A NEW APPROACH TO COMBAT MONEY LAUNDERING AND TERRORIST FINANCING

13 June 2017

1. INTRODUCTION

Following the enactment of the Financial Intelligence Centre Amendment Act, No 1 of 2017 (Amendment Act) published in the Government *Gazette* on 2 May 2017, the Minister of Finance has on **13 June 2017** gazetted (**Gazette No 40916)** the dates for the coming into operation of various sections in the Amendment Act, together with a **Roadmap**. **Draft Regulations, Draft Withdrawal of Exemptions** and **Draft Guidance** are also published this week to invite comments from key stakeholders and members of the public.

The Financial Intelligence Centre Act, 2001 (FIC Act) has since 2003 been the key regulatory tool to protect the integrity of the South African financial system against abuse for illicit purposes like money laundering the proceeds of crime and the financing of terrorism. The Amendment Act strengthens the FIC Act by introducing a **risk-based approach** to customer due diligence, among others. It puts the **risk-based approach** at the centre of South Africa's AML/CFT regime and recognises that the risks of money laundering and terrorist financing vary within and between sectors. It requires an understanding of money laundering and terrorist financing risks at various levels including within Government, supervisors and institutions in private sector.

The risk-based approach incorporates three key elements:

a) Strengthening AML/CFT through a more consultative approach based on partnerships between key stakeholders in both the public and private sectors;
b) Improving co-ordination and collaboration to ensure more effective preventive measures and better enforcement measures ; and
c) More customer-friendly and less-costly approach to implementation of AML/CTF in line with the Treat Customers Fairly initiative.

The RBA is intended to offer a better, more cost-effective alternative, to the prescriptive 'tick-box' approach, enabling accountable institutions to spend more time only on customers assessed to be risky in order to meet compliance requirements more *efficiently*.

The purpose of the new provisions introduced in the FIC Act is, among others, to enhance the transparency in the financial system, based on robust customer due diligence measures, so that it can be easily established who is doing business with financial and non-financial institutions and what the nature of that business is. This is made possible if adequate information is captured in the records of financial (and other accountable) institutions to support any subsequent investigation of money laundering and terrorist financing. Simply put, this means that institutions in the financial system are dealing with known customers who are conducting legitimate business, and that they are able to spot when customers are conducting business that may be of an illicit nature and report that to the correct authorities.

The Amendment Act also introduces the following measures in addition to the **risk-based approach**:

- ✓ A full range of customer due diligence measures
- ✓ Domestic Prominent Influential Persons and Foreign Prominent Public Officials
- ✓ Beneficial Ownership Requirements

- ✓ Freezing of property and transactions in terms of financial sanctions emanating from United Nations Security Council Resolutions
- ✓ Sharing of information and arrangements for key enforcement and supervisory bodies.

These provisions support the criminal justice system laws against money laundering and financing of terrorism as required in terms of the Prevention of Organised Crime Act No 121 of 1998 (the POC Act) and the Protection of Constitutional Democracy against Terrorism and Related Activities Act No 32 of 2004 (the POCDATARA Act). Compliance with the FIC Act, as amended, together with the effective implementation of the POC Act and the POCDATARA Act, contributes to making it more difficult for criminals to hide their illicit proceeds in the formal financial sector and thereby profiting from their criminal activities, and to cutting off the resources available to those seeking to use terror as a means to promote their cause.

Critical to success in implementing the RBA is the adoption of a consultative and partnership approach with and between key stakeholders, like the FIC, financial and other accountable institutions, supervisory and enforcement institutions, with an appropriate sharing of information between relevant stakeholders. **The consultation process will have a short term and a long term phase:**

a) In the short-term consultation will be focussed on issues for immediate implementation, to ensure that South Africa implements measures as required by the FATF follow-up process arising from the 2009 Mutual Evaluation.

b) In the medium-term consultation will address additional issues that are important for better and more effective system changes, and to prepare for the 2019 Mutual Evaluation of AML/CFT in South Africa.

While supervisors will engage with accountable institutions in setting clear milestones and timeframes for achieving compliance with the new requirements in an incremental manner, it is important to note that the financial sector is to be prioritized for implementation, as it is deemed to be the most risky sector, particularly the banking sector. A consultation process is also currently on-going to amend the relevant Schedules of the FIC Act to include new sectors and businesses as accountable institutions.

