

FICA AND PROPERTY TRANSACTIONS

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Often when you deal with attorneys, banks and other institutions you are asked for "FICA documents". You may not know which documents are required or why they are required. The reason you are being asked for these documents is that the party requesting them falls within the definition of an "accountable institution", set out in The Financial Intelligence Centre Act, 2001 ("the Act"). As a result, they need to comply with their obligations under the Act, for example:

1. They are obliged to establish and verify the identity of all their clients (both new and existing) before entering or having entered into a single transaction or business relationship.
2. They must record, store and, if applicable, share the information as specified in the Act.
3. They must take appropriate steps to report a transaction if that transaction is reportable under the Act.

In property transactions the information conveyancers require will depend on the nature of the client. Conveyancers will need to see (and make copies of) the following original documents:

	Natural Person	Trust	Close Corporation	South African Private company
1. Original ID / Drivers Licence / Passport	✓	✓ for each trustee and beneficiaries	✓ for each member	✓ for the company director/s and each person who holds 25% or more voting rights
2. Proof of marital status (and ANC if applicable)	✓			
3. Proof of Income Tax and VAT number (SARS document)	✓	✓	✓	✓
4. Proof of residential or trading address (utility bill less than 3 months old)	✓	✓	✓	✓
5. Memorandum of Incorporation				✓
6. Founding Statement			✓	
7. Trust deed and Letters of Authority		✓		
8. Notice of Registered Office			✓	✓
12. Trading name			✓	✓

Accountable institutions have to be meticulous in collecting this information because the penalties for non-compliance are severe. FICA compliance is an inconvenient but necessary reality with which we must all comply.

We recommend that, if you need to deal with an attorney or other accountable institution, you prepare a pack of FICA documents using the above guidelines so that any delays to your transaction are minimised.

For professional but personal advice on, and assistance with, FICA and transfers of immovable property, please contact Stuart Fourie (stuart@fouriestott.co.za) or Vicky Stott (vicky@fouriestott.co.za) or visit our website for further information about our firm and areas of speciality.