

ESWATINI FINANCIAL INTELLIGENCE CENTRE

SUSPICIOUS TRANSACTIONS REPORTING GUIDELINE



Suspicious Transactions Reporting (STR) Guideline on reporting of suspicious and unusual transactions and activities to the Financial Intelligence Centre in terms of section 12 of the Money Laundering and Financing of Terrorism Prevention Act, 2011 as amended by the Anti-money Laundering, Counter Financing of Terrorism and Proliferation Financing (miscellaneous amendments) Act, 2024, (Act no.4 of 2024)

February 2025

PREFACE

- i) Money Laundering has been criminalized in section 4(2) of the Money Laundering and Financing of Terrorism Prevention Act, 2011 (MLFTP Act). A money laundering offence may be described as the performing of any act that may result in concealing the nature of the proceeds of crime or enabling a person to avoid prosecution or in diminishing the proceeds of crime.
- ii) Apart from criminalizing the activities constituting money laundering, the Eswatini 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 MLFTP Act, are based on three basic principles of Money Laundering detection and investigation, i.e. that:
 - Accountable Institutions in the financial system must know with whom they are doing business (section 6 of MLFTP Act);
 - The paper trail of transactions through the financial system must be preserved (Section 8 MLFTP Act)
 - Possible Money Laundering transactions must be brought to the attention of the EFIC (Section 12 & 13 of the MLFTP Act as amended in the Miscellaneous Act, 2024).
- iii) The control measures introduced by the MLFTP Act include requirements for accountable institutions to establish and verify the identities of their customers, to keep certain records, report certain information, and implement measures that will assist them in complying with the Act.
- iv) Section 19 of the MLFTP Act (as amended in the Miscellaneous Act, 2024) established the EFIC as an autonomous central national agency responsible for receiving, requesting, analysing and disseminating to competent authorities' disclosures of financial information. The EFIC is an integral part of Eswatini's fight against Money Laundering and Financing of Terrorism.
- v) Guidance is provided by the EFIC in terms of section 31 (i) of the MLFTP Act which empowers the EFIC to provide guidance in relation to a number of matters concerning compliance with the obligations of the MLFTP Act. This guideline 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 MLFTP Act. If an accountable institution does not follow the guidance issued by the EFIC, it should be able to demonstrate that it nonetheless achieves an equivalent level of compliance with the relevant provision.
- vi) The guideline provided by the EFIC may be updated and revised from time to time. The EFIC therefore advises accountable institutions to regularly monitor communications from the EFIC so as to stay abreast with the current guideline developments. It is important to note that enforcement action may follow as a result of non-compliance with the MLFTP Act where it is found that an accountable institution has not followed the guidance issued by the Centre.

DISCLAIMER

The guidance provided by the EFIC in this STR guideline, is premised on the MLFTP Act and intended to simplify the provisions of the Act for ease of reference for accountable institutions. However, the STR guideline is not intended to replace the MLFTP Act, or guidelines issued under the MLFTP Act. In the case of inconsistency between the Act and this Guideline, the provisions of the Act shall prevail. As such failure to report suspicious transactions to EFIC is an offence in terms of section 81 of the MLFTP Act.

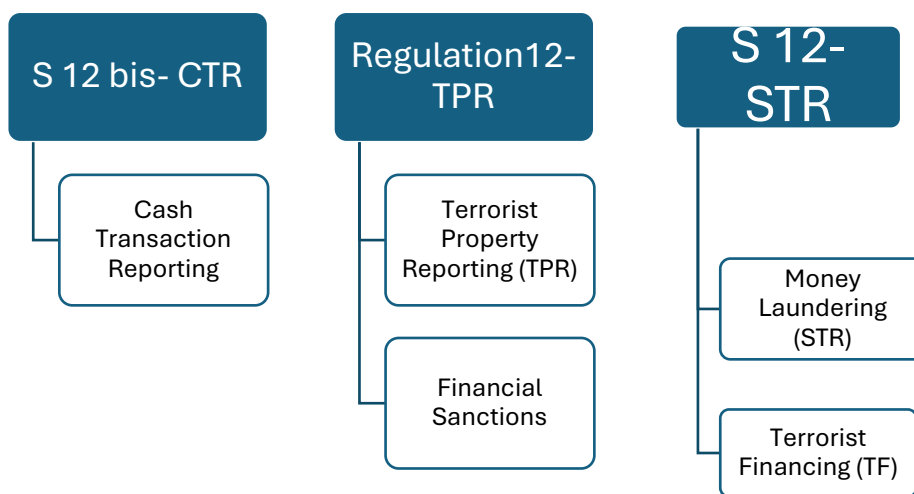
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THE APPLICATION OF THE STR GUIDELINE

1. The EFIC has issued this STR guideline to assist accountable institutions, supervisory authority and/or auditor of accountable institution in meeting the reporting obligations under section 12 and 13 of the MLFTP Act (as amended in the Miscellaneous Act, 2024).
2. It provides general guidance on the nature of reporting under section 12 and explains reporting timelines, and how reports must be filed to the EFIC, what information must be included in these reports and how to use the reporting mechanisms.
3. There are three (3) main reporting obligations in terms of MLFTP Act (as amended in the Miscellaneous Act, 2024) and the UNSCR Regulations as listed below. However, the focus of this guideline is on ML and TF in terms of section 12 of the MLFTP Act (as amended in the Miscellaneous Act, 2024) and Regulation 12 of the UNSCR Regulations of 2016.



DEFINITIONS

“**Accountable Institutions**” means any person, including, but not limited to, a financial institution licensed under the Financial Institutions Act, 2005, who carries on the business or activity as listed in Schedule 3 (under Section 2) of the MLFTP Act.

“**Attempted STR**” means an attempted suspicious transaction which may involve several factors that may on their own seem insignificant, but when taken together, may raise suspicion that the transaction is related to the commission or attempted commission of a money laundering or terrorism financing offence. The context, in which a given situation arises, therefore, is a significant factor in assessing suspicion.

“**CTR**” refers to a cash threshold report submitted in terms of section 12 *bis* of the MLFTP (Amendment) Act, 2016.

“**The EFIC**” means the Eswatini Financial Intelligence Centre established in terms of section 19 of the MLFTP Act.

“**FATF**” means Financial Action Task Force, an intergovernmental body that engages in the development and promotion of national and international policies and standards to combat money

laundering and terrorist financing. It works to generate the necessary political will to bring about legislative and regulatory reforms in these areas.

“Proceeds of a crime” means any money or property that is derived, obtained or realized, directly or indirectly, by any person from:

- (a) the commission of an offence punishable by imprisonment for life or for a period exceeding 12 months; or,
- (b) an act or omission committed or done outside Eswatini, which if it were committed or done in Eswatini, would constitute an offence referred to in paragraph (a).

“Promptly” means taking urgent action to perform a specific act as soon as possible but not later than five (5) days.

“Reporter” refers to the person or entity making the report.

“Resolution” refers to a resolution of the United Nation Security Council relating to the financing of terrorism and the prevention of the proliferation of weapons of mass destruction.

“STR” refers to a suspicious or unlawful activity report submitted in terms of section 12 (1)(a) and (b) of MLTFP Act in respect of any transaction or attempted transaction that may be related to the commission of an unlawful activity, a money laundering offence or an offence of financing of terrorism.

