

NATIONAL COUNCIL OF PROVINCES
QUESTION FOR ORAL REPLY
QUESTION NUMBER: 208 [CO474E]
DATE OF PUBLICATION: 21 OCTOBER 2016

★208. Mr S J Mohai (Free State: ANC) to ask the Minister of Finance:

- (1) Whether the National Treasury has developed any mechanisms to regulate the economic role and performance of state-owned enterprises (SOEs) in overseeing (a) financial and economic viability and (b) prudence of some of their decisions and overarching role; if not, why not; if so, what are the relevant details;
- (2) what relationship the National Treasury has with the existing independent regulators to give (a) economic and (b) financial leadership in the decisions and activities of the SOEs?

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REPLY:

- (1) (a) and (b) The role of the National Treasury in regulating the state-owned enterprises (SOEs) is outlined in the Public Finance Management Act (PFMA) as well as in the Companies Act, founding legislation of the SOEs and other legislation. Key elements are as follows:
 - SOEs are required to annually submit their annual reports and financial statements as well as their corporate plans and borrowing plans to the National Treasury
 - SOEs are required to notify the National Treasury and obtain approval from their Executive Authority for significant transactions as outlined in Section 54(2) of the PFMA. The significance is defined in the materiality and significance framework of the SOEs which must be included as a component of the corporate plan.
 - Approval is required from the Minister of Finance before establishing a new entity.
 - Guarantees are issued by the Executive Authority acting in concurrence with the Minister of Finance. The Minister of Finance may attach conditions to the issuance of such guarantees.
 - Approval is required from the Minister of Finance for any SOEs to borrow in foreign currency.
 - Approval is required from the Minister of Finance for SOEs listed in Schedule 3 to borrow, as well as some Schedule 2 entities where this is specified in their founding legislation.

In addition, the National Treasury has issued supporting Treasury Regulations, practice notes and guidelines covering the annual financial statements and annual reports, materiality and significance frameworks, corporate plans, shareholders compact, section 54 applications etc.

Even when only submitted for information, all information submitted to the National Treasury is reviewed by the National Treasury and comments or recommendations may be communicated to the Executive Authority or SOE.

- (2) (a) and (b) Although there are variations in the legislation establishing the various regulators, generally they have been established in a manner that enables them to make decisions independently within the policy framework that has been set by government. For those regulators established as public entities (mostly Schedule 3A public entities), the National Treasury is required to play the oversight role as specified for any public entity in the PFMA. Section 42 of the Municipal Finance Management Act (MFMA) requires that the National Treasury be afforded at least 40 days to comment on proposed price increases for water, electricity or other bulk resource supplied to a municipality before submission to the regulator before such proposed amendments are submitted to the Executive Authority and to any regulatory agency for approval.

Beyond this requirement, the National Treasury may and generally does, like any other stakeholder, comment on the regulatory rules, regulatory applications etc. In some cases, notably on the regulation of some gas and petroleum infrastructure tariffs and some electricity tariff decisions, the relevant regulators have consulted with National Treasury as part of a process of public consultation with key stakeholders, particularly where regulatory decisions could have fiscal or economic implications.

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Approved

**MCEBISI JONAS
DEPUTY MINISTER OF FINANCE
DATE:**
