

NATIONAL ASSEMBLY

QUESTION FOR WRITTEN REPLY

QUESTION NUMBER: 1975 [NW2286E]

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1975. Mr D J Maynier (DA) to ask the Minister of Finance:

- (1) Whether the Financial Intelligence Centre (FIC) produced a report on suspicious and unusual payments allegedly relating to a senior official employed by the SA Revenue Service (Sars) (name furnished); if not, why not; if so, when was the specified report produced;
- (2) whether the FIC referred the specified report to (a) Sars, (b) the SA Police Service and/or (c) any other organ of state; if not, in each case, why not; if so, in each case, (i) when and (ii) why was the report referred;
- (3) whether the FIC co-operated in assisting, advising and guiding Sars in dealing with the matters raised in the report; if not, why not; if so, (a) what has he found to be the basis for a certain person (name and details furnished) to claim there was a lack of co-operation from the FIC and (b) what are the details of the co-operation provided by the FIC to Sars?

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REPLY:

The following is the information provided by the Financial Intelligence Centre (FIC):

- (1) In terms of Section 40(1) and 41 of the Financial Intelligence Centre Act the FIC is not permitted to make public any report.
- (2) Without reference to a specific report, the normal process followed by the FIC is to submit any report to
 - (i) Investigating authorities inside and outside of the Republic;
 - (ii) SARS;
 - (iii) Intelligence services;
 - (iv) Entities outside of the republic performing a similar function to those of the FIC;
 - (v) Accountable institutions or reporting institutions;
 - (vi) Supervisory bodies.

- (3): A referral of a report from the FIC contains descriptions of transactions or activities relating to the financial conduct of reported person(s) and how those transactions or activities are linked with the person(s) mentioned in the referral. This information is gleaned from reports which persons make to the FIC pursuant to their legal obligations under the FIC Act (sections 28, 28A and 29 of the FIC Act). In addition to these factual descriptions, a referral from the FIC also contains the FIC's analysis of the events mentioned in the referral and their potential links to unlawful activity, as well as the FIC's advice on the potential unlawful activity which the recipient of the referral may wish to pursue in an investigation.

It is incumbent on the recipient of the information and advice of the FIC to determine whether he/she can formulate allegations of unlawful activity which warrant the launch of an investigation into the conduct of the person(s) mentioned in the referral and to then collect the evidence that can corroborate those allegations by means of the recipient's own original investigative powers.

The FIC's guidance and support for an investigation consists therefore of the information and advice contained in the referral which it makes to a recipient and the supply of further information in response to requests for information that are made in terms of the FIC Act (section 40(1)(a)(i) of the FIC Act).

The FIC does not undertake investigations nor does it have any investigative powers. Moreover, the FIC does not have any legal mandate to undertake investigations of its own or to direct how investigations should be undertaken by another organ of state. As consequence the FIC does not have the practical expertise to provide general guidance as to how another organ of state should conduct an investigation in terms of the mandate and powers of that organ of state.

The relevant head of the organ of the state has the obligation to act on the report or the information provided.