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GOVERNMENT NOTICE

FINANCIAL INTELLIGENCE CENTRE**No. 301****14 March 2008****GUIDANCE NOTE 4 ON SUSPICIOUS TRANSACTION REPORTING**

The Financial Intelligence Centre has, in terms of its statutory function under section 4(c) of the Financial Intelligence Centre Act, 2001 (Act 38 of 2001), issued the guidance note in the Schedule.



M Mitchell

DIRECTOR: FINANCIAL INTELLIGENCE CENTRE

Date: 13/03/2008

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*Financial Intelligence Centre Guidance Note 4 on Suspicious
Transaction Reporting*

PREFACE

Money laundering has been criminalised in section 4 of the Prevention of Organised Crime Act, 1998. 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 of enabling a person to avoid prosecution or in the diminishing of the proceeds of crime.

Apart from criminalising the activities constituting money laundering, South African 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 Financial Intelligence Centre Act, 38 of 2001, ("the FIC Act") are based on three basic principles of money laundering detection and investigation, i.e. that:

- intermediaries in the financial system must know with whom they are doing business;

- the paper trail of transactions through the financial system must be preserved;
- possible money laundering transactions must be brought to the attention of the Financial Intelligence Centre (“the Centre”) and the investigating authorities.

The control measures introduced by the FIC Act include requirements for institutions to establish and verify the identities of their customers, to keep certain records, to report certain information and to implement measures that will assist them in complying with the Act.

The FIC Act also established the Financial Intelligence Centre which is South Africa’s financial intelligence unit, a government agency created to collect, analyse and interpret information disclosed to it and obtained by it. The Centre is an integral part of our country’s fight against the global crime of money laundering. In addition, section 4 (c) of the FIC Act empowers the Centre to provide guidance in relation to a number of matters concerning compliance with the obligations of the Act. This Guidance Note is published by the Centre in terms of section 4(c) of the FIC Act.

Application of this Guidance Note

The Centre has prepared this Guidance Note to assist accountable institutions, reporting institutions and any other person as described in section 29 of the FIC Act in meeting their reporting obligations under the Act. It provides general guidance on the nature of reporting under section 29 and explains reporting timelines, how reports have to be sent to the Centre, what information has to be included in these reports and how to use the electronic reporting mechanism.

Guidance provided by the Centre is the only form of guidance formally recognised in terms of the FIC Act and the Money Laundering and Terrorist Financing Control Regulations (“the Regulations”) issued under the FIC Act.

Guidance emanating from industry associations or other organisation, therefore, in the Centre's view, does not have a bearing on assessing compliance with the obligations imposed by the FIC Act or the interpretation of its provisions.

The guidance provided by the Centre in this Guidance Note, although authoritative, is provided as general information only. The Guidance Note does not provide legal advice and is not intended to replace the FIC Act or the Regulations issued under the FIC Act. However, failure to forward suspicious transaction reports through to the Centre is an offence in terms of section 52 of the FIC Act.

GLOSSARY

“**The Centre**” means the Financial Intelligence Centre established in terms of section 2 of the FIC Act.

“**FIC Act**” refers to the Financial Intelligence Centre Act, 2001 (Act No 38 of 2001), as amended.

“**POCA**” refers to the Prevention of Organised Crime Act, 1998 (Act No 121 of 1998), as amended.

“**Regulations**” refer to the Money Laundering and Terror Financing Control Regulations made in terms of section 77 of the FIC Act and promulgated in Government Notice 1595 of 20 December 2002 as amended by Government Notice R456 of 20 May 2005.

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

“**STR**” refers to a suspicious or unusual transaction report submitted in terms of Section 29 of the FIC Act.

INTRODUCTION

The FIC Act provides for the reporting of suspicious and unusual transactions. The FIC Act repealed section 7 of the POCA and from 3 February 2003 the duty to report suspicious and unusual transactions is governed by section 29 of the FIC Act.

Accountable institutions, reporting institutions and any other person as described in section 29 of the FIC Act have a role to play in South Africa's efforts to prevent money laundering and terrorist financing. It is imperative that accountable institutions, reporting institutions and any other person that comes into contact with a financial transaction that is potentially linked to money laundering or terrorist financing, report his or her suspicion to the Centre.

The reporting of suspicious and unusual transactions is regarded as an essential element of the anti-money laundering programme for every country. The international standard on measures to combat money laundering and terrorist financing, in the form of the Forty Recommendations of the Financial Action Task Force ("the FATF") on Money Laundering, provides the following concerning the reporting of suspicious transactions:

"Recommendation 13

If financial institutions suspect that funds stem from criminal activity, they should be required to report promptly their suspicions to the competent authorities".

The FATF is an inter-governmental 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. The FATF has developed internationally recognised standards for measures to combat money laundering and terror financing

in the form of the Forty Recommendations and the Nine Special Recommendations on Terrorist Financing. Further information concerning the FATF is available at www.fatf-gafi.org.

This Guidance Note is divided into six parts:

- Part 1 provides information to help persons determine whether they fall within the category of persons for whom a reporting obligation under section 29 of the FIC Act could arise.
- Part 2 provides information to help persons determine when the obligation to report under section 29 of the FIC Act arises.
- Part 3 provides information to help persons understand the nature of a suspicion.
- Part 4 provides examples of indicators that may be taken into consideration to determine whether a transaction should give rise to a suspicion.
- Part 5 provides information on the implications of masking a report under section 29 of the FIC Act to the Centre.
- Part 6 provides a step-by-step guideline to the use of the internet-based reporting mechanism.

PART 1 - WHO MUST REPORT?

- 1.1 The obligation to report suspicious and unusual transactions under section 29 of the FIC Act applies to a very wide category of persons and institutions. The FIC Act imposes this obligation on any person who:
- carries on a business,
 - is in charge of a business,
 - manages a business, or
 - is employed by a business.
- 1.2 The term "business" is not defined in the FIC Act. The ordinary meaning of the term, within the context of the FIC Act, is that of a commercial activity or institution, as opposed to a charitable undertaking or public sector institution.

This means that any person associated with a commercial undertaking as an owner, manager or employee of that undertaking, can become subject to the obligation to report suspicious or unusual transactions.

PART 2 - WHAT GIVES RISE TO THE OBLIGATION TO REPORT?

