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**Money Laundering Legislation in South Africa**

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**MEMORANDUM**

**Information required by Banking institutions prior to opening banking accounts & Borrowing Restrictions**

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**INTRODUCTION**

**The Financial Intelligence Center Act imposes the responsibility on financial institutions to implement procedures and control systems to ensure the fulfillment of their legal responsibility in terms of the Act to detect, deter and report suspicious transactions.**

**OBLIGATIONS ON BANKS:**

- Implement and adhere to the "Know Your Client" provisions
- Identify and Report suspicious transactions
- Implement Internal Rules
- Comply with record keeping provisions & the
- Retention of documents
- Provide Training to employees
- Appoint a Compliance Officer

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**Information concerning foreign companies**

**A Identification**

An Accountable Institution (such as the bank) must obtain from the natural person acting or purporting to act on behalf of that foreign company with which it is establishing a business relationship or concluding a single transaction (e.g. opening a bank account) :-

- (a) The name under which it is incorporated;
- (b) The number under which it is incorporated;
- (c) The address where it is situated for purposes of its incorporation;
- (d) The name under which it conducts business in the country where it is incorporated;
- (e) The name under which it conducts business in the Republic;
- (f) The address from which it operates in the country where it is incorporated, or if it operates from multiple addresses the address of its head office;
- (g) The address from which it operates in the Republic, or if it operates from multiple addresses the address of the office seeking to establish a business relationship or to enter into a single transaction with the accountable institution;
- (h) The income tax and value added tax registration numbers of the company, if such numbers were issued to that or company;

(i) The full names, date of birth and identity number, referred to in regulation 3 (1) (a), (b) and (c) or full names, date of birth and name of the country, referred to in regulation 5 (1) (a), (b) and (c), as may be applicable, concerning—

- The manager in respect of its affairs in the Republic; and
- Each natural person who purports to be authorised to establish a business relationship or to enter into a transaction with the accountable institution on behalf of the foreign company;

(k) The residential address and contact particulars of—

- The manager in respect of its affairs in the Republic;
- Each natural or legal person or trust holding 25% or more of the voting rights in the company; and
- Each natural person who purports to be authorised to establish a business relationship or to enter into a transaction with the Accountable Institution on behalf of the company.

## B Verification

An Accountable Institution must verify the particulars obtained in respect of a foreign company by comparing:-

(a) The name, number and address of the company with an official document issued by an authority for recording the incorporation of companies of the country of incorporation of the foreign company, witnessing its incorporation and bearing its name and number of incorporation and the address where it is situated for purposes of its incorporation;

(b) The names and addresses of the persons mentioned above with information which can reasonably be expected to such verification and is obtained by reasonably practical means, taking into account any guidance notes concerning the verification of identities which may apply to that institution;

(c) The tax numbers with documents issued by the South African Revenue Services bearing such numbers;

(d) Any of these particulars with information which is obtained from any other independent source, if it is believed to be reasonably necessary taking into account any guidance notes concerning the verification of identities which may apply to that institution.

### Example of a major commercial bank's policy on opening account and compliance with money laundering regulation

- **Account opening and due diligence** procedures developed will be implemented with regard to business relationships and transactions
- The bank may **decline or terminate business relationships or transactions** where there appears to be a risk to its services and infrastructure being abused for the purposes of money laundering
- All client identification, verification and transaction **records are to be retained** by the bank. The applicable legislation will prescribe the specific records to be retained and the respective retention periods
- The bank's compliance with its obligations in terms of money laundering control legislation and adherence to this policy will be **monitored proactively**
- The responsibility of overseeing all money laundering control matters within the bank vests with the **Group Money Laundering Control Officer** ("GMLCO").