The implementation of the RBA will require substantial inputs and suggestions from accountable institutions and the public in order to make the implementation thereof to achieve optimum outcomes. The table below contains a set of questions which accountable institutions and the public should consider and respond to appropriately:

Table 1. General Questions relating to implementation of the FIC Amendment Act

a. What do we have to do to be more effective in fighting financial crime, money laundering and terrorist financing?
b. What are the current strengths and weaknesses in the processes to fight money laundering and terrorist financing processes?
a. How do we implement the risk-based approach in a way that is more effective in fighting money laundering, terrorist financing, and other forms of financial crime?
c. How do you understand the new risk-based approach and how will or should it differ from the current pure rules-based system?
d. How do we get the right culture in accountable and reporting institutions to ensure that their businesses cannot be used for money laundering and terrorist financing?

2. NATIONAL RISK ASSESSMENT

The objective for the Government is to ensure that South Africa has a robust, risk-based and up-to-date system to deter, detect and disrupt money laundering, terrorist financing, corruption, illicit financial flows and all forms of serious financial crimes. It is also equally important to have a system that enhances the development of high quality reports to criminal justice and security agencies to facilitate effective law enforcement, cooperation and sharing of information by all relevant accountable institutions, supervisory bodies and law enforcement agencies. Only through these measures will South Africa realise its vision of a financial system in which abuses will be exposed and successfully investigated and sanctioned. To this end South Africa seeks a sound, cost-effective, accountable, transparent, robust and yet customer-friendly financial system which enables the detection of dirty money in the system and the identification of the parties involved so that abuse of the system is not tolerated.

A key contributing element to the implementation of a risk-based approach is the level of understanding of money laundering and terrorist financing risks at a country level. South Africa will develop a national risk assessment process (NRA process) to enable the South African authorities to understand the money laundering and terrorist financing risks facing the country. This process must also deliver information for use by accountable institutions to support their adoption a risk-based approach. The National Risk Assessment process, will be undertaken at an inter-departmental level and will include:

- developing comprehensive and integrated processes to assess money laundering and terrorist financing risks at a national level;
- undertaking and updating such assessments at regular intervals;
- making available information concerning money laundering and terrorist financing risks to inform policies for the mitigation of identified risks; and
- assessing the effectiveness of policies and practices to counter money laundering and terrorist financing.

The NRA process will include a component of risk assessment at sector level with a view to supporting supervisors in conducting their AML/CFT supervision on the basis of their understanding of money laundering and terrorist financing risks within their sectors. This will require that:

- money laundering and terrorist financing risk factors for various financial sectors are identified, whereby competent authorities obtain information on both domestic and foreign money laundering and terrorist financing threats affecting the relevant markets; and

- money laundering and terrorist financing risks are assessed, whereby competent authorities use the information on risk factors to obtain a holistic view of the money laundering and terrorist financing risk associated with the institutions in a given sector, including the inherent risk to institutions are exposed and the risk mitigants which institutions have in place.

Table 2. Questions on how best to proceed with a National Risk Assessment

a. How should we undertake the National Risk Assessment process? b. How do you see Government leading the NRA process? c. How do we include sector components in the National Risk Assessment process (e.g. financial sector, property sector, gambling etc.)? Can these be conducted before the start of a process at a national level? d. How do we conduct risk-assessments for key subsectors? (e.g. in the financial sector, for banking, for lenders, for savings, for long-term insurance, short-term insurance, investment companies) e. Can we determine the sectors to be included in the National Risk Assessment process? Is there a case for certain sectors to be excluded?

3. RISK-BASED APPROACH AND RISK MANAGEMENT AND COMPLIANCE PROGRAMME

The amendments to the FIC Act make the application of a RBA in accountable institutions compulsory. The new section 42 of the Amendment Act places an obligation on accountable institutions to develop, document, maintain and implement a Risk Management and Compliance Programme (RMCP). In developing its RMCP, it is important that the board of directors and senior management fully understand both the letter and spirit of the RBA approach, and actively lead the process to understand the ML/TF risks that they must take into account. A risk-based approach requires the company to understand their exposure to money laundering and terrorist financing risks. By understanding and managing their money laundering and terrorist financing risks, accountable institutions not only protect and maintain the integrity of their businesses but also contribute to the integrity of the South African financial system.

