

FATF Greylisting

March 2023

In February 2023, South Africa became only the second G20 country to be greylisted by the Financial Action Task Force (FATF). The practical implication of this decision needs to be considered at two levels.

We should all be aware of the potential macroeconomic implications – although we as a country will largely be takers of the implications. Considering some of the factors, it's clear that the overarching sentiment is negative. The International Monetary Fund estimates that on average, the capital inflows reduce by over 7.5% in countries once they are greylisted. Immediately following South Africa's greylisting, the Rand weakened. Nigeria, who were greylisted at the same time, have seen financial direct investment fall to record lows.

The more important discussion is in respect of Government's reaction to the greylisting, and what this means practically. The most important response to date has been the December amendment to the Financial Intelligence Centre Act (FICA), which significantly expanded the category of organisations who have to comply with FICA.

These new categories of Accountable Institutions include:

- **High value goods dealers** – any entity selling goods valued at over R100 000;
- **Credit providers** – any entity providing credit (whether or not regulated by the National Credit Act), incidental credit, payment deferral, leases or even staff loans;
- **Life event insurers** – any entity offering insurance products based on life, health and disability events, even if performed so under a short term license;
- **Property practitioners** – any entity doing anything that would be deemed activities of an estate agent;
- **Value transfer providers** – any entity offering banking services, acting as an authorised dealer, offering mobile money or vouchers;
- **Trust and company service providers** – any entity assisting clients to create, operate or manage a company, trust or closed corporation;
- **Legal practitioners** – attorneys, conveyancers, notaries, advocates and their entities;
- **Crypto businesses** – any entity providing services related to crypto;
- **Clearing system participants** – any entity participating in the payment clearing system.

The categories related to high value goods dealers, credit providers and value transfer providers are likely to bring the largest number of entities into the accountable institution (AI) net. If any of your business operations touch on these areas, an assessment is required.

For anyone designated as an AI for the first time, compliance with FICA may be a daunting prospect. The first step is registering with the Financial Intelligence Centre (FIC), and in a media release on 17 March 2023, the FIC made it clear that all new AIs should already have registered, and that a failure to register within the allowed 90-day period is a contravention of FICA. The penalty for such non-compliance could be up to R50 million.

Once registered, certain foundational aspects need to be put in place:

- appoint a FICA compliance officer;
- conduct a money laundering and terrorist financial risk assessment of your business;
- development of an entity specific Risk Based Approach;
- implement a customer identity and verification onboarding process;
- implement a customer due diligence process (including scanning for sanctions and politically exposed persons);
- train your staff; and
- design a process to get your existing customer base compliant.

On an ongoing basis, a number of additional processes need to take place:

- implement an enhanced and ongoing customer due diligence process (including adverse media and source of funds);
- implement and monitor a FICA compliance programme;
- monitor all transactions for suspicious activity, which then needs to be reported to the FIC; and
- monitor all cash transactions, as all cash transactions above R49,999 need to be reported to the FIC.

Please feel free to reach out to us if you have any queries on the content of this document.



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