

1 SUBSTANTIVE REQUIREMENTS IN RESPECTIVE OF SECTION 42

| NO | WHAT AN RMCP MUST DO  | SECTION REFERENCE | TEMPLATE REFERENCE / COMMENTS  |
|----|---|-------------------|--|
| 1  | Enable an accountable institution to identify, assess, monitor, mitigate and manage the MLFT risk to which it is exposed  | 42(2)(a)          | The RMCP as a whole, by definition, fulfils this function.   |
| 2  | Determine how an accountable institution will distinguish between: <ul style="list-style-type: none"> <li>• Prospective clients; and</li> <li>• Actual clients</li> </ul> for both single transactions and business relationships | 42(2)(b)          | <ul style="list-style-type: none"> <li>• Clause 1.1.3 – definition of "Business Relationship"</li> <li>• Clause 1.1.6 – definition of "Client"</li> <li>• Clause 1.1.23 – definition of "Prospective Client"</li> <li>• Clause 1.1.30 – definition of "Transaction"</li> <li>• Clause 1.1.31 – definition of "Value"</li> </ul> The above definitions read together, along with the questionnaires at the end of the template (question 8 for natural persons, partnerships and trusts, and question 9 for companies and close corporations, are the means through which this is done. |
| 3  | Determine how an accountable institution will ensure that it does not deal with anonymous or fictitious clients   | 42(2)(c)          | <ul style="list-style-type: none"> <li>• Clauses 6.1 to 6.2 strictly prohibit accountable institutions from dealing with such clients by requiring that all clients are subjected to the CDD procedures, which are meant <i>inter alia</i> to confirm clients' existence.</li> </ul>   |

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| 4  | Set out the procedures to be carried out to establish and verify the identity of natural persons, trusts and legal persons  | 42(2)(d)          | <ul style="list-style-type: none"> <li>• Clause 7 – abbreviated CDD procedures for certain professional partnerships and listed companies</li> <li>• Clause 8 – tables setting out the CDD procedures for natural persons, companies, close corporations, partnerships and trusts (ie what information will be requested of these entities and how it will be verified)</li> </ul> |
| 5  | Determine how the accountable institution will compare future transactions against the knowledge of a client at the accountable institution's disposal  | 42(2)(e)          | <ul style="list-style-type: none"> <li>• Clause 9.1 – ongoing due diligence</li> </ul>   |
| 6  | Set out the additional CDD procedures to be carried out in respect of trusts and legal persons  | 42(2)(f)          | <ul style="list-style-type: none"> <li>• Clause 9 – the CDD tables hereunder cater for the additional CDD procedures as well</li> </ul>  |
| 7  | Set out the ongoing CDD procedures in the case of business relationships  | 42(2)(g)          | Clause 9.1 – ongoing due diligence   |
| 8  | Explain how complex or abnormally large transactions, as well transactions with no apparent business or lawful purpose, will be scrutinised, and how findings in this regard will be documented | 42(2)(h)          | <ul style="list-style-type: none"> <li>• Clause 15.1.2.2 – this would be one of the grounds for suspicion and would be reportable to the Risk Officer</li> <li>• Clause 15.1 – requires the above suspicion to be documented in a written report</li> </ul>  |
| 9  | Describe how an accountable institution will confirm existing information if doubts arise as to its accuracy  | 42(2)(i)          | <ul style="list-style-type: none"> <li>• Clause 11.1 – lists a number of suggested ways in which information can be confirmed if doubts arise in relation thereto</li> </ul>   |
| 10 | Detail how an accountable institution will identify clients, collect information about an intended business relationship, conduct an additional CDD, and conduct an                             | 42(2)(j)          | <ul style="list-style-type: none"> <li>• Clause 5.2.5.5 – catch-all ground for suspicion, which arguably caters for the situation where suspicions arise during a</li> </ul>   |

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|    | ongoing CDD when its suspicions are raised during a business relationship  |                   | business relationship, by giving the accountable institution scope to classify the client as high-risk, and subject them to the corresponding CDD procedures   |
| 11 | Set out how an accountable institution will terminate an existing relationship when it cannot conduct a CDD, obtain information about the business relationship, or conduct an ongoing CDD | 42(2)(k)          | <ul style="list-style-type: none"> <li>• Clause 12 – it sets out how this is to be done, and the Risk Officer plays a central role in the termination but relies heavily on information provided by the Employees</li> </ul>   |
| 12 | Describe how an accountable institution will determine whether a client is a foreign prominent public official or domestic prominent influential person                                    | 42(2)(l)          | <ul style="list-style-type: none"> <li>• Clause 13.1 – the client must be asked in the Questionnaire, which lists the various types of FPPO</li> </ul>   |
| 13 | Determine how the accountable institution will distinguish between clients of low risk and high risk, and how the CDD procedures will differ for each                                      | 42(2)(m)          | <ul style="list-style-type: none"> <li>• Clause 5 – sets out the binary approach to risk, in terms of which a low-risk client is simply one that does not meet the definition of a high-risk one.</li> <li>• Clause 8 – the CDD tables contain different columns for low- and high-risk clients</li> </ul> |
| 14 | Describe how and where FICA records will be kept   | 42(2)(n)          | <ul style="list-style-type: none"> <li>• Clause 14.3 – describes the criteria regarding the storage of records [<b>note: it is up to each accountable institution to provide exact details of where the records will be kept</b>]</li> </ul>   |
| 15 | Detail the criteria to be used in deciding when a transaction or activity is reportable to the FIC   | 42(2)(o)          | <ul style="list-style-type: none"> <li>• Clauses 15.1.1 to 15.1.6 – these set out the categories of information that trigger a duty to report to the FIC</li> </ul>  |

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| 16 | Set out the processes to be followed when reporting information to the FIC  | 42(2)(p)          | <ul style="list-style-type: none"> <li>• Clauses 15.4.1 to 15.4.5 – these require the Risk Officer to access the FIC website to report information, according to timelines that depend upon the type of information on the basis of which the report is made</li> </ul>   |
| 17 | Provide for how: <ul style="list-style-type: none"> <li>• the RMCP will be applied across branches, subsidiaries and foreign operations;</li> <li>• the accountable institution will determine whether the RMCP's implementation is possible in a foreign country hosting one of its foreign branches or subsidiaries; and</li> <li>• the accountable institution will inform the FIC if the RMCP is impermissible in such foreign country</li> </ul> | 42(2)(q)          | N / A – the template RMCP does not cater for branches or foreign operation. The decision was to leave this aspect because of the sheer complexity thereof, the thinking being that those agencies that operate franchises, branches and foreign businesses would have the wherewithal to address this in when customising the template RMCP |
| 18 | Detail how the RMCP will be operationalised   | 42(2)(r)          | <ul style="list-style-type: none"> <li>• Clause 3.1.5 – makes it the Risk Officer's responsibility to implement the RMCP<br/> <b>[note: it is up to the Business to decide on the details as to how this will be done]</b></li> </ul>   |
| 19 | Indicate whether any provisions of section 42 are not applicable, with justifications   | 42(2A)            | N / A – no provisions was made for inapplicable sections. Agencies with no franchises, branches or foreign operations will, of course, have scope to mention that section 42(2)(q) is inapplicable  |