



Financial
Intelligence Centre

DRAFT GUIDANCE NOTE

GUIDANCE NOTE No. 104A (GN 104A)

ON INTERNATIONAL FUNDS
TRANSFER REPORTING TO THE
FINANCIAL INTELLIGENCE
CENTRE IN TERMS OF SECTION
31 OF THE FINANCIAL
INTELLIGENCE CENTRE ACT,
2001 (ACT 38 OF 2001)

PREFACE

- i) Money laundering has been criminalised in section 4 of the Prevention of Organised Crime Act, 1998 (Act 12 of 1998) (POC Act). A money laundering offence may be described as the performing of any act in connection with property that may result in concealing or disguising the nature or source of the proceeds of crime or of enabling a person to avoid prosecution or in the diminishing of the proceeds of crime.
- ii) Apart from criminalising the activities constituting money laundering, South African law also contains a number of control measures aimed at facilitating the detection and investigation of money laundering. These control measures, as contained in the Financial Intelligence Centre Act, 2001 (Act 38 of 2001) (FIC Act) are based on three basic principles of money laundering detection and investigation, i.e. that:
- Intermediaries in the financial system must know with whom they are doing business;
 - The paper trail of transactions through the financial system must be preserved;
 - Possible money laundering transactions must be brought to the attention of the Financial Intelligence Centre (the Centre) and the investigating authorities.
- iii) The FIC Act also established the Centre which is South Africa's financial intelligence unit, as a government agency created to collect, analyse and interpret information disclosed to it and obtained by it. The Centre is an integral part of our country's fight against the global crime of money laundering and terrorist financing.
- iv) In addition, section 4(c) of the FIC Act empowers the Centre to provide guidance in relation to a number of matters concerning compliance with the obligations of the FIC Act. This guidance is published by the Centre in terms of section 4(c) of the FIC Act. Guidance provided by the Centre is the only form of guidance formally recognised in terms of the FIC Act and the Money Laundering and Terrorist Financing Control Regulations (the MLTFC Regulations) issued under the FIC Act. Guidance provided by the Centre is authoritative in nature which means that accountable institutions must take the guidance issued by the Centre into account in respect of their compliance with the relevant provisions of the FIC Act and the MLTFC Regulations. If an accountable

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institution does not follow the guidance issued by the Centre, it should be able to demonstrate that it nonetheless achieves an equivalent level of compliance with the relevant provisions. It is important to note that enforcement action may emanate as a result of non-compliance with the FIC Act and the MLTFC Regulations where it is found that an accountable institution has not followed the guidance issued by the Centre.

Disclaimer

- v) Guidance which the Centre provides, does not relieve the user of the guidance from the responsibility to exercise their own skill and care in relation to the users' legal position. This guidance does not provide legal advice and is not intended to replace the FIC Act or the MLTFC Regulations issued under the FIC Act. The Centre accepts no liability for any loss suffered as a result of reliance on this publication.

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**DRAFT GUIDANCE NOTE 104A ON INTERNATIONAL FUND
TRANSFER REPORTING TO THE FINANCIAL INTELLIGENCE
CENTRE IN TERMS OF SECTION 31 OF THE FINANCIAL
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APPLICATION OF THIS GUIDANCE

1. The objective of this draft guidance is to assist accountable institutions to meet their international fund transfer reporting obligations in terms of the FIC Act and the MLTFC Regulations. It provides general guidance on the obligations in terms of section 31 of the FIC Act. In particular, the guidance note explains reporting timelines, how reports must be sent to the Centre, what information has to be included in these reports and how to use the electronic reporting mechanism.
2. This draft guidance product is the second version being released for consultation, with the first version being released in March 2019, and concluding 1 April 2019.

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INTRODUCTION

3. The Financial Intelligence Centre Act, 2001 (Act 38 of 2001) (FIC Act) provides for the obligation on accountable institutions to report international fund transfer transactions above a prescribed threshold to the Financial Intelligence Centre (Centre) in the prescribed form.

4. Section 31 of the FIC Act states:

“If an accountable institution through electronic transfer sends money in excess of a prescribed amount out of the Republic or receives money in excess of a prescribed amount from outside the Republic on behalf, or on the instruction, of another person, it must, within the prescribed period after the money was transferred, report the transfer, together with the prescribed particulars concerning the transfer, to the Centre.”

5. Section 31 of the FIC Act applies to the movement of funds into and out of South Africa by means of electronic transfers. The objective of section 31 is to ensure that information relating to cross-border electronic funds transfers (EFT) is made available to the Centre as soon as possible to enhance its ability to analyse information concerning financial flows. This in turn, strengthens the Centre’s ability to detect possible suspicious or unusual activity and to disseminate the relevant information to investigating and prosecuting authorities.