Under the RBA, risk assessment is an important customer due diligence tool and forms the basis of an effective RBA. For accountable institutions to understand how, and to what extent they are vulnerable to money laundering and terrorist financing, they need to conduct a risk assessment which takes into account a number of various factors. The outcome of such an assessment will help accountable institutions to determine the extent of AML/CFT resources necessary to mitigate that risk.

The risk assessment should be commensurate with the nature and size of the accountable institution. For smaller or less complex institutions, a simple risk assessment might suffice. Conversely, where the institution's products or services are more complex, such as a financial institution with multiple subsidiaries or branches offering a wide variety of products or services and/or their customer base is more diverse, a more sophisticated risk assessment process will be required.

An accountable institution's ability to apply a risk-based approach effectively is largely dependent on the quality of its RMCP. An accountable institution's RMCP must be adequate to counter the ML/TF risks facing the institution. It is important for accountable institutions to bear in mind that a RMCP not only comprises policy documents, but also of procedures, systems and controls that must be implemented within the institution. The RMCP can therefore be described as the foundation of an accountable institution's efforts to comply with its obligations under the Amendment Act on a risk sensitive basis.

The board of directors or senior management must create a culture of compliance within the accountable institution, ensuring that the institution's policies, procedures and processes are designed to limit and control risks of money laundering and terrorist financing and are fully consistent with the law and that staff adhere to them.

4. CUSTOMER-FRIENDLY APPROACH TO COMPLIANCE

Financial Inclusion, De-Risking and Avoiding Risk

The implementation of the RMCP must be done in a way that is friendly to customers, and treats customers fairly, particularly individuals and small businesses. Customers should not be burdened unnecessarily with a bureaucratic or tick-box approach to compliance, and should not be excluded from the financial system solely because the customer is unable to produce a particular document that may not be readily available or easily accessible.

The system put in place should also not expose the customer to higher costs, as a result of duplication in verification and other processes, often within the same accountable institution or group of accountable institutions. Besides the improved systems that will be required of financial and other accountable institutions, the potential utilities that can provide centralised access to information for verification purposes in a safe and secure way could make compliance with the new requirements more efficient and more reliable.

Financial inclusion is a key objective for Government and must be taken into account, and no category of customers should be denied services because of unreasonably high barriers put in place by accountable institutions before doing business with that customer.

The application of a risk-based approach to customer due diligence could support financial inclusion objectives by providing for a more flexible application of customer due diligence measures to certain categories of financial products or customers who might otherwise struggle to meet rigid identification and verification requirements.

On the other hand, de-risking, which may include wholesale refusal of services or termination of services to a class of clients, may give rise to financial exclusion risk and reputational risk. It also poses a threat to financial integrity in general, and to the risk-based approach specifically, as it creates opacity in the affected persons' or entities' financial conduct and it eliminates the possibility of addressing all money laundering and terrorist financing risks.

In recognising that financial institutions can tend toward risk-aversion, driven by overly conservative risk appetites, National Treasury intends to work with the regulators and industry to develop regulatory standards under the Financial Sector Regulation Bill (once enacted) that can guide the sector in how to approach due diligence, particularly in the lower-income market segment in support of financial inclusion.

Similarly, standards will also be developed to regulate the process for the termination of business relationships with customers and refusal to enter into business relationships with prospective customers. The current financial services ombuds will also be enabled to deal with complaints relating to termination of, and refusal to enter into, business relationships in respect of individual customers, potential customers and Prominent Influential Persons, in line with these standards. Draft standards will be published once the FSR Bill is enacted.

Stakeholders' views on the promotion of a balanced application of customer due diligence measures and support of financial inclusion objectives as well as on potential standards on processes for the termination of, and refusal to enter into, business relationships are especially welcome.

Table 3: How does RBA affect customers?

a. How can accountable institutions ensure that the new risk-based approach system is friendlier to retail customers (natural persons and small businesses), that they are treated fairly, and that products and services are less costly to them?
b. How can the risk-based approach also be friendlier and less costly for bigger corporate customers?
c. Are there examples of means of verification particular to your institution that may be used to verify the identity of lower risk customers?
d. Are there examples of means of verification particular to your institution that may be used to verify the identity of higher risk customers?
e. What should/will accountable institutions do differently to obtain information for use to establish the identity of natural persons?
f. Are there more flexible verification mechanisms available to accountable institutions such as digital data enabled verification and if so, please provide specific examples?
g. How can verification of customer information and record-keeping be modernize? What are the views on the feasibility of centralised verification systems for information which accountable institutions may use when doing their customer due diligence?
h. How can accountable institutions make the implementation of customer due diligence and monitoring efficient with minimal or no interruption to business and customer relationship continuity?
i. How can costs to accountable institutions implementing customer due diligence requirements be reduced?
j. What can policy-makers, regulators and supervisors do to assist accountable institutions in achieving better efficiency and minimising cost implications?

