



national treasury

Department:
National Treasury
REPUBLIC OF SOUTH AFRICA

TO ALL: EXECUTIVE AUTHORITIES RESPONSIBLE FOR NATIONAL DEPARTMENTS AND SCHEDULE 2, 3A AND 3B PUBLIC ENTITIES

: ACCOUNTING OFFICERS OF NATIONAL DEPARTMENTS

: ACCOUNTING AUTHORITIES OF SCHEDULE 2, 3A AND 3B PUBLIC ENTITIES

NATIONAL TREASURY INSTRUCTION NO. 1 of 2023/24

QUARTERLY DISCLOSURE OF GUARANTEE, INDEMNITY OR SECURITY INFORMATION TO NATIONAL ASSEMBLY BY CABINET MEMBERS

1 PURPOSE

1.1 The purpose of this Treasury Instruction is to provide that Cabinet members who have issued or requested the concurrence of the Minister of Finance for the approval of guarantees, indemnities or securities, which bind the National Revenue Fund in respect of a financial commitment incurred or to be incurred by the national executive in terms of section 70 of the Public Finance Management Act, 1999 (Act No. 1 of 1999) (PFMA) to report the status of those guarantees, indemnities or securities to the National Assembly quarterly.

2 LEGISLATIVE PROVISIONS

2.1 Section 218(1) of the Constitution of the Republic of South Africa, 1996 (the Constitution), stipulates that "The national government, a provincial government or a municipality may guarantee a loan only if the guarantee complies with any conditions set out in the national legislation".

2.2 Sections 66 to 70 of the PFMA gives effect to section 218(1) of the Constitution and grants authorisation for the issuance of guarantees to institutions to which it applies. The PFMA determines the responsible persons for the issuance of guarantees for the respective institutions and also provides under which the guarantees may be issued. The PFMA stipulates that the issuance of guarantees must:

- a) be authorised by the PFMA;
- b) in the case of public entities, be also authorised by other legislation not in conflict with the PFMA; and

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- c) in the case of loans issued by a provincial government business enterprise under the ownership control of a provincial executive, be within the limits as set in terms of the Borrowing Powers of Provincial Governments Act, 1996 (Act No. 48 of 1996).

The PFMA also stipulates that:

- a) A Cabinet member, with the written concurrence of the Minister of Finance (Minister) (given either specifically in each case or generally with regard to a category of cases and subject to any conditions approved by the Minister), may issue a guarantee, indemnity or security which binds the National Revenue Fund in respect of a financial commitment incurred or to be incurred by the national executive;
- b) The Cabinet member who seeks the Minister's concurrence for the issue of a guarantee, indemnity or security, must provide the Minister with all relevant information as the Minister may require regarding the issue of such guarantee, indemnity or security and the relevant financial commitment;
- c) Any payment under a guarantee, indemnity or security is a direct charge against the National Revenue Fund, and any such payment must in the first instance be defrayed from the funds budgeted for the department that is concerned with the issue of the guarantee, indemnity or security in question; and
- d) The responsible Cabinet member must at least annually report the circumstances relating to any payments under a guarantee, indemnity or security issued in terms of the PFMA.

Guidelines for the issuance of government guarantees are based on the following principles:

- a) Limiting the issuance of guarantees to reduce the gross contingent liability obligation;
- b) Allowing public entities to borrow on the strength of their balance sheets;
- c) Using guarantees, in exceptional cases, to support restructuring objectives;
- d) To meet international agreement obligations; and
- e) Levying guarantee fees to equalise benefits on borrowing costs margins of public entities borrowing with a guarantee and those borrowing without a guarantee.

3. QUARTERLY REPORTING TO NATIONAL ASSEMBLY

- 3.1 Over the past several years, Government, through Cabinet members, has issued a significant amount of guarantees to public entities listed in Schedules 2, 3A and 3B to the PFMA. These guarantees have greatly increased the risk to the fiscus.
- 3.2 While a number of controls have been implemented to improve the financial performance of public entities in order to reduce the likelihood of the guarantees issued to these public entities being called and the likely impact of those calls on the fiscus, the risks to the fiscus remain high. As a measure to improve transparency with regard to the issuance of guarantees, indemnities or securities, Cabinet members who have requested the concurrence of the Minister for the issuance of guarantee, indemnity or security or, following such concurrence, issued a guarantee, indemnity or security must report quarterly, during each financial year, the following information to the National Assembly:

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- (i) The name and portfolio of the Cabinet member requesting concurrence with the issuance of a guarantee, indemnity or security;
- (ii) the name of the public entity for which the guarantee, indemnity or security was requested;
- (iii) the date on which the request was submitted;
- (iv) the value of the guarantee, indemnity or security requested;
- (v) the purpose of the guarantee, indemnity or security requested;
- (vi) the date on which the request was granted or refused;
- (vii) the reasons for the decision contemplated in subparagraph (vi);
- (viii) if the request was granted, any conditions to which the issuance of the guarantee, indemnity or security is subject;
- (ix) total value of guarantees, indemnities or securities issued by the Cabinet member; and
- (x) any payments under a guarantee, indemnity or security.

4 APPLICABILITY OF THIS TREASURY INSTRUCTION

This Treasury Instruction applies to departments and public entities listed in Schedule 2, 3A and 3B to the PFMA.

5 DISSEMINATION OF INFORMATION CONTAINED IN THIS INSTRUCTION

Accounting officers are requested to bring the contents of this Treasury Instruction to the attention of Cabinet members who have requested the concurrence of the Minister for the issuance of guarantee, indemnity or security or, following such concurrence, issued guarantees, indemnities or securities.

6 AUTHORITY FOR THIS INSTRUCTION

This Treasury Instruction is issued in terms of section 76(4)(g) of the PFMA.

7 EFFECTIVE DATE FOR THIS INSTRUCTION

This Treasury Instruction takes effect on 1 October 2023.

8 CONTACT INFORMATION

Rodney Mkansi
Divisional Support Manager: Asset and Liability Management
Telephone No: 012 315 560
E-mail: Rodney.Mkansi@treasury.gov.za

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National Assembly by Cabinet members



ENOCH GODONGWANA
MINISTER OF FINANCE
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