

ORGANISATION: THE BANKING ASSOCIATION SOUTH AFRICA

SUBMISSION DESCRIPTION: DRAFT DIRECTIVE 11 ON THE SUBMISSION OF RISK AND COMPLIANCE RETURNS TO THE FINANCIAL INTELLIGENCE CENTRE BY SPECIFIED ACCOUNTABLE INSTITUTIONS

NO	REFERENCE IN ACT/BILL/DOCUMENT	COMMENT (Why is it a problem?)	PROPOSED WORDING/CHANGE
General			
1) BASA notes that the 'Background' to the draft Directive and the draft RCR were included in the Consultation Note only. BASA suggests that the background (paragraphs 6 to 9 of the Consultation Note) be included in the Directive itself.			
1. 2.	Para 2.2 The Directive requires the accountable institutions specified in paragraph 4 of this Directive to submit their risk and compliance return questionnaire to the Centre.	1) Based on the commentary provided relating to the definition of "Risk and compliance return platform" (para 3(b)), BASA proposes that the wording of this para be amended.	1) BASA proposes that para 2.2 be amended as follows: "The Directive requires the accountable institutions specified in paragraph 4 of this Directive to submit their risk and compliance return questionnaire to the Centre."
3.	3. Definitions In this Directive the 'Act' means the Financial Intelligence Centre Act, 2001 (Act 38 of 2001) and includes any regulation or directive made under the Act, and, unless the context otherwise indicates, any word or expression to which a meaning has been assigned in the Act has that meaning, and: (a)"Risk and compliance return" includes, but is not limited to, the risk and compliance return	1) Noting the definition for a "risk and compliance return", BASA recommends that the words "includes but is not limited to" and "may be subject to change from time to time" are unnecessarily broad as draft Directive 11 (similar to previous Directives 6 and 7) seeks to elicit the once-off submission of a specific return, in the prescribed format.	1) BASA proposes that the definition of "risk and compliance return" in para 3(a) be amended as follows: "Risk and compliance return" includes, but is not limited to , the attached risk and compliance return questionnaires issued by the Centre, which may be subject to change from time to time. "

NO	REFERENCE IN ACT/BILL/DOCUMENT	COMMENT (Why is it a problem?)	PROPOSED WORDING/CHANGE
	questionnaires issued by the Centre, which may be subject to change from time to time.		
4.	(b) "Risk and compliance return platform" means the electronic system designated for the receipt of risk and compliance return questionnaires by the Centre.	<p>1) Noting the definition of 'risk and compliance return', the wording is not limited to questionnaires. As such, we would recommend the deletion of the word 'questionnaires' and the remainder of the sentence, as this is equally contemplated in the definition, from this definition and only utilise the defined term 'risk and compliance return'.</p> <p>2) BASA requests confirmation in respect of the manner in which system will be "designated"</p>	<p>1) BASA proposes that para 3(b) be amended as follows: "Risk and compliance return platform" means the electronic system designated for the receipt of risk and compliance returns questionnaires by the Centre.</p>
5.	Para 4.1 4.1 Subject to paragraph 4.2, this Directive applies to every accountable institution referred to in items 1, 2, 3, 9, 11 (excluding bank, mutual bank and co-operative bank credit providers), 14, 20, 21 and 22 of Schedule 1 of the Act.	<p>1) The wording in brackets '(excluding bank, mutual bank and co-operative bank credit providers)' is repeated in para 4.2 and is therefore unnecessary.</p> <p>2) BASA therefore proposes the deletion as reflected in the next column to avoid duplication with the contents of para 4.2.</p>	<p>1) BASA proposes that para 4.1 be amended as reflected below: "Subject to paragraph 4.2, this Directive applies to every accountable institution referred to in items 1, 2, 3, 9, 11 (excluding bank, mutual bank and co-operative bank credit providers), 14, 20, 21 and 22 of Schedule 1 of the Act."</p>
6.	Para 4.2 This Directive does not apply to a bank, mutual bank and co-operative bank that carries on a business of a credit provider contemplated in item 11 of Schedule 1 of the Act.	<p>1) For grammatical correctness, BASA proposes the amendment as reflected in the next column.</p> <p>2) BASA appreciates the exclusion of banks falling under item 11 from the obligation to submit the risk and compliance return. BASA submits that banks which fall into the item 2</p>	<p>1) BASA proposes that para 4.2 be amended as reflected below: "This Directive does not apply to a bank, mutual bank and co-operative bank that carries on a business of a credit provider contemplated in item 11 and/or that carries on the business of a trust and company</p>