“Supervisory Authority” means any authority having oversight over an accountable institution.

“TFR” refers to terrorist financing report which must be submitted in terms of regulation 12 (1)(b) of the UNSCR regulations in respect of financing of terrorism and related activities such as funds owned or controlled by designated entity.

“TFS List” refers to the Targeted Financial Sanctions List pursuant to Anti-Money Laundering (UNSCR) Regulations of 2016.

“The Centre” means the Eswatini Financial Intelligence Centre in terms of section 19 of the MLTFP Act.

“Unlawful Activity” means an act or omission which if committed in Eswatini or elsewhere, would constitute a criminal offence.

“UNSCR Regulations” means the Anti-Money Laundering (United Nations Security Council Resolutions) Regulations, 2016 made in terms of section 92 of the MLTFP Act published legal notice 140 of 2016 government gazette no 104 of 25 August 2016.

“Without delay” means within 24 hours.

ACRONYMS/ABBREVIATIONS

AML/CFT	Anti-Money Laundering and Combating the Financing of Terrorism
CDD	Customer Due Diligence
DNFBP	Designated Non-Financial Businesses and Professions
EDD	Enhanced Customer Due Diligence
EFIC	Eswatini Financial Intelligence Centre
FATF	Financial Action Task Force
KYC	Know Your Customer
LEAs	Law Enforcement Agencies
MLFTP Act	Money Laundering and Financing of Terrorism Prevention Act, 2011
ML/TF	Money Laundering and Terrorist Financing
MVTS	Money Value Transfer Services
STR	Suspicious Transaction Report
UNSCR	United Nations Security Council Resolutions

INTRODUCTION

1. It is imperative as described in Section 12 of the MLFTP Act (as amended in the Miscellaneous Act, 2024) that an accountable institution files a ML suspicious transaction (s) report with the EFIC **promptly, but not later than five (5) days** after forming the suspicion. A suspicious transaction report can emanate from an attempted transaction (s) or any information received by the institution. For TF related suspicious transaction (s) or activity (s), an accountable institution shall **freeze** the related funds/ account and file the suspicious report with the EFIC **without delay (within 24 hours)** and **without notice to the entity**.
2. This guideline has been issued as per powers conferred under Section 13 of the MLFTP Act for all the accountable institutions and supervisory authorities or auditor to report with the EFIC where it suspects or has reasonable grounds to suspect that information that it has concerning any transaction or attempted transaction may be;
 - 2.1. related to the commission of a money laundering offense or an offence of financing terrorism.
 - 2.2. of assistance in the enforcement of this MLFTP Act.
 - 2.3. relevant to an act preparatory to the offence of financing terrorism.
3. The supervisory authority or the auditor of the accountable institution must promptly report the transaction or attempted transaction directly to the EFIC.
4. The reporting of suspicious and unlawful activities is regarded as an essential element of the anti-money laundering and combating the financing of terrorist activities regime for every country. The international standard on measures to combat money laundering and terrorist financing in the form of the recommendations of the Financial Action Task Force (“the FATF”) provides the following concerning the reporting of suspicious transactions:

Reporting of suspicious transactions

If an accountable institution suspects or has reasonable grounds to suspect that funds are the proceeds of criminal activity, or are related to terrorist financing, it is required by law to report promptly its suspicions to the EFIC. Accountable institutions are:

- i. Banks;
- ii. MVTS;
- iii. Money Remitters;
- iv. Foreign Exchange Dealers;
- v. Non-Bank financial institutions (Credit and Savings institutions, Capital Markets, Insurance and Retirement Funds);
- vi. DNFBPs (Legal Practitioners, Accountants, Real Estate Agents, Dealers in Precious Metals and Stones, Casinos and Gaming Houses, Trust and Company Service Providers, Dealers in Motor Vehicles, and Hardware Dealers); and
- vii. Any other accountable institution as listed in schedule 3 of the MLFTP Act.

PART 1- WHO MUST REPORT?

5. The obligation to report suspicious and unusual transactions and activities under section 12 of the MLFTP Act (as amended in the Miscellaneous Act, 2024) applies to a very wide category of persons and institutions. The MLFTP Act imposes this obligation on any person who:

- 5.1. carries on a business;
 - 5.2. is in charge of a business;
 - 5.3. manages a business; or
 - 5.4. is employed by a business.
6. The term “business” is not defined in the MLFTP Act. The ordinary meaning of the term, within the context of the MLFTP Act, is that of a commercial activity or institution, as opposed to a public sector institution.
 7. This means that any person associated with a commercial undertaking as an owner, manager or employee of that undertaking, is subject to the obligation to report suspicious or unusual transactions to the EFIC.
 8. It further means that it includes accountable institutions listed on schedule 3 of the MLFTP Act, supervisory authorities and auditors.

PART 2- WHAT GIVES RISE TO THE OBLIGATION TO REPORT

9. Section 12 of the MLFTP Act of 2011 (as amended in the Miscellaneous Act, 2024) obligates an accountable institution to file a ML suspicious transaction report with the EFIC **promptly, but not later than five days** after forming the suspicion. An accountable institution shall report the transaction or attempted transaction or the information to the EFIC as far as possible if they find the following circumstances about any customer, transaction or property;
 - 9.1. Where there is suspicion or **reasonable grounds** to suspect that any transaction or attempted transaction may be related to the commission of unlawful activity, and a money laundering offence or an offence of financing of terrorism.
 - 9.2. Information that may be relevant to an investigation or prosecution of a person or persons for unlawful activity, a money laundering offence, or an offence of financing of terrorism or may otherwise be of assistance in the enforcement of the MLFTP Act.

For TF related suspicious transaction (s) or activity (s), an accountable institution shall **freeze** the related funds/ account and file the suspicious report with the EFIC **without delay (within 24 hours)** and **without notice to the entity**.

10. The obligation to file an STR is further provided in regulation 12 of the UNSCR Regulation of 2016 which provides that a person to whom a designation or a sanction list is submitted where necessary shall take necessary measures to freeze the funds owned or controlled by the designated entity **without delay and notice to the entity** and **within 24 hours** of detecting the funds and freezing the funds, file a suspicious report with the EFIC in such form it may be required by section 12 of the MLFTP Act (as amended in the Miscellaneous Act,2024) . An STR should be filed with the EFIC in the following circumstances about any customer, transaction or property;
 - 10.1. If there is suspicion or **reasonable grounds** to suspect that the property is related to ML/TF or other offence; or
 - 10.2. if there are **reasonable grounds** to suspect that the property is related or linked to, or is to be used for, terrorism, terrorist, terrorist acts or by a terrorist organization or those who finance terrorism; and/or
 - 10.3. Information that may be relevant to an act preparatory to an offence of the financing of terrorism.