6. A report submitted in terms of section 31 of the FIC Act is referred to as an international fund transfer Report (IFTR).

7. The key elements of an IFTR are:
 - electronic cross-border flow of funds (inbound and outbound),
 - above the prescribed threshold,
 - on behalf, or on the instruction, of another person

8. This Guidance Note consists of six parts:

- **Part 1** - Who must report?
- **Part 2** - When does the reporting obligation arise in terms of section 31 of the FIC Act?
- **Part 3** - Time period for reporting an IFTR
- **Part 4** - Practical implementation of section 31 reporting
- **Part 5** - Methods for submitting an IFTR
- **Part 6** - Recommendations to facilitate practical implementation

Note: All terms as defined in the FIC Act will have the same meaning and application in this Guidance Note.

PART 1 – WHO MUST REPORT

9. The obligation to report international fund transfer transactions above the prescribed threshold in terms of section 31 of the FIC Act applies only to certain categories of accountable institutions that are authorised to conduct the business of cross-border electronic fund transfers. These are institutions that are authorised in terms of the Regulations under the Currency and Exchanges Act, 1933 (Act 9 of 1933) (the Exchange Control Regulations) to conduct authorised transactions under these Regulations.

10. Accountable institutions with this authorisation are:
 - 10.1 Authorised dealers (ADs);
 - 10.2 Authorised dealers with limited authority (ADLAs);
 - 10.3 A category of financial services providers (FSP) that have a direct reporting dispensation under the Exchange Control Regulations; and
 - 10.4 The Post Office.

11. This means that, in practice, the obligation to report information under section 31 of the FIC Act will apply only to the accountable institutions that may legally conduct transactions to transfer funds into and out of South Africa, as listed in the categories above.

PART 2 – WHEN DOES THE REPORTING OBLIGATION ARISE IN TERMS OF SECTION 31 OF THE FIC ACT

12. The obligation to submit an IFTR arises when a transaction, exceeding the prescribed threshold, has taken place whereby the funds have been transferred electronically into or out of South Africa.

13. The prescribed threshold amount to trigger an IFTR is set at an amount above R19 999.99. This means that all electronic cross-border transactions (the sending of funds out of South Africa and the receiving of funds from outside of South Africa) from a value of R20 000,00 and above will have to be reported to the Centre. This amount refers to the actual value that crosses the border and excludes any fees that may be applicable to that transaction.

Example 1:

Mr X instructs Bank A to send R19 800,00 via EFT, to his friend Mr Y in the USA. The fees relating to this transaction amount to R300,00. The total paid by Mr X to Bank A is R20 100,00 which appears to have exceeded the IFTR threshold.

In this scenario Bank A would **not** have a reporting obligation as only the transaction value of R19 800,00 would be considered, which does not meet the reporting threshold of R20 000,00.

14. There will be no aggregation applied in the calculation of the threshold amount. This means that the threshold will apply for every cross-border transaction.

15. Examples of cross-border EFT transactions which **are** reported as an IFTR include:
 - 15.1 Remittances and payments through which funds are sent and/or payments are made to persons located outside of South Africa;
 - 15.2 Remittances and payments through which persons in South Africa receive funds from persons located outside of South Africa;
 - 15.3 Credit and debit card transactions where the transaction is linked to an account held in South Africa;

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15.4 Credit and debit card transactions where the transaction is linked to an account held outside of South Africa.

15.5 Funds paid into, and refunded from, electronic wallets and cash passports intended for international spend.

The above list is an illustrative, but not exhaustive list of cross border transactions that should be reported.

16. Examples of transactions which **are not** reported as IFTR include:

16.1 Cash withdrawal or deposit abroad i.e. debit/credit card deposit or withdrawal by client. (However, if that cash withdrawal or deposit abroad exceeds the cash threshold amount then a cash threshold report must be reported.)

16.2 Transactions relating to interbank transactions between banks (e.g. settlement of account debits and credits between banks). Note: It is the responsibility of the bank to determine which transactions meet the definition of an interbank transaction, and those that do not. It is the understanding of the Centre that if the transaction in question does not relate to the bank's money, then this would not be considered an interbank transaction.

Complementary reporting required regarding a bank (AD) and an ADLA

17. There will be instances where a bank that is acting on behalf of an ADLA, and the ADLA will be required to submit reports in terms of section 31 of the FIC Act to the Centre for the same transaction.

