

**Mr Allen Wicomb
Committee Secretary
Parliament of the Republic of South Africa**

**3rd Floor,
90 Plein Street,
Cape Town**

Dear Allen Wicomb

**COMMENTS ON THE FINANCIAL INTELLIGENCE CENTRE ACT, AMENDMENT BILL 2015
("Bill")**

ABSIP has had two opportunities to review this Bill, first in September 2016 and subsequently in January 2017. As a lead custodian of Black professionals' interest and Black business in the Financial Services Sector and a key constituent member of the Financial Services Sector Charter Council, ABSIP supports the Bill.

We have understood His Excellency President J.G. Zuma's concerns, in returning the Bill to Parliament, to be as follows:

- The constitutionality of the Bill as it contravenes a certain degree of privacy.
- The draft legislation requires senior bank officials to approve the accounts of prominent influential persons and obliges banks to establish the source of funds as well as monitor these accounts on a regular basis.
- The President's main concerns are the provisions relating to warrantless searches, as this interferes with the constitutional right to privacy.
- This legislation would require banks to approve and monitor the accounts of prominent people including Government officials from the President to municipal managers.
- Concern expressed that this draft legislation would transfer the judicial authority from law enforcement agencies into the hands of banking and financial institutions.

The views that have been expressed by ABSIP members, which constitute part of our position, include the following:

- It is important for South Africa to grow the economy, create jobs, reduce poverty and encourage good corporate governance.

- It is also important that policy certainty is significantly enhanced. The Bill and other legislation that help in enhancing policy certainty will assist in growing our economy, create jobs and reduce poverty on a sustainable basis.
- Individuals in positions of influence either in the public or private sector, who act with honesty and integrity, should not fear the Bill.
- The Bill seeks to strengthen the regulatory framework to combat money laundering and the financing of terrorism, by bringing our laws into line with international standards.
- The Bill's proposed changes will make transacting and trading with the rest of the world easier and less costly.
- Failure to sign and implement the Bill will not only hamper the State's capacity to fight corruption, but would also negatively impact the relationship between the South African financial services system and the rest of the world.
- South Africa would be included in a list of non-compliant and risky countries – most other key developing economies, including China and India, are compliant with similar legislation in their own countries.
- Our concern is however with the potential abuse by private sector entities or individuals and state entities or individuals within them, who may abuse elements of the Bill.
- It is therefore important to put mechanisms in place to prevent such abuse and unfounded allegations destroying reputations of individuals, and selective reporting by relevant entities to the Financial Intelligence Centre who may be influenced by the prejudice and bias by individuals.
- South Africa should strive to implement the highest standards of accountability and governance on a global scale.

We have also obtained a legal opinion which is attached hereto, based on which our decision is to support the Bill.

We are more than willing to present our position to Parliament and any other stakeholder that may give us audience to do so.

Yours sincerely



Sibongiseni Mbatha
President
For and on behalf of ABSIP

NATIONAL EXECUTIVE COMMITTEE

Sibongiseni Mbatha (President), Delphine Govender (Deputy President), Steven Seaka (Deputy President), Ntlai Mosiah (Secretary-General), Ephraim Moletsane (Deputy Secretary General), Lerato Molefe (Treasurer General), Palesa Makobe (Deputy Treasurer General), Max Malinga (Student Development), Azola Zuma (ABSIP Women In Focus), Katleho Lebata (Young Professionals), Lindelwa Farisani (Events and Marketing)