NO	REFERENCE IN ACT/BILL/DOCUMENT	COMMENT (Why is it a problem?)	PROPOSED WORDING/CHANGE
		category should also be excluded under item 2 for the same reasons as the item 11 exclusion.	<u>service provider contemplated in item 2</u> of Schedule 1 to of the Act.”
7.	Para 5.2 Accountable institutions must answer all questions in the risk and compliance return questionnaire applicable based on their understanding of money laundering, terrorist financing and proliferation financing risks and its implementation of current risk-based controls in compliance with the obligations set out in the Act.	1) Based on the commentary provided relating to the definition of “Risk and compliance return platform” (para 3(b)), BASA proposes the amendments as reflected in the next column.	1) BASA proposes that para 5.2 be amended as reflected below: “Accountable institutions must answer all questions in the <u>applicable</u> risk and compliance return questionnaire applicable based on their understanding of money laundering, terrorist financing and proliferation financing risks and its implementation of current risk-based controls in compliance with the obligations set out in the Act.”
8.	Para 5.3 The risk and compliance return covers the specific information reporting periods and must be submitted to the Centre by the due dates, as specified in the Schedule below, as follows:	1) For clarity of language, BASA proposes the amendment as reflected in the next column.	1) BASA proposes that para 5.3 be amended as reflected below and the addition of a new para 5.4 (with subsequent renumbering): 5.3 The risk and compliance return must include covers the <u>requested specific</u> information <u>for the specific</u> reporting periods. <u>5.4 The risk and compliance return and</u> must be submitted to the Centre by the due dates <u>and times</u> , as specified in the Schedule below, as follows:”
9.	Para 5.3.1 Accountable institutions falling under items 1, 2, 3, and 9 of Schedule 1 to the FIC Act, must	1) With reference to the commentary provided relating to the definition of “Risk and compliance return platform” (para 3(b)) and ease of reading, BASA proposes that the	1) BASA proposes that para 5.3.1 be amended as reflected below: “Accountable institutions falling under items 1, 2, 3, and 9 of Schedule 1 to the FIC Act, must

Commented [SA1]: Members to please provide their views on this, particularly in light of the communication with the FIC and PA as it relates to the D6 and 7 and the request made therein relating to item 11 institutions, and the correspondence relating to the supervisory responsibilities.

NO	REFERENCE IN ACT/BILL/DOCUMENT	COMMENT (Why is it a problem?)	PROPOSED WORDING/CHANGE
	submit the completed questionnaire for the information period of 1 April 2023 to 31 March 2026, both dates inclusive.	wording of this para be amended as reflected in the next column.	submit the completed <u>risk and compliance return questionnaire</u> for the <u>information period of</u> 1 April 2023 to 31 March 2026, both dates inclusive.”
10.	Para 5.3.2 Accountable institutions falling under items 11 (excluding bank, mutual bank and co-operative bank credit providers), 14, 20, 21 and 22 of Schedule 1 to the FIC Act, must submit the completed questionnaire for the information period of 1 July 2023 to 31 March 2026, both dates inclusive.	1) Refer to our comments on para 5.3.2. BASA proposes that the wording of this para be amended as reflected in the next column.	1) BASA proposes that para 5.3.2 be amended as reflected below: Accountable institutions falling under items 11 (excluding bank, mutual bank and co-operative bank credit providers), 14, 20, 21 and 22 of Schedule 1 to the FIC Act, must submit the completed <u>risk and compliance return questionnaire</u> for the <u>information period of</u> 1 July 2023 to 31 March 2026, both dates inclusive.
11.	Para 5.4 The risk and compliance return is an automated return. Specified accountable institutions are required to populate the information directly via the link on the risk and compliance return platform as made available by the Centre.	1) BASA proposes the amendments in the next column as the return is not automated but electronically captured.	1) BASA proposes that para 5.4 be amended as reflected below: The risk and compliance return is an <u>electronically captured automated</u> return. Specified accountable institutions are required to populate the information directly via the link on the risk and compliance return platform as made available by the Centre.