Example 3:

Mr X goes to Money Remitter A to transfer R50 000,00 to his brother in Angola. Money Remitter A is an ADLA and cannot effect the payment. Bank Z (an AD) assists Money Remitter A with the electronic transfer of funds to Mr X's brother.

Bank Z will be required to submit an **IFTR**, detailing the transfer of funds with Money Remitter A listed as their client.

Money Remitter A will be required to submit an **IFTR** regarding its client (Mr X).

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18. When an ADLA uses the services of an AD to effect a transfer, the ADLA will report the transaction after confirmation of such submission has been received from the AD (i.e. ADLA will await confirmation from the AD).
19. The AD will report the information regarding the transaction, with the ADLA being their client. The ADLA will report its client who requests the transaction (these can include transactions related to money remittances, financial services, products and investments).

Directionality of cross-border electronic fund transfer transactions when reporting an IFTR

20. IFTRs are reported separately as inbound (money being transferred from another country into South Africa) and separately as outbound (money being transferred outside South Africa) cross-border transactions.
21. IFTR reports must be submitted for each qualifying transaction, per directional flow. It is noted that the batching of unrelated reports to the maximum of 500 reports can be submitted (see paragraph 57).

Example 5

Bank A in South Africa receives R50 000,00 into Client X's account from the USA. Client X then pays R50 000,00 into Client X's account in the UK.

Bank A would have the obligation to report two **IFTRs**. One for the R50 000,00 incoming funds, and one for the R50 000,00 outgoing funds.

Reporting funds moving in-between countries in the Common Monetary Area

22. Cross-border electronic fund transfers between South Africa and other countries in the Common Monetary Area (CMA) are payments to or from the Republic, and are therefore reportable as an IFTR to the Centre. Countries in the CMA are, the Republic of South Africa, the Kingdom of Lesotho, the Kingdom of Eswatini and the Republic of Namibia.

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23. Accountable institutions should be able to identify CMA EFT transactions irrespective of the transaction value thereof. Accountable institutions must within their best endeavours, based on the information available to them through the applicable customer due diligence (CDD) and their current payment system processes, report all the information captured when processing a CMA EFT transaction, to the Centre.

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PART 3 – TIME PERIOD FOR REPORTING AN IFTR

24. A report under section 31 of the FIC Act must be sent to the Centre as soon as possible, but not later than 3 (three) days (excluding Saturdays, Sundays and public holidays) after the accountable institution has become aware of the fact that the transaction has occurred.
25. It is the understanding of the Centre that an accountable institution will become aware of the fact that a transaction has occurred and has become reportable on the date that the value of funds is given to the beneficiary (receiver), where the beneficiary is in a position to take unfettered receipt of such funds. . Reporting of an IFTR is to be done as soon as possible, but no later than three (3) days from the date that value is given.

Example 6

Mr X transfers R10 000,00 through Bank A to his friend Mr Y's bank account held by Bank B in Australia.

Mr X requests the transfer on 3 February 2023 and his friend receives the money into his account on 7 February 2023.

Bank A will be aware that the payment has been made (value is given) on 7 February 2023 and must report an **IFTR** to the Centre as soon as possible but not later than three (3) days from this date.

26. Accountable institutions need to consider and document their IFTR process within their risk management compliance programme (RMCP) to ensure that the time periods for reporting are adhered to strictly.
27. If an IFTR is rejected by the Centre's reporting system, the report will need to be remediated. There is no additional time allowed for remediation. Should a report be rejected, it has to be remediated within the initial three days reporting period in order to be compliant.

Example 7

Bank A becomes aware of an IFTR reporting obligation on Tuesday, 7 February 2023. Bank A will need to submit this report as soon as possible, but not later than three days. Therefore, the last day they can submit the report is Friday, 10 February 2023.

Bank A submits this IFTR to the Centre on 8 February 2023. There was a capturing error, and the IFTR is rejected. Bank A must remediate this report and re-submit to the Centre no later than Thursday, 10 February. The due date for reporting does not get extended.

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PART 4 – PRACTICAL IMPLEMENTATION OF SECTION 31 REPORTING

28. Each IFTR transaction must be reported separately. Various transactions may not be bulked and reported as one summarised transaction.

Submission of multiple report types for the same transaction

29. When a person remits money above the cash threshold amount a CTR and an IFTR must be reported (e.g. cash payment exceeding the threshold amount paid to accountable institution and thereafter remitted abroad and vice versa for inbound transactions).
30. In certain scenarios an accountable institution would be expected to report multiple reports for the same transaction e.g. submit a CTR, IFTR and possible STR / SAR / TFAR /TFTR for the same transaction because of the various elements of such transaction.

