How Fica will affect dealers of high-value goods

By Hawken McEwan

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Changes have been made to the Fica Regulations Act - how will they affect High-Value Goods Dealers (HVGDs)? With the June 2024 deadline looming, HVGDs must ensure strict adherence to Fica regulations or face hefty penalties ranging from R10 to R15m.

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The changes made in December 2022 to Schedules 1 and 3 of the Financial Intelligence Centre Act (Fica) were a significant development, expanding the categories of Accountable Institutions (AIs) required to adhere to specific Fica requirements. Amongst these changes were the inclusion of HVGDs as AIs.

The Financial Intelligence Centre (FIC) granted an 18-month transition period that will end in June 2024.

As a result, within the next two months, all newly identified AIs must ensure complete adherence to Fica regulations or face potential public reprimand and fines ranging from R10m to R15m.

What are high-value goods dealers?

A HVGD refers to any individual or entity engaged in the trade of high-value items. These are single physical objects valued at R100,000 or more. Examples include Kruger Rands (gold, platinum, or silver), vehicles, yachts, electronics, machinery, precious metals, gems, jewellery, antiques and artwork.

Nevertheless, even for items below the R100,000 threshold, the high-value goods dealer must conduct customer due diligence if they suspect the transaction is unusual or linked to a politically exposed person.

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Why was the list expanded?

South Africa recently landed on the Financial Action Task Force's (FATF) greylist because of shortcomings in the country's anti-financial crime measures.

The FATF issued various recommendations, including enhancing risk-based supervision of designated non-financial businesses and professions like high-value goods dealers.

This will allow the FIC to track fund movements comprehensively and yield better insights across a broad range of industries that can be susceptible to money laundering, terrorism funding or proliferation schemes.

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Why are HVGDs vulnerable to financial crime?

Criminals often target high-value goods dealers as a convenient means to launder illicit funds or support terrorist activities. Research shows that criminals often actively seek high-value items they can quickly convert to cash, exchange between parties, and move between cities or countries.

Money launderers also seek to benefit from the crimes that led to dirty money. We are all familiar with the top-of-the-range cars, watches and mansions being bought with illicit funds that often hit the headlines.

Only a few weeks ago, the Special Investigating Unit (SIU) announced the auction of the luxury Pretoria East home and multiple vehicles of former Eskom official Duduzile Moyo, and her husband, Mmoloki Moyo, to recover R24m from kickbacks from a supplier in a procurement deal.

How will these new regulations affect consumers?

It is the value of the good that is important here, not the payment method. Regardless of the payment method used, the new Fica requirements still stand, even if individuals structure payments to split the cost into multiple payments (as with a new car, for instance).

A HVGD must fulfil all Fica requirements when entering these high-value transactions with a client, such as buying a car or an expensive diamond engagement ring.

These requirements are identical to those undertaken by banks we are familiar with. It includes verifying the customer’s identity, establishing the source of funds, assessing any political exposure of the customer, screening against sanction lists and determining if the customer or transaction could be in any way linked to money laundering, terrorism, or proliferation financing.

If any suspicious activities are detected, the protocol mandates reporting both the customer and the transaction or activity to the FIC.

Whilst HVGDs only need to “Fica” those transactions related to high-value goods, this reporting requirement around suspicion extends to items below the R100,000 threshold to gather intelligence around anyone potentially acting suspiciously or with potentially dubious money to spend.

Although the obligations may seem cumbersome at first, consumers will soon get used to them, just as they did when the Rica requirements for applying for a cell phone contract were first introduced.

As time goes on, the process will become easier and more seamless, thanks to introducing technology that enhances the customer experience. We anticipate consumers will be more willing to embrace it because of its broader purpose.

As financial crimes continue to make headlines and frustrate people, there is an increasing recognition of the importance of identifying those responsible for illicit transactions. Even individuals purchasing a new TV or car are contributing to the fight against financial crime and helping South Africa move away from being greylisted.

What must HVGDs know?

To achieve full compliance by June, HVGDs need to take several steps.

This includes registering as an AI, appointing a compliance officer, and developing a risk management and compliance programme.

They must also establish a customer due diligence framework to authenticate information, assess the risk level of their clients, and closely monitor their business transactions for any suspicious behaviour.

From an employee standpoint, this process will involve undergoing Fica training to empower staff to act as financial crime superheroes.

By enhancing their understanding of how proper customer due diligence can shield their organisation from potential fines, employees can play a crucial role in safeguarding the South African economy from exploitation.

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