NO	REFERENCE IN ACT/BILL/DOCUMENT	COMMENT (Why is it a problem?)	PROPOSED WORDING/CHANGE																					
12.	<table border="1"> <thead> <tr> <th colspan="3">SCHEDULE</th> </tr> <tr> <th>Schedule 1 items</th> <th>Information period</th> <th>RCR due date</th> </tr> </thead> <tbody> <tr> <td>Item 11 (excluding bank, mutual bank, and co-operative bank credit providers)</td> <td>Saturday: 1 July 2023 to Tuesday: 31 March 2026, both dates inclusive.</td> <td>On 30 April 2026, no later than 17:00</td> </tr> <tr> <td>Items 14, 21, and item 22 (CASPs)</td> <td>Saturday: 1 July 2023 to Tuesday: 31 March 2026, both dates inclusive.</td> <td>On 30 April 2026, no later than 17:00</td> </tr> <tr> <td>Item 2 and item 9 (casinos)</td> <td>Saturday: 1 April 2023 to Tuesday: 31 March 2026, both dates inclusive.</td> <td>On 30 April 2026, no later than 17:00</td> </tr> <tr> <td>Items 20 (RFGDs, including DPS and DPM (including Kruggerand dealers))</td> <td>Saturday: 1 July 2023 to Tuesday: 31 March 2026, both dates inclusive.</td> <td>On 30 May 2026, no later than 17:00</td> </tr> <tr> <td>Items 1, 3 and 9 (non-casinos)</td> <td>Saturday: 1 April 2023 to Tuesday: 31 March 2026, both dates inclusive.</td> <td>On 30 May 2026, no later than 17:00</td> </tr> </tbody> </table>	SCHEDULE			Schedule 1 items	Information period	RCR due date	Item 11 (excluding bank, mutual bank, and co-operative bank credit providers)	Saturday: 1 July 2023 to Tuesday: 31 March 2026, both dates inclusive.	On 30 April 2026, no later than 17:00	Items 14, 21, and item 22 (CASPs)	Saturday: 1 July 2023 to Tuesday: 31 March 2026, both dates inclusive.	On 30 April 2026, no later than 17:00	Item 2 and item 9 (casinos)	Saturday: 1 April 2023 to Tuesday: 31 March 2026, both dates inclusive.	On 30 April 2026, no later than 17:00	Items 20 (RFGDs, including DPS and DPM (including Kruggerand dealers))	Saturday: 1 July 2023 to Tuesday: 31 March 2026, both dates inclusive.	On 30 May 2026, no later than 17:00	Items 1, 3 and 9 (non-casinos)	Saturday: 1 April 2023 to Tuesday: 31 March 2026, both dates inclusive.	On 30 May 2026, no later than 17:00	1) BASA requests that the Centre consider extending the due date for the submission of risk and compliance returns for item 2 accountable institutions to 30 May 2026 as these institutions are committed to coincidental regulatory reporting projects at this time (that is, donations tax and FATCA).	1) BASA proposes that the Centre extends the due date for item 2 institutions to 30 May 2026.
SCHEDULE																								
Schedule 1 items	Information period	RCR due date																						
Item 11 (excluding bank, mutual bank, and co-operative bank credit providers)	Saturday: 1 July 2023 to Tuesday: 31 March 2026, both dates inclusive.	On 30 April 2026, no later than 17:00																						
Items 14, 21, and item 22 (CASPs)	Saturday: 1 July 2023 to Tuesday: 31 March 2026, both dates inclusive.	On 30 April 2026, no later than 17:00																						
Item 2 and item 9 (casinos)	Saturday: 1 April 2023 to Tuesday: 31 March 2026, both dates inclusive.	On 30 April 2026, no later than 17:00																						
Items 20 (RFGDs, including DPS and DPM (including Kruggerand dealers))	Saturday: 1 July 2023 to Tuesday: 31 March 2026, both dates inclusive.	On 30 May 2026, no later than 17:00																						
Items 1, 3 and 9 (non-casinos)	Saturday: 1 April 2023 to Tuesday: 31 March 2026, both dates inclusive.	On 30 May 2026, no later than 17:00																						
Risk and compliance return																								
Part 1																								
General commentary regarding risk and compliance return																								
<p>1) Not having sight of the dropdown (where applicable) options does not enable us to consider the commentary being provided, in context. In addition, it may be beneficial to cater for commentary to be provided for relevant sections for accountable institutions (AIs) to capture their motivation or explanation for drop-down responses. This may avoid perceptions of non-compliance by AIs and assist with the provision of meaningful responses to the RCRs.</p> <p>2) BASA suggests that the risk and compliance return contain a glossary section to define or describe terms uniquely used in the RCR (eg. “synthetic ID” used in question 5.13 or “conflict areas” used questions 3.11, 3.15, 3.18, 3.23, 6.6 and 6.11).</p> <p>3) The language that has been utilised in the risk and compliance return is ‘client’. This is a defined term in the FIC Act. Reference to customer in the questionnaire is inconsistent with the FICA terminology. This applicable changed should be applied throughout the risk and compliance return.</p> <p>4) BASA further requests clarity on whether the referenced platform may support batch uploads, for example, to provide a “list of the institution’s products or services”?</p> <p>5) The ability of the institution to provide all the required information in the first submission may be impacted by accessibility of this information where not currently readily extractable.</p>																								
1.	Declaration: I Click or tap here to enter text declare that the information contained in this risk and compliance return questionnaire is,	1) As per BASA’s comments on the definition of “Risk and compliance return platform” (para 3(b)), BASA proposes the reference to “questionnaire” be deleted.	1) BASA proposes the amendment as reflected below: I Click or tap here to enter text declare that the information contained in this risk and compliance return questionnaire is, to the																					