2.1 The obligation under section 29 of the FIC Act to report a transaction arises when a person knows of certain facts, on the one hand, or in circumstances in which a person ought reasonably to have known or suspected that certain facts exist, on the other. This means that a person associated with a business, as described above, must report his or her knowledge or suspicion to the Centre whenever:

- he or she becomes aware of something, or
- circumstances arise in which a person can reasonably be expected to be aware of something, or
- circumstances arise in which a person can reasonably be expected to suspect something.

2.2 Section 29(1) of the FIC Act describes the "something" referred to above. This can relate to situations concerning the business itself or concerning transactions to which the business is a party. Situations relating to the business itself are that the business:

- has received the proceeds of unlawful activities, or it is about to receive such proceeds,
- has received property which is connected to an offence relating to the financing of terrorist activities, or it is about to receive such property,
- has been used in some way for money laundering purposes, or it is about to be used for money laundering purposes, or
- has been used in some way to facilitate an offence relating to the financing of terrorist activities, or it is about to be used for this purpose.

2.3 These do not have to relate to any particular transactions involving the business. Instead they relate more to the way in which the affairs of a business are conducted. These include, for example, instances where the

business is used as a front to disguise the movement of proceeds of unlawful activities, or where the facilities of a business (such as its bank accounts) are being used to facilitate the transfer of proceeds of unlawful activities.

2.4 The situations concerning transactions to which the business is a party relate to transactions between the business in question and its customers and the customers' motives for engaging in those transactions. These can relate to a particular transaction or to a series of transactions. These are situations where a person is aware or suspects that a transaction or series of transactions with the business:

- facilitated the transfer of the proceeds of unlawful activity or is likely to do so,
- facilitated the transfer of property which is connected to an offence relating to the financing of terrorist activities or is likely to do so,
- does not appear to have a business purpose,
- does not appear to have a lawful purpose,
- may be relevant to the investigation of the evasion of any tax administered by the South African Revenue Service, or
- somehow relates to an offence relating to the financing of terrorist activities.

2.5 The FIC Act defines "*proceeds of unlawful activity*" and "*unlawful activity*" by reference to the definitions of the same terms in the POCA. Thus the term "*proceeds of unlawful activity*" for the purposes of the FIC Act means:

- any property or any service, advantage, benefit or reward;
- which was derived, received or retained:
 - directly or indirectly,
 - in South Africa or elsewhere,
 - at any time before or after the commencement of POCA,
- in connection with or as a result of any unlawful activity carried on by any person.

- 2.6 The term “*unlawful activity*” means any conduct, which constitutes a crime or which contravenes any law whether such conduct occurred in the Republic or elsewhere.
- 2.7 It is important to note that Section 29 of the FIC Act refers to reports being made in connection with the *proceeds* of unlawful activities and *money laundering* or *terror financing* offences as opposed to criminal activity in general. The FIC Act therefore does not require reports to be made on suspected crimes or unlawful conduct by a person (apart from money laundering and terror financing activities).

This may best be explained by means of an example:

A stolen or fraudulent cheque is presented for payment to a bank. This action constitutes an element of a fraud, namely a misrepresentation that the person presenting the cheque is the legitimate holder of the cheque and is entitled to receive the amount reflected on the cheque. The presentation of the cheque 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 stolen or fraudulent cheque is honoured, the funds collected 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 unlawful activities and possibly a money laundering transaction which would fall within the scope of section 29 of the FIC Act.

PART 3 - WHAT IS THE NATURE OF A SUSPICION?

- 3.1 In addition to circumstances where a person has actual knowledge, the reporting obligation under section 29 of the FIC Act also applies in circumstances where a mere suspicion may exist. The FIC Act does not define what constitutes a suspicion. The ordinary meaning of this term includes 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.

- 3.2 This interpretation of the term "suspicion" was also applied in South African case law: In **Powell NO and others v Van der Merwe NO and Others** 2005 (5) South Africa 62 (SCA) the Supreme Court of Appeal confirmed that South African courts have endorsed the following interpretation of the term used by Lord Develin in the English case of **Shabaan Bin Hussein and Others v Chong Fook Kam and Another** [1970] AC 942 (PC) ([1969] 3 All ER 1627) at 948B:

Suspicion in its ordinary meaning is a state of conjecture or surmise where proof is lacking; "I suspect but I cannot prove".

- 3.3 With this in mind 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.

- 3.4 A suspicious state of mind is subjective, which means that a court would have to draw inferences concerning a person's state of mind in relation to a particular set of circumstances from the evidence at its disposal concerning those circumstances. However, the FIC Act adds an element of objectivity to this with the phrase "*ought reasonably to have known or suspected*" in section 29(1). The application of this phrase is explained in section 1(3) of the FIC Act. Section 1(3) of the POCA provides that a person ought reasonably to have known or suspected a fact if a reasonably diligent and vigilant person with the same knowledge, skill, training and experience, as well as the knowledge, skill, training and experience that may reasonably be expected of a person in the same position, would have known or suspected that fact. This expands the scope of the obligation to identify circumstances which may indicate that a set of circumstances concerning a business, or the transactions involving the business, is of a suspicious nature.

- 3.5 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.
- 3.6 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 business to business and from one customer to another.
- 3.7 A person to whom section 29 of the FIC Act applies, should evaluate matters concerning the business in question and transactions involving the business, in relation to what seems appropriate and is within normal practices in the particular line of business of that person, and bring to bear on these factors such as the knowledge the person may have of the customer. This should involve an application of person's knowledge of the customer's business, financial history, background and behaviour.
- 3.8 A particular category of transactions that are reportable under section 29(1) of the FIC Act is 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 purpose of the transaction(s) is lawful. In order 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.
- 3.9 In Part 4 of this Guidance Note more information is given as to factors that may indicate that a transaction is suspicious 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

- 4.1 The indicators discussed in this Part apply specifically to those situations where a suspicion may relate to a transaction between a business and its customer. These indicators are offered in order to assist persons involved in business to identify those situations where transactions should raise questions or give rise to the sense of discomfort, apprehension or mistrust which was referred to in the previous Part. These indicators are therefore merely **examples** of factors that may be helpful when evaluating transactions. The list is not exhaustive and does not intend to cover every possible situation. The indicators suggested here should not to be viewed in isolation and should always be taken into consideration in conjunction with all other circumstances pertaining to a particular transaction.

