



national treasury

Department:
National Treasury
REPUBLIC OF SOUTH AFRICA



financial intelligence centre

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MEDIA STATEMENT

REQUEST FOR PUBLIC COMMENTS ON THE DRAFT FINANCIAL INTELLIGENCE CENTRE AMENDMENT BILL, 2015

The National Treasury (“NT”) and the Financial Intelligence Centre (“FIC”) today publish the draft Financial Intelligence Centre Amendment Bill, 2015 (“the Bill”) as approved by Cabinet at its meeting of 15 April 2015.

Background to the Bill

South Africa has a long-standing commitment to combating money-laundering and the financing of terrorism, having ratified the United Nations Convention Against Corruption (“UNCAC”) in 2004, and joining the multi-lateral Financial Action Task Force (“FATF”) in 2003. As a result, South Africa enacted the Financial Intelligence Centre Act, No 38 of 2001 (“FIC Act”), and other related Acts to assist in combating financial crimes.

Financial crimes generally take the form of, *inter alia*, fraud, money laundering, terror financing and corruption. The combating of financial crimes continues to be a key policy priority internationally and domestically. In order to support the integrity of domestic financial systems and ultimately the global financial system, South Africa, in responding to the 2008 Global Financial Crisis, endorsed this policy objective in 2011 as part of its reform of the financial regulatory system, as outlined in the policy document “*A safer Financial Sector to serve South Africa better*” adopted by Cabinet.

FATF sets global standards on Anti-Money Laundering (“AML”) and Combating the Financing of Terrorism (“CFT”). The United Nations and Group of Twenty (“G20”) countries have also endorsed the FATF Recommendations as an effective tool to fight corruption. Every member of FATF undergoes a mutual evaluation to ensure compliance with the agreed standards on AML and CFT. South Africa was evaluated by FATF in 2009. A new round of mutual evaluation has started, and South Africa will also be evaluated again this year based on the revised FATF standards.

Failure by countries to enforce agreed international standards exposes domestic financial institutions to significant fines and penalties in overseas jurisdictions, which also poses risks to financial stability. At worst, such failure is highly likely to result in country isolation and exclusion from the global financial system, resulting in low economic growth due to trade and investments being curtailed.

Purpose and Objectives of the Bill

The Bill seeks to enhance South Africa’s ability to combat financial crimes by proposing measures to address threats to the stability of South Africa’s financial system posed by money laundering and terrorism financing. The Bill also addresses regulatory gaps identified from the 2009 FATF Mutual Evaluation and the 2014 IMF South Africa Financial Sector Assessment Programme Technical Note on AML/CFT.

The Bill enhances South Africa's AML and CFT regulatory regime by specifically:

- Providing for the implementation of the United Nations Security Council Resolutions relating to the freezing of assets;
- Enhancing the supervisory powers of the FIC and extending its functions in relation to suspicious transactions;
- Providing for the adoption of a risk-based approach to customer due diligence measures;
- Introducing the concepts of beneficial ownership, on-going due diligence, and foreign and domestic prominent influential persons;
- Enhancing the customer due diligence requirements;
- Dissolving the Counter-Money Laundering Advisory Council; and
- Enhancing certain administrative and enforcements mechanisms.

Enabling a Risk-Based Approach for Compliance

The Bill introduces a risk-based approach to customer due diligence. This approach will simplify the current complex and rules-based system of compliance, by providing financial institutions with the flexibility to determine how they verify their clients' identity, taking into account the particular circumstances pertaining to that client.

Prominent Influential Persons

As part of the FATF Recommendations and Article 52 of the UNCAC, the Bill introduces the concept of domestic and foreign Prominent Influential Persons ("PIPs"). These classifications are meant to aid financial institutions in properly identifying their clients, and thereby enabling them to apply appropriate standards of due diligence. These classifications and requirements do not entail an assumption that PIPs are more likely to be involved in any criminal activity and are, therefore, not meant to prevent financial institutions from doing business with PIPs.

Implementation of United Nations Security Council Resolutions

United Nations Security Council ("UNSC") resolutions on actions against certain persons and freezing of assets are critical in also countering human rights abuses. As a member of the UN, South Africa is also bound to domestically give effect to UN Security Council sanctions resolutions issued in terms of Chapter VII of the UN Charter. The Inter-Departmental Counter Terrorism Working Group, under the leadership of the Department of International Relations and Cooperation, has endorsed the FIC as the appropriate institution to give effect to sanctions which require freezing of assets belonging to persons on UNSC sanctions lists. The Bill empowers the FIC in this new role.

Available documents

The Bill, 2009 FATF Mutual Evaluation and 2014 IMF South Africa Financial Sector Assessment Programme Technical Note on AML/CFT are available on the NT (www.treasury.gov.za) and FIC (www.fic.gov.za) websites.

Process

Comments on the Bill are invited and should be sent to Mr Raymond Masoga, Director for Financial Integrity, at FICBill@treasury.gov.za or faxed to 012 315 5206 by **31 May 2015**.

The NT and FIC will be convening meetings with interested stakeholders.

It is anticipated that the Bill will be submitted to Cabinet by June 2015.

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