5. ROLE AND APPROACH OF SUPERVISORY BODIES

The FIC Act requires supervisory bodies to play a key role in overseeing the implementation of the Act over the sector that they supervise. The implementation, compliance and enforcement of the new features of the FIC Act such as customer due diligence and the application of a risk-based approach will require extensive engagement between supervisory bodies and their respective supervised accountable institutions. Supervisory bodies are mindful of the fact that a transitional period is required to achieve full compliance with the new requirements of the FIC Act. They will provide for a transitional period for institutions they supervise to achieve full compliance with the new requirements of the amended FIC Act, in line with guidance from the FIC and National Treasury.

Oversight by supervisory bodies and the FIC will continue as usual while accountable institutions transition to the implementation of the new requirements of the FIC Act. During this period supervisory bodies and the FIC will continue to apply a risk-based supervisory approach in supervising compliance with the FIC Act. Supervisory bodies will therefore engage with accountable institutions in setting clear milestones and timeframes for achieving compliance with these requirements on a priority based and incremental manner. Supervisory bodies will

also advise accountable institutions as to how to proceed with remedial actions in relation to non-compliance with the current provisions of the FIC Act that the supervisory bodies have imposed previously.

Accountable institutions will be expected to demonstrate progress towards full compliance with the new requirements of the FIC Act at agreed milestones and agreed regular intervals. Supervisory bodies and the FIC will use inspections and other oversight activities during the transition period to monitor, guide and advise accountable institutions on implementation of the new features of the FIC Act. It is important to take into account that large financial institutions may be well resourced and equipped to meet compliance expectations much quicker than smaller financial institutions and most non-financial accountable institutions.

Sanctioning non-compliance with the new requirements of the FIC Act will be delayed in order to allow sufficient time to accountable institutions to make the necessary adjustments to implement these. Enforcement of the provisions of the FIC Act that are not amended e.g. registration and reporting obligations will continue. The FIC and supervisory bodies will work together in deciding when to start enforcing the new requirements of the FIC Act.

As a result, the process of implementing the Amendment Act will have to take into account such imbalances and inconsistencies in the various sectors. The banking sector plays a critical role as a conduit and life blood of all sectors and as a result there is urgency in ensuring that the new measurers as contained in the Amendment Act come into effect much sooner.

Supervisors will regularly to consult with the industry and other stakeholders and will develop appropriate feedback mechanisms to enable policy interventions where necessary. The Amendment Act also allows for a better sharing of information between the FIC and supervisors, including by supervisors' access to records of suspicious transaction reports, to the extent that the supervisors have in place strong mechanisms for the safeguard and protection of information.

6. STRENGTHENING CONSULTATION AND ENGAGEMENT PROCESSES

The most effective way to ensure the new RBA approach achieves its objective to make transparency, as a key safeguard to the integrity of the financial system, as efficient as possible is by ensuring effective co-operation between the various stakeholders in government, and between government and accountable institutions. Countering ML/TF requires partnerships between the public and private sectors, and within these sectors as well.

