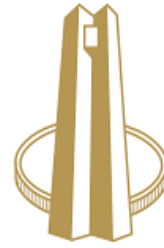




Financial
Intelligence Centre



South African Reserve Bank



South African Revenue Service



Financial Sector
Conduct Authority



NATIONAL PROSECUTING AUTHORITY
South Africa

Standing Committee on Finance

Illicit Financial Flows update

17 March 2020



PURPOSE OF THE PRESENTATION

To apprise the Standing Committee on Finance
on the work and contribution of the Inter-Agency Working Group
(IAWG) on Illicit Financial Flows (IFF)

OUTLINE OF THE PRESENTATION

BACKGROUND

- *Definition: Global context*
- *Findings UN Economic Commission for Africa*
- *South African context of IFFs*

RESPONSE: INTER-AGENCY WORKING GROUP (IAWG)

- *Structural coordination on IFFs*
- *Definition & Case section criteria*
- *Overview on cases under investigation*
- *FIC's contribution within the IAWG on IFFs*

FIC'S SUPPORT TO AGENCIES IN COMBATING IFFs

- *Bulk Cash Smuggling - matters*
- *Exchange Control - matters*

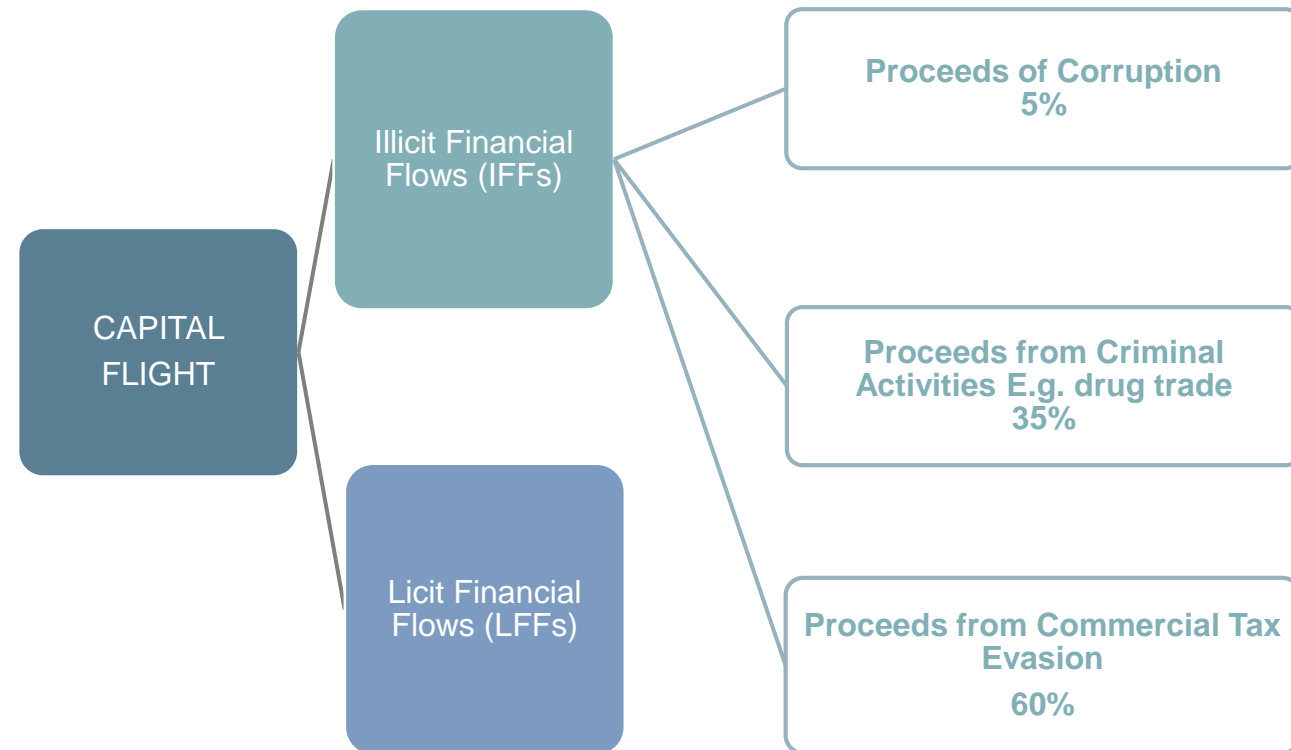
WAY FORWARD

Background: what are IFFs *[global context]*

Defining Illicit Financial Flows

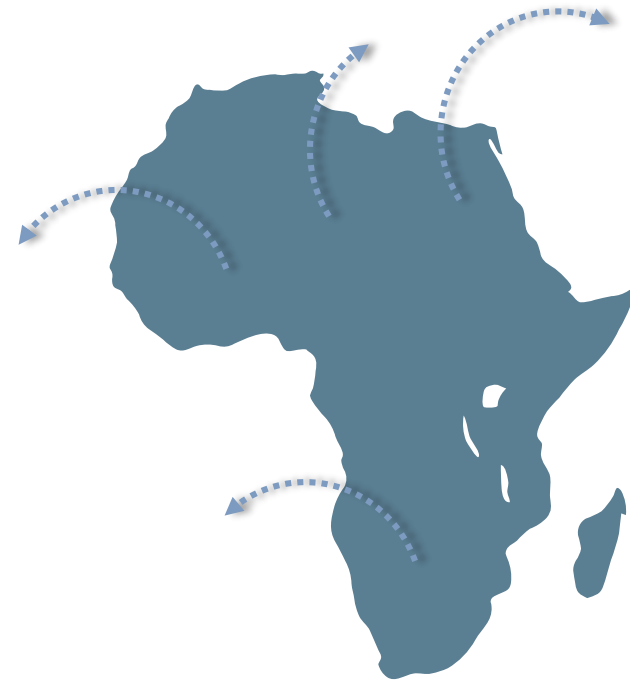
- Dev Kar, lead economist at **Global Financial Integrity (GFI)**, defines IFFs or illicit money as “money that is illegally earned, transferred, or utilised. Somewhere at its origin, movement, or use, the money broke laws and hence it is considered illicit.”
- **United Nations Development Programme (UNDP)**, definition: “include, but are not limited to, cross-border transfers of the proceeds of tax evasion, corruption, trade in contraband goods, and criminal activities such as drug trafficking and counterfeiting.”

- IFFs are understood as the **international flow** component of **illegal activity/corruption**, which takes place **domestically**, as well as **internationally**.



Background: Findings of UN Economic Commission for AFRICA - *High-Level Panel on IFFs*

- USD 50 billion per annum out of Africa
 - It is estimated that twice the official development assistance (ODA) that Africa receives is lost by the continent due to illicit financial flows
 - IMF Director of Trade Statistics, which reports annual exports and imports for all reporting countries, confirms that USD 50 billion per annum is lost out of the continent
- ❖ Some of the effects of illicit financial outflows are:
- ✓ the draining of foreign exchange reserves (**import overpricing**);
 - ✓ reduced tax collection (**import underpricing**);
 - ✓ cancelling out of investment inflows; and
 - ✓ worsening of poverty (**wage evasion**).