11. STR includes detailed information about transactions that are suspected violations of the law or appear to be suspicious/ doubtful or arouse suspicion. The goal of STR filing is to help the EFIC to identify individuals, groups, and organizations involved in predicate offences declared in MLFTP Act. In many instances, STRs have been instrumental in enabling law enforcement to initiate or supplement major money laundering or terrorist financing investigations and other criminal cases.
12. It is important to note that section 12 of the MLFTP Act (as amended in the Miscellaneous Act, 2024) and Regulation 12 of the UNSCR Regulations refers to reports being made in connection with suspicions concerning the **proceeds of criminal activities and money laundering, terrorist financing, and financial sanctions** offences as opposed to criminal activity in general. The MLFTP Act and UNSCR Regulation therefore does not require reports to be made on suspected crimes or unlawful conduct by a person (apart from money laundering, terrorist financing and financial sanction activities).

EXAMPLE 1

A Businessperson presents a forged tender award for a short-term financing facility to the Bank. This action constitutes an element of a fraud, namely a misrepresentation that the person presenting the tender award is the legitimate holder of the tender award and is eligible to receive short-term funding to service the tender awarded. The presentation of the tender award is therefore part of an action to commit an offence, namely fraud. As a result, this transaction should be reported to the appropriate investigating authorities as a fraud or attempted fraud. However, if the forged tender award is honoured, the funds/ short term loan received as a result would constitute the proceeds of the fraud. Any subsequent transaction involving those funds would be a transaction relating to the proceeds of criminal activities and possibly a money laundering transaction, and there would be a reporting obligation in terms of section 12 of the MLFTP Act (as amended in the Miscellaneous Act, 2024).

EXAMPLE 2

A person is aware or suspects that a transaction or series of transactions with the business is suspicious and facilitated the transfer of the proceeds of unlawful activity. In such an instance a STR must be submitted to the EFIC.

EXAMPLE 3

A person has a suspicion that a transaction or series of transactions with the business facilitated the transfer of property which is connected to an offence relating to the financing of terrorist activities. In such an instance a **TF report** must be submitted to the EFIC.

EXAMPLE 4

A person is aware that a transaction or series of transactions with the business may be relevant to the investigation of the evasion of any tax administered by the Eswatini Revenue Service. In such an instance an **STR** must be submitted to the EFIC by the business.

EXAMPLE 5

A person is aware that a transaction or series of transactions with the business has no apparent business or lawful purpose. In such an instance a **STR** must be submitted to the EFIC by the business.

EXAMPLE 6

A client deposits cash in small increments of E5000,00 at several branches during the course of one day, adding up to over the reporting threshold of E25 000,00. It is possible that in doing so, the client is trying to avoid the business from becoming aware of a large cash transaction that the client is intending to make. Breaking down the large cash amount into smaller amounts can amount to an attempt to avoid triggering a cash threshold report. In such an instance a **STR** must be submitted to the EFIC by the business.

EXAMPLE 7

An existing client has noted their source of income for the last 5 years as salary income and has reflected an average income of E30 000 per month. There is a once off deposit of E150 000,00 and is noted as “import/export”. The business notes this as unusual for the client profile. The business would be required to submit an **STR** to the EFIC.

EXAMPLE 8

An existing client has noted their source of income for the last 5 years as salary income and has reflected an average income of E30 000 per month. There is a once off deposit of E150 000,00 and is noted as “import/export”. The business notes this as unusual for the client profile. The business would be required to submit an **STR** to the EFIC.

EXAMPLE 9

An individual decides to join a SACCO and makes an initial deposit of E40000 which will be his/her security to apply for a loan of E100,000. The client then makes huge payments towards the loan to settle the loan within 6 months, this unusual behaviour should raise suspicions within the accountable institution, where they will need to report this particular activity to the EFIC.

EXAMPLE 10

A client made a substantial additional investment of E1,000,000 into the ABC Investment's Growth Fund, raising his total investment to E1,500,000, two weeks later the client requested a full redemption of his entire investment, despite no notable market conditions warranting such a rapid exit from a long-term fund. ABC Investment would be required to submit a STR to the EFIC.

INABILITY TO CONDUCT CUSTOMER DUE DILIGENCE

13. Section 7 of the MLFTP Act states that if satisfactory evidence of the identity of a customer is not produced to, or obtained by, an accountable institution in accordance with section 6, the accountable institution shall report the attempted transaction to the EFIC and shall not proceed any further with the transaction unless directed to do so by the EFIC which upon the receipt of this report, the EFIC shall provide such directive promptly.

PART 3 - WHAT IS THE NATURE OF A SUSPICION?

14. The MLFTP Act does not define what constitutes a suspicion. The ordinary meaning of this term includes a state of mind of someone who has an impression of the existence or presence of something or who believes something without adequate proof, or the notion of a feeling that something is possible or probable. This implies an absence of proof that a fact exists.
15. Suspicion in its ordinary meaning is a state of conjecture or surmise where proof is lacking, where there is doubt or a question about the truthfulness or source of information provided or the funds used; For example, 'I suspect but I cannot prove'.
16. The starting point to considering whether circumstances give rise to a suspicion would be when those circumstances raise questions or gives rise to discomfort, apprehension or mistrust.
17. When considering whether there is reason to be suspicious of a particular situation one should assess all the known circumstances relating to that situation. This includes the normal business practices and systems within the industry where the situation arises.
18. A suspicious situation may involve several factors that may on their own seem insignificant, but

taken together, may raise suspicion concerning that situation. The context in which a situation arises, therefore, is a significant factor in assessing suspicion. This will vary from accountable institution to accountable institution and from one customer to another.

19. A person who files a report in terms of section 12 of the MLFTP Act (as amended in the Miscellaneous Act, 2024), should evaluate matters concerning both the reporter's internal business and the business of the client, or potential client in question and the transactions involving the business, in relation to what seems appropriate and is within normal practices in the particular line of business of that person or entity type, and bring to bear on these factors such as the knowledge the reporter may have of the client. This should involve an application of the person's knowledge of the customer's business, financial history, background and behaviour.
20. A particular category of transactions that are reportable under section 12 of the MLFTP Act (as amended in the Miscellaneous Act, 2024) are transactions which a person knows or suspects to have no apparent business or lawful purpose. This refers to situations where customers enter into transactions that appear unusual in a business context or where it is not clear that the purpose of the transaction(s) is lawful. To identify situations where customers wish to engage in these unusual transactions a person would have to have some background information as to the purpose of a transaction and evaluate this against several factors such as the size and complexity of the transaction as well as the person's knowledge of the customer's business, financial history, background and behaviour.
21. More information is given in Part 4 of this guideline as to factors that may indicate that a transaction is suspicious or unusual in a money laundering and terrorist financing context, respectively. These are indicators as to circumstances that may give rise to a suspicious state of mind or may be indicative of the fact that a reasonably diligent and vigilant person may have become suspicious of a particular transaction or series of transactions.

PART 4 - INDICATORS OF SUSPICIOUS AND UNUSUAL TRANSACTIONS (RED FLAGS)

22. A transaction may have certain red flags or indicators of STR, it is important that accountable institutions can recognize indicators, especially indicators relevant to their specific business as this will help determine if a transaction is suspicious. The presence of one or more indicators may not be evidence of criminal activity; it may however raise a suspicion. The presence of multiple indicators should act as a warning sign that additional inquiries may need to be undertaken. Additional inquiries made by an accountable institution may help to dismiss or support the suspicion. To make the detection of STRs expedient for preventing money laundering, terrorist financing, and financing proliferation of weapons of mass destruction, the indicators of suspicious transactions have been categorized into;
 - 22.1. General indicators,
 - 22.2. Sector-specific indicators
23. All accountable institutions are reminded that their obligation to monitor, detect and report suspicious or unusual transactions extends to all products and services that are rendered by the institution. All products and services that are rendered by the institution must be monitored for the detection and possible reporting of suspicious or unusual activity. The EFIC therefore recommends

that institutions map and document all their products and services accordingly, to cater for the detection of both suspicious or unusual transactions and activity. This will assist accountable institutions to identify and monitor the potential money laundering and terrorist financing risks that may be associated with the products and / or services.

