or any other type of confirmation regarding an entity's obligations in terms of the Financial Intelligence Act, Act No 13 of 2012. The FIC can only provide confirmation as to whether or not an institution or entity is registered with the FIC for purposes of AML/CFT/CPF supervision.

26. Are the Guidance Notes imposed by the FIC in terms of the FIA enforceable in terms of the law?

The primary purpose of Guidance Notes is to provide guidance to institutions on how they can perform their duties and comply with the obligations.

The Centre's Guidelines cannot impose new obligations or detract from existing obligations. The Guidance Notes are issued to provide guidance on the existing obligations and requirements contained in the FIA and complementing regulations, thus it cannot be enforceable in law, but prescribes an acceptable standard to indicate the level of effort expected from the responsible institution in order to comply with the provisions of the FIA.

27. What is a Directive?

It is an official or authoritative instruction that is issued by the FIC under the Financial Intelligence Act, Act No 13 of 2012 which is enforceable. Anyone who does not comply with a Directive may be charged with a criminal offence.

28. What is the Financial Action Task Force (FATF)?

FATF is an intergovernmental body, covered over 30 countries that promotes policies, known as recommendations that is used to combat money laundering, terrorism of financing and proliferation financing of weapons of mass destruction. The FATF has issued 40 Recommendations to combat money laundering and financing of terrorism and proliferation. Countries are required to work these recommendations into their national legal and institutional frameworks in order to be compliant with international AML/CFT/CPF¹ standards that are also recognised by the United Nations. FATF-Style Regional Bodies (FSRB²s) are known to help construct and support AML/CFT compliance policies and updates in every major regions in the world. There are 9 FSRBs and ESAAMLG was established to serve as a FATF-Style regional body for Eastern and Southern African countries.

29. What is ESAAMLG?

The Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG) is a FATF Style Regional Body subscribing to global standards to combat money laundering and financing of terrorism and proliferation. Namibia is a member of ESAAMLG.

30. How does the FIC fit into the work of the FATF and ESAAMLG?

UNTOC³ requires all countries to have a financial intelligence unit (FIU) and FIC is the FIU of Namibia. The FIC is tasked with implementing the Financial Intelligence Act, Act No 13 of 2012, which incorporates the FATF Recommendations. As a member country to ESAAMLG Namibia has certain obligations e.g. serve on Review Groups, Projects and Assessment Teams that assess AML/CFT/CPF frameworks of other ESAAMLG member countries. The FIC must also keep up to date with international AML/CFT /CPF developments in order to advise on policy to calibrate the national framework and must attend and participate in FATF and ESAAMLG meetings where international and regional policy is formulated. At national level FIC serves as the country coordinator for implementation of the national AML/CFT/CPF framework.

¹ Anti-Money Laundering and Combating the Financing of Terrorism and Proliferation

² FATF-Style Regional Bodies

³ United Nations Convention against Transnational Organized Crimes

31. What is United Nations Convention Against Organized Transnational Crime (UNOTC)?

UNOTC was adopted by General Assembly resolution 55/25 of 15 November 2000. It is the main international instrument in the fight against transnational organized crime. It opened for signature by Member States at a High-level Political Conference convened for that purpose in Palermo, Italy, on 12-15 December 2000 and entered into force on 29 September 2003. The Convention is further supplemented by three Protocols, which target specific areas and manifestations of organized crime:

- the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children;
- the Protocol against the Smuggling of Migrants by Land, Sea and Air;
- and the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition.

Namibia acceded to this convention on 3 August 2004 and is required to implement the obligations specified therein.

32. What is a Virtual Asset (VA)?

A VA is a cryptographic or digital representation of value that can be used for payment or investment purposes. Regardless of its use, a VA does not meet the criteria for consideration as a fiat currency in Namibia, but it can be readily exchanged for funds, goods or for other VAs amongst parties who choose to do so. Most include a private key of a cryptographic nature or system that enables persons to have access to a digital representation of value.

Example : Cryptocurrencies are a type of virtual asset.

33. What is a Virtual Asset Service Provider (VASP)?

The first part of the definition of VASP refers to any service in which VAs can be given in exchange for fiat currency or vice versa. If parties can pay for VAs using fiat currency or can pay using VAs for fiat currency, the offeror, provider, or facilitator of this service when acting as a business is a VASP. Furthermore, A VASP is any natural or legal person who, as a business, conducts one or more of the following activities or operations for, or on behalf of another natural or legal person:

- i. Exchange between virtual assets and fiat currencies;
- ii. Exchange between one or more forms of virtual assets;
- iii. Transfer¹ of virtual assets;
- iv. Safekeeping and/or administration of virtual assets or instruments enabling control over virtual assets; and
- v. Participation in and provision of financial services related to an issuer's offer and/or sale of a virtual asset.

