



Money laundering – why it’s important to understand and implement legislation correctly

Anti money laundering, also known as AML is a term primarily used in the financial and legal industries to describe the legal controls that require financial institutions and other regulated entities to prevent, detect and report money laundering activities. In South Africa the principal legislation addressing AML is the Financial Intelligence Centre Act 38 of 2001 (FICA) as well as the Prevention of Organisation Crime Act 121 of 1998 (POCA).

The Financial Intelligence Centre Act (FICA) established the Financial Intelligence Centre (FIC), which principal objective is to assist in the identification of the proceeds of unlawful activities and the combating of money laundering activities and the financing of terrorist and related activities. FICA introduced several control measures to combat money laundering and terrorist activities; such as the identification of clients and reporting of certain transactions to the FIC. In recent news, Mr Pravin Gordhan made available a report in which he exposes the suspicious and unusual transactions by the Guptas which amount to R6.8 billion. This term was introduced by FICA and implemented to assist in identifying any transactions that may be construed as money laundering. The penalties imposed by FICA for non-compliance include administrative fines of up to R10 million in respect of natural persons and R50 million in respect of legal persons.

The Prevention of Organised Crime Act (POCA), on the other hand was enacted primarily to introduce measures to combat organised crime, money laundering and criminal gang activities and to provide for the prohibition of money laundering and for an obligation to report certain information. The penalties imposed by POCA on the convictions of an offence include a fine not exceeding R1 billion or to imprisonment for a period up to imprisonment for life.

Organisations' compliance measures often fall short during the implementation of AML legislation. Posed with such high stakes and possible risks, half measures in implementation are simply not adequate and can result in organisations suffering significant losses. It is therefore imperative for all accountable institutions, reporting institutions and any other person (including natural and juristic) who may fall victim to being used for money laundering to comply with both FICA and POCA and implement effective measures in terms of AML. It is advisable to consult with an AML compliance specialist to assist in the implementation of and compliance with AML legislation.

Contact us for the drafting of policies, training of staff and assisting with the implementation of AML legislation.