

NATIONAL ASSEMBLY

QUESTION FOR WRITTEN REPLY

QUESTION NUMBER: 381 [NW434E]

DATE OF PUBLICATION: 3 MARCH 2017

381. Mr A R McLoughlin (DA) to ask the Minister of Finance:

- (1) What measurable impact has been made regarding the prevention of (a) money laundering and (b) fraud in South Africa since the introduction of the Financial Intelligence Centre Act, Act 38 of 2001;
- (2) have any studies been conducted on the impact of the specified Act; if not, (a) why not, (b) are there any plans to conduct such an impact assessment and (c) what are the reasons for the continued application of the provisions in the specified Act; if so, (i) by whom, (ii) at what cost and (iii) what were the results?

NW434E

REPLY:

- (1) Many different public entities are responsible for implementation of the Financial Intelligence Centre Act, 38 of 2001 ("FIC Act"), each within their area of jurisdiction. These include the relevant Supervisory Bodies, the law enforcement and security agencies, as well as the South African Revenue Service. The impact of these entities in relation to the FIC Act are reported upon in their respective annual reports and other documents. The Financial Intelligence Centre ("FIC") can provide an indication of the measurable impact concerning the prevention of money laundering in the period April 2011 to end of March 2016, during which period the FIC:
 - i) initiated and disseminated 3,908 financial intelligence products to law enforcement and other partner authorities for investigation, with an estimated value of R96.97 billion;
 - ii) responded to 7,753 requests for information concerning domestic and international criminal investigations in 50 different crime categories;
 - iii) produced 107 affidavits to support various types of judicial action by the state; and
 - iv) blocked R794 million worth of suspected proceeds of crime, enabling the return of the funds to rightful owners.

It should be noted that fraud, as a crime category, is an instance of a predicate offence which may generate proceeds of crime and could lead to money laundering, but is not itself expressly included in the objectives of the Act.

The ability to conduct studies to measure the impact of measures introduced of the FIC Act is circumscribed by the extensive nature of the issues and the interlocking elements which, together, make up the anti-money laundering and combatting of terrorism ("AML/ CFT") framework.

Various attempts have been made by countries and international bodies to determine the extent of money laundering in money terms, as well as the impact of the global

standards introduced to prevent money laundering. None of the models used has provided a satisfactory answer.

(2)(a)(b)

Neither the FIC nor the National Treasury have conducted studies on the impact of the FIC Act, nor do the FIC or National Treasury plan to do so. It is not known to the FIC or the National Treasury whether bodies in civil society or the private sector have conducted such a study or plan to do so.

Various bodies have at times referred to amounts relating to the cost of compliance with provisions of the FIC Act. However, the bases for determining these amounts, whether they relate directly and exclusively to compliance with the requirements of the FIC Act (as opposed to broader fraud protection, tax regulation and other regulatory requirements) and whether they reflect costs of specific bodies or the costs across sectors of financial and other institutions, have not been shared with the FIC or the National Treasury. This makes these figures unreliable as an indicator of the cost of implementation of the FIC Act.

(2)(b)

South Africa is fully committed to safeguarding its financial system from being exploited for the purpose of facilitating illicit financial activities such as money laundering and terrorist financing.

It should be borne in mind that the FIC Act is one of a number of pieces of legislation that are aimed at facilitating the protection of the integrity of the financial system, on the one hand, and also the administration of the criminal justice system, on the other. It is a wide-ranging framework with different inter-locking components which cannot be seen in isolation from one another. (Other parts of the legislative framework include the Prevention of Organised Crime Act (POCA), the Protection of Constitutional Democracy Against Terrorism and Related Acts (POCDATARA) the Prevention and Combating of Corrupt Activities Act (PRECCA) and all of the legislation relating to supervision and oversight of the various industry sectors which fall within the anti-money laundering framework, including banks, financial services, casinos and gambling, property and estate agents, lawyers and accountants).

Compliance with the requirements of the FIC Act promotes both objectives mentioned above and thus contributes to making it more difficult for criminals to hide their illicit proceeds in the formal financial sector and to cut off the resources available to terrorism.

The whole framework of measures against money laundering and terrorist financing described above (including the FIC Act) is South Africa's implementation of global standards. Without these measures the South African financial system will be exposed to exploitation for criminal purposes and South African private sector institutions will not be able to compete effectively in the global financial system. These objectives form the basis for the continued application of the provisions of the FIC Act.