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FICA & REPORTING OBLIGATION - PART 2

In terms of the Financial Intelligence Centre Act (FICA) each accountable institution (which includes attorneys and estate agents) has a reporting duty towards the Financial Intelligence Centre (FIC). They have to report any of the following:

1. Cash transactions above the prescribed limit
2. Property associated with terrorist and terrorist related activities
3. Suspicious and unusual transactions
4. Politically exposed persons

Over the next few weeks we will have a look at all of the above-mentioned reporting responsibilities.

The second reporting function is dealt with in this week's MC2agent.

2. Property associated with terrorist and terrorist related activities

Section 28A of the FIC Act deals with property associated with terrorist and terrorist related activities and applies to a purely factual situation and the reporting duty is limited to accountable institutions as listed in Schedule 1 of the FIC Act. This includes attorneys and estate agents.

Section 28A requires an accountable institution to file a report with FIC if the accountable institution knows (and not merely speculates) that it possesses or controls property of a person or entity which has committed or attempted to commit or facilitate an act of terrorism or terrorism related activities. No activity relating to the property is required to trigger the reporting obligation.

To determine if your client is associated with such activities you must compare your client to the sanctions list as provided by the UN. If the client or entity appears on the sanctions list then the accountable institutions' reporting duty arises. An up to date sanctions list can be accessed via the United Nations website:

https://www.un.org/securi.../content/un-sc-consolidated-list

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The failure to file a report in terms of section 28A of the FIC Act constitutes an offence.