NO	REFERENCE IN ACT/BILL/DOCUMENT	COMMENT (Why is it a problem?)	PROPOSED WORDING/CHANGE
	to the best of my knowledge, comprehensive and correct, and that it will promptly file any needed supplemental information.		best of my knowledge, comprehensive and correct, and that it will promptly file any needed supplemental information.
2.	Part 1 Table	1) BASA notes that the dates in the columns of the table are not aligned with the dates contained in the draft Directive.	1) BASA proposes the alignment of dates with the directive.
3.	Question 1.1 What percentage of your clients are natural persons?	<p>1) This question does not place a restriction on clients that are natural persons. As such the percentage would reflect both RSA citizens and foreign nationals.</p> <p>2) Considering the content of question 1.2, the percentage pertains to clients that are natural persons who are foreign nationals. Accordingly, the intent of question 1.1 must be clear and consistently applied. BASA proposes the wording as reflected in the next column, depending on the intent/objective of the question being asked.</p> <p>3) Referring to commentary on question 1.2 regarding the exclusion of sole proprietors, partnerships and trusts from the definition of legal person. Is there a requirement to include sole proprietors, partnerships and trusts in this percentage?</p> <p>4) However, we note question 1.4 specifically asks for the percentage of clients which are</p>	<p>1) BASA proposes that question 1.1 be amended as reflected below depending on the intent/objective of the question being asked. “What percentage of your clients are natural persons (including foreign nationals)?”; or What percentage of your clients are natural persons (excluding foreign nationals)?”</p>