Unusual business

- Deposits of funds with a request for their immediate transfer elsewhere;
- Unwarranted and unexplained international transfers;
- The payment of commissions or fees that appear excessive in relation to those normally payable;
- Lack of concern about high commissions, fees, penalties etc. incurred as a result of a particular type of transaction or particular method of transacting;
- Transactions do not appear to be in keeping with normal industry practices;
- Purchase of commodities at prices significantly above or below market prices;
- Unnecessarily complex transactions;

- Unwarranted involvement of structures such as trusts and corporate vehicles in transactions;
- A transaction seems to be unusually large or otherwise inconsistent with the customer's financial standing or usual pattern of activities;
- Buying or selling securities with no apparent concern for making a profit or avoiding a loss;
- Unwarranted desire to involve entities in foreign jurisdictions in transactions.

Knowledge of Reporting or Record Keeping Requirements

- A customer attempts to convince employee not to complete any documentation required for the transaction;
- A customer makes inquiries that would indicate a desire to avoid reporting;
- A customer has unusual knowledge of the law in relation to suspicious transaction reporting;
- A customer seems very conversant with money laundering or terrorist activity financing issues;
- A customer is quick to volunteer that funds are clean or not being laundered.

Identification

- The use of a seemingly false identity in connection with any transaction, including the use of aliases and a variety of similar but different addresses and, in particular, the opening or operating of a false name account;
- Opening accounts using false or fictitious documents;
- A customer provides doubtful or vague identification information;
- A customer refuses to produce personal identification documents;
- A customer changes a transaction after learning that he must provide a form of identification;
- A customer only submits copies of personal identification documents;

- A customer wants to establish identity using something other than his or her personal identification documents;
- A customer's supporting documentation lacks important details such as contact particulars;
- A customer inordinately delays presenting corporate documents; or
- All identification presented is foreign or cannot be checked for some reason.

General

- A customer provides insufficient vague or suspicious information concerning a transaction;
- Accounts that show unexpectedly large cash deposits and immediate withdrawals;
- A frequent exchange of small denomination notes for larger denomination notes;
- Involvement of significant amounts of cash in circumstances that are difficult to explain.

Suspicious Transaction Reports - threshold

4.2 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 should give rise to a suspicion that a transaction relates to proceeds of unlawful activities, money laundering or terror financing, as explained above, the transaction must be reported irrespective of the amount involved.

4.3 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.

Should the closing of an account be regarded as suspicious?

4.4 The closing of an account with an 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 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.

PART 5 - WHAT ARE THE IMPLICATIONS OF MAKING A STR?

Can an institution continue transacting with a customer after a STR has been made?

- 5.1 Section 33 of the FIC Act provides that a reporter may continue with and carry out a transaction in respect of which a report is required to be made unless the Centre directs the reporter not to proceed with the transaction in terms of section 34.
- 5.2 The Centre may issue a directive ("an intervention order") in writing not to proceed with a transaction after consultation with the institution or person concerned. The Centre must have reasonable grounds to suspect that a transaction may involve the proceeds of unlawful activities or property which is connected to an offence relating to terrorist financing, or may in some other way constitute money laundering terrorist financing. The intervention order may require the institution or person not to proceed with the transaction which gave rise to the Centre's belief or any other transaction in respect of funds that are affected by the particular transaction. The intervention order is valid for a period not exceeding five days excluding weekends and public holidays.
- 5.3 One of the main purposes of an intervention order is to prevent the dissipation of funds or property which may be the proceeds of unlawful activity. A typical example of where this may be the case is where funds or assets are due to be transferred from one location to another or from one person to another,

especially where the transfer will have the effect of moving the funds or assets out of South Africa. Reporters are encouraged to indicate to the Centre at the time of making a report under section 29 if they believe that the funds or assets involved in a transaction or series of transactions may be dissipated. The same also applies if a report has been filed with the Centre and the reporter subsequently becomes aware that the suspected proceeds may be dissipated. In such cases the reporter may contact the Centre quoting their reference number and informing the Centre of the activities within such account.

Confidentiality and Privilege

- 5.4 Section 37 (1) of the FIC Act overrides secrecy and confidentiality obligations in South African law. No duty of secrecy or confidentiality prevents any institution or person from complying with an obligation to file a report under the FIC Act.
- 5.5 Section 37(2) protects the common law right to legal professional privilege as between an attorney and an attorney's client in respect of communications made in confidence between:
- the attorney and the attorney's client for the purposes of legal advice or litigation which is pending or contemplated or which has commenced; or
 - a third party and an attorney for the purposes of litigation which is pending or contemplated or has commenced.

The reporter enjoys legal protection concerning a report submitted to the Centre

- 5.6 Section 38 of the FIC Act protects persons who participate in making reports to the Centre. No legal action, whether criminal or civil, can be instituted against any natural or legal person who complies in good faith with the reporting obligations of the FIC Act.

- 5.7 In addition to protection against legal liability, the FIC Act also protects the identities of those involved in making a report to the Centre. A person involved in the making of a report cannot be forced to give evidence in criminal proceedings concerning such a report. However, such a person may choose to do so voluntarily. If a person elects not to testify, no evidence regarding that person's identity is admissible as evidence in criminal proceedings.

Tipping off

- 5.8 A person involved in the making of a report may not inform anyone, including the customer or any other person associated with a reported transaction, of the contents of a suspicious transaction report or even the fact that such a report has been made.
- 5.9 Section 29 of the FIC Act prohibits any reporter as well as any other person who knows or suspects that a report has been made from disclosing any information regarding that report except for information disclosed:
- within the scope of the powers and duties of that person in terms of any legislation,
 - for the purpose of carrying out the provisions of this Act,
 - for the purpose of legal proceedings, including any proceedings before a judge in chambers, or
 - in terms of an order of court.
- 5.10 Contravening these prohibitions constitutes offences in terms of the FIC Act that carry maximum penalties of imprisonment for a period up to 15 years or a fine up to R10 million.

Are there any defences associated with the reporting obligation?

- 5.11 In terms of Section 69 of the FIC Act if a person who is an employee, director or trustee of, or a partner in, an accountable institution, is charged with not

reporting suspicious or unusual transactions, that person may raise as a defence that he reported the matter internally to the person responsible for ensuring compliance by the accountable institution with its duties.