34. What does a Virtual Asset Service Providers (VASPs) include?

In terms of this definition, a VASP includes persons availing certain services within the VA value chain. These include but are not limited to exchange:

- ✓ houses;
- ✓ agents;
- ✓ brokers;
- ✓ mixers;
- ✓ traders;
- ✓ virtual asset managers;
- ✓ persons providing for trade,
- ✓ clearance and settlement services of VAs;
- ✓ persons facilitating the exchange of fiat currencies for any type of VA (and vice-versa),
- ✓ crypto fund managers and distributors of crypto funds, businesses or persons accepting VAs as forms of payment for their products and services etc.

These are activities that are inherently vulnerable to ML/TF/PF abuse and excludes persons offering certain services which merely support the administration or functioning of technologies/platforms on which VAs operate, such as Bitcoin miners, provided that such are not involved in any of the activities mentioned above.

35. How does the FIC regulate VASPs?

The FIC issued a Directive and Guidance on VASPs and VAs because the global emergence of Virtual Assets (VAs), often referred to as crypto or digital assets (or currencies), has resulted in the creation of an avenue where electronic or digital value is moved with minimal regulatory oversight and interventions. The FIC is the AML/CFT/CPF regulator of VASPs.

Directive Link:

<https://www.fic.na/uploads/Publications/Directives/2021%20Directives/Directive%202020of%202021%20on%20VASP%20FIA%20Compliance.pdf>

36. What is corruption?

Corruption can be defined as the abuse of position, standing or advantage to undermine legitimate public (or general social) interests for the illicit benefit of a few or participants in such acts. In other words, a public officer commits an offence through, directly or indirectly, corruptly uses his or her office or position in a public body to obtain any gratification, whether for the benefit of himself or herself or any other person. Corruption often takes many forms and perpetrators continue to develop innovative ways to advance their corrupt activities. The Anti-Corruption Agency (ACC) is the national agency created for combating of corruption nationally.

37. What are the different forms of corruption?

Generally, corruption can be said to take the following forms:

- i) Bribery: constitutes a crime and is defined as soliciting of any item of value to influence the actions of an official or other person in charge of a private or public legal duty;
- ii) Kickback: is a form of negotiated bribery in which a commission is paid to the bribe-taker as an agreement for services/favours rendered. The remuneration (such as money, goods or services handed over) is usually agreed tacitly or otherwise. The purpose of the kickback is usually to encourage (coerce) the other party to cooperate in the illegal scheme;
- iii) Illegal gratuities: These are items of value given to reward a decision after it has been made. The gift is usually made as a token of appreciation for something that has been done; and
- iv) Collusion: An agreement between two or more individuals to commit an act designed to deceive or gain an unfair advantage.

38. What is the FICs role in fighting corruption?

The primary goal of the Financial Intelligence Centre is to coordinate Namibia's Anti-Money Laundering, Combatting the Financing of Terrorism and Proliferation (AML/CFT/CPF) framework and, in doing so, works with relevant stakeholders such as regulatory and supervisory bodies, private sector, Law Enforcement Authorities (LEAs) and the Office of the Prosecutor General, amongst others.

The FIC, receives and analyses data, which is used to identify proceeds of predicate offences to ML/TF and PF. Corruption is a predicate offence. The outcomes of the FIC's analytical work are availed to the competent authorities, including the ACC, in the form of intelligence disclosures, which is used in investigations, prosecutions and asset forfeiture activities relating to ML/TF and PF.

39. Are accountable institutions allowed to share the contents of their STRs with it's Financial Group?

In terms of the Financial Intelligence Act, 2012 (Act No. 13 of 2012) (FIA), accountable institutions are not allowed to share STR information, not even with their Financial Group.

40. Do accountable and reporting institutions have to obtain *certified* copies identification information from their clients?

Yes. Copies documents obtained by accountable and reporting institutions must be certified. In accordance with the Financial Intelligence Act, “document” means –

(a) the original document or a copy of the original document certified to be a true copy by a commissioner of oaths or public notary in accordance with the provisions of the Justices of the Peace and Commissioners of Oaths Act, 1963 (Act No. 16 of 1963); or

(b) a copy of the original document verified by an authorised person to have viewed the original document and having made a copy thereof’.