NO	REFERENCE IN ACT/BILL/DOCUMENT	COMMENT (Why is it a problem?)	PROPOSED WORDING/CHANGE
		trusts – hence they may need to be specifically excluded from question 1.1.	
4.	Question 1.2 What percentage of your clients are foreign legal persons?	2) The term ‘legal person’ is defined in the FIC Act. The use of the term legal person here, should attract the same meaning – this would then exclude trusts, sole proprietors and partnerships. 3) For further context, please refer to our comments on question 1.1.	
5.	Question 1.5 Does your institution conduct business with any domestic politically exposed persons (PEPs) or their close family members or close associates?	1) To clarify, the response in the respective columns provided would be either ‘yes’ or ‘no’ with or without specifically answering individually in relation to – a) Domestic PEPs; OR b) Close Family members; OR c) Close associates. 2) If the intent of the question is to obtain ‘yes’ or ‘no’ answers in relation to each – this should be indicated or catered for.	
6.	Question 1.7 What percentage of your clients have been identified as high-risk Domestic Prominent Influential Persons?	1) BASA proposes that this question be deleted as Schedule 3C is not yet operationalised.	1) BASA proposes that question 1.7 be deleted.
7.	Question 1.17 Is your institution situated within 100km of an international border?	1) For certainty, it is requested that the Centre clarify whether this references the institution’s business address or includes any branches of the institution?	

Commented [SA2]: The regulators’ view is that AIs must still identify these persons- also included in AML/ CFT return- suggest this be deleted

NO	REFERENCE IN ACT/BILL/DOCUMENT	COMMENT (Why is it a problem?)	PROPOSED WORDING/CHANGE
8.	Question 1.18 Does your institution conduct business with clients from countries regarded as high-risk for ML/TF/PF purposes?	1) BASA proposes that the question be enhanced to provide clarity whether the jurisdictions which are considered high risk are in accordance with the institution's own country risk rating.	1) BASA proposes that question 1.18 be amended as follows: "Does your institution conduct business with clients from countries, which your institution regards as high-risk for ML/TF/PF purposes?"
9.	Question 1.37 Does your institution establish the identity of the ultimate beneficial owner/s of the client?	1) Beneficial owner is the defined term in the FIC Act. Hence the reference to 'ultimate' prior to beneficial owner is not required.	1) BASA proposes that question 1.37 be amended as follows: "Does your institution establish the identity of the ultimate beneficial owner/s of the client?"
10.	Questions 1.47 to 1.56	1) As these questions do not pertain to doubts about veracity, BASA suggests that they would appear under a new heading "Record Keeping"	1) BASA proposes the inclusion of an additional heading "Record Keeping" .
11.	Question 1.61 Was your institution served with any subpoenas in terms of section 205 Criminal Procedures Act, 1977 (Act 51 of 1977), received any enquiries or requests for information from the FIC, investigative authorities or other regulatory bodies in respect of any transaction concluded with a client?	1) There are too many questions posed in one sentence, which may make this question problematic to answer where the questions may be a combination of Yes and No answers.	1. BASA proposes that the questions are separated into individual questions.
Part 2 – Proliferation Financing			
12.	Question 2.1 Do you have any dealings/interactions with clients	1) BASA suggests the grammatical error be corrected and proposes the inclusion of the institution's consideration of risk.	1) BASA proposes that question 2.1 be amended as follows:

NO	REFERENCE IN ACT/BILL/DOCUMENT	COMMENT (Why is it a problem?)	PROPOSED WORDING/CHANGE
	that provide products and services to countries that are listed considered high risk for PF purposes (Iran and The Democratic People's Republic of Korea)		"Do you have any dealings/interactions with clients that provide products and services to countries that <u>your institution are listed</u> considers <u>to be</u> high risk for PF purposes (Iran and The Democratic People's Republic of Korea)"
13.	Question 2.5 Do you screen for PF red flags from FATF Guidance 2024?	1) BASA suggests that the Centre reference the specific FATF guidance referenced in this question.	2)
14.	Question 2.9 Do you have any dealings/interactions with clients that provide products and services to countries that are listed considered high risk for PF purposes (Iran and The Democratic People's Republic of Korea)	1) This question is a repeat of question 1.22.	1) BASA propose that question 2.9 be deleted.
15.	Question 2.13 Do you identify beneficial owners of clients that are foreign legal companies or arrangements?	1) This question is repeated given the content of question 1.37, which is not limited to domestic persons.	1) BASA propose that question 2.9 be deleted.
Part 3 - TERRORIST FINANCING			
16.	Question 3.2 Do you have customers that are citizens from countries that are	1) The language that has been utilised in the risk and compliance return is 'client'. BASA therefore suggests for consistency "customers" be amended to "clients".	1) BASA proposes that question 3.2 be amended as follows:

NO	REFERENCE IN ACT/BILL/DOCUMENT	COMMENT (Why is it a problem?)	PROPOSED WORDING/CHANGE
	subject to UNSC sanctions measures?		"Do you have customers clients that are citizens from countries that are subject to UNSC sanctions measures?"
17.	Question 3.11 Do you facilitate travel to and from conflict areas?	1) For certainty of understanding, BASA requests clarification of what would be considered to be "facilitating travel".	
18.	Question 3.23 Does your institution conduct business with customers that have a significant social media presence, and allege to be raising funds for charitable organisations in conflict areas?	1) To ensure an accurate response, clarity is requested on the meaning and parameters for determining "a significant social media presence".	
19.	Question 3.25 Do you track clients linked to the Islamic State of Iraq and the Levent (EI/ISIL) returnees?	1) For certainty of understanding, BASA requests clarification of what intended by "tracking clients".	
20.	Question 3.26 Where you suspect that a potential client is a sanctioned person or entity or is linked to a sanctioned person or entity? Do you have processes to further investigate the validity of this suspicion (e.g. do you scrutinise their information against the TFS	1) BASA proposes that this question be deleted as the previous questions have already established the screening of clients against the TFS list or not.	1) BASA propose that question 3.26 be deleted.

NO	REFERENCE IN ACT/BILL/DOCUMENT	COMMENT (Why is it a problem?)	PROPOSED WORDING/CHANGE
	list, do you conduct an adverse media search)?		
21.	Question 3.29 Within which period do you screen your client data against the TFS list?	1) BASA proposes that grammatical error be corrected.	1) BASA proposes that question 3.29 be amended as follows: "Within which period do you screen you <u>your</u> client data against the TFS list?"
22. PART 4: CRYPTO ASSET SERVICE PROVIDERS			
23.	Question 4.3 Does your institution that carry on the business of conducting a transaction that transfers a crypto asset from one crypto asset address or account to another?	1) The question is unclear, BASA proposes the rewording to ensure clarity.	1) BASA proposes the rewording to ensure clarity.
24.	Question 4.6 What percentage of your products, customer types, geographies, and delivery channels are covered by a formally documented enterprise ML/TF risk assessment updated within the last 12 months?	1) The question is required to be responded to in the context of the relevant reporting period. BASA proposes that the last portion of the sentence be deleted.	1) BASA proposes that question 3.29 be amended as follows: "What percentage of your products, customer types, geographies, and delivery channels are covered by a formally documented enterprise ML/TF risk assessment updated within the last 12 months? "
25.	Question 4.10 How many other CASPS with a commercial relationship/partnership that you transact with, have you determined whether their AML/CFT/CPF	1) The question is unclear, BASA proposes the rewording to ensure clarity. 2) Is the intention to understand whether the compliance controls are implemented in high-risk jurisdictions or whether they	1) BASA proposes the rewording to ensure clarity.

