FINANCIAL INTELLIGENCE CENTRE

REVIEW OF THE REPORTING BEHAVIOUR:

ACCOUNTANTS AND AUDITORS SECTOR

REPORTING PERIOD: MAY 2009 TO DECEMBER 2017

Report Date: 21 January 2019

Contents

1. Background

The Financial Intelligence Centre (FIC) is mandated to, amongst others: coordinate, supervise, monitor and regulate relevant controls within Accountable Institutions (AIs) in terms of the Financial Intelligence Act, 2012 (Act No.13 of 2012) as amended (FIA). The FIA classifies Accountants and Auditors as Accountable Institutions (AIs) under Schedule 1. Services provided by Accountants and Auditors are vulnerable to ML/TF/PF activities. Accountants and Auditors, by virtue of availing such services have a role to play in contributing to prevention measures.

The FIA requires these institutions to implement control measures aimed at preventing, detecting and mitigating Money Laundering, Terrorism Financing and Proliferation Financing (ML/TF/PF) risks. Amongst others, these controls include measures to enable detection of transactions that should be reported to the FIC via the GoAML portal. Such reports are used by the FIC and various other relevant authorities to enhance ML/TF/PF combatting efforts. Such reports can further shape the outcome of a ML/TF/PF case within the domains of the FIC, law enforcement or prosecution. Enhancing the quantity and quality of these reports has an impact on overall effectiveness and it is therefore crucial. This report is primarily presented with the aim of enhancing the quality of all reports escalated to the FIC by the sector.

2. Purpose

In furtherance of its FIA compliance supervisory mandate, the FIC has embarked on a review to assess the reporting behaviour and the quality of reports in various sectors in terms of their value addition. The aim of this assessment is to help the FIC understand the usefulness and quality of various report types received, identify areas that may need improvement and work with the sector to enhance the quality of such reports. This review was limited to Suspicious Transaction Reports (STRs), Suspicious Activities Reports (SARs) and Cash Threshold Reports (CTRs) reported by the Accountants and Auditor' sector.

Such are the only reporting obligations of the sector in terms of the FIA, 2012. The results of this analysis as documented herein should be used by AIs to guide implementation of remedial efforts related to reporting obligations.

3. Sector Overview

The Public Accountants and Auditors' Board, established in terms of the Public Accountants and Auditors' Act, 1951 (Act No. 51 of 1951) supervises and regulates Accountants and Auditors in Namibia for prudential purposes. There are thirty-six (36) registered Accountants and Auditors in the FIC records.

In an effort to reduce and manage ML/TF/PF risks, the AIs are required through sections 33 and 32 of the FIA to report Suspicious Transaction Reports (STRs), Suspicious Activity Reports (SARs) and Cash Threshold Reports (CTRs) above NAD 99,999.99 respectively. These thresholds based reports should be filed in line with the provisions of Circular 3 of 2015.

4. ML/TF/PF Risks in the Sector

Some of the functions performed by accountants that are most useful to potential launderers include:

- Financial and tax advice – Criminals with large amounts of money to invest may pose as individuals hoping to minimise their tax liabilities or desiring to place assets out of reach in order to avoid future liabilities;

- Creation of corporate vehicles or other complex legal arrangements (for example trusts) – such structures may serve to hide or disguise the links between the illicit proceeds of crime and the perpetrator;

- Conveyancing transactions - Property could be acquired, as final investments, with funds from illicit activities.

Alternatively, the buying and selling of properties could be abused to distance funds from their illicit activities (to make such funds appear as though they are proceeds from property sales, while the property was initially acquired using illicit funds in the first place);

- Performing financial transactions – Sometimes accountants may carry out various financial operations (or management thereof) on behalf of the client; and

Over and above these services, Accountants and Auditors are involved in providing assurance services, drafting financial, tax and management reports. In so doing, they are in a unique position to detect transacting behaviour which could amount to potential ML.

In terms of combating TF/PF, the FIA equally expects Accountants and Auditors to detect entities (or those natural persons who are beneficial owners in entities) which may be listed on the United Nations Security Council (UNSC) sanctions lists, if such entities are operating in Namibia. From assessments in the sector, the FIC has not observed any indication that Accountants and Auditors conduct sanction screening on clients and their beneficial owners before establishing business relationships or during the course of such business relationships.
Accountants and Auditors are vital gatekeepers of the financial system and thus play a crucial role in the safeguarding of the financial system's integrity. The obligation for Accountants and Auditors to detect and report any suspicious transactions or activities to the FIC remains one of the most effective ways to contribute to such integrity.

5. Suspicious Transaction and Activities Reporting

Accountants and Auditors are obliged by the FIA to report Suspicious Transaction Reports (STRs) and Suspicious Activity reports (SARs) within 15 (fifteen days) after the suspicion or belief concerning the transaction that gave rise to the requirement arose. STRs are reported for the purpose of enabling the FIC to collect, analyse and disseminate case reports to the relevant law enforcement agencies. Based on our review of transactions reported on the GoAML system over the last 8 years, there was **No** STR reported by the Accountants and Auditors. At present, the FIC is aware of a client who requested his Accountants to include an amount exceeding NAD 20 million, into the Annual Financial Statements as sales commission, despite there being no convincing reasons for justifying such an amount as business revenue. The said Accounting firm never reported such transaction to the FIC and investigations are ongoing.

Other typical examples are the clear hiding of certain transactions/funds from relevant authorities (Tax authorities) with the knowledge of Accountants and Auditors, who do not report same to the FIC or relevant authorities. Proceeds from such transactions constitute ML, as offences such as tax evasion are predicate ML offences.

6. Cash Threshold Reporting

Accountants and Auditors have an obligation to report within five (5) working days, any transaction concluded by or on behalf of a client which involves cash payments presented to and received by it, or cash payouts made by the reporting institution in excess of a threshold amount of NAD 99 999.99. This obligation came into effect in January 2015. FIC records indicate that to date, **No** CTR was ever received from Accountants and Auditors.

7. Transactions reported on GoAML by Accountants and Auditors

During our review of reported transactions on GoAML, we observed two Electronic Funds Transfer (EFT) transactions reported by Accountants in 2015. It should however be pointed out that EFT reports are not required from Accountants and Auditors. The reporting obligations for Accountants and Auditors only apply to STRs, SARs and CTRs.

8. Recommendation: Risk Based Approach

A risk-based approach (RBA) is recommended for Accountants and Auditors to ensure that measures to combat ML/TF/PF risks are commensurate to risk exposure.

The RBA enables an institution to prioritize and thus deploy its time, resources and efforts relative to the level of risk exposure. This creates a platform to deploy risk management/controls in the most efficient ways possible, whilst ensuring compliance with the FIA. The norm is that the highest area areas of risk exposure are accorded the most time, attention and resources. This ensures efficiency (less costly) and effectiveness.

9. Conclusion

In summary, **No** report was ever received from the Accountants and Auditors as a sector, despite the obvious risk exposure as explained herein (see sections 4 and 5). Therefore, the FIC encourages the sector to ensure compliance with obligations of the FIA, including the conducting of effective Customer Due Diligence that enables the effective monitoring of client transactions and behaviour. Such will enhance the detection of reportable transactions in the form of either STRs or SARs.

P.P

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