Example 8:

Mr X deposits R500 000,00 in cash at Bank A, and requests that these funds be remitted to Mr B in Namibia. The deposit does not meet the client profile, and Bank A notes this as a suspicious transaction.

In this instance, Bank A will submit three reports. **IFTR** for the remittance of funds outside of the Republic, an **STR** for the suspicious transaction noted and a **CTR** for the cash deposited that exceeds the cash threshold.

31. While certain cross-border electronic fund transfers may not be reportable in terms of section 31 of the FIC Act due to the amount being below the threshold amount, all cross-border transactions should be monitored and when it is deemed to be suspicious, a suspicious or unusual transaction report should be submitted to the Centre in terms of section 29 of the FIC Act (refer to Guidance Note 4B for a further discussion on STR reporting).

Example 9:

Mr X visits the same branch of Money Remitter ABC every day for five days and does a transfer of R4 900, 00 to the same recipient on each day. These transactions are not reportable in terms of IFTR as they are below the IFTR threshold.

However, Money Remitter ABC should still consider submitting a suspicious and unusual transaction report (**STR**) in terms of section 29 of the FIC Act since it may be considered unusual business practice for the same client to do five different cross-border transactions on different days to the same recipient.

Prescribed particulars contained in the MLTFC Regulations – full particulars and readily available information

32. Reports submitted to the Centre in terms of section 31 of the FIC Act must be reported to the Centre within the prescribed time and include the prescribed particulars contained in the MLTFC Regulations.
33. Regulation 23E of the MLTFC Regulations prescribes the information that is to be provided by the reporting institution when completing an IFTR. The prescribed particulars either require that the report:
 - “... must contain full particulars of...”; or
 - as much of the “information as is readily available”.
34. In certain instances, the MLTFC Regulations require full particulars to be completed on the IFTR report. These particulars relate to information that an accountable institution is expected to have in terms of the provisions of the FIC Act. These particulars are mandatory and must be provided in the relevant part of a report to the Centre.
35. Where the MLTFC Regulations refer to “as much of the following information as is readily available”, the relevant prescribed particulars may include information which an institution may not have obtained in the course of establishing a particular person’s identity or conducting a particular transaction. In such cases the MLTFC Regulations

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require that an institution provide all the information in question that the institution has, in other words, that information that is under the control of the institution and available within the structures of the institution.

36. In instances where it is commercial practice to obtain certain information in relation to clients, products, services and transactions, the information is considered to be readily available to the institution and as such, it must be provided, where applicable, when submitting a report to the Centre. Information of this nature may not have been verified, or otherwise confirmed at the time when it was obtained but should be provided nonetheless to the Centre.

Submitting full particulars and readily available information on the reporting platform of the Centre

37. The reporting platform of the Centre contains several mandatory fields that must be completed. The completed report cannot pass a validation check in the Centre's reporting system if these mandatory fields have no content in them and the reporter will not be able to submit the form. These fields may therefore not be left blank.
38. Where a field must be completed with prescribed particulars that are readily available and the reporter does not have the information in question, the reporter must indicate that the information was not obtained by completing the field with the term "not obtained".
39. Where a field that may be left blank must be completed with full particulars in terms of the MLTFC Regulations the reporter must provide the full particulars as prescribed.
40. Accountable institutions must ensure that transactional scenarios are listed correctly and that the underlying client, the source / sender and the beneficiary / recipient parties are captured accordingly.
41. Minimum information regarding inbound transactions are set in Regulation 23E(4). Accountable institutions are under no obligation to know the sender/originator of an

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inbound transaction; but must report all available information that made the transaction commercially viable.

42. Minimum information regarding outbound transactions are set in Regulation 23E(3). Accountable institutions are under no obligation to know the recipient/beneficiary of an outbound transaction; but must report all available information that made the transaction commercially viable.

Example 10:

If a customer of the Bank A in South Africa sends money to a bank account in France, Bank A would be expected to report the account details of the account that the money is being sent to. This is because Bank A would not be able to execute the transaction if it was not provided with the receiving account number details. This information is considered to be readily available to the institution and must be provided when submitting a report to the Centre, where applicable.

Foreign exchange rate conversion

43. When reporting an IFTR, all transactions must be recorded in the foreign currency on the date when the conversion into rand or vice versa took place. This would not be required for Rand to Rand payments as no currency conversion is required.
44. The accountable institution needs to also provide the local amount (Rand amount) and conversion rate applicable to the accountable institution for the said transaction.
45. The source of the exchange rate that is used may be determined at the discretion of the accountable institution in question.

