

BANKING & FINANCE

Your SPV is an accountable institution ... now what?

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by Janice Geel – Associate, reviewed by Natalie Scott – Director and Head of Sustainability

Special purpose vehicles (“SPVs”) have been the cornerstone of securitisation, structured finance and risk-transfer transactions in South Africa.^[1] The question of how anti-money laundering obligations apply to these ring-fenced, insolvency remote structures have remained something of a grey area, until now. On 2 March 2026, the Financial Intelligence Centre (“FIC”) published the Draft Public Compliance Communication No. 122 (“**Draft PCC 122**”)^[2] for public consultation purposes. Draft PCC 122 addresses the practical application of the Financial Intelligence Centre Act No. 38 of 2001 (“**FIC Act**”) to SPVs that constitute accountable institutions under Item 11 of Schedule 1, and entities that make use of SPVs should take note of Draft PCC 122 prior to its finalisation by the FIC.

The FIC Act does not define ‘special purpose vehicle’. Draft PCC 122 fills this gap by describing an SPV as “*any juristic person, trust, partnership or other legal arrangement established as a legally distinct entity for a specific, limited or ring-fenced objective, with its own assets, liabilities and legal status separate from its forming parent*”.^[3] The description is broad enough to capture issuer special purpose institutions used in securitisation, asset-backed funding and structured finance, provided they are insolvency-remote and prohibited from conducting business outside their defined mandate.^[4] The characteristics of an SPV include a ring-fenced memorandum of incorporation, founding documents setting out a restricted purpose, a shell structure that has outsourced all operational functions, and a link to a creator through ownership or mutual controlling structures.^[5]

One of the most important takeaways is that there are *no exemptions* from compliance with the FIC Act for SPVs.^[6] Both operative and passive SPVs must comply with all obligations set out in the FIC Act. An SPV cannot evade accountability merely because it lacks employees or operational capacity because what matters is that it has rights and obligations and may be used to channel funds, just as any other accountable institution.^[7] Draft PCC 122 distinguishes between passive and operative SPVs. Passive SPVs lack their own staff and rely on the parent or linked entity for management and control. Operative SPVs have the operational capacity to conduct their own business functions. This classification has direct implications for registration and, critically, for delegation.

Each SPV that qualifies as an accountable institution must register independently with the FIC on the FIC’s goAML platform and must do so before it may be linked under any delegation structure.^[8] Draft PCC 122 illustrates the point with a practical example: a registered credit provider creates a ring-fenced SPV and cedes all rights under existing credit agreements to it as part of a securitisation scheme. That SPV steps into the role of an accountable institution under Item 11(a) of Schedule 1, because it now carries on the business of a credit provider.^[9]

Recognising that passive SPVs often have no operational capacity, Draft PCC 122 allows a passive SPV to request that it be linked to the primary accountable institution via a delegation structure. The request must be in writing, on formal letterhead, setting out the ownership, organisational structure and operations of both entities.^[10] Delegation is, however, not available to operative SPVs, nor to any SPV that

operates outside a group structure, has operational employees, or has diverse functions beyond a single, ring-fenced purpose.^[11] Only passive SPVs linked to a group through a chain of ownership or mutual control qualify.

Draft PCC 122 does, however, provide some clarity in relation to group-level compliance. The sharing of compliance activities between group-linked SPVs and primary accountable institutions is not regarded as outsourcing to third-party service providers, and no formal outsourcing agreement is required within the same group.^[12] The FIC encourages group-wide Risk Management and Compliance Programmes (“**RMCPs**”), and delegated SPVs, i.e., SPVs that are delegated to a primary accountable institution under a delegation structure, may seek the assistance of the primary accountable institution to perform customer due diligence/onboarding and to scrutinise client information against targeted financial sanctions lists.^[13]

Importantly, delegation does not absolve the delegated SPV of responsibility. Each delegated SPV must maintain its own RMCP reflecting its specific risk profile, demonstrating how it identifies, assesses and mitigates money laundering, terrorist financing and proliferation financing risks.^[14] A delegated SPV may rely on the primary institution’s reporting controls, but only insofar as the primary institution conducts transactions operationally on behalf of the delegated SPV. The reporting controls may include monitoring transactions to detect reportable activity and the actual reporting of such activity to the FIC. Notably, the delegated SPV’s compliance officer may be the same individual as the compliance officer for the primary accountable institution. Draft PCC 122 also reminds accountable institutions that they must conduct money laundering, terrorist financing and proliferation financing risk assessments at both a business and client level. The FIC notes that, owing to their operational role within industry, accountable institutions are best placed to understand and identify areas of potential vulnerability.

Entities that make use of SPVs should consider the provisions of Draft PCC 122, as once the draft has been finalised by the FIC, the public compliance communication will be authoritative and entities that are required to comply may be subject to enforcement action under the FIC Act if non-compliant.

An audit of all SPVs within group structures is a sensible starting point, any SPV falling within Item 11 of Schedule 1 of the FIC Act must be independently registered, and entities should confirm whether any are currently unregistered. Equally important is classifying each SPV as passive or operative, as only passive SPVs within a group qualify for delegation. Even where delegation is permitted, governance arrangements, including a tailored RMCP, an appointed compliance officer, customer due diligence processes and transaction monitoring controls, must be in place. The overarching message of Draft PCC 122 is unmistakable, no SPV is exempt from full compliance with the FIC Act. Entities that establish or make use of SPVs would be well advised to review their compliance frameworks now.

[1] See ‘The Role of Securitisation in Developing Capital Markets in Africa’ published by Copernican Securities Proprietary Limited, FSD Africa and BII in October 2025

[2] Guidance on the Application of the Financial Intelligence Centre Act, 2001 (Act 38 of 2001) to Special Purpose Vehicles that are Accountable Institutions under Item 11 of Schedule 1 of the FIC Act

[3] See paragraph 1.2 of Draft PCC 122

[4] Refer to the Banks Act No. 94 of 1990, read with the Securitisation Regulations, and guidance issued by the Prudential Authority

[5] See paragraph 2 of Draft PCC 122

[6] See paragraph 1.6 of Draft PCC 122

[7] See paragraph 2.2 of Draft PCC 122

[8] See paragraph 2.5 of Draft PCC 122

[9] See paragraph 2.3 of Draft PCC 122

[10] See paragraph 3.4 of Draft PCC 122

[11] See paragraph 3.10 of Draft PCC 122

[12] See paragraph 3.13 of Draft PCC 122

[13] See paragraph 3.14 of Draft PCC 122

[14] See paragraph 3.17 of Draft PCC 122



Natalie Scott

Head of Sustainability

[View Profile](#)



Janice Geel

Associate

[View Profile](#)