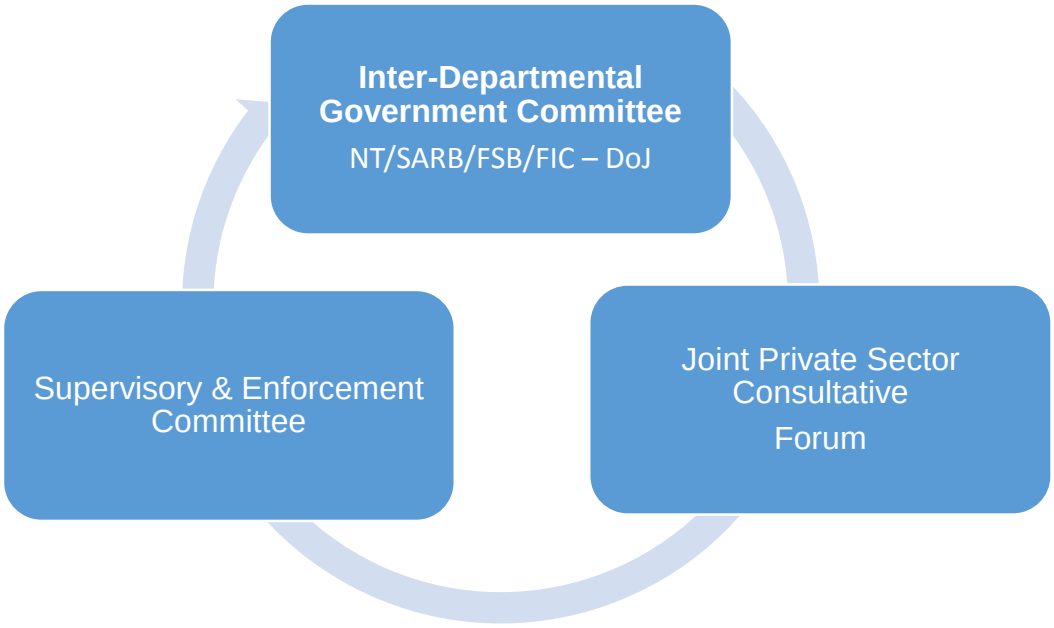
Cooperation, coordination and collaboration are critical among Government stakeholders within the AML/CFT regime to combat money laundering and terrorist financing for effective implementation of preventive measures to detect, deter and act against ML and FT activities.

The structure of the Counter Money Laundering Advisory Council (CMLAC) which was established by the FIC Act, was too rigid and did not facilitate effective consultation between key stakeholders, in order to promote the objective of combating money laundering and terrorist financing. As a result the Amendment Act repeals the Chapter of the FIC Act which provided for the establishment and functioning of the Council.

Government is strongly committed to replacing CMLAC with more effective, and non-statutory, consultation forums, to promote deeper collaboration and consultation in the implementation of the framework to combat money laundering and terrorist financing. This requires that the CMLAC be replaced by structures that are more "fit for purpose" to support collaboration and consultation. To this end Government will pursue the establishment within Government of an Inter-Departmental AML/CFT Committee as a permanent structure with a mandate to promote collaboration, communication and information sharing within and amongst the relevant law enforcement agencies, government departments and regulatory authorities in order to maximise the effective implementation of the trio the POC Act, the POCDATARA Act and the FIC Act. Government also intends to establish a structure/structures to enable to promote engagement with accountable institutions in the private sector.

The consultation structures at the two levels must be connected to and supported by sector or sub-sector bodies that will facilitate consultation at appropriate levels, most importantly with supervisory authorities as well as with accountable institutions. Other country experiences with such consultation mechanisms (e.g. **Joint Money Laundering Intelligence Taskforce** (JMLIT) in the UK) should also be taken into account when finalizing the consultation mechanisms.

It is important that the envisaged structures are designed in such a way that they will contribute towards the development and evaluation of financial sector policy, and other relevant policy areas in the broader context of fighting crime.



Govenent would welcome comments on the following:

- The consultation mechanisms to replace CMLAC
- The nature of engagement that is necessary to improve relationships between accountable institutions and supervisors;

- The issues that should be discussed by the envisaged structures?

Table 4. Issues relating to Stakeholder Engagement

a. How do we set up more effective consultation forums between Government and accountable institutions like banks?
b. How do we ensure that all stakeholders are sharing appropriate information between them so that the AML/CTF system is more effective?
c. How can the system of reporting information to the FIC be improved?
d. How do we ensure that we get better quality reporting to the FIC?
e. What are the current strengths and weaknesses in the reporting system?
f. What sharing of information on reporting to the FIC should there be between the FIC and accountable institutions?
g. How can the capacity of all stakeholders in acting appropriately on reported information be improved?
h. How do we ensure that all organs of State involved in the fight against AML/CTF are made more accountable for their actions or omissions, and acting without fear or favour to fulfil their mandates?
i. How do we ensure the CEOs and Compliance Officers in accountable and reporting institutions are made more accountable in acting against AML/CTF?
j. What is the nature of engagement/consultation considered necessary to improve the relationship between accountable institutions and supervisors?
k. What is the type of structures considered necessary to improve relationship between accountable institutions and supervisors?
l. What are the issues which accountable institutions think should be discussed by the envisaged structures?
m. How often should the envisaged structures meet?
n. Who should convene, coordinate and chair the envisaged structures?
o. What should be the level of representation in these structures, e.g. CEOs, Ministers, Heads of Institutions, and Directors-General?

