



MEDIA STATEMENT

CABINET APPROVES BILL TO STRENGTHEN FIGHT AGAINST MONEY LAUNDERING: APPROVAL OF GENERAL LAWS (ANTI-MONEY LAUNDERING AND COMBATING TERRORISM FINANCING) AMENDMENT BILL FOR TABLING IN PARLIAMENT

The Minister of Finance has tabled the General Laws (Anti-Money Laundering and Combating Terrorism Financing) Amendment Bill [B18-2022] in Parliament, in terms of Joint Rule 159. The ATC No125-2022 issued by Parliament on 25 August 2022 has confirmed that the Bill has been submitted to the Standing Committee on Finance (SCOF) and the Select Committee on Finance (SECOF).¹

Cabinet approved the tabling of the Bill in Parliament at its meeting of 17 August 2022, demonstrating its commitment to the fight against corruption, money laundering and terror financing. This signifies a significant step towards addressing the deficiencies identified by the Financial Action Task Force's (FATF's) Mutual Evaluation Report (MER) of South Africa, published by the FATF in October 2021. When enacted into law, it will improve South Africa's adherence to international best practices in combating financial crimes and corruption.

The Amendment Bill seeks to strengthen the country's Anti-Money Laundering and Combating of the Financing of Terrorism (AML/CFT) laws, and makes significant changes to many relevant laws related to fighting against financial crimes. The proposed amendment of five pieces of legislation which are administered by different Ministers seeks to fully satisfy the technical compliance deficiencies (deficiencies relating to the adequacy of laws and legal frameworks related to the 40 FATF Recommendations) that were identified in the Mutual Evaluation Report.

South Africa received a very poor ratings assessment in its mutual evaluation, and as a result has been placed in an enhanced follow-up process, which involves more frequent reporting to the FATF, until South Africa has addressed all the deficiencies that were identified. South Africa was also placed in a one-year observation period (from October 2021 to October 2022). In terms of the follow-up process, South Africa is required to submit its first follow-up report to the FATF at the end of August 2022, and a second report in October 2022, in preparation for the February 2023 FATF Plenary. This follow-up process requires demonstrating improvements in (i) the legal framework (technical compliance) and (ii) effectiveness in combating financial crimes.

¹ <https://www.parliament.gov.za/storage/app/media/Docs/atc/04220701-ef65-4348-8032-4a41b6dc6f8c.pdf>

A FATF greylisting, which is made public, is likely to have the effect of increasing the cost of doing business for South African businesses with foreign trading partners.

Following the publication of the Mutual Evaluation Report, National Treasury has been working closely with officials from the Departments of Justice and Constitutional Development, Trade, Industry and Competition, Social Development, the Financial Intelligence Centre, the Companies and Intellectual Property Commission and the South African Revenue Service through an Interdepartmental and agency Committee on AML/CFT that is chaired by the Director-General of National Treasury in preparing an action plan to prevent greylisting, including the development of the draft Bill. The South African authorities have also secured technical assistance from the World Bank and the European Union, to learn the lessons of other countries on how to strengthen the AML/CFT system to better tackle financial crimes and corruption, and to prevent the country from being greylisted.

To ensure that the necessary laws are enacted as soon as possible in line with the need to show progress in our report back to the FATF, all amendments across several Acts are incorporated in one omnibus Bill. In parallel, the Protection of Constitutional Democracy against Terrorist and Related Activities Amendment Bill, 2022 (administered by the Minister of Police) is currently before Parliament and is expected to be enacted by November 2022.

The Amendment Bill seeks to address deficiencies in at least 14 of the 20 Recommendations, including an appropriate enhancement of powers and procedures for regulatory authorities. A separate Bill, the Protection of Constitutional Democracy against Terrorist and Related Activities Amendment Bill, 2022, deals with 2 further (and core) Recommendations. The outstanding 4 deficient Recommendations will be dealt with via policy processes and mechanisms to be developed by October/November 2022. The Amendment Bill proposes to amend the following laws:

- Trust Property Control Act, 1988: Minister of Justice and Correctional Services
- Nonprofit Organisations Act, 1997: Minister of Social Development
- Financial Intelligence Centre Act, 2001: Minister of Finance
- Companies Act, 2008: Minister of Trade, Industry and Competition
- Financial Sector Regulation Act, 2017: Minister of Finance.

It should be noted that aside from successfully addressing all or most of the 20 technical deficiencies by the end of the year, South Africa will have the harder task of demonstrating the effectiveness of its AML/CFT laws and frameworks, including demonstrating that the country has credible national risk assessments to deal with money laundering and terror financing, that its supervisory authorities in both the financial sector and in non-financial sectors like the legal profession, gambling sector, estate agents all have appropriate risk-based approaches, and most importantly, that the country's investigative and prosecuting authorities are able to demonstrate speedy investigations, prosecutions and asset forfeitures for financial crimes and corruption.

The effectiveness of an AML/CFT framework is measured via 11 Immediate Outcomes. It is imperative that the country demonstrates in the next 6 months that it has made significant progress in addressing the deficiencies in FATF



recommendations and all 11 Immediate Outcomes to ensure that South Africa avoids being greylisted by the FATF at its February 2023 Plenary meetings.

Relevant government departments and agencies have been working closely with relevant stakeholders to ensure that all the weaknesses that were identified in the Mutual Evaluation report are addressed fully and speedily.

Next steps

Parliament will guide on the process for considering the Bill, including the timing for taking public comments, convening hearings, making amendments and the passing of the Bill. In addition, any queries or comments on the Bill may also be referred to the National Treasury at Media@treasury.gov.za.

Issued by National Treasury

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