NO	REFERENCE IN ACT/BILL/DOCUMENT	COMMENT (Why is it a problem?)	PROPOSED WORDING/CHANGE
	compliance controls are conducted in a high-risk ML/TF/PF jurisdiction?	conduct transactions in high-risk jurisdictions?	
26.	Question 4.13 How many of your client transactions include accepting crypto assets from mixers or tumblers?	<ol style="list-style-type: none"> 1) In the context of the FIC Directive 9 of 2024 and the contemplated draft PCC 123, 'mixers' and 'tumblers' were not referenced. 2) For purposes of understanding and alignment of responses from AIs, it may be pertinent to describe or define these terms. 3) While we note the reference to 'mixers' OR 'tumblers' – it is our understanding that 'mixers' or 'tumblers' are equivalent terms referring to a person that renders crypto-asset services or protocols that intentionally obscure transaction provenance by pooling and redistributing assets, thereby breaking the audit trail on a distributed ledger. 4) If the intention is to make a clear distinction between the meaning of these two terms – it further supports the reasoning to define or describe same for understanding and application. 	
27.	Question 4.25 If you do allow for newly created crypto coins, or "meme coins" do you determine the legitimacy of the	<ol style="list-style-type: none"> 1) The reference to 'rug pull' should be articulated in a manner to enable the reader to clearly understand the meaning to be attributed to the term. 	<ol style="list-style-type: none"> 1) BASA proposes that question 4.25 be amended to read: "If you do allow for newly created crypto coins, or "meme coins" do you determine the legitimacy of the coin, and do you take the risk

NO	REFERENCE IN ACT/BILL/DOCUMENT	COMMENT (Why is it a problem?)	PROPOSED WORDING/CHANGE
	coin, and do you take the risk into account of a possible "rug pull"?		into account of <u>a possible "rug pull"? liquidity being withdrawn or the meme coins being abandoned, causing the meme coins value to collapse, leaving investors with worthless assets?."</u>
28.	<p>Question 4.29 What percentage of crypto asset transfers had complete and verified originator/beneficiary payloads?</p>	<p>1) The reference to 'payloads' should be avoided, to enable the reader to clearly understand the meaning to be attributed to the term. 'Payload' seemingly refers to 'information'. Please note proposed amendment. We recommend that the word 'payload' be replaced with 'information', in all instances where 'payload is used'. (eg par 4.31)</p> <p>2) The response of the AI depends on the capacity which it is acting. Directive 9/2024 contemplates an originator, intermediary and beneficiary CASP. As such, the requirement to verify originator or beneficiary information is clarified in Directive 9.</p> <p>3) If the intention is to have a single percentage to reflect both originator and beneficiary information, which was complete and verified, the addition of the reference to both originator and beneficiary CASP to be inserted in the question (noting that this would exclude</p>	<p>1) BASA proposes that question 4.29 be amended to read: "What percentage of crypto asset transfers, <u>as an originating and beneficiary CASP</u>, had complete and verified originator/beneficiary <u>payloads information?</u>"</p>

NO	REFERENCE IN ACT/BILL/DOCUMENT	COMMENT (Why is it a problem?)	PROPOSED WORDING/CHANGE
		<p>crypto asset transfers – single transaction - below R5000, by –</p> <ul style="list-style-type: none"> ○ an originating CASP in relation to the originator unless there is a suspicion of ML or TF; ○ a beneficiary CASP in relation to the beneficiary, unless the transfer is received from an originator in a high risk or other monitored jurisdiction). <p>4) There is no obligation on an intermediary CASP to verify information of the originator or the beneficiary.</p>	
29.	<p>Question 4.35 What percentage of beneficial ownership information of your institution’s legal-entity clients has been verified via independent sources?</p>	<p>1) BASA recommends consistency in language throughout the risk and compliance return. Reference to legal person has been used predominantly in this turn (which is a defined term in the FIC Act). BASA recommends replacing ‘legal entity’ with ‘legal person’, for consistent understanding and application.</p> <p>2) Unless the intent is to refer to the defined term ‘entity’ in the FIC Act, then reference should be made to entity, as opposed to ‘legal-entity’.</p>	<p>1) BASA proposes that question 4.35 be amended to read: “What percentage of beneficial ownership information of your institution’s legal -entity <u>person</u> clients has been verified via independent sources?”</p>
30.	<p>Question 4.40 Has your institution disclosed details of all subsidiaries and their</p>	<p>1) BASA requests that the Centre consider our commentary provided in respect of Directive 10 in the context of this question. It would</p>	