7. APPROPRIATE APPLICATION OF DOMESTIC PROMINENT INFLUENTIAL PERSONS REQUIREMENTS TO AVOID ABUSE AND ARBITRARY ACTIONS

Accountable institutions are encouraged to utilise the risk-based approach in a proportionate and sensible manner when assessing the risks posed by domestic prominent influential persons, their family members and their known close associates and should be done on a case-by-case basis. Domestic prominent influential persons are normal customers of accountable institutions who manage their affairs through use of institutions' products and services, subject to them allowing accountable institutions, as required by the law, to understand the exact of their identities, nature of their business or source of income to manage potential financial crime risk.

It is important to emphasise at the outset that the measures introduced by the Amendment Act in respect of all categories of prominent influential persons are preventive in nature and not intended to criminalise or stigmatise any function or the individual performing the function. Any refusal, therefore, by an accountable institution to do business or establish a business relationship with a prominent influential person, their family members or close associate, simply

because they are categorized as such, is discouraged and could arguably be considered as arbitrary or inappropriate. Such refusal or termination of services on that basis alone:

- may amount to undesirable business practice which may warrant intervention through other relevant regulatory tools dealing with market conduct.

- may impact negatively on financial inclusion.

The risk-based approach should be used appropriately as an approach dissuading a blunt approach which automatically assumes that all (domestic) family members and close associates of a prominent person are high risk and/or should not be serviced.

Most major banks should be able to implement these sections of the Amendment Act easily, except for private sector Prominent Influential Persons provisions which still require a database to be in place. However, the implementation of these provisions will form part of the transitional processes that will be managed by the various supervisory bodies.

The coming Financial Sector Regulation Bill expected to be passed in law later this year will also set standards to ensure a domestic prominent persons or foreign prominent public officials are treated fairly at all times by financial institutions, and that they have access via the low-cost ombud system to lodge complaints against accountable institutions or financial companies that deliberately and inappropriately acts unfairly against them as customers.

Implementation of the Domestic PIP regime

The Amendment Act meticulously provides a pre-determined list of positions, the occupation of which will enable accountable institutions to determine, through their RMCP, whether a particular customer or beneficial owner is a high risk or not. Accountable institutions are expected to take reasonable measures, consistent with the South African legal framework and international standards, to obtain data/information from various sources to enable them to assess the risk of the customer and business relationship. The risk-based approach should provide accountable institutions with sufficient level of flexibility to use new, innovative, cost-effective and customer-friendly methods of verification. As a result, smaller or non-bank institutions should not have to be compelled to put in place relatively high-cost sophisticated risk management systems which are not proportionate to the nature and size of their businesses and the type of services or products they provide.

The pre-determined list prescribed in the Amendment Act is inclusive of both public and private sector functions, and they require two different sources of data/information. In order for an accountable institution to be able to identify a public sector domestic prominent influential person and to establish the source of wealth and funds, they require screening technological solutions which are often acquired from commercial PEP database providers in the open market. This is a common practice which is in line with international best practice.

However, for a list of private sector domestic prominent influential persons doing business with organs of State, accountable institutions will require Government to develop adequate, reliable and regularly updated database indicating all companies providing services or products to an organ of State exceeding certain value. National Treasury, through the Office of the Chief

Procurement Officer, is working on adjusting the public procurement database system in order to generate a reliable and up-to-date list of persons doing business with the State. Once this process is finalised (expected to be six months), accountable institutions will be able to access and rely on such a database to meet this particular requirement. Thus, while the relevant section of the Amendment Act may take effect, the Minister of Finance will not set the prescribed threshold for the value of contracts with organs of State that will be required to implement the provisions until adequate, reliable and regularly updated information on companies providing services or products organs of State above the relevant value is available.

8. TRANSPARENCY AND BENEFICIAL OWNERSHIP

The Amendment Act, particularly in relation to the requirement for disclosure of beneficial ownership information, is significant in the South African legislative landscape in that it introduces a legal definition of "beneficial owner.