24. These indicators are offered as a guide and are not an exhaustive list of every possible indicator. Accountable institutions should be aware that criminals and organized crime groups regularly adapt their behaviour to exploit weaknesses within different sectors to launder funds.

GENERAL INDICATORS

ECONOMICALLY IRRATIONAL TRANSACTIONS

- i. If a customer conducts complex, unusual large transactions, and unusual patterns of transactions or which have no apparent economic or visible lawful purpose.
- ii. Transactions have no conformity with the initial purpose of account opening.
- iii. There are attempts to disguise the real owner or parties to the transaction.

USE OF THE THIRD PARTY

- i. Unrelated parties send fund transfers or other forms of electronic transfers to the same beneficiary with no apparent relation to the recipient.
- ii. If a client conducts a transaction while accompanied, overseen, or directed by another party.
- iii. If a client makes numerous outgoing payments to unrelated parties shortly after they receive incoming funds.
- iv. Wire transfers, deposits, or payments to or from unrelated parties (foreign or domestic)
- v. An unrelated third person is repeatedly depositing/withdrawing as a conductor in a particular account.
- vi. Account holders' profession is non-income generating such as housewife, student, unemployed, etc. but the transaction amount is relatively high.
- vii. Involvement of third parties funding without apparent connection or legitimate explanation.

CASH

- i. If the person sending money cannot even provide general information about the recipient of the money.
- ii. If any person brings huge cash for deposits that appear to be soiled and dusty or have an unusual odour.
- iii. If cash is handled with unnatural binding or packaging during a transaction

TERRORIST FINANCING AND FINANCING OF PROLIFERATION OF WEAPONS OF MASS DESTRUCTION

- i. Transactions involving certain high-risk jurisdictions such as locations during or in proximity to, an armed conflict where terrorist groups operate or locations that are subject to weaker ML/TF controls.
- ii. Raising donations in an unofficial or unregistered manner (and its ultimate use is also not clear).
- iii. If the client is linked to terrorist activities or proliferation financing,
- iv. Transactions involve individuals or entities identified by media and/or sanctions lists as being linked to a terrorist organization or terrorist activities

SECTOR-SPECIFIC

NON-BANKING SECTOR

Securities	Insurance sector that provides life insurance or annuities	Credit and Savings Institutions
<ul style="list-style-type: none"> • If accounts that have been inactive for a long period suddenly experience large investments that are inconsistent with the normal investment practice of the client or their financial ability; • Any dealing with a third party when the identity of the beneficiary or counterparty is undisclosed; • Customer attempts to purchase investments with cash; • Customer frequently makes large investments in stocks, bonds, investment trusts, or other securities in cash within a short period, inconsistent with the normal practice of the customer; • Transfers of funds or securities between accounts not known to be related to the customer; • Unrelated customers redirect funds toward the same account; • The customer is willing to deposit or invest at rates that are not advantageous or competitive; 	<ul style="list-style-type: none"> • The purchase of several insurance products in cash in a short period or at the same time with premium payment entirely in a large amount and followed by policy surrender before the due date; • The customer wants to use cash for a large transaction; • If the client purchases products that are inconsistent with the buyer's age, income, profession, or financial history; • If a client purchases insurance products using a single, large premium payment, particularly when payment is made through unusual methods such as payment made through a third party; • If the client shows more interest in the cancellation or surrender than in the long-term results of the investment; • If the client is known to purchase several insurance products and uses the proceeds from an early policy surrender to 	<ul style="list-style-type: none"> • If the customer makes a large, unexpected loan payment with an unknown source of funds or a source of funds that does not match what the credit institution knows about the customer; • If a customer suddenly repays a problematic loan unexpectedly without a valid reason; • If a customer repays a long-term loan, such as a mortgage, within a short period. If the source of the down payment is inconsistent with the borrower's financial ability, profession, and business as per the declaration; • If a customer shows income from foreign sources on a loan application without providing further details; • If the loan transaction does not make economic sense (e.g., the customer has significant assets, and there is no apparent business); • In terms of a pawn broking transaction; the title of property pledged by the

<ul style="list-style-type: none"> • If there is reasonable ground to suspect that the purchase or sale of a security is related or linked to, or is to be used for, terrorism, terrorist, terrorist acts, or by a terrorist organization or those who finance terrorism; • Request by the client for investment management or administration services where the source of the funds is unclear or not consistent with the client's apparent standing; • If the client deposits funds into the broker's account and requests repayment of funds within a short period for no apparent reason; little or no trading was recorded during the period, and the number of funds deposited was not in line with the client's profile; • Purchase of securities by cash, or transfer, under another person's name/the third party; • If transaction patterns resemble a form of market manipulation, for example, insider trading; • Two or more accounts are involved in selling and purchasing the patterns to increase or unusually decrease the price; • A large amount of wire transfer is used for 	<p>purchase other financial assets;</p> <ul style="list-style-type: none"> • Insurance surrender having a high-value insurance premium; • If a client purchases an annuity with a lump sum rather than paying regular premiums over a period; • The scale of investment in insurance products is inconsistent with the client's economic profile; • Unanticipated and inconsistent modification of customer's contractual conditions, including significant or regular premium top-ups; • Unforeseen deposit of funds or abrupt withdrawal of funds; • If the client funds, the policy uses payments from a third party; • If the client purchases several policies just under the threshold limit, instead of purchasing one large policy; • If the client terminates the product, especially at a loss, or where cash was tendered and/or the refund is to a third party; • If the client purchases various policies and cancels regularly. 	<p>customer appears not to be authentic;</p> <ul style="list-style-type: none"> • The value of the property pledged by the customer appears to be significantly less than it appears to be; • The customer pledges property with no intention to settle and buy back; • The customer borrows funds on behalf of a third party; • Repayment by a guarantor or third party under abnormal circumstances; • Third parties settle higher purchase contracts on behalf of account holders. • Frequent multiple deposits to member savings accounts; • Borrowing large amounts of funds against members' non-withdrawable savings and pledging to repay using unexplained funds (outside normal salary sources); and • Lump sum deposits to member savings accounts.
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<p>securities purchases as a foreign indirect investment, especially from high-risk countries;</p> <ul style="list-style-type: none"> • The customer is reluctant to provide further information about CDD; and • The customer's address is associated with multiple other unrelated accounts 	<ul style="list-style-type: none"> • If the client makes an overpayment of premiums with a request for a refund of the amount overpaid or subsequent request to refund the surplus to a third party; • If the client is found to be involved in the establishment of bogus reinsurers/ insurers to launder the proceeds of crime; • Repeated behavior of surrender of existing policy and subscription of new policies of same or different life insurance companies; • An unusual (a typical) incidence of pre-payment of insurance premiums; • An insurance agent is reluctant to provide information for updating CDD; • Use of life insurance products in a way that resembles the use of a bank account, namely making additional premium payments and frequent partial redemptions; <p>RETIREMENT FUNDS</p> <ul style="list-style-type: none"> • Large cash sums are deposited in retirement funds by members for products that allow additional contributions, particularly when followed by substantial withdrawals 	
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	<p>of funds without a valid reason; and</p> <ul style="list-style-type: none"> • Media reports of illegal activity 	
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BANKING SECTOR