NO	REFERENCE IN ACT/BILL/DOCUMENT	COMMENT (Why is it a problem?)	PROPOSED WORDING/CHANGE
	head offices (inside and outside South Africa) when registering with the FIC?	also be appreciated if a free-text field be included for AIs to capture their comments.	
31.	Question 4.41 Has your institution disclosed details of all subsidiary branches (inside and outside South Africa) when registering with the FIC?	1) BASA requests that the Centre consider our commentary provided in respect of Directive 10 in the context of this question. It would also be appreciated if a free-text field be included for AIs to capture their comments.	
32. PART 5 – CREDIT PROVIDERS			
33.	Question 5.5 What percentage of transactions have been concluded with customers from high-risk geographical areas for money laundering?	1) BASA proposes the inclusion of the institution's own assessment of risk.	1) BASA proposes that question 5.5 be amended to read: "What percentage of transactions have been concluded with customers from jurisdictions which your institution considers to be high-risk for money laundering?"
34. PART 6 – HIGH VALUE GOODS DEALERS			
35.	Question 6.4 If you do accept payment from third parties on, what percentage of these payments do you conduct customer due diligence principles?	1) BASA proposes that grammatical error be corrected. By deletion of the word "on".	1) BASA proposes that question 6.4 be amended to read: "If you do accept payment from third parties on , what percentage of these payments do you conduct customer due diligence principles?"
36.	Question 6.12 Where you purchase products from suppliers, do you take steps to determine the source of the products to establish whether it	1) BASA suggests that this question be rephrased as it is confusing and repetitive.	1) BASA proposes that question 6.12 be amended to read: "Where you purchase products from suppliers, do you take steps to determine

NO	REFERENCE IN ACT/BILL/DOCUMENT	COMMENT (Why is it a problem?)	PROPOSED WORDING/CHANGE
	was acquired through legitimate means? they are attempting to sell, i.e. whether the product was acquired through legitimate means?		whether the source of the products is legitimate.”
PART 7 – TRUST AND COMPANY SERVICE PROVIDERS			
37.	Question 7.1 As a trust service provider that performs the role of a trustee, do you ensure that: You have all the facts about a transaction and all the parties involved in such transaction;	1) BASA propose the root sentence is a stand-alone statement due to the questions which follow.	1) BASA proposes that question 7 be amended as follows: “ 7. As a trust service provider that performs the role of a trustee, do you ensure that: 7.1 You have all the facts about a transaction and all the parties involved in such transaction;”
38.	Questions 7.4 and 7.5 7.4 What processes do you have in place to determine whether there is a possibility that the trust in which you are involved in is wittingly or unwittingly being used for money-laundering, terrorist financing, tax evasion or any other fraudulent activity? 7.5 What processes do you have in place in instances where services are rendered in respect of trusts performing the services of non-	1) Is the intention for commentary to be provided in relation to the processes or whether processes exist?	

NO	REFERENCE IN ACT/BILL/DOCUMENT	COMMENT (Why is it a problem?)	PROPOSED WORDING/CHANGE
39.	Question 7.7 As a company service provider acting in the capacity of independent trustees or directors, do you obtain the necessary information about: The nature of the transactions of the company;	1) BASA propose the root sentence is a stand-alone statement due to the questions which follow.	1) BASA proposes that question 7.7 be amended as follows, with the remaining questions sequentially numbered: "7.7 As a trust service provider that performs the role of a trustee, do you ensure that: "As a company service provider acting in the capacity of independent trustees or directors, do you obtain the necessary information about: 7.7.1 The nature of the transactions of the company;
40.	Question 7.11 Do you establish the identity of the investors in the case of potentially higher risks and verify the need and use of the capital?	1) BASA propose the questions are separated as the answers may be different.	1) BASA proposes that the question 7.11 be separated into two questions.