
Notice:

23 March 2020

Advisory to all practising attorneys and trust account advocates.

Attorneys are referred to the Council's advisory dated 8 January 2020 in which practitioners were advised that the Financial Intelligence Centre (the Centre) has taken over the supervisory function that the former law societies, and now the Council, had in terms of section 45 of the Financial Intelligence Centre Act (FICA).

That section provides that supervisory bodies are responsible for both supervising and enforcing compliance with FICA by all accountable institutions. All attorneys are accountable institutions.

The Centre has not taken over the responsibility for enforcing compliance with FICA.

The Council is aware that the Centre is conducting inspection of attorneys' practices. Whilst FIC should not be making any attempt to enforce compliance with FICA or levy penalties, attorneys are urged to ensure that they are in full compliance with the Act.

Trust account advocates are also urged to ensure that they adhere to the requirements of FICA that are applicable to accountable institutions. Whether or not trust account advocates now fall within the definition of accountable institutions (some contend that they do) all legal practitioners must take all reasonable steps to ensure that they do not, knowingly or otherwise, become involved in any activity, and allow their trust accounts to be used for any activity, that defeats the objects of the Centre which are, inter alia, to assist in the identification of the proceeds of unlawful activities and combating of money laundering activities and the financing of terrorist and related activities. Trust account advocates should acquaint themselves with the provisions of FICA, particularly sections 20A to 33.

FICA and its Schedules are to be amended to provide that the Centre will have both the supervisory and the enforcement function, and to bring trust account advocates within the definition of "accountable institution". Once these amendments are promulgated the Centre will enforce compliance with FICA and all trust account advocates will be subject to supervision and enforcement by the Centre."

Ends/

Issued by the Legal Practice Council