These are not exhaustive:

- i. Deposits of funds with a request for their immediate transfer elsewhere;
- ii. Unwarranted and unexplained international transfers;
- iii. The payment of commissions or fees that appear excessive in relation to those normally payable;
- iv. Transactions do not appear to be in keeping with normal industry practices;
- v. Purchase of commodities at prices significantly above or below market prices;
- vi. Unnecessarily complex transactions;
- vii. Unwarranted involvement of structures such as trusts and corporate vehicles in transactions;
- viii. A transaction that seems to be unusually large or otherwise inconsistent with the customer's financial standing or usual pattern of activities;
- ix. Buying or selling securities with no apparent concern for making a profit or avoiding a loss;
- x. Performing similar transactions (i.e. cash deposits) at multiple branches of the same institution on the same business day;
- xi. Multiple electronic fund transfers and or deposits of cash over a period of time, where each transaction is below the reporting threshold for either IFTR or CTR, which create the impression of structuring to avoid triggering a reporting obligation.
- xii. Performing transactions in a manner to attempt to conceal the underlying client and/ or ultimate beneficiary of the transaction; or
- xiii. Unwarranted desire to involve entities in foreign jurisdictions in transaction.
- xiv. A customer provides insufficient, vague or suspicious information concerning a transaction;
- xv. Accounts that show unexpectedly large cash deposits and immediate withdrawals;
- xvi. A frequent exchange of small denomination notes for larger denomination notes; or
- xvii. Involvement of significant amounts of cash in circumstances that are difficult to explain.

DESIGNATED NON-FINANCIAL BUSINESS PROFESSIONS

Real Estate Agent

These are not exhaustive:

- i. Customer uses an unknown intermediary to approach Real Estate Agent,
- ii. Customer wants to use foreign companies but does not seem to have a legitimate, legal, or commercial reason for doing so,
- iii. Third party is present for all transactions but does not participate in the actual transaction,
- iv. Customer negotiates a purchase for market value or above asking price, but records a lower value on documents, paying the difference "under the table".
- v. Customer purchases personal use property under corporate veil when this type of transaction is inconsistent with the ordinary business practice of the customer,

- vi. Customer purchases property in the name of a nominee such as an associate or a relative (other than a spouse),
- vii. Customer purchases multiple properties in a short period and seems to have few concerns about the location, condition, and anticipated repair costs, etc. of each property,
- viii. Customer insists on providing signature on documents by fax only,
- ix. Customer's documentation to ascertain identification, support income or verify employment is provided by an intermediary who has no apparent reason to be involved,
- x. Customer seems unconcerned with terms of credit or costs associated with completion of a loan transaction,
- xi. Customer frequently uses trust accounts for transactions where it may not make business sense to do so.
- xii. Client exhibits nervous behaviour or has a defensive stance to questioning.
- xiii. The client refuses to identify a source for funds or provides information that is false, misleading, or substantially incorrect.
- xiv. Client makes inquiries/statements indicating a desire to avoid reporting or tries to persuade the reporting entity not to file/maintain required reports.
- xv. The transactional activity is inconsistent with the client's apparent financial standing, their usual pattern of activities or occupational information.

Legal Professionals

These are not exhaustive:

- i. Customer uses an unknown intermediary to approach legal practitioner,
- ii. Customer wants to use foreign companies but does not seem to have a legitimate, legal or commercial reason for doing so,
- iii. Customer wishes to form or purchase a company with a corporate objective that is irrelevant to the customer's normal profession or activities without a reasonable explanation,
- iv. Customer performs activities that are irrelevant to his or her normal activities or profession and cannot provide a reasonable explanation,
- v. Customer repeatedly changes legal practitioners within a short period of time without any reasonable explanation,
- vi. Customer often transfers funds or securities to a third party,
- vii. Customer is reluctant to discuss his or her financial affairs regarding behaviour that is inconsistent with his or her ordinary business practices,
- viii. Customer has a history of changing bookkeepers or accountants yearly,
- ix. Customer is uncertain about location of company records,
- x. Customer is invoiced by organizations located in a country that does not have adequate money laundering laws and is known for high secretive banking and as a corporate tax haven,
- xi. Third party is present for all transactions but does not participate in the actual transaction,
- xii. Customer uses gatekeepers (legal practitioners) to structure deposits and purchase real estate,
- xiii. Customer does not want to put his or her name on any document that would connect him or her with the property or uses different names on Offers to Purchase, closing documents and deposit receipts,
- xiv. Customer negotiates a purchase for market value or above asking price, but records a lower value on documents, paying the difference "under the table".
- xv. Customer purchases personal use property under corporate veil when this type of transaction is inconsistent with the ordinary business practice of the customer,

- xvi. Customer purchases property in the name of a nominee such as an associate or a relative (other than a spouse),
- xvii. Customer purchases multiple properties in a short period and seems to have few concerns about the location, condition, and anticipated repair costs, etc. of each property,
- xviii. Customer insists on providing signature on documents by fax only,
- xix. Customer frequently makes large investments in stocks, bonds, investment trusts or other securities in cash within a short period, which is inconsistent with the normal practice of the customer,
- xx. The entry of matching buying and selling of securities or futures contracts (called match trading), creating the illusion of trading,
- xxi. Customer is willing to deposit or invest at rates that are not advantageous or competitive,
- xxii. Customer's documentation to ascertain identification, support income or verify employment is provided by an intermediary who has no apparent reason to be involved,
- xxiii. Customer seems unconcerned with terms of credit or costs associated with completion of a loan transaction.

Accountants

These are not exhaustive:

- i. Customer uses an unknown intermediary to approach Accountants,
- ii. Customer wants to use foreign companies but does not seem to have a legitimate, legal or commercial reason for doing so,
- iii. Customer wishes to form or purchase a company with a corporate objective that is irrelevant to the customer's normal profession or activities without a reasonable explanation,
- iv. Customer performs activities that are irrelevant to his or her normal activities or profession and cannot provide a reasonable explanation,
- v. Customer repeatedly changes legal practitioners within a short period of time without any reasonable explanation,
- vi. Customer often transfers funds or securities to a third party,
- vii. Customer is reluctant to discuss his or her financial affairs regarding behaviour that is inconsistent with his or her ordinary business practices,
- viii. Customer has a history of changing bookkeepers or accountants yearly,
- ix. Customer is uncertain about location of company records,
- x. Customer is invoiced by organizations located in a country that does not have adequate money laundering laws and is known for high secretive banking and as a corporate tax haven,
- xi. Third party is present for all transactions but does not participate in the actual transaction,
- xii. Customer uses gatekeepers (legal practitioners) to structure deposits and purchase real estate; Customer does not want to put his or her name on any document that would connect him or her with the property or uses different names on Offers to Purchase, closing documents and deposit receipts,
- xiii. Customer negotiates a purchase for market value or above asking price, but records a lower value on documents, paying the difference "under the table".
- xiv. Customer purchases personal use property under corporate veil when this type of transaction is inconsistent with the ordinary business practice of the customer,
- xv. Customer purchases property in the name of a nominee such as an associate or a relative (other than a spouse),