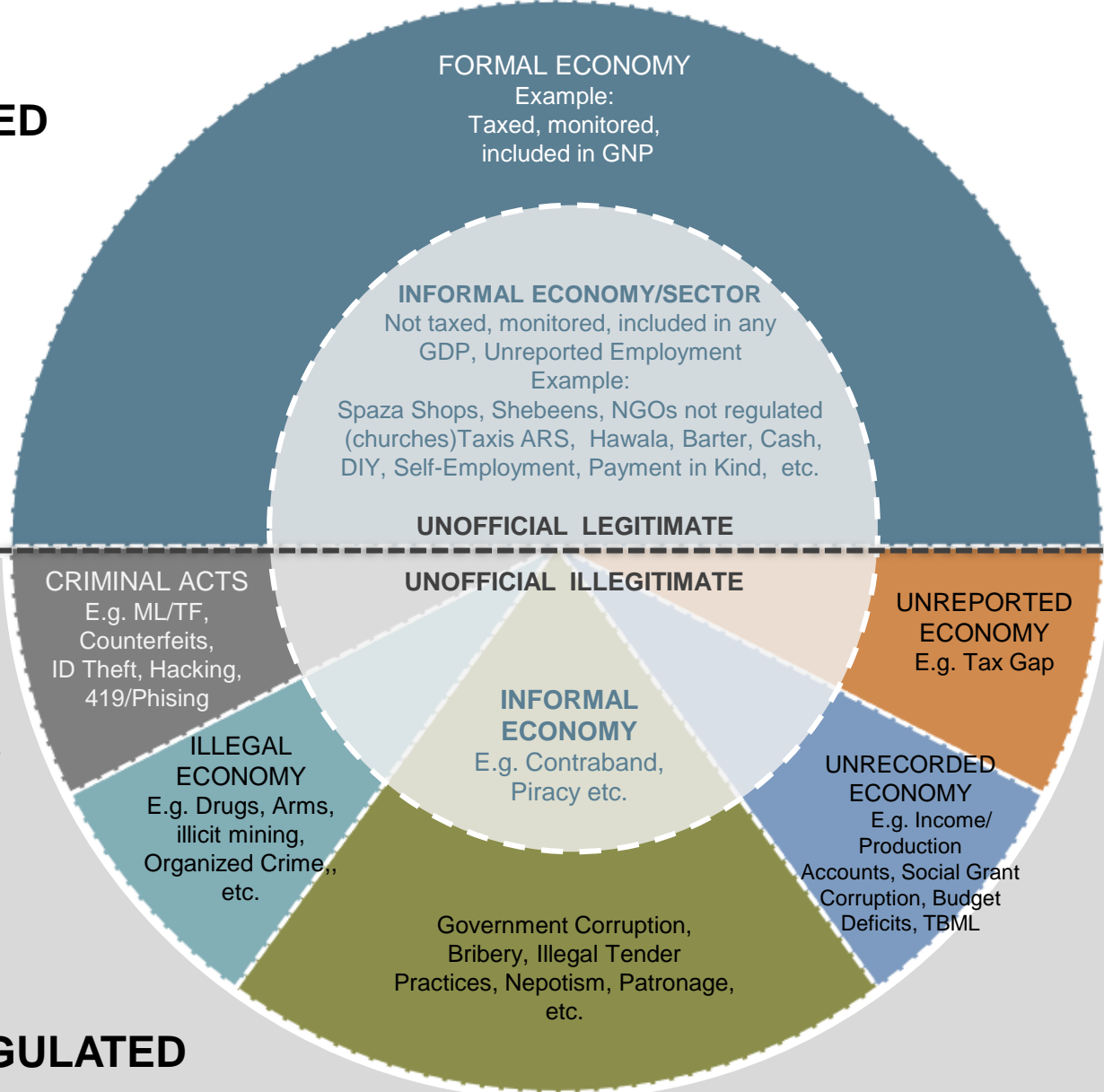
Background: South African Context: IFFs

LEGAL/LICIT REGULATED

Laws, Rules, Rights
 Regulations &
 Enforcement Penalties govern
 Formal Agents engaged in
 Production & Exchange

White Market/Economy:

- Official/Formal
- Authorized
- Intended
- Visible
- Transparent
- Observed
- Reported
- Recorded
- First



Informal Agents Circumvented &
 Excluded from the Institutional Systems of
 Laws, Rules, Rights,
 Regulations & Enforcement Penalties

Black Market/Economy:

- Underground/Subterranean
- Unofficial/Unauthorized
- Irregular/Unintended/
 Hidden/Shadow/Mirror
- Informal/Clandestine
- Illegal
- Unobserved
- Unreported
- Unrecorded
- Second/Parallel

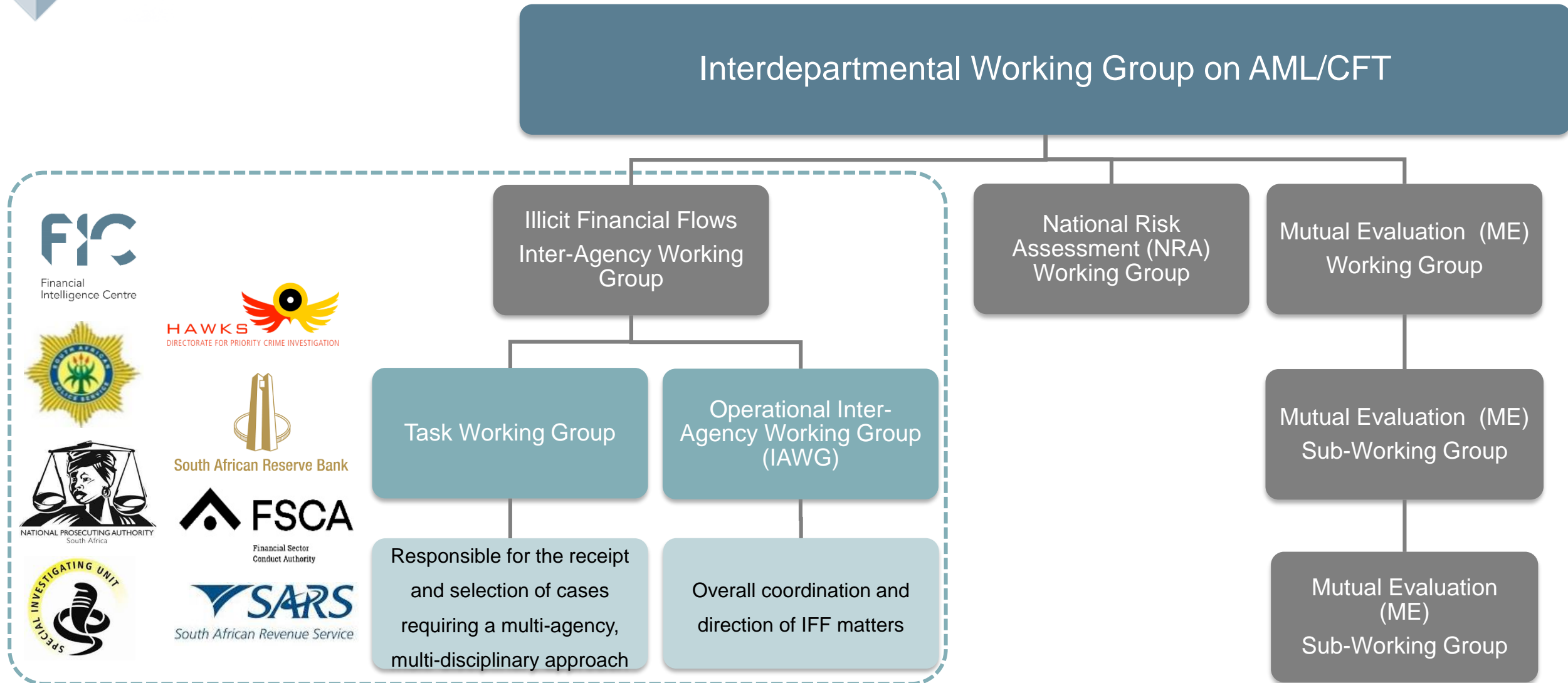
ILLEGAL/ILLICIT UNREGULATED



SOUTH AFRICAN RESPONSE TO ADDRESS THE ILLICIT FINANCIAL FLOWS (IFFs)
INTER-AGENCY WORKING GROUP ON IFFS



Structural coordination on IFFs



IAWG – Definition & Case Selection Criteria

- **Adopted Working Definition (as adopted by the IAWG-IFF)**

An Illicit Financial Flow (IFF) is defined as the illegal movement of money or capital from one country to another when funds are illegally earned, transferred and/or utilized.

