

CR Trustees



Safari into Compliance

10 March 2022

Risk Management and  
Compliance Program  
Design and Implementation

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Strategic Risks

Operational  
Risks

Financial Risks

Risk Management

Legal  
Compliance and  
Regulatory Risks

Protection of Personal Information Act (PoPIA)

**Financial Intelligence Center Act (FICA)**

Legal Practice Act (LPA) and Rules

National Credit Act (NCA)

Financial Advisor and Intermediary Services Act (FAIS)

Consumer Protection Act (CPA)

Cybercrimes Act (CCA)

Conduct of Financial Institutions Bill (COFI) – Emerging Risk

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## What is the RISK

The risk of the accountable institution being abused for money-laundering and terrorist financing.

Threats and vulnerabilities put accountable institutions at risk of being abused to facilitate ML/TF activities

Potential clients or actual clients may use products and services offered by accountable institutions for ML/TF activities.

**Misconception that the risks referred to are risks of fraud, theft and corruption.**

C R T r u s t e e s



Control Measures

## 7 Compliance Obligations

- Registration with the Centre
- Risk Management and Compliance Program (RMCP)
- Risk-based approach to Customer Due Diligence which includes customer identification and verification **(not rules based)**
- Record keeping
- Training and awareness of staff members
- Reporting
- Governance



## Risk Management and Compliance Program

- Section 42 of the Financial Intelligence Centre Act, No. 38 of 2001, as amended (FICA), accountable institutions must develop, document, maintain and implement a risk management and compliance program.
- The RMCP establishes guidelines and procedure to ensure full compliance with the FIC Act in identifying, measuring, monitoring, managing and reporting the material risks to which the enterprise may be exposed.
- What are the fundamentals of the RMCP?

Financial  
Intelligence  
Centre Act,  
as amended

Prevention of  
Organised  
Crime Act

Prevention of  
Constitutional  
Democracy  
Against  
Terrorist and  
Related  
Activities Act

Regulations  
Directives  
Guidance Note  
User Guides  
Public Compliance  
Communications (PCC)

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## Risk Management and Compliance Program

### Ensure that the process is contained and explained in the RMCP:

- Policy
- Purpose statement
- Implementation
- Governance
- Disciplinary Processes
- Registration
- Application of the Risk-Based Approach
- Customer Due Diligence Program
- Processes, roles and Responsibilities
- Basis for Reporting
- How and when to Report
- Record keeping
- Monitoring
- Reporting
- Training and awareness
- Protection of persons
- Requests to furnish information
- Termination of Client Relationship
- Compliance Management and Reporting
- Which requirements do not apply
- Relationship with Supervisory / Regulatory Authorities
- Fines, Penalties and Sanctions
- Compliance Requirements

**The RBA approach is not a “Zero Failure” approach**

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## Risk-Based Approach

### Indicators to consider

- Products and Services risks
- Delivery Channels/Business Practices
- Geographic/Country/Jurisdiction - Location
- Client risks
- Single Transaction / Business Relationship

### Document risk register

*Threat/Vulnerability x Likelihood x Impact = Inherent ML/TF risk level*  
(**High**, **Medium**, **Low**)

**Unique to each Accountable Institution**

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## Controls

- Simplified Due Diligence
- Standard Due Diligence
- Enhanced Due Diligence
- Additional Due Diligence

## Risk-Based Approach

### How do you apply this to:

- Natural Persons
- Private Companies, Close Corporations
- Public, Listed Companies
- Partnerships, Trusts
- UBO's
- Other legal entities
- Foreign or domestic
- Correspondent attorneys

### Determine Beneficial Owners

### Automatic High-Risk Relationships

### UPDATE RISK ASSESSMENT

*Threat/Vulnerability x Likelihood x Impact = Inherent ML/TF risk level*

Onboarding decision

Monitoring based on risk assessment

**Reporting Obligation?**





**Further Factors for your RMCP**

- Veracity of Customer Due Diligence
- Unusual or Suspicious Transactions
- Politically exposed Persons (including family members or known associates) – FPPO / DPIIP
- Adverse Media
- Sanctions
  - Restricted activity and countries
  - Screening of clients
  - Freezing processes
  - Payment screening
- Non-face-to-face or Delayed interaction
- Inability to conduct due diligence
- Verification of information vs Obtaining Information
- Ongoing due diligence

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## Reporting

### Reporting in terms of your RMCP – WHO, HOW and WHEN

#### STRs, TRFs and CTRs

- Knowledge or Suspicion
- Information required to report
- Who report and protection for reporting
- Time to report
- Requests for additional information

#### Terminating Relationships

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## Record Keeping

### Record keeping in terms of your RMCP

- Customer due diligence information
- Records of every transaction
- Reports made to government authorities
- Records of cash threshold transactions (5 years)
- Records of all training conducted
  - Names of attendees
  - Locations
  - Records of assessments
  - 5 years from date of training
- Third parties who retain records

**Where, how and for what period**

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Training

### **Training and Awareness in terms of your RMCP**

- Training guidelines
- Who needs to be trained
- Ensure access to your RMCP

**Where, how and for what period**

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## Governance

### **Governance in terms of your RMCP**

- Assignment of responsibility (sole practitioner, partners, directors)
- AML Compliance Officer role and responsibilities
- Review and approval of RMCP
- Monitoring of high-risk clients
- Escalation processes and procedures
- Reporting processes and procedures
- Onboarding of a client
- Fines, penalties and sanctions

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Implementation

## Considerations

### Impact on day-to-day operations

FIC Inspection inevitable – Can I afford to wait?  
How do you mitigate **your risks**?

- Available skills and knowledge
- Capacity
- Information vs Verification – DATA!
- Efficiencies?
- Consistent process and application
- Continues review and improvement
- Opportunity cost – TIME!

Who can assist?

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THANK YOU

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