

Finance Minister gazettes provisions of FICA Act

Finance Minister Malusi Gigaba has signed and gazetted the coming into operation of various provisions of the Financial Intelligence Centre Amendment (FICA) Act, 2017.



© nomadsoul1 – [123RF.com](https://www.123RF.com)

The FIC Amendment Act was signed into law by President Jacob Zuma on 26 April 2017 and gazetted on 2 May 2017. However, the determination of the commencement date was left to the Minister of Finance.

The key objective of this law, National Treasury said on Tuesday, is to improve the protection of the integrity of South Africa's financial system and strengthen its ability to prevent and punish financial crimes like money laundering, illicit capital flows, tax evasion, corruption and bribery, and the financing of terrorism.

The first set of provisions, which commenced on Tuesday, do not require changes to existing regulations, exemptions or internal systems of institutions to enable compliance with the FIC Act.

The provisions deal mainly with information sharing, consultation arrangements, constitutional concerns relating to inspection powers and improved functioning of the FIC Act Appeal Board.

In a statement on Tuesday, Minister Gigaba said it was critical for government to accelerate the implementation of the act as it demonstrates government's commitment to fight corruption, money laundering and illicit flows.

Minister Gigaba said, however, that while the signing of the act is a big step forward, more work needs to be done.

Key elements of the act

Key elements of the act include placing a risk based approach at the centre of South Africa's Anti-Money Laundering (AML) and Combating the Financing of Terrorism (CFT) regime. It recognises that the risk of money laundering and terrorist financing can vary by individual, business sector and within sectors.

The act also looks at elements of strengthening AML and CFT through a more consultative approach based on partnerships between key stakeholders in both the public and private sectors.

It also looks at improving coordination and collaboration to ensure more effective preventive and better enforcement measures, as well as a more customer-friendly and cost-efficient approach to the implementation of AML and CTF, in line with the Treat Customers Fairly initiative.

The law also introduces several new concepts and approaches to the implementation of the FIC Act, such as a full range of customer due diligence requirements, which are focused on understanding customers better, rather than simply identifying and verifying their identities.

It also introduces beneficial ownership, which requires institutions to know and understand the natural persons who ultimately own or exercise control over legal entities or structures.

The law also introduces the freezing of assets in terms of targeted financial sanctions against persons identified by the United Nations Security Council, in terms of various sanctions regimes, among others.

Different effective dates of the act

The implementation of different provisions of the FIC Amendment Act will start on different dates, including 13 June 2017, 2 October 2017 and dates to be determined after 2 October 2017. These dates, however, are not expected to be later than the end of 2018.

While the first set of provisions commenced on Tuesday, the second set of provisions will commence on 2 October 2017.

These provisions, which give effect to the new concepts and approaches, will require changes to existing regulations and exemptions under the FIC Act, as well as staff training and major changes to systems by supervisors, the Office of the Chief Procurement Officer and accountable institutions.

Treasury said the commencement and operationalisation dates of the two remaining set of provisions in the act -- namely sections 26A to 26C dealing with the freezing of assets in terms of the UN Security Council Resolutions on targeted financial sanctions, and Schedule 3A dealing with the setting of a monetary value threshold for companies doing business with the State -- will be determined after October 2017.

The delay on sections 26A to 26C is to enable consultations within government and allow for internal systems development.

"Further, a move to a risk-based approach, which modernises the manner in which institutions undertake customer due diligence, implies less regulations but necessitates more guidance to clarify the expectations of supervisors on how institutions should appropriately implement the legislation," said National Treasury.

It said the accelerated implementation of the FIC Amendment Act demonstrates government's commitment to fight

corruption, money laundering and illicit financial flows.

“The commencement of the FIC Amendment Act, both [on Wednesday] and on 2 October 2017 confirms South Africa’s commitment to improve compliance with the Financial Action Task Force (FATF) international standards, in respect of measures on foreign Politically Exposed Persons, Beneficial Owners and record keeping.

“South Africa is expected to report on progress on these measures to the FATF Plenary next week and possibly October 2017,” Treasury said.

For more, visit: <https://www.bizcommunity.com>