National Treasury

MEDIA RELEASE
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On Wednesday, 26 July 2000, Cabinet approved publication for public comment of the Municipal Finance Management Bill and the underlying policy framework for municipal borrowing and financial emergencies. The National Treasury, which drafted the Bill, will accept comments until 31 August 2000. Public workshops throughout the country are planned to encourage comments on the Bill. The Municipal Finance Management Bill will be gazetted on Friday, 28 July 2000 and will be available on the National Treasury's web site.

The Municipal Finance Management Bill is aimed first at modernising municipal budgeting and financial management. Secondly, the Bill facilitates the development of a long-term municipal lending/bond market. Thirdly, it introduces a governance framework for separate entities created by municipalities.

The underlying Policy Framework for Municipal Borrowing and Financial Emergencies accompanies the publication of the Bill. The Framework fills a critical gap in the municipal borrowing regime by allowing for a system of judicial intervention/fiscal emergency in municipalities in severe financial distress. An intervention of this kind must be seen as a last resort to be used only after other government support programmes and interventions (such as in terms of section 139 of the Constitution) have failed.

Critical element in modernisation. The draft Municipal Finance Management Bill is aimed at modernising municipal budgeting and financial management. It is a critical element in the overall transformation of local government in South Africa that is currently underway. The basic philosophy underlying the approach to municipal finance in the Bill is to allow “managers to manage and be held accountable,” while councillors are provided with information necessary to set overall policy and priorities for the municipality.

The Municipal Finance Management Bill fosters transparency at the local government sphere through budget and reporting requirements. Clear accountability of municipal officials is a theme throughout the Bill.

Public Finance Management Bill for Municipalities. The Bill outlines for local government the same principles as does the Public Finance Management Act (Act No.1 of 1999) for National and Provincial governments. The Bill aims to promote sound municipal financial management and also introduces a new policy for municipal borrowing and governance of independent entities created by municipalities.

The Bill takes an approach similar to the Public Finance Management Act (PFMA) by developing a framework for supervision and support of municipal finances, requiring the establishment of a revenue fund, and preparing timely financial statements and annual audits. Other key areas modelled on the PFMA are the responsibilities of the accounting officer, and the division of responsibility between members of council and the executive on the one hand, and the accounting officer on the other.

Constitutional requirement. The Municipal Finance Management Bill gives effect to section 216 (1) of the Constitution of the Republic of South Africa (Act 108 of 1996), which requires national legislation to "ensure both transparency and expenditure control in each sphere of government, by introducing -

(a) generally recognised accounting practice;
(b) uniform expenditure classifications; and

(c) uniform treasury norms and standards".

Municipal entities. The Bill provides a governance framework for entities created by municipalities, and allows the formation of new entities under the Companies Act, 1973. The regulations in the Bill complement Government's work on Municipal Service Partnerships and Public/Private Partnerships and enables the restructuring of municipalities through the formation of corporate entities. The Bill prohibits the creation of municipal entities for investment, speculation or to avoid regulations. The Bill also promotes transparency and accountability of municipal entities through reporting, audit and governance requirements.

Municipal Borrowing. The Municipal Finance Management Bill also provides for a new policy framework to promote municipal access to capital markets. The Bill aims to restore municipal access to capital markets by clarifying the legislative framework and the rights of borrowers and lenders. Several key factors have driven the formulation of the borrowing framework in the Bill:

Section 230 of the Constitution grants municipalities the right to borrow and creates the expectation that these rights will be coherently regulated by legislation passed by national government. The elements of existing legislation which address municipal borrowing issues (e.g. Section 10G of the Local Government Transition Act, as amended) do not properly take account of the changed institutional and policy environment which now exists. This bill develops an appropriate regulatory framework in this area.

The municipal debt market has stagnated. Studies conducted by the Department of Finance indicate that between March 1998 and March 1999 direct private sector lending to municipalities grew by only R1,84bn. Of this, almost R500m was accounted for by one institution. Further, over 80% of this growth was in the form of short-term lending. The long-term debt market – which is especially critical for providing financial resources to municipalities for investment in infrastructure that is critical to both economic and social development (water, electricity, roads and waste) – has largely dried up. One of the major reasons for this decline in lending is the lack of clear remedies for lenders when investments are threatened by municipal financial crises. The Policy Framework on Municipal Borrowing and Financial Emergencies recommends measures for Government to address municipal financial crises.

Without a clear borrowing framework for municipalities that will encourage private sector lending, national government will be pressured to bear the full cost of funding basic municipal infrastructure. This will reduce national government's ability to deliver on other critical social sector programmes. On the other hand, if municipalities were able to attract long-term private capital, the national government would then be able to direct resources to infrastructure extension and poverty relief in those municipalities too poor to attract private capital. The Municipal Finance Management Bill creates an environment for financially healthy municipalities to enter long term capital markets.

Conclusion. The Municipal Finance Management Bill provides another important link in the chain of national government's reforms of the local government sphere. The Bill is broadly enabling for municipalities while at the same time ensuring transparency and accountability. It is a critical element in creating financially viable, responsive, developmental municipalities.