- 5.12 In certain cases an employee may simply report the matter to a superior and, if that can be proved, the person will have a valid defence if he or she is charged with not reporting the transaction to the Centre directly.
- 5.13 In many situations the fact that a suspicion is formed and a report made to the Centre implies that a business could possibly be dealing with the proceeds of unlawful activities in a way that would fall within the scope of the money laundering offences of section 4, 5 and 6 of the POCA. In order to allow persons to report their suspicions freely while carrying on their business without exposing them to criminal liability for their involvement in the reported transaction a defence is provided in section 7A of the POCA against racketeering charges under section 2(1)(a) or (b) of the POCA and money laundering charges under sections 4, 5 and 6 of that Act. This defence applies both where a person has made a report to the Centre or has made a report in terms of the internal rules or arrangements of the institutions by which the person is employed.

Reactive reporting

- 5.14 Reactive reporting refers to the submitting of a STR to the Centre following an external prompt without a prior suspicion having been formed on the basis of the circumstances in which a particular transaction or series of transactions have been conducted. Examples of the prompts that may give rise to reactive reporting are:
- receiving a subpoena in terms of section 205 of the Criminal Procedure Act , 1997 (Act No 51 of 1997) or a similar process to provide evidence concerning matters relating its business dealings with a particular customer;

- receiving a request to confirm whether a person is a customer of an institution in terms of section 27 of the FIC Act in respect of a particular customer;
- receiving an intervention order in terms of section 34 of the FIC Act in connection with a transaction involving a particular customer;
- receiving a monitoring order in terms of section 35 of the FIC Act concerning the transactions of a particular customer;
- receiving other types of enquiries from government agencies such as investigating authorities or the South African Revenue Service about a particular customer;
- seeing information in the media that may adversely affect a particular customer.

5.15 With regard to these external factors it is important to bear in mind that the obligation to file a STR with the Centre arises where a person becomes aware of certain facts or in situations which should give rise to a suspicion, as discussed in Part 2, above. External factors such as those referred to here, may contribute to the forming of a suspicion, but in all cases these factors should be considered in conjunction with all other factors pertaining to a particular transaction or series of transactions. These factors should, not in and of themselves, form the reason for submitting a report to the Centre in absence of any suspicion formed.

PART 6 - PROCESS FOR SUBMITTING STRS TO THE CENTRE

What is the time period for reporting a suspicious transaction?

6.1 In terms of regulation 24 of the Regulations a report under section 29 of the FIC Act must be sent to the Centre *as soon as possible*. In terms of the regulation this period must not be longer than fifteen days, excluding Saturdays, Sundays and Public Holidays, after a person became aware of the facts which give rise to a suspicion.

- 6.2 It is important to note that, in terms of regulation 24, the period for the filing of a STR does start from the point where a person forms a suspicion. The fifteen-day period starts when a person becomes aware of the facts which will eventually give rise to a suspicion. This may be, and in the majority of cases will be, before a suspicion is formed.
- 6.3 The fifteen-day period is to be used to consider other information at the reporter's disposal and to evaluate the circumstances to determine whether a transaction, or series of transactions, is suspicious or not. In order to comply with regulation 24, as explained in paragraph 5.1 above, this should be done as quickly as possible and once a suspicion is formed, the relevant transaction or transactions must be reported without delay. This means that reporters should not take the view that they, as a matter of routine, have a fifteen day period for the filing of reports under section 29 of the FIC Act. Reporters will be in breach of regulation 24 if they delay the reporting of a transaction or series of transactions once a suspicion is formed, and reporters should therefore avoid routinely reporting transactions 15 days after a transaction takes place.
- 6.4 It is only in exceptional cases that the Centre may consider condoning a STR being sent after the expiry of the fifteen-day period. If a reporter believes that they will not be able to report within the fifteen-day period, the reporter may apply for condonation for the late filing of the STR from the Centre. Application for an extension must be made *before* the expiry of the fifteen-day period and must be in writing. In the application for an extension the reporter must provide reasons as to why the period will not be met. Furthermore, details as to when the STR will be submitted must be provided. This application can be faxed to the Centre's Manager: Monitoring and Analysis at 012 309 9496.

How should a STR be submitted?

- 6.5 A report under section 29 of the FIC Act must be made by means of *internet based reporting* provided by the Centre at: www.fic.gov.za. **A STR may not be posted.** Only in exceptional cases may a STR be sent by fax or delivered by hand to the Centre at the address provided. The reporting form is available from the Centre or its website.

The Centre's contact details are:

Physical Address: 240 Vermeulen Street, Pretoria. 0001.

Telephone: 012 309 9200

Facsimile: 012 309 9496

E-mail: fic_feedback@treasury.gov.za

Website: www.fic.gov.za

Batch reporting

Reporters also have the option of submitting STRs via batch reporting. Batch reporting is used in instances where high volumes of STRs are submitted to the Centre on a regular basis. To be able to access this facility, reporters can forward their requests to the following email address: fic01@fic.gov.za

Information to be provided in a STR

- 6.6 Regulation 23 of the Regulations sets out the prescribed particulars that should be contained in a STR. A copy of the reporting form can be accessed via the Centre's website or in the Regulations. The following is the basic information that should be contained in the STR:

- The person or entity making the report;
- The transaction that is reported;
- Any account involved in the transaction;
- The person conducting the transaction or the entity on whose behalf it is conducted;
- The representative, if any who is conducting the transaction on behalf of another;
- General information concerning the transaction.

What happens to a STR after being submitted to the Centre?

- 6.7 Once the Centre receives the STR, 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 believe that the information may be required to investigate suspected unlawful activity, the information will be referred to the appropriate authority to carry out further investigation. In accordance with section 38(3) of the FIC Act the Centre is required to ensure that personal information of those involved in the making of an STR is protected from unauthorised disclosure.

Completion of the STR form

- 6.8 The following guidelines are based on *electronic reporting* as this is the preferred method of receiving reports. The report consists of eight parts numbered from Part A to Part H. It is important to complete all fields in each part that are applicable to the situation which is reported. It is also important that *as much information as possible* be included in the report as this will enable the Centre to take action in respect of a report immediately and assess whether to instruct the reporter not to proceed with the transaction under section 34 of the FIC Act.