- xvi. Customer purchases multiple properties in a short period and seems to have few concerns about the location, condition, and anticipated repair costs, etc. of each property,
- xvii. Customer insists on providing signature on documents by fax only,
- xviii. Customer frequently makes large investments in stocks, bonds, investment trusts or other securities in cash within a short period, which is inconsistent with the normal practice of the customer,
- xix. The entry of matching buying and selling of securities or futures contracts (called match trading), creating the illusion of trading,
- xx. Customer is willing to deposit or invest at rates that are not advantageous or competitive,
- xxi. Customer's documentation to ascertain identification, support income or verify employment is provided by an intermediary who has no apparent reason to be involved,
- xxii. Customer seems unconcerned with terms of credit or costs associated with completion of a loan transaction; and
- xxiii. Customer frequently uses trust accounts for transactions where it may not make business sense to do so.

Casinos and Gaming Houses

These are not exhaustive:

- i. Customer wants to remain anonymous. This could be by use of false identification or use the next person's identity information to register and purchase casino value instruments.
- ii. Customer that wants to use large amounts of money to purchase casino value instruments.
- iii. Customers from high-risk jurisdictions.
- iv. Customer deposits cash to buy casino value instruments and claims funds without playing.
- v. Clients that deposit cash to buy casino value instruments and withdraw to a bank account after playing at a minimal level or not play at all.
- vi. Customer that keeps depositing amounts slightly below the cash threshold amount.
- vii. Customers that use foreign currency conversion services (foreign exchange) pretending to have an interest to buy casino value instruments and end up not buying or playing.
- viii. Clients gambling in the same groups most of the time.
- ix. Issuing of winnings to a third party. Money launderers can buy winnings from the actual winner.

Dealers in Precious Metals and Stones

These are not exhaustive:

- i. Customer uses an unknown intermediary to approach dealer,
- ii. Client wants to remain anonymous,
- iii. Customer wants to use foreign companies or bank accounts but does not seem to have a legitimate, legal or commercial reason for doing so,
- iv. Customer performs activities that are irrelevant to his or her normal activities and cannot provide a reasonable explanation,
- v. Customer is reluctant to discuss his or her financial affairs regarding behaviour that is inconsistent with his or her ordinary business practices,
- vi. Third party is present for all transactions but does not participate in the actual transaction,
- vii. Customer negotiates a purchase for market value or above asking price, but records a lower value on documents, paying the difference "under the table".

- viii. Customer purchases precious metals & stones in the name of a nominee such as an associate or a relative (other than a spouse)
- ix. Customer's documentation to ascertain identification, support income or verify employment is provided by an intermediary who has no apparent reason to be involved,
- x. Customer seems unconcerned with terms of credit or costs associated with completion of a transaction,
- xi. Customer frequently uses trust accounts for transactions where it may not make business sense to do so.
- xii. Client conducts transactions at different physical locations or approaches different staff.
- xiii. Client exhibits nervous behavior or has a defensive stance to questioning.
- xiv. The client refuses to identify a source for funds or provides information that is false, misleading, or substantially incorrect.
- xv. Client makes inquiries/statements indicating a desire to avoid reporting or tries to persuade the reporting entity not to file/maintain required reports.
- xvi. The transactional activity is inconsistent with the client's apparent financial standing, their usual pattern of activities or occupational information.

Hardware Dealers

These are not exhaustive:

- i Client wants to remain anonymous,
- ii The client refuses to identify a source for funds or provides information that is false, misleading, or substantially incorrect,
- iii Client makes large cash deposits in their accounts/ card,
- iv Client makes large cash payments for hardware material,
- v Customer makes cash deposit or purchase then requests refunds from hardware account or card through a bank transfer or other electronic funds transfer methods.
- vi Customer negotiates a purchase for market value or above asking price, but records a lower value on documents, paying the difference "under the table".
- vii Customer frequently deposits funds into an account/ card of a nominee such as an associate or a relative (other than a spouse).
- viii Customer's documentation to ascertain identification, support income or verify employment or financial statement is provided by an intermediary who has no apparent reason to be involved, or not provided at all.
- ix Customer seems unconcerned with terms of credit or costs associated with completion of a transaction,
- x Client approaches different staff to conduct transactions.
- xi Client exhibits nervous behavior or has a defensive stance to questioning.
- xii Client makes inquiries/statements indicating a desire to avoid reporting or tries to persuade the reporting entity not to file/maintain required reports.
- xiii The transactional activity is inconsistent with the client's apparent financial standing, their usual pattern of activities or occupational information.

Motor Vehicle Dealers

These are not exhaustive:

- i. Customer uses an unknown/ third party intermediary to approach dealer, such as brokers or dealers, to purchase or sell vehicles. Dealers should be alert to these transactions and verify the identity of all parties involved.
- ii. Client wants to remain anonymous,
- iii. Client makes large cash payments,
- iv. Third party is present for all transactions but does not participate in the actual transaction,
- v. Customer negotiates a purchase for market value or above asking price, but records a lower value on documents, paying the difference “under the table”.
- vi. Customer purchases motor vehicle in the name of a nominee such as an associate or a relative (other than a spouse)
- vii. Customer’s documentation to ascertain identification, support income or verify employment or financial statement is provided by an intermediary who has no apparent reason to be involved, or not provided at all.
- viii. Customer seems unconcerned with terms of credit or costs associated with completion of a transaction, and Customer frequently uses trust accounts for transactions where it may not make business sense to do so.
- ix. Client approaches different staff to conduct transactions.
- x. Client exhibits nervous behavior or has a defensive stance to questioning.
- xi. The client refuses to identify a source for funds or provides information that is false, misleading, or substantially incorrect.
- xii. Client makes inquiries/statements indicating a desire to avoid reporting or tries to persuade the reporting entity not to file/maintain required reports.
- xiii. The transactional activity is inconsistent with the client’s apparent financial standing, their usual pattern of activities or occupational information.

IS THERE A THRESHOLD APPLICABLE TO SUSPICIOUS AND UNUSUAL TRANSACTIONS?

25. It is important to make it clear that there is no monetary threshold which applies to the reporting of suspicious or unusual transactions. Once the conclusion is reached that a situation exists which gives rise to a suspicion that a transaction or activity relates to proceeds of criminal activities, money laundering or terror financing, as explained above, the transaction or activity must be reported irrespective of the amount involved.
26. This must not be confused with a situation where the amount involved in a transaction or series of transactions, is the basis of a suspicion or forms part of the circumstances which gives rise to a suspicion pertaining to the transaction or series of transactions.

EXAMPLE 11

A review of a client’s transacting pattern over a period of time indicates that their overall transacting pattern does not correspond with the expected profile the institution would have for the client. Note that an **STR** would be reportable as the suspicion would be based on a comparative review of the client’s previous transacting pattern.

