
MEDIA STATEMENT

PROPOSED AMENDMENTS TO THE SCHEDULES TO THE FINANCIAL INTELLIGENCE CENTRE ACT, 2001

National Treasury and the Financial Intelligence Centre (FIC) invite public comments on proposed amendments to Schedules 1, 2 and 3 to the Financial Intelligence Centre Act, 2001 (Act No. 38 of 2001) (FIC Act). The proposed amendments to Schedules 1, 2 and 3 to the FIC Act seek to strengthen the financial system and improve its resilience against abuse by money launderers and terrorist financiers.

The proposed amendments were gazetted on Friday, 19 June 2020 in Notice No. 684 in *Government Gazette* No. 43447. National Treasury and the FIC also release a supporting consultation paper prepared by the FIC that sets out the policy rationale for the proposed amendments.

The FIC Amendment Act, 2017 (Act No. 1 of 2017) sought to address some of the weaknesses identified in the country's Anti-Money Laundering/Combating the Financing of Terrorism (AML/CFT) system following the 2009 Financial Action Task Force (FATF) mutual evaluation (peer review) process and the 2015 International Monetary Fund Financial Sector Assessment Program. The main weaknesses that had been identified related to compliance, supervision and sanctions in respect of non-bank financial institutions, in particular, Designated Non-Financial Businesses and Professions, tracking and sharing of information on cross-border cash flows, the pursuit of money laundering and terrorist financing investigations and prosecutions, and international cooperation (including extradition).

The proposed amendments will widen the scope of application of the FIC Act by including additional categories of institutions and businesses that fall under the FIC's scope. This will improve the FIC's ability to obtain information concerning the identities and financial activities of customers from a wide range of financial and other institutions which in turn will improve the FIC's ability to provide financial intelligence to law enforcement and security agencies, as well as supervisory bodies and policy formulating entities. The widening of the scope of the FIC Act will also bring South Africa's legal framework against money laundering and the financing of terrorism in line with the International Standards recommended by the FATF.

Government's current Programme of Action includes priorities to intensify efforts to combat crime and build safer communities and create drivers of economic recovery and thereby improving economic growth. Against this background, enhancing South Africa's system to combat money laundering and terrorist financing will contribute to the attainment of Government's Medium-Term Strategic Framework outcomes.

FIC to take over oversight and enforcement over non-financial sector

The proposed amendments to Schedule 2 enable the FIC to take over the responsibility of overseeing and enforcing compliance with the FIC Act in respect of the non-financial sector activities involving estate agents, gambling institutions, trust and company service providers and legal practitioners. The low level of compliance within these and other non-financial sectors, along with the absence of robust supervisory powers for enforcement to address non-compliance with the FIC Act, has previously been identified as a weakness in the country's AML/CFT system. Thus, the non-financial supervisory bodies will not be expected to play a primary role in supervising and enforcing compliance with the FIC Act, but instead play a supportive role, as they lack the resources that the FIC has to play this role.

Expanding the list of accountable institutions in terms of the FIC Act

The proposed amendments will include additional financial and non-financial businesses, including crypto asset services providers, and delete items 1 and 2 of Schedule 3 on the list of reporting institutions (Motor Vehicle Dealers and Kruger rand dealers). Currently, reporting institutions have just two compliance obligations, namely, to register with the FIC and to file statutory reports. The proposed

amendments seek to include Motor Vehicle Dealers and Kruger rand dealers in Schedule 1 to the FIC Act as a new category of accountable institution (high value goods dealers). This will introduce a requirement for Motor Vehicle dealers and Kruger rand dealers to, amongst others, identify and verify clients, retain client and transactional records and to perform other Customer Due Diligence requirements as required in terms of the FIC Act.

The FIC Act places certain obligations on categories of businesses that are at risk of being exploited by criminals to launder criminal proceeds or finance terrorist activities. National Treasury and the FIC believe that the inclusion of the proposed new categories of business as accountable institutions within the framework against money laundering and terrorist financing will add significant value to the work of the FIC and strengthen its ability to support investigating and prosecuting authorities with quality financial intelligence information.

Technical changes to bring the Schedules in line with changes in laws

The other proposed changes to the Schedules are mainly technical amendments which seek to bring the Schedules in line with changes to various laws, e.g. the Financial Sector Regulation Act, 2017 (Act No. 9 of 2017).

The consultation paper and the draft changes to the Schedules are published for comment on the National Treasury website (www.treasury.gov.za and <http://www.treasury.gov.za/public%20comments/default.aspx>). Written comments are invited on the proposed amendments, which should be submitted to commentdraftlegislation@treasury.gov.za by close of business on 18 August 2020. Any clarification questions can be emailed to Jeannine Bednar-Giyose at: Jeannine.Bednar-Giyose@treasury.gov.za

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