Example of a field:

*1. Person or entity's Full Name:

- 6.9 The "Next" button will only work if **ALL** the mandatory fields in the Part that have been completed.

User Name and Password

- 6.10 Reporters who regularly submit reports electronically to the Centre as well as appointed Money Laundering Control Officers or Money Laundering Reporting Officers are advised to register their details with the Centre using the form on the website at www.fic.gov.za. This form must be printed or downloaded from the website, completed and forwarded to the Centre via fax at 012 309 9496 or via email to fic_feedback@fic.gov.za

6.11 Once a person has registered with the Centre they will receive a user name and password. In subsequent reports the person will only have to enter the user name and password and will immediately be routed to Part 2(A) of the form. If the reporter's details have changed, the reporter must forward the updated details to the Monitoring and Analysis Department via fax at 012 309 9496 or via email to fic_feedback@fic.gov.za.

6.12 The reporter will then immediately be able to proceed with the completion of the rest of the form. Persons who experience any difficulty with obtaining or using their passwords should please contact the Centre's help desk at 012 309 9300.

Username ::	<input type="text"/>	<input type="button" value="Check"/>
Password ::	<input type="password"/>	

6.13 Reporters who are **NOT** registered users and who do not wish to register must not enter any information in these fields. Such persons must proceed directly to Part A where **ALL** the fields must be completed.

Important to remember when completing the STR form

- Do not to leave any spaces in the information entered into the relevant fields.
- Do not use any punctuation marks such as dashes, colons or forward or back slashes when reporting account numbers, branch numbers or amounts.

<u>Examples</u>		
	<u>Incorrect</u>	<u>Correct</u>
Time	2pm	14:00
Currency	R	ZAR
Amount	R 2 000 000	2000000
Account No.	2359-34-67	23593467
Tel. No.	(012) 309 9200	0123099200
Date	2008/05/30	20080530

Completing Part A: Particulars of person or entity from which STR emanates

- 6.14 Part A of the reporting form is divided into two parts – Part A and Part A (2). Part A requires information identifying the **PERSON MAKING THE STR**. It is important that the reporter fill in their **OWN** particulars here as the Centre uses this information to send an acknowledgement of receipt and reference number for the report. The reference number should be kept and utilised at all times when dealing with the Centre in relation to a report. This is confirmation that the Centre has received a report and proof that a report was submitted to the Centre.

Example for individual reporting:

Example for individual reporting:

*1. Person or entity's Full Name :	Joe Soap
*2. Person or entity's Identifying number :	186513550039081
*3. Street Address :	11 Tasneed Avenue Marlborough Gauteng 1392
*4. Postal Address :	PO Box 1097465 Marlborough 1392
*5. City :	Johannesburg

*6. Postal Code :	1392
*7. Surname of contact person :	Soap
*8. Initials of contact person :	J
*9. Title of contact person :	Mr
*10. Telephone Number of contact person :	0913729888
*11. Fax Number of contact person :	0913729889
*12. E-mail address of contact person :	joe.soap@yahoo.com
<input type="button" value="Next"/>	

6.15 Reporters who are reporting on behalf of their employer must fill in the employer's details (fields A1 to A6) and their own details (fields A7 to A12). Please take note of the employer's internal procedures in this regard.

Example of company report:

*1. Person or entity's Full Name :	Soap's Plastics
*2. Person or entity's Identifying number :	99/56783/23
*3. Street Address :	11 Tasneed Avenue Marlborough Gauteng 1392
*4. Postal Address :	PO Box 1097465 Marlborough 1392
*5. City :	Johannesburg
*6. Postal Code :	1392
*7. Surname of contact person :	Soap
*8. Initials of contact person :	J

*9. Title of contact person :	Mr
*10. Telephone Number of contact person :	0913729888
*11. Fax Number of contact person :	0913729889
*12. E-mail address of contact person :	joe.soap@soapsplastics.com
<input type="button" value="Next"/>	

6.16 Part A (2) deals with the type of report that is being made. If it is a new report, the reporter should provide their own unique internal reference number, if such a number has been allocated to the report, for ease of reference and future correspondence.

6.17 A reporter who wishes to make a correction of, or an addition to, a previous report, please remember to fill in the Centre's reference number and their own unique reference number in respect of the previous report so that the Centre can match the reports. The field requesting the date of the previous report relates to the date that the report was submitted to, and received by, the Centre. Please take note of the format for reporting the date of the transaction (YYYYMMDD).

Example of Part A(2):

This is :

a new report

a correction of a previous report

additional information to a previous report

Your reference number for this report :

Number of previous report:
(Recent reference number received from the FIC)

Date of previous report: (yyyymmdd)

Part of previous report affected : A B C D E F G H



Completing Part B: Particulars of transaction reported

6.18 Part B of the STR form deals with the transaction/s which are being reported to the Centre.

6.19 It is very important to provide as much information as possible concerning the specific transaction or series of transactions which are the subject of the STR, in order to enable the Centre to carry out a meaningful analysis of the reported information. All relevant fields must therefore be completed. An example of how to complete Part B is provided below.

Example of Part B:

1a. Date of Transaction (yyyymmdd)

1b. Time of Transaction (hhmm)

1c. Period of transaction
(in case of series of transactions):
From To (yyyymmdd)

2. Type of funds :

- Cash
- Cheque
- Credit Card
- Bank Draft
- Money Order
- EFT
- Travelers' Cheque
- Other

3. Amount of Transaction(s) in Rand Value:

4. Currency :

5. Description of property :

6. Value of Property :

7. Method Transaction Was Conducted :

- In-branch
- Telephone
- Mail
- Courier
- ATM
- Internet
- Inward foreign transfers
- Other

8. Stated Purpose of Transaction (where applicable) :

9. Method In Which Funds Were Disposed Of :

- Cash
 - Cheque
 - Deposit
 - Bank
 - Money
 - EFT
 - Trav
 - Currency
 - Internet
 - Other
- Draft
Order
Cheque
Exchange
Transfer

10. Amount of Disposition :

11. Currency :

12. Method In Which Property Was Disposed Of :

- Bought
- Sold
- Let
- Hired
- Exchanged
- Donated
- Other

13. Name of Other Institution or Person (where applicable) :

14. Account Number at Other Institution (where applicable) :

15.	Branch Where Transaction was Conducted (where applicable) :	CAPE TOWN
16.	Identifying Number of Branch (where applicable) :	1250604
17.	Remarks: Comments, Explanations, etc. Person Conducting Transaction May Have Made or Given	Mr Bloggs (/the client) indicated that he requires the funds to be transferred immediately. He claimed that he needed the funds to purchase a vehicle.

