

NATIONAL ASSEMBLY

QUESTION FOR WRITTEN REPLY

QUESTION NUMBER 821

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Dr D T George (DA) to ask the Minister of Finance:

Whether the Financial Intelligence Centre (FIC) has monitored the implementation of the recommendation of the Financial Action Task Force to ensure that financial institutions can identify these persons and the source of funds received from politically exposed persons; if not, why not; if so, what are the relevant details?

NW954E

REPLY:

Recommendation 6 of the FATF Forty Recommendations describes a politically exposed person as follows:

“Politically Exposed Persons” (PEPs) are individuals who are or have been entrusted with: prominent public functions *in a foreign country*, for example Heads of State or of government, senior politicians, senior government, judicial or military officials, senior executives of state owned corporations, important political party officials. Business relationships with family members or close associates of PEPs involve reputational risks similar to those pertaining to themselves. The definition is not intended to cover middle ranking or more junior individuals in the foregoing categories.”

The Recommendation requires enhanced due diligence for Politically Exposed Persons (PEPs) as a category of high-risk clients for financial and other institutions. The Recommendation states that:

“...Financial institutions should, in relation to politically exposed persons, in addition to performing normal due diligence measures:

- a) Have appropriate risk management systems to determine whether the customer is a politically exposed person.
- b) Obtain senior management approval for establishing business relationships with such customers.
- c) Take reasonable measures to establish the source of wealth and source of funds.
- d) Conduct enhanced ongoing monitoring of the business relationship.”

The Financial Intelligence Centre (the Centre) has addressed FATF Recommendation 6 in guidance issued under section 4 of the Financial Intelligence Centre Act 2001, under the title: *“FIC Guidance Note 3 for banks on customer identification and verification and related matters”* issued by publication in the Government Gazette No.27803 on 18 July 2005.

It is the opinion of the Centre that FIC Guidance Note 3 sets out clear guidance for domestic banks on politically exposed persons (PEP's).

The FATF Mutual Evaluation Report on South Africa (26 February 2009) has pointed out that notwithstanding Guidance Note 3, there is a lack of enforceable obligations for financial institutions under the FIC Act to identify PEPs or to take appropriate measures as indicted under FATF Recommendation 6 (Page 103 of the Mutual Evaluation Report).

Apart from Guidance Note 3 the Centre does not monitor specifically the implementation of PEP controls by accountable institutions as this is not a discrete requirement separate from the general requirement to establish and verify the identities of all clients in terms of the FIC Act or the Money Laundering and Terrorist Financing Control Regulations to the Act.

The Centre is currently conducting a review of the FIC Act and it will consider the possibility of additional measures for the monitoring of PEPs in line with the FATF recommendations as part of the review process.