Corporate vehicles (i.e. companies, trusts, foundations, partnerships and other types of legal persons and arrangements) play an essential role in the global economy and conduct a wide variety of legitimate commercial and entrepreneurial activities. However, they have also been misused by criminals for Illicit purposes, including money laundering, bribery and corruption, insider dealings, tax fraud, terrorist financing and other illegal activities.

The South African Government continues to support efforts by the international community in various areas, and is taking a number of steps to implement some of the measures adopted at various international platforms to enhance the integrity and transparency of the international financial system. Some of the steps undertaken include, but not limited to:

- The OECD Base Erosion and Profit Shifting (BEPS) Action Plan endorsed by the G20 leaders and Finance Ministers at the G20 summit in St. Petersburg in September 2013, which seeks to curb efforts by multinational enterprises to reduce their taxable income base ("base erosion") or move profits away from economically relevant but high-tax jurisdictions to economically irrelevant but low-tax jurisdictions ("profit shifting");

- The G20 High-Level Principles on Beneficial Ownership Transparency, in relation to legal persons and arrangements;

- The FATF standards regarding the beneficial ownership of companies and other legal arrangements such as trusts;

- The endorsement of the Declaration on Automatic Exchange of Information in Tax Matters by 34 countries, including South Africa, to tackle cross-border tax fraud and tax evasion, and to promote international tax compliance through mutual administrative assistance in tax matters.

The Amendment Act must be seen as one of the many tools being introduced domestically to enhance the integrity, transparency and to build confidence in the South African financial system.

Regulations and exemptions

The implementation of a risk-based approach will necessitate significant changes to ***regulations*** and ***exemptions*** relating to client identification and verification, with most of the regulations and exemptions being withdrawn. This means that accountable institutions will have the flexibility to choose the type of information by means of which it will establish clients' identities and also the means of verification of such information about their clients' identities. Moreover, accountable institutions will also be able to differentiate between the means of verification used in respect of clients in different risk categories, applying simplified measures in cases of lower risk and enhanced measurers in cases of higher risk.

The absence of prescriptive regulations and exceptions to rules created by specific exemptions will necessitate guidance to accountable institutions so that institutions are able to determine how they will meet requirements that were previously covered by the regulations and exemptions as well as new concepts that will be introduced through the commencement of the Amendment Act. The guidance should be comprehensive so that it assists accountable institutions with enough information to develop and implement their own RMCP. This can only be achieved if stakeholders are consulted on the contents of guidance documents. This should be an on-going process which should also apply to further refinement of initial guidance.

9. CONSULTATION PROCESS

Stakeholders are encouraged to share their views on any of the issues raised in this paper. The National Treasury and FIC, together with the supervisory bodies for the financial sector, are also publishing a consultation document with Draft Guidance on a number of issues concerning the implementation of the new features of the FIC Act, some of which are also discussed in this paper. Electronic versions of this paper and the consultation document on draft guidance are available on the websites of the National Treasury at www.treasury.gov.za, the FIC at www.fic.gov.za, the South African Reserve Bank at www.sarb.co.za and the Financial Services Board at www.fsb.co.za. Comments from stakeholders on this draft guidance and the issues raised in this paper are essential to assist in developing the most appropriate guidance to make implementation of the FIC Act as effective as possible.

The proposed target dates for the sequence of events concerning the commencement of the Amendment Act and the start of the process to implement the new features of the FIC Act are as follows:

Publications (Regulations, Notice of Withdrawal of Exemptions and Draft Guidance)

Regulations Exemptions Guidance	**Date of Publication:**	**Deadline for comments**	**Supervisor consultations with Accountable Institutions**
1st Draft	13 June 2017	12 July 2017	July 2017
2nd Draft	01 August 2017	31 August 2017	September 2017
Final Publication	2 October 2017		

Comments, representations and other information should be made in written form by using the online response mechanism which can be accessed on the FIC website. All submissions should be sent electronically via the online response form from [date] to [date].

Institutions forming part of a group (i.e. comprising more than one institution) are requested to coordinate their responses within the group and preferably submit one response on behalf of the whole group.

It is assumed that commentators agree to their comments being quoted or referred to, or attributed to them, unless comments are marked confidential.

The National Treasury can be contacted for further information by contacting Mr Raymond Masoga at: Raymond.Masoga@treasury.gov.za. For FIC please contact Ms Poovindree Naidoo at: Poovindree.Naidoo@fic.gov.za.

= End =