Next

Transaction(s) (fields B1a to B1c)

- 6.20 A report can relate either to a single transaction or a series of transactions. Fields B1a and 1b relate to a single transaction and field B1c should be completed for a series of transactions. Field B1c should be filled in where the suspicion was detected after monitoring behaviour over a period of time.

Type of funds (field B2)

- 6.21 This relates to the format in which the transaction was carried out when the suspicion occurred. Type of funds could include cash, cheque, credit card or other. In the case of "other", please indicate the type of funds used in the transaction in the field provided.

Amount of Transaction (s) in Rand Value (field B3)

- 6.22 Amounts must be completed without any spaces or currency signs. If the transaction(s) were undertaken in a foreign currency please convert this to

Rand and provide the amount in approximate Rand value, using the day of the report as a guide for the exchange rate.

Currency (field B4)

- 6.23 This field requires the reporter to indicate the currency in which the transaction was conducted for example, United States Dollar (USD) or Great British Pound (GBP). Please use the abbreviation ZAR for South African Rand.

Description of the property (field B5)

- 6.24 This field must be used if the transaction involved assets other than money, such as the purchase of fixed property or an investment policy for example. Property, other than money, can include movable (vehicle) or immovable (house), corporeal (things that are visible and tangible such as land, buildings, vehicles, jewellery) or incorporeal thing (trademarks, patents, copy right) and includes any rights, privileges, claims and securities and any interests. A description of the property must be provided in this field. Please do not use the TAB button or leave any unnecessary spaces.

<u>Example</u>	
Incorrect	Correct
The property is: Erf 1234 Marlborough 160	Erf 1234 Marlborough 1610

Value of property (field B6)

- 6.25 In this field the reporter must indicate the approximate value of the property.

Method transaction was conducted (field B 7)

- 6.26 The reporter must indicate how the transaction was conducted, for example: in a branch, by mail or via ATM which appears on the screen. If the transaction was not conducted using the listed methods of transaction then complete the "other" field and provide a description of the other method in which the transaction was conducted.

Stated purpose of the transaction (field B8)

- 6.27 The reporter must indicate the information which the customer may have provided as to the intended purpose of the transaction, for example that the transaction was conducted to purchase a new vehicle.

Method in which funds were disposed of (field B9)

- 6.28 This field requires the reporter to describe how the business disposed of the funds as a result of the transaction, in other words what happened to the funds involved in the transaction. There could be more than one use for a particular transaction. For example, the customer could initiate a transaction in cash, send an electronic fund transfer ("EFT"), order a bank draft and deposit the remainder.

Amount of disposition (field B10)

- 6.29 In this field the reporter must indicate the amount involved in the disposition. If the amount was not in Rand, the reporter must convert the amount and also provide the currency information such as USD/ GBP/ZAR.

Currency (field B11)

- 6.30 This field requires the reporter to provide currency in which the disposition was carried out, even if it was in Rand. For example: enter CAD for Canadian dollars or USD for United States Dollars.

Method in which property was disposed of (field B12)

- 6.31 If property, other than money was used in the transaction, this field must be used to indicate the manner in which the property was disposed of.

Name of other institution or person (field B13)

- 6.32 The reporter must indicate whether another person or institution was involved in the transaction, apart from the reporting business and the customer carrying out the transaction which is being reported. For example, if the

reporter knows who the recipient of the funds were, or to which institution the funds were transferred, then those particulars must be provided.

Account number at other institution (field B14)

- 6.33 If the transaction which is being reported involved an account at the other institution referred to in field B13 and this number is available to the reporter, then the account number must be provided in this field. Please note that no spaces or punctuation marks should be used.

Branch where the transaction was conducted (field B15)

- 6.34 This field requires the reporter to indicate at which branch or office of the reporting business the transaction in question was conducted. For example, if the transaction occurred at an institution's branch or office in Cape Town, then the specific branch name, i.e. Cape Town, must be inserted. *This is the case even though the transaction may have been identified as suspicious and be reported by the institution's head office in Johannesburg.* It is very important that this information as to the geographical location where the transaction was carried out be provided in the report to the Centre as it contributes greatly to the Centre's ability to analyse the reported information.

Identifying number of branch (field B16)

- 6.35 If the branch or office where a transaction is carried out has a unique number to identify it generally or within the reporting institution, that must be provided in this field. For example: if an institution's branch in Cape Town has a branch number of 1250604 then the branch number 1250604 must be completed in the field.

Remarks, Comments, Explanations (field B17)

- 6.36 This field requires the reporter to provide any remarks, comments, or explanations the person conducting the transaction may have made or given in respect of the transaction. It is very important that this information be

provided if it is available as it helps to contextualise the report and improves the Centre's ability to analyse the reported information.

Completing Part C: Particulars of accounts involved in transaction

- 6.37 Part C of the reporting form pertains to information about the account(s) involved in the reported transaction(s), if an account was involved. In other words, in every case where an account is involved in a transaction Part C must be completed. This is not limited to bank accounts, and includes accounts of any nature which a reporting business may provide to its customers in accordance with the nature of that institution.
- 6.38 It is possible to have more than one transaction per report, and more than one disposition per transaction. It is also possible that more than one account may have been involved in a transaction or series of transactions.
- 6.39 As with the previous part, it is very important to provide as much information as possible. All relevant fields must be completed in order to provide the account information for each account that is included in the report.