- **This definition therefore covers various aspects in relation to the flow of funds**

- Illegally earned money (e.g. proceeds of drug trafficking, fraud or theft). This will fall within the legislative framework relating to proceeds of crime – POCA.
- Legally earned money, but illegally transferred. This falls within the legislative framework relating to Exchange Control and would typically include fraudulent documentation being presented, or non-declaration of cash in the case of “cash mules”.

- **Case Selection Criteria for Inter-Agency Collaboration beyond BUSINESS AS USUAL**

- Cases must fall within the definition of IFFs
- Minimum financial threshold of R100 million
- Minimum of three investigative agencies involved, and
- Any other significant matter (which may fall outside of the above case selection criteria)

Case #	Nature of matter	Estimated value	Investigation	Prosecution	Recoveries	Current status
IFF1/2018	Ponzi Scheme	R126m	Investors statements MLA request to UAE	Suspects arrested – remanded May 2020 Charge sheet in drafting	Preservation order to the value of R71 612 623,22. Restraint in process USD 5m in US account	Matter in court and some investigation to be completed
IFF2/2018	Exchange Control Contraventions	R700m	Criminal investigation ongoing	Prosecutor finalising charge sheet	R72m frozen SARB will commence with forfeiture	SARS concerning criminal investigation
IFF3/2018	Exchange Control Contraventions: Illegal Exports	R397m	DPCI /SARS investigation	Finalising s205 subpoenas	R9.3m forfeited by SARB	Information to be collated upon which prosecutor will take matter to court
IFF4/2018	Transfer of Illicit Proceeds from transnational movement of rhino horn	R2,7b	Ongoing investigation	One subject has been sentenced; others are being investigated	None	One subject has been sentenced; the others are being investigated
IFF5/2018	Hawaladar	Excess of R100m	Identification of brokers: Intelligence gathering/profiling	Not yet	None	Law enforcement to have intelligence lead investigation

Case #	Nature of matter	Estimated value	Investigation	Prosecution	Recoveries	Current status
IFF6/2018	Cash seizures at ports of entry	R100m	Profiling and criminal investigation ongoing	Ongoing	R67m cash seizures	Identified seven out of ten cases where suspects were represented by same attorney
IFF7/2018	Exchange control, Corruption and Money Laundering	Excess of R100m	SARS criminal investigation	Sentenced: 8 years for corruption	R27m SARS: obtained an agency appointment in terms of tax liability	Ongoing investigation : ML
IFF8/2018	Organised Crime Syndicates -transfer money to China	R2,7b	Case concluded	No	175 accounts have been blocked – R2.9m	Case to be closed, SARB intervention disrupted syndicate
IFF9/2019	Exchange control – travel agent	R2,5b	Investigation to proceed	Not yet	R78m blocked by SARB	Intelligence gathering/ profiling
IFF10/2019	Hawala	R150m	Investigation to proceed	Not yet	R73,7m blocked by SARB	Intelligence gathering/ profiling

FIC'S CONTRIBUTION IN IAWG ON IFFs

Between 2017 and 2020 the FIC has analysed matters related to IFFs and in the process prepared and disseminated the following disclosures:

	Proactive disclosures	Reactive disclosures	Grand total
Number of reports issued per category	32	17	49
Number of different law enforcement agencies and international FIUs		8	
Number of individuals	40	12	52
Number of entities	237	89	326
Number of suspicious reports analysed		76	