PART 5 – METHODS FOR SUBMITTING AN IFTR TO THE CENTRE

Method of filing an IFTR

46. In terms of regulation 22(1) of the MLTFC Regulations an IFTR must be filed with the Centre electronically by making use of the internet-based reporting portal provided for this purpose at www.fic.gov.za. The report type available on this system in relation to section 31 reporting is the international funds transfer report (IFTR).
47. Accountable institutions are obliged to register with the Centre in terms of section 43B of the FIC Act. Registration with the Centre will provide the accountable institution with user credentials which must be used to access the system to submit IFTRs electronically to the Centre in accordance with the requirements of regulation 22(1) of the MLTFC Regulations.
48. Accountable institutions need to consider the registration requirements as outlined in guidance issued by the Centre and discharge their reporting obligation in terms of section 31 of the FIC Act accordingly:
- 48.1 Certain institutions would have to register multiple accountable institutions in terms of Schedules 1 of the FIC Act. Institutions should register accordingly and ensure that the products and services offered are mapped to the applicable Schedule items, monitored and reported accordingly;
- 48.2 Certain institutions would have an obligation to register their head office and branch network as separate accountable institutions and ensure that the products and services offered are mapped, monitored and reported accordingly.

Example 11:

XYZ ADLA Money Remitter have nine branches across South Africa. Their nine branches have to be registered separately with the Centre.

Branch number 5 does a cross-border electronic transfer of R50 000. The reporter is required to submit the report under the registration profile of Branch number 5.

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49. See public compliance communication 5D (PCC5D) for further information on registration with the Centre.
50. The following general principles must be considered when using the Centre's registration and reporting platform:
- All users must be registered on the Centre's registration and reporting platform as per the guidance provided in public compliance communication (PCC) 5C on the updates to registration with the Centre;
 - Reporters are reminded to always save their web reports while moving between various sections of the report form and before the report is submitted. In the unlikely event of a time-out error the saved reports can be retrieved from the drafted reports menu on the Centre's registration and reporting platform;
 - Reporters are reminded to monitor the status of their submitted reports to ensure that the reports are successfully processed and that any failures or rejections are remediated accordingly;
 - Reporters are reminded to download and save copies of all submitted reports for their internal record keeping purposes; and
 - Reporters should ensure that any ICT related queries/incidents are logged with the Centre by means of the communicated channels and that they keep records thereof.
51. There are three methods for filing reports in terms of the FIC Act with the Centre:
- **Individual reporting:** Reports can be submitted to the Centre by completing an online web form. This reporting mechanism is aimed at low-volume reporters.
 - **Batch reporting:** This will be used in instances where high volumes of reports are submitted to the Centre on a regular basis. To be able to access this facility, reporters can contact the Centre at the contact details listed below for further information.
 - **System-to-system reporting:** This form of reporting accommodates both the individual and batch reporting mechanism. It is the configuration of systems linked to each other via web services to send reports. Only high to very high volume reporters should consider this option.

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52. An accountable institution may only file an IFTR by other means in exceptional circumstances where the reporter does not have the technical capability to report electronically to the Centre. In such cases reporters should contact the Centre on (012) 641 6000 to obtain the manual reporting form for completion and to make arrangements for its delivery to the Centre. Under no circumstances may a report made under section 31 of the FIC Act be posted to the Centre.
53. The Centre's registration and reporting system (goAML) does not allow for the editing, cancellation, correction or reversal of transactions after the report has been successfully submitted.

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PART 6 – RECOMMENDATIONS TO FACILITATE PRACTICAL IMPLEMENTATION

54. When reporting an IFTR, one of the reported countries (source/destination country) must be a foreign country, and the other country must be South Africa.
55. Accountable institutions should conduct frequent reviews and sample reports to ensure that the reports adhere to the Centre's requirements. This should be considered, and well documented in the entity's risk management and compliance programme (RMCP).
56. Accountable institutions should conduct appropriate pre-validation and ensure that accurate information is timeously reported to the Centre considering the MLTFC Regulations and the Centre's reporting system requirements.

Status of user guides on electronic reporting of international fund transfer

57. The Centre has issued a user guide for the electronic reporting of international fund transfers. This user guide does not form part of this guidance note and is merely a practical aid to assist accountable institutions in completing the electronic reporting form and is attached to this guidance note for ease of reference.

Issued by:

THE DIRECTOR

FINANCIAL INTELLIGENCE CENTRE

DATE: 18 January 2023