Example of Part C:

1. Account number :	25212
2. Branch where account is held :	Cape town
3. Identifying number of branch (where applicable) :	1250604
4. Type of account :	cheque
5. Name of each account holder :	A. SMIT B. NEL C. K. KHOZA
6. Date Opened :	20050201

7. Date Closed :	<input type="text"/>
8. Closed by :	<input checked="" type="radio"/> Not applicable <input type="radio"/> Institution <input type="radio"/> Client <input type="radio"/> Not applicable
9. Status of account :	<input checked="" type="radio"/> Active <input type="radio"/> Inactive <input type="radio"/> Dormant
10. Previous Activity in Past 180 days concerning this account considered for reporting (whether in fact reported or not)	<input type="text" value="three large round deposits and withdraw als shortly after deposits"/>
11. Report Number if reported :	<input type="text"/>
<input type="button" value="Next"/>	

Account number (field C1)

- 6.40 This field requires the reporter to provide the relevant account number. Please do not leave any spaces.

Branch where account is held (field C2)

- 6.41 This field requires the reporter to provide the branch name(s) where the account(s) are held. Please note that this is not necessarily the same as the branch referred to in the previous section where the transaction(s) were conducted. As with the previous part of the form, it is very important that this information as to the geographical location where the relevant account is held

be provided in the report to the Centre as it contributes greatly to the Centre's ability to analyse the reported information.

Identifying number of branch (field C3)

- 6.42 If the branch where an account is held has a unique number to identify that branch generally or within the reporting institution, that must be provided in this field. For example: if the account in question is held at an institution's branch in Cape Town and that branch has a branch number of 1250604 then the branch number 1250604 must be completed in the field.

Type of account (field C4)

- 6.43 The type of the account must be indicated in this field. For example: a cheque, savings, credit, or business account.

Name of each account holder (field C5)

- 6.44 The full name of each account holder (up to three) must be provided in this field. This relates to information on each individual or entity that holds the account. For example, in the case of a joint account of a husband and wife, include the names of each spouse. The account holder might be different from the individual(s) authorised to give instructions on the account. For example, an account for a corporation will have one or more individuals authorised to give instructions on that account. In such a case, the name of the corporation that holds the account must be provided in this field.

Date opened (field C6)

- 6.45 This field requires the reporter to provide the date when the account was opened.

Date closed and closed by (fields C7 and C8)

- 6.46 If the account in question had been closed before the report had been made, the date (yyyymmdd) when the account was closed must be provided here. If the account is still open at the time when the report is made this field must be completed at N/A. If the account had been closed the reporter must indicate

on whose initiative this had been done by marking the relevant option in field C8.

Status of account (field C9)

- 6.47 In this field the reporter must indicate whether the account was active, inactive or dormant at the time the transaction or series of transactions, which is the subject of the report was initiated.

Previous activity on the account (field C10)

- 6.48 This field requires the reporter to indicate any activity on the account in the 180 days preceding the date of the report which had been identified and considered for reporting to the Centre (whether in fact reported or not). In other words the reporter is required to indicate past activity relating to the account which had raised attention as possibly being suspicious and in respect of which there had been some consideration given to whether the activity should be reported to the Centre. For example: three large round deposits and withdrawals shortly after deposits.

Report number (field C11)

- 6.49 If the activity referred to in field C10 had been reported to the Centre, the reference number of the previous report must be provided here.

Completing Part D: Particulars of person or entity concerning whom report is made

- 6.50 This Part of the STR form requires the reporter to provide the details of the person or entity concerning whom the report is made. In the majority of cases where the report is based on a transaction, or series of transactions, to which the business was a party, the information provided in this Part will relate to the customer of the business who carried out the transaction(s). If the report concerns more than one individual or entity, this information should be completed under this Part F, together with any other information that was not completed in the form.

Example of Part D:

1. This Report Concerns :

an individual (i. please complete sections 2 to 10 and 16 to 18 of this part ii. complete as many sections as possible)

an entity (i. please complete sections 11 to 18 of this part ii. complete as many sections as possible)

2. Surname :

3. First Name :

4. Other Initials :

5. Identifying number :

6. Type of Identifier : ID Passport Other

7. Country of Residence :

8. Contact Telephone Number :

9. Person's Occupation :

10. Is there a photograph or other image of the person available? Yes No

11. Name of entity :

12. Identifying number (where applicable) :

13. Type of business :

14. Country of origin :

15. Persons with Signing Authority :	A : <input type="text"/>
	B : <input type="text"/>
	C : <input type="text"/>
16. Street Address :	<input type="text"/>
17. City :	<input type="text"/>
18. Postal Code :	<input type="text"/>
<input type="button" value="Next"/>	

This report concerns: (field D1)

- 6.51 If the report relates to a natural person then fields 2-10 and 16-18 of Part D must be completed. If the report concerns an entity then fields 11 to 18 of Part D must be completed.

Surname, first names and other initials (fields D2 to D4)

- 6.52 These fields require the reporter to provide the person's full surname, full first name and other initials, respectively.

Identifying number (field D5)

- 6.53 This field requires the reporter to provide the person's identity or passport number. For example: 72525652266215 (please do not leave any spaces).

Type of identifier (field D6)

- 6.54 In this field the reporter must indicate the type of document that had been used to confirm the person's identity. For example: indicate if a passport, green bar coded identity book or drivers licence was used.

Country of residence (field D7)

- 6.55 This field requires the reporter to provide the person's country of permanent residence. Please insert the full name of the country, for example, South Africa and not RSA or SA.

Contact phone number (field D8)

- 6.56. This field requires the reporter to list all available contact numbers with an indicator (w- work) (h-home) (c-mobile) (f-fax). For example:
012526256226w,
0112528525h,
012 52525225f

Person's occupation (field D9)

- 6.57 This field requires the reporter to provide person's occupation. For example: accountant, lawyer, government employee etc.

Photograph (field D10)

- 6.58 This field requires the reporter to indicate whether the reporting business has a photograph or other image of the person available. This may be an image obtained from video surveillance of the business' premises or from a copy or an electronic scan of a person's identity document, drivers licence or passport, for example.

Name of entity (field D11)

- 6.59 This field requires the reporter to provide the name of the entity to which the report relates.

Identifier number (field D12)

- 6.60 This field requires the reporter to provide the company or close corporation registration number or other unique identifying number that may apply to the entity in question.

Type of business (field D13)

- 6.61 This field requires the reporter to indicate the nature of the business activity in which the entity in question is involved, for example, the financial services industry, farming etc.

Country of origin (field D14)

- 6.62 This field requires the reporter to indicate the country from which the entity originates. Please insert the full name of the country, for example, South Africa and not RSA or SA.