SHOULD THE CLOSING OF AN ACCOUNT BE REGARDED AS SUSPICIOUS?

27. The closing of an account with an accountable institution is a transaction which forms part of the business relationship which will be terminated by the account closure. In these circumstances institutions should consider factors such as the history of the account, the circumstances that led to the customer's decision to close the account and the reasons given by the customer for the closure of the account. For example, where a customer's instruction to close an account was preceded by a request by the accountable institution for additional or updated information pertaining to the customer, the decision to rather close the account than to provide the requested information may be regarded as suspicious and / or unusual.

POTENTIAL MATCH OF A CLIENT NAME ON THE TFS LIST

28. Where a name, similar to the accountable institution's clients name, is found on the TFS list. After comparing all relevant information, the accountable institution cannot exclude the possibility that their client is not the same person.

POTENTIAL MATCH OF A CLIENT NAME ON A NON TFS LIST

29. Where a name, similar to the accountable institution's clients name is found on sanctions list other than the TFS list, the fact that the clients name is found on that sanctions list does not automatically warrant the filing of an STR. After considering all relevant information, the accountable institution must decide whether or not the accountable institution must file a report to the EFIC.

PART 5- WHAT ARE THE IMPLICATIONS OF REPORTING IN TERMS OF SECTION 12 OF THE MLFTPACT (AS AMENDED IN THE MISCELLANEOUS ACT, 2024)

CAN AN INSTITUTION CONTINUE TRANSACTING WITH A CUSTOMER AFTER AN STR HAS BEEN MADE?

30. Section 12 (4) of the MLFTP Act (as amended in the Miscellaneous Act, 2024) provides that if the EFIC, after consulting an accountable institution required to make a report under subsection (1) of section 12 of the same Act, has reasonable grounds to suspect that a transaction or a proposed transaction may involve an offence of financing of terrorism, the proceeds of unlawful activity or a money laundering offence, it may direct the accountable institution in writing or by telephone to be followed up in writing within 1 working day, not to proceed with the carrying out of that transaction or proposed transaction or any other transaction in respect of the funds affected by that transaction or proposed transaction for a period as may be determined by the EFIC, which may not be more than five working days, to allow the EFIC;

30.1. to make necessary inquiries concerning the transaction; and

30.2. if the EFIC deems it appropriate, to inform and advise a competent authority.

31. The provision of this section shall supersede any provision contained in any other law regarding the reporting of suspicious transactions.

REQUEST FOR INFORMATION

32. The EFIC may request for information in writing in terms of section 31 (c) of the MLFTP Act to an accountable institution that has previously submitted a report in terms of section 12 of the MLFTP Act (as amended in the Miscellaneous Act, 2024).

33. The accountable institution would have to furnish the EFIC with all additional information concerning the report and the grounds for the report as the Centre may reasonably require within the specified period and method indicated in the request for information.

PROTECTION OF PERSONS REPORTING SUSPICIOUS TRANSACTIONS

34. Section 16 (1) of the MLFTP Act, 2011 protects persons reporting suspicious transactions. It states that: No legal action, whether civil, criminal, or disciplinary proceedings shall be taken against;
- 34.1. an accountable institution, an auditor, the competent authority or supervisory authority of an accountable institution; or,
 - 34.2. an officer, employee, or agent of the accountable institution, an auditor, the competent authority or supervisory authority of an accountable institution acting in the course of that person's employment or agency

In relation to any action by the accountable institution, the auditor, the competent authority or the supervisory authority or their officer, employee, or agent taken under section 11(2)(b), 12, or 13 carried out in good faith or compliance with directions given by the EFIC under section 31 (g) of the MLFTP Act.

PRIVILEGED COMMUNICATION

35. Section 17 of the MLFTP Act, 2011 protects the common law right to legal professional privilege between an attorney and an attorney's client in respect of communications made in confidence. For this section, communication is privileged communication only if it is;
- 35.1. a confidential communication, whether oral or in writing, passing between a lawyer in his or her professional capacity and another lawyer in such capacity; or,
 - 35.2. made or brought into existence to obtain or give legal advice or assistance; and,
 - 35.3. not made or brought into existence to commit or further the commission of some illegal or wrongful act.

CONFIDENTIALITY

36. Section 72 of the MLFTP Act states that an accountable institution shall comply with the requirement of this the Act notwithstanding any obligation as to confidentiality or other restriction on the disclosure of information imposed by any written law or otherwise.

TIPPING OFF AND PENALTIES

37. Section 14 (a) & (c) stipulates that a person or an institution shall not disclose to any person that a report to the EFIC under section 13 has been or may be and any other information from which the person to whom the information is disclosed could reasonably be expected to infer that suspicion has been formed or that a report has been or may be made.

FAILURE TO REPORT SUSPICIOUS TRANSACTION

38. Section 81(1) provides that an accountable institution that fails, within the prescribed period, to report to the EFIC the prescribed information in respect of a suspicious transaction under Section 13, commits an offence. A person convicted of an offence mentioned in Section 81 of the MLFTP Act shall be liable on conviction for;
- 38.1. in the case of an individual, to imprisonment for 1 year or a fine of not less than thirty thousand Emalangeni (E30,000);
 - 38.2. in the case of a body corporate, to a fine of not less than one hundred thousand Emalangeni

- (E100,000); and
- 38.3. Impose a financial penalty of up to E5 000 000 as determined by EFIC in consultation with relevant regulatory bodies per section 35bis (3)(f) of the MLFTP Act as amended in 2016.

PROVIDING FALSE OR MISLEADING STATEMENTS

39. In terms of section 82, a person who is making a report under section 13 makes any statement that the person knows is false or misleading in a material particular or omits from any statement any matter or thing without which the person knows that the statement is false or misleading in a material particular, commits an offence. A person convicted of an offence mentioned in Section 82 of the MLFTP Act shall be liable on conviction;
- 39.1. in the case of an individual, to imprisonment for 5 years or to a fine of not less than fifty thousand Emalangeni (E50,000); and,
- 39.2. in the case of a body corporate to a fine of not less than one hundred thousand Emalangeni (E100,000).

PART 6 - PROCESS FOR SUBMITTING REPORTS TO THE EFIC IN TERMS OF SECTION 12 OF THE MLFTP ACT (AS AMENDED IN THE MISCELLANOUS ACT, 2024).

METHODS OF FILING A REPORT IN TERMS OF SECTION 12 OF THE MLFTP ACT (AS AMENDED IN THE MISCELLANOUS ACT,2024).

40. Section 12(2) of the MLFTP Act (as amended in the Miscellaneous Act, 2024) states that a report made in terms of section 12 shall:
- 40.1. be in writing and may be given by way of mail, telephone to be followed up in writing, fax or electronic mail or such other manner as may be prescribed by the EFIC.
- 40.2. be in such form and contain such details as may be prescribed by the EFIC.
- 40.3. contain a statement of the grounds on which the accountable institution holds the suspicion; and,
- 40.4. be signed or otherwise authenticated by the accountable institution.

HOW SHOULD A REPORT IN TERMS OF SECTION 12 OF THE MLFTP ACT (AS AMENDED IN THE MISCELLANOUES ACT, 2024) BE SUBMITTED?

