



Financial Intelligence Centre Republic of Namibia

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PUBLIC NOTICE

DATE: 15 OCTOBER 2020

CALL ON ALL CUSTOMS CLEARING AND FORWARDING AGENTS TO COMPLY WITH THE FINANCIAL INTELLIGENCE ACT, 2012 (ACT NO 13 OF 2012) AS AMENDED (THE FIA)

1. THE NEED TO REGISTER CUSTOMS AND FORWARDING AGENTS

The international trade system is clearly subject to a wide range of risks and vulnerabilities that can be exploited by criminal organisations and terrorist financiers. In part, these arise from the huge volumes of trade flows, which obscures individual transactions. Furthermore, the complexities associated with the use of multiple foreign exchange transactions, diverse trade financing arrangements; the merging of legitimate and illicit funds; and the limited resources that most customs agencies have available to detect suspicious trade transactions, makes the sector more vulnerable.

There are three main methods by which criminal enterprises move money for the purpose of hiding its origins and integrating it into the formal economy.

- The first is through the use of the financial system;
- The second involves the physical movement of money (e.g. using cash couriers); and

- The third is through the physical movement of goods through the trade system.

In recent years, considerable attention was applied on the first two of these methods. By comparison, the scope for abuse of the international trade system has received relatively little attention.

As part of the international community, Namibian entities are also involved in importing and exporting of goods and services. This is primarily done through the international trade system which enables the buying, selling and cross border movement of goods and services. International trade is the backbone of our modern commercial world as it enables the movement of goods from producers to retailers and consumers. Customs Clearing and Forwarding Agents (*simply called Clearing Agents*) are an important link between the owners of goods (exporters), providers of shipment services and importers. They avail clearing and forwarding services which enable the efficient movement of goods from producers, through customs and eventually to their destinations.

Despite the valuable services conducted by Clearing Agents, the international trade system is subject to a wide range of risks and vulnerabilities that can be exploited to advance financial crimes including Money Laundering (ML), Terrorism Financing (TF) and Proliferation Financing (PF) activities as stated earlier.

Owing to the stated risk exposure, and the potential Trade-based Money Laundering (TBML) activities and Tax Evasion, the FIA was amended as per Government Notice No 339/2019. Such amendment caused Clearing Agents to be included in Schedule 1 of the Act as Accountable Institutions.

Clearing Agents are therefore expected to comply with relevant provisions of the FIA and will be subjected to the compliance monitoring and supervision activities of the Financial Intelligence Centre (FIC).

2. WHO ARE CUSTOMS CLEARING AND FORWARDING AGENTS REFERRED TO HEREIN?

Customs Clearing and Forwarding Agents are any agents registered in terms of the relevant provisions of the Customs and Excise Act, 1998 (Act No. 20 of 1998) as amended, primarily to carry out clearing and/or forwarding activities as per such Act. All agents involved in the clearing and forwarding of cargo as per the Customs and Excise Act, thus need to register their particulars with the FIC and ensure compliance with the FIA.

3. DOES REGULATING CLEARING AGENTS NOT RESULT IN OVERBURDENING THE SECTOR AND THUS RESULT IN UNDERMINING THE VERY NOBLE OBJECTIVES OF THE INDUSTRY?

Various Government Ministries and bodies are involved in the licensing and registration of Clearing Agents. These authorities' oversight over the industry is limited to prudential activities only. Given the TBML risks identified through the national TBML risk assessment and the TBML Typology Study, a need was further identified to formally subject the industry to AML/CFT/CPF supervision, to prevent abuse of the financial system. This was deemed essential to efforts already being implemented in safeguarding the integrity and stability of the local and international financial systems.

The FIA amendments enable supervision by the FIC in conjunction with various bodies, to prevent and combat TBML within the sector.

The FIC adopted a risk based supervisory approach to ensure compliance monitoring and therefore the supervision of activities of Clearing Agencies does not disadvantage legitimate Clearing Agency services.

