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| **COSATU Proposals:**  **Public Investment Corporation**  **Amendment Bill(s)**  **31 May 2018** |
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1. **Introduction**

COSATU strongly welcomes and appreciates the Finance Committee’s support for a PIC Amendment Bill.

COSATU would like to thank all Members of SCOF for their principled support on this critical issue. We appreciate the spirit MPs have taken on this issue and the cross-party support for COSATU’s call.

We welcome both the Private Member’s Bill and the Committee Bill. They are both very progressive bills that will significantly empower Parliament, depositors, unions and the public to play a more meaningful oversight role with regards to the PIC.

This submission will comment on both bills as well as include COSATU’s proposed further amendments.

1. **Background**

The current challenges facing the PIC that has played out in the media are of the deepest concern to COSATU and its 1.7 million members and their families.

It is also a matter of great concern to the 400 000 plus pensioners dependent upon the Government Employees’ Pension Fund as well as workers across all economic sectors who look to the UIF as their safety net in an economy of 36% unemployment and high numbers of retrenchments.

COSATU views this as a matter of the highest concern and one that needs to be dealt with urgently to protect the hard earned pensions of workers. It is an issue that we cannot afford to fail upon.

COSATU through its affiliates, NEHAWU, SADTU, POPCRU, DENOSA, SAMATU, SAEPU and PAWUSA represents more than 800 000 or two thirds of the public service. No decision can be allowed to be made about public servants’ hard earned pensions without the involvement and agreement of their unions and federation, COSATU.

COSATU combined with FEDUSA represent more than 90% of public servants and the Public Service Collective Bargaining Council.

1. **Current Challenges Facing the PIC**

The Public Investment Corporation has unfortunately dominated media headlines in the past few years. Perhaps this is due to the R1.7 trillion it has in workers’ pension and unemployment and compensation funds and assets and the daily revelations the nation is subjected to about the rampant growth of public and private sector corruption.

These funds are public servants’ deferred wages. They are workers’ unemployment insurance taxes. They are workers’ compensation funds.

The PIC is not a slush fund for “dangerous eyes” as aptly described by the President, cde. Cyril Ramaphosa to SADTU’s 2017 National General Council.

COSATU is a tried and tested ally of the ruling political party, the African National Congress. However COSATU is deeply distressed by the conduct of many of our leaders in government and in particular members of cabinet and leaders of our state owned enterprises.

Comradeship is not a blank cheque for looting. Workers and our members have had enough of their hard earned taxes being looted by a corrupt elite in both the public and private sectors. This is happening whilst workers are battered by rising unemployment, 36% without jobs and increasingly massive levels of poverty and inequality. Workers are now left with the bill with VAT, fuel and other tax hikes.

Promises and words no longer holds value. We have been subject to growing corruption scandals day after day with few held accountable, arrested or imprisoned. Yet government has pleaded poverty and looks for new ways to raise taxes and cut public service posts and delivery. The days of trusting government are gone.

COSATU does not have confidence in government’s assurances that all is well or that workers’ monies are well protected. We are deeply alarmed by the media articles surrounding the PIC and its investments.

COSATU was disappointed when the previous Minister of Finance informed COSATU in September 2017 that Treasury cannot guarantee that PIC funds will not be used to bail out failing State Owned Enterprises such as South African Airways (SAA). We were alarmed to hear SAA had then already asked the PIC for a bail out this year and that Denel and the SABC were next. This is the same SAA that was looking for its third bail out in a year! We have been repeatedly angered by numerous Ministers looking to the PIC and UIF to fund their budgets. COSATU will not support or accept these “Dangerous Eyes”. We reject them with contempt and will mobilise against them to protect workers’ funds.

Lest it be said that COSATU is being alarmist, we need look no further than to what has happened to Transnet’s pension fund where the Guptas et al have been accused of looting. We need look no further than to how workers were robbed of their pension funds by Fidentia and numerous other pension funds. Amongst the accused in these cases of pension theft were senior government leaders.

What is needed now is to strengthen oversight and accountability of this crucial public institution, to prepare and plan for those who seek to rob workers of their pensions and not to simply accept press statements as protection against corruption.

The PIC is not simply any department or fund. It is the largest