41. Individual reporting to the EFIC shall be made electronically through the EFIC webform connected to the IBase System or any other secured platform as may be prescribed by the EFIC in future.
42. Reporters are reminded that available attachments (e.g. copies of the client identification document, client proof of residence, transaction receipt, application form etc.) must be attached to the email and submitted with the initial report submitted to the Centre;
43. An accountable institution or any other person required to file an STR may only file a report in terms of section 12 of the MLFTP Act (as amended in the Miscellaneous Act, 2024) 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 +268 2405 9000 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 12 of the MLFTP Act (as amended

in the Miscellaneous Act, 2024) posted to the EFIC.

WHAT IS THE TIME PERIOD FOR SUBMITTING A REPORT

44. In terms of Section 12 of the MLFTP Act (as amended in the Miscellaneous Act, 2024), an accountable institution shall forthwith file a ML suspicion transaction report with the EFIC **promptly but not later than five days** after forming the suspicion. An accountable institution shall report the transaction or attempted transaction or the information to the EFIC.
45. Further in terms of regulation 12 of the UNSCR regulations, a person to whom a designation or sanction list is submitted under regulation 10 shall where applicable:
- 45.1. Take the necessary measure to freeze the funds owned or controlled by a designated entity without delay and without notice to the entity.
 - 45.2. Within 24 hours of detecting the funds and freezing the funds, file a suspicious report with the EFIC in such form as may be required under section 12 of the MLFTP Act (as amended in the Miscellaneous Act, 2024).
46. The filing of a report in terms of section 12 of the MLFTP Act (as amended in the Miscellaneous Act, 2024) starts from the point where a person forms a suspicion. The “promptly or five-day period” starts when a person becomes aware of the facts which will eventually give rise to a report in terms of section 12 of the MLFTP Act (as amended in the Miscellaneous Act, 2024).
47. The reporting period is effective from the time the accountable institution becomes aware of such reporting obligation, and it may not add additional timeframes for its internal transactional monitoring alert system processes, and / or internal investigation and review processes to the prescribed reporting period.

WHAT IS THE RECORD KEEPING REQUIREMENTS FOR REPORTS SUBMITTED TO THE EFIC

48. In terms of section 8(1)(c), an accountable institution shall establish and maintain records of all reports made to the EFIC under section 12 and enquiries relating to money laundering and financing of terrorism made to it by the EFIC.
49. Section 8(2) further states that the records mentioned in subsection (1) shall be kept for a minimum period of five years from the date the evidence of the identity of a person was obtained and of any transactions.

PROCESS TO BE FOLLOWED WHEN A TRANSACTION OR SERIES OF TRANSACTIONS GIVES RISE TO MULTIPLE REPORTING OBLIGATIONS.

50. There may be instances when a client’s transaction or series of transactions will give rise to more than one reporting obligation. This would mean that the accountable institution would be required to submit more than one type of report, for the same transaction, to the EFIC.

EXAMPLE 12

An accountable institution receives a cash payment of E50 000,00 from their client as part of a business transaction. This amount exceeds the cash threshold amount for submitting a report in terms of section 12 bis of the MLFTP Act (as amended in the Miscellaneous Act). This entity would need to report this as a **CTR** to the EFIC. Further, the entity is of the opinion that this transaction is also suspicious. The entity would also be required to submit an **STR** to the EFIC.

PART 7 - INFORMATION TO BE PROVIDED IN A SECTION 12 REPORT

REPORTERS SHOULD TAKE NOTE OF THE FOLLOWING INFORMATION WHEN SUBMITTING A SUSPICIOUS TRANSACTION REPORT TO THE EFIC:

51. Ensure that client information sets are comprehensively completed;
 - 51.1. Provide valid ID/Passport information and other client information (as required by the MLFTP Act);
 - 51.2. Transactions whereby the client's account is debited and / or credited should be mapped and reported accordingly
 - 51.3. Ensure that an appropriate descriptive narrative for both the "Reason / Reason for Reporting" and "Action / Action Taken" fields on the reporting form for reports in terms of Section 12 of the MLFTP Act (as amended in the Miscellaneous Act, 2024) is completed.
 - 51.4. As much of the relevant "information as is readily available". The relevant prescribed particulars may include information which an accountable institution may not have obtained in the course of establishing a particular person's identity or conducting a particular transaction. In such cases the MLFTP Act (as amended in the Miscellaneous Act, 2024) requires that an accountable institution provides all the information in question that the accountable institution has in its possession. In other words, all the information that is under the control of the accountable institution and available within the various operating systems of the accountable institution.
 - 51.5. 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 accountable institution and must be provided, where applicable, when submitting a report to the EFIC. Information of this nature may not have been verified, or otherwise confirmed at the time when it was obtained but should be provided nonetheless when reporting to the EFIC in terms of the MLFTP Act.

EXAMPLE 13

The customer acceptance policy of an accountable institution must follow accepted standards, and certain minimum information is required for certain banking products and accounts. This information is considered to be readily available to the institution and must be provided when submitting a report to the Centre, where applicable.

SUBMITTING FULL PARTICULARS AND READILY AVAILABLE INFORMATION ON THE REPORTING EMAIL OF THE CENTRE

52. The STR form of the EFIC contains several mandatory fields that must be fully completed with all relevant information on the required fields before submitted to the EFIC. These fields may therefore not be left blank.
53. Where a mandatory 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 “not obtained”.

NOTE:

Reporters should note that whilst the “Reason / Reason for Reporting” and “Action / Action Taken” fields are not marked as mandatory information fields on the reporting form, although the MLFTP Act require that these particulars be provided in a report to the Centre. The reporter must complete these fields when completing the STR reports. The EFIC will reject a report when these fields in the reporting form are not completed.

ACCESSIBILITY OF TFS LISTS

54. The provisions of the UNSCR Regulations requires that the EFIC gives notice of an adoption of a resolution as issued by the Security Council of the United Nations under Chapter VII of the Charter of the United Nations.
55. The EFIC, in order to assist reporters in accessing these resolutions, have made a list available in the EFIC website. This list is referred to as the Targeted Financial Sanctions List and will be made available on the EFIC website.

WHAT HAPPENS TO A SECTION 12 REPORT IN TERMS OF THE MLFTP ACT (AS AMENDED IN THE MISCELLANEOUS ACT, 2024) AFTER BEING SUBMITTED TO THE EFIC?

56. Once the EFIC receives the report, further analytical work will be conducted on the information provided in the report. If the information provided in the report, together with the additional analysis, indicates a reasonable belief that the information may be required to investigate suspected criminal activity, the information will be referred to the appropriate authority to carry out further investigation.
57. In accordance with section 15 of the MLFTP Act, the EFIC is required to ensure that personal information of those involved in the making of a STR is protected from unauthorised disclosure.

CONCLUSION

58. All accountable institutions must in terms of section 12 of the MLFTP Act (as amended in the Miscellaneous Act, 2024), report suspicious or unusual activities or transactions or series of transactions related to money laundering, the financing of terrorist and related activities and contraventions of prohibitions to financial sanctions to the EFIC. This may be done by submitting

a STR to the EFIC as prescribed in the MLFTP Act (as amended in the Miscellaneous Act, 2024).