4. HOW ARE CLEARING AGENTS EXPECTED TO COMPLY WITH THE FINANCIAL INTELLIGENCE ACT?

Amongst various requirements, the Clearing Agents are expected to comply with the following key obligations:

4.1 Ensure registration with the FIC: It is now a requirement for Clearing Agents, prior to registration with the Customs and Excise Directorate: Ministry of Finance, to first be registered with the FIC;

4.2 Appoint an Anti-Money Laundering Compliance Officer (AMLCO) preferably at Management level. This function can be assigned to an existing member of the Management;

4.3 Conduct a ML, TF and PF risk assessment taking into account the scope and nature of the Clearing Agent's clients, products and services, as well as the geographical areas from where clients and business dealings originate (or funds' destinations);

4.4 Implement a FIA compliance program/policy: Develop, adopt and implement customer acceptance policies, internal rules, programs, procedures and controls to effectively manage and mitigate risks of ML, TF and PF activities and protect the Clearing Agents' services against potential abuse;

4.5 Capacity building: Train relevant staff members to understand their prevention and combating responsibilities in mitigating ML, TF and PF risks;

4.6 Ensure compliance programs/policies are audited: Subject any policies, procedures and controls developed, to an independent audit to test compliance with the measures taken by the Clearing Agent to comply with the FIA and the effectiveness of those measures;

4.7 Sanctions screening: Ensure the screening of all 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 read with FIA Regulations 1 and 15 and further read with section 25 of the Prevention and Combating of Terrorist and Proliferation Activities Act, 2014 (Act No. 4 of 2014) as amended; and

4.8 Record keeping: Maintaining, for a period of five years, records of all documentation on client identification, transactional information and all reports filed with the FIC. Such records should be detailed enough to enable reconstruction of transactions (import and export clearing activities) conducted by the Clearing Agent, by Law Enforcement. This information should be readily available for viewing by competent authorities such as the FIC, as well as licensing and registration bodies such as Government Ministries.

Collectively, documenting all the above controls in one or more documents will result in creating a FIA compliance program (as per paragraph 4.4 above) which will demonstrate how a Clearing Agent intends to comply with its FIA obligations.

5. WAY FORWARD

- All Clearing Agents are hereby requested to familiarise themselves with the registration requirements as outlined in Directive 03 of 2020. The Directive can be accessed at the FIC's website: <https://www.fic.na>

Additionally, the Registration form can also be downloaded from the FIC's website - under the *Forms* folder.

**INVITATION TO ATTEND TRAINING ON FIA COMPLIANCE AND PARTICIPATE
IN THE NATIONAL RISK ASSESSMENT**

The FIC is currently coordinating Namibia's National Risk Assessment activities aimed at understanding, amongst others, the levels of ML, TF and PF in various sectors and nationally. Clearing Agents are therefore, hereby invited to an engagement with the FIC to be trained on how to comply with their FIA obligations and participate in the National Risk Assessment discussions. Training and National Risk Assessment activities will take place around various points of entry/exit as follows:

BORDER POST	PLACE	DATE	TIME
Noordoewer	Noordoewer Guest House	Monday, 19th October 2020	09:00am to 16:00pm
Trans Kalahari	East Gate Rest Camp, Gobabis	Monday, 19 th October 2020	09:00am to 16:00pm
	East Gate Rest Camp, Gobabis	Tuesday, 20 th October 2020	09:00am to 16:00pm
	East Gate Rest Camp, Gobabis	Wednesday, 21 st October 2020	09:00am to 16:00pm
Walvis Bay	Ngadu at Sea c/o Thomas Morris & Erskine Streets, Skeleton Coast, Walvis Bay (FIA Training)	Wednesday, 21 st October 2020	08:30am to 13:00pm
Walvis Bay	Ngadu at Sea c/o Thomas Morris & Erskine Streets, Skeleton Coast, Walvis Bay (NRA Discussion)	Thursday, 22 nd October 2020	09:00am to 16:30pm
Ariamsvlei	Joliens Restaurant/rest Camp	Wednesday, 21 st October 2020	09:00am to 16:00pm

Windhoek	NIPAM	Wednesday, 21st October 2020	09:00am to 16:00pm
Windhoek	NIPAM	Thursday, 22 nd October 2020	09:00am to 16:00pm

Also note that more detailed invitations will be escalated to Clearing Agents, directly.

For more information, contact the FIC at the following contact details:

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Email: helpdesk@fic.na