

THE FINANCIAL INTELLIGENCE ACT (Act No 13 of 2012)

- ☀ Purpose is to combat money laundering, financing of terrorism activities
- ☀ Provides for establishment of Financial Intelligence Centre (FCI)
- ☀ Provides for establishment of the Anti-Money Laundering and Combating Financing of Terrorism Council (Council).
- ☀ FIC headed by director, accountable to the Minister
- ☀ ‘reporting institution’ –
 - ☀ motor dealers;
 - ☀ second hand goods dealers;
 - ☀ traders in jewelry, antiques or art;
 - ☀ short-term insurers



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THE FINANCIAL INTELLIGENCE ACT (cont'd)

☀ Key Definitions (cont'd)

☀ 'Accountable institution' –

- ☀ legal practitioners;
- ☀ estate agents;
- ☀ Accountants or Auditors (buying/selling of real estate; managing moneys; facilitating or sourcing contributions for, or establishing, operating or managing legal persons; buying or selling business entities or legal rights);
- ☀ Trust and Company Service Providers (formation agent for legal persons; acting/arranging to act as director, secretary; providing a registered office, business address, secretarial services or resources; acting as a trustee of a trust or as a nominee shareholder);



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- ☀ Accountable institution (cont'd)
 - ☀ banks;
 - ☀ casinos;
 - ☀ money lenders (e.g. Agribank, DBN, NHE);
 - ☀ trader in minerals or petroleum;
 - ☀ trader in money market instruments, foreign exchange, currency exchange, exchange- interest rate and index instruments, transferable securities, commodity futures;
 - ☀ other securities services;
 - ☀ person who renders investment advice;
 - ☀ Nampost;
 - ☀ person who deals with traveller's cheques;
 - ☀ licensed stock exchange;



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- ☀ Accountable institution (cont'd)
 - ☀ person who carries on business of electronic money or value transfer;
 - ☀ certain persons regulated by Namfisa (individual/collective portfolio management, Long-term insurer, micro lender, friendly society, unit trust manager);
 - ☀ auctioneer.
- ☀ 'Regulatory Bodies'
 - ☀ Bank of Namibia,
 - ☀ Law Society,
 - ☀ Estate Agents Board,
 - ☀ Public Accountants and Auditors Board,
 - ☀ Registrar of Companies
- ☀ 'Supervisory Body' - Namfisa



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- ☀ Application of Act to Institutions
 - ☀ Registrar of Companies
 - ☀ Master of the High Court
 - ☀ ‘reporting-’ or ‘accountable institution
- ☀ Obligation to identify prospective clients
- ☀ Risk management and monitoring to be applied
- ☀ ‘accountable institutions’ must have risk management and monitoring systems in place to identify activities that pose risks;
- ☀ ‘Accountable-’ and ‘reporting institutions’ to have customer acceptance policy, rules, programs, procedures, controls
- ☀ Special provisions re cross-border banking relationships
- ☀ Record keeping obligations
- ☀ The Centre has access during ordinary working hours



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- ☀ Electronic fund transfers across border to be reported
- ☀ Obligation to report suspicious transaction
- ☀ FIC is the supervisory body of all institutions not supervised by Namfisa
- ☀ Conveyance of cash or similar asset across the border to be declared
- ☀ Enforcement measures re confidentiality, tipping off, obstructing
- ☀ Appointment of inspectors and inspections
- ☀ FIC empowered to issue directives and to impose or suspend administrative sanctions
- ☀ Written undertakings by ‘accountable-’ or ‘reporting institution’ may become enforceable by High Court
- ☀ Act introduces an appeal board and appeal procedure
- ☀ FIA Act 2007 repealed, but not regulations, notices etc
- ☀ Pension funds or medical aid funds not listed as being ‘accountable institutions’



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