Person with authority to transact (field D15)

- 6.63 In this field the reporter must provide the full name(s) and surname(s) of the person(s) who have authority to transact with the reporting business on behalf of the entity. Please do not use punctuation or tabs as separators.

Street Address (field D16 to D18)

- 6.64 These fields require the reporter to provide the street address (street number, name of building and suburb, for example: 12 Striven Street, Westbuild building 934, Sunnyside) as well as the city and postal code of the entity.

Completing Part E: Particulars of person conducting transaction

- 6.65 Part E only applies if the transaction was conducted by a person on behalf of the person or entity referred to in Part D. The details pertaining to that individual who carried out the transaction on behalf of the person identified in Part D should be provided in full.

Example of Part E:

1. Transaction was conducted	
by :	
the person referred to in Part D (do not proceed to complete this part)	a person on behalf of the person or entity referred to in Part D (please complete as many of the sections as possible)

2. Surname :	<input type="text" value="Blogs"/>
3. First Name :	<input type="text" value="Joe"/>
4. Other Initials :	<input type="text" value="R"/>
5. Identifying number :	<input type="text" value="56252526255625"/>
6. Type of Identifier :	<input checked="" type="checkbox"/> ID Book <input type="checkbox"/> Passport <input type="checkbox"/> Other <input type="text"/>
7. Is there a photograph or other image of the person available?	<input checked="" type="radio"/> Yes <input type="radio"/> No
8. Street Address :	<input type="text" value="91 Cain Street"/>
9. City :	<input type="text" value="Pretoria"/>
10. Postal Code :	<input type="text" value="0001"/>
11. Country of Residence :	<input type="text" value="South Africa"/>
12. Contact Telephone Number	<input type="text" value="01155252526"/>
13. Person's Occupation :	<input type="text" value="Lawyer"/>

Completing Part F: Particulars of suspicious activity

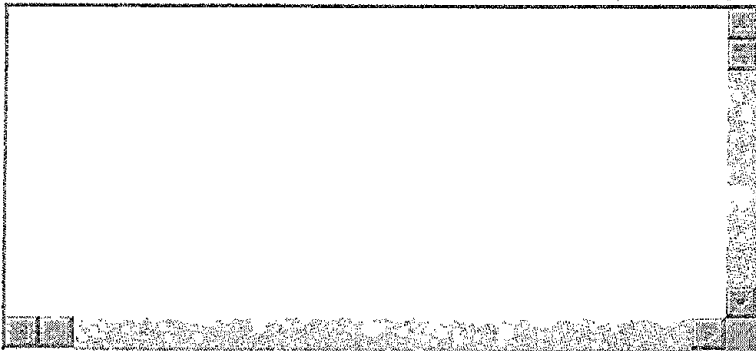
6.66

Part F requires the reporter to explain what had led them to believe that there was something suspicious about the transaction. In this Part the reporter must describe the events which led to the forming of the conclusion that the situation which is reported is suspicious. The reporter must also provide the reasons for forming this conclusion. The more information the reporter

provides to explain the basis of the suspicion, the more it will enhance the Centre's ability to analyse the reported information. The ideal response would clearly and completely describe all of the factors or unusual circumstances which led the reporter to a suspicion of proceeds of an unlawful activity, and would provide as many relevant details as possible to support this determination.

- 6.67 Please do not leave out information about the description of a suspicious situation or try to incorporate information by referring to any other files, documents, etc. The Centre may not be able to access that information unless the reporter provides the details in the STR.

(Please describe clearly and completely the events which led to the forming of the conclusion that the relevant activity is suspicious and state the reasons for this conclusion being formed)



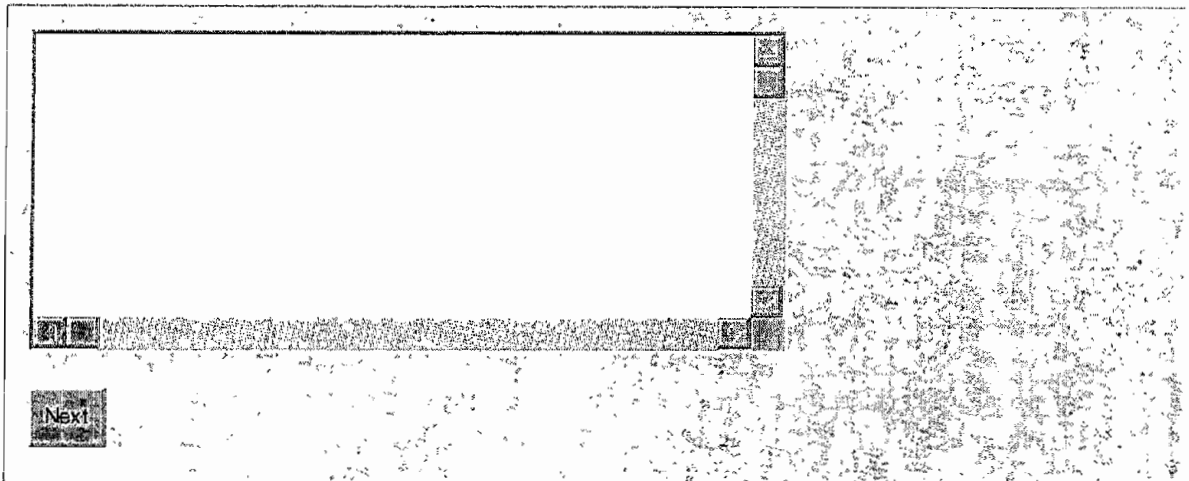
Next

Completing Part G: Particulars of action taken

- 6.68 Part G requires the reporter to indicate what action, if any, was taken resulting relation to the suspicious situation. In this part the reporter must indicate they did, apart from reporting to the Centre, concerning the suspicious situation, for example:

- carrying out the transaction in accordance with the customer's instructions;
- submitting a report or complaint to a law enforcement agency;
- conducting an internal enquiry;

- suspending a transaction pending an internal enquiry;
- subjecting the account been to further monitoring;
- ending the business relationship with the customer.



Completing Part H: List of available documents

- 6.69 Part H requires the reporter to list all available documents that the reporter used to arrive at the suspicion which is being reported. For example all account opening documentation; information required by the institution as part of it transactional obligations, account statements, and any other applicable documentation.