Total Recoveries to date

- IFF1/2018 - Preservation order obtained R71 m
Restraint in process USD 5m in US account
- IFF2/2018 - R72m
- IFF3/2018 - R9,3m
- IFF6/2018 - R67m
- IFF7/2018 - R27m
- IFF8/2018 - R2,9m
- IFF9/2019 - R78m
- IFF10/2019 - R73,7m
- **TOTAL:** **R400m**

FIC's contribution on matters outside the IAWG

Business and the FIC Act

- The FIC Act is one of three legislative facets to South Africa's anti-money laundering and combating of financing of terrorism (AML/CFT) regime AND identifies financial and non-financial sectors vulnerable to money laundering including:



Estate agents



Banks



Attorneys



Gambling sector



Motor vehicle dealers



Forex dealers

Minimum requirements from these sectors are:

Identify and verify client identities (ID, KYC) (S21)

Develop risk management and compliance programme (S42)

Keep records of transactions (5 years) (S22)

Provide ongoing training on FIC Act requirements to staff (S43)

Submit reports to the FIC (STRs, CTRs and IFTRs) (S27, S28A, S29, S31)

Register with the FIC (S43B)

Comply with the FIC Act - Compliance Officer (S42A)

Risk based approach applied

Soon Crypto Asset Service Providers (CASPs) will be added

Regulatory reports received by the FIC from stakeholders

- Stakeholder, mainly the banks, submit reports related to suspicious and unusual transactions (not yet a **criminal case**)
- How does reporter form a suspicion?
- Guidance note 04A – FICA
- Client, service, transaction and conduct

OPERATIONAL PARAMETERS

- Access to financial records are limited to what is permitted under Section 27, 27A, 32 and 35 of the FIC Act.
- Account information is limited to transactions reported and transactions identified from additional information gathered under sections 27 and 32 of the Act.
- The FIC has no power to engage the subjects of its analysis, to conduct interviews, to take statements, or to use signal or human intelligence sources in an attempt to contextualise the transactions it analyses.
- The FIC can engage the relevant reporting entities from time to time to seek clarity and to provide feedback on what was reported as envisaged in the FIC Act.
- Contextualisation of the transactions are performed using amongst others open source information, government databases, affidavits from litigation, media articles and academic publications.

FIC's INVOLVEMENT - BULK CASH SMUGGLING MATTERS

There are some recent media reports on travelers arrested at South African airports with large amounts of cash. The FIC has supported these investigations in that it analysed, and continues to analyse, financial related information of these matters. From 2017, the FIC has prepared and disseminated the following Financial Intelligence Reports (FIR) related to the following number of investigations:

	Reports <u>initiated and disseminated by the FIC</u>	Reports disseminated in response to <u>requests from LEAs</u>	Grand Total
Number of reports issued per category	11	15	26
Number of different law enforcement agencies	4		
Number of individuals	209		
Number of entities	225		
Suspicious transaction reports received related to matters	77		

FIC's INVOLVEMENT – CAPITAL FLIGHT/EXCHANGE CONTROL

As part of its mandate the FIC has supported investigations related to exchange control violations. From 2014, the FIC has **initiated**, prepared and disseminated the following Financial Intelligence Reports (FIR) related to the following number of investigations:

	Reports <u>initiated and disseminated by the FIC</u>
Number of reports	64
Number of different law enforcement agencies	7
Number of individuals/entities	208
Suspicious transaction reports related to these matters received	364

The FIC will continue to:

- *Explore new ways or opportunities in the development of better technology and systems around big data to improve the integration, analyses and dissemination of financial intelligence.*
- *Create partnerships with the private sector to efficiently access relevant financial information to support law enforcement investigations*
- *Develop mechanisms to improve the feedback received from LEAs.*
- *Seek improved access to government databases (e.g. DoT, Master, Deeds office and DHA).*
- *MOUs concluded with SAPS, NPA, SARS, SIU, SSA, Office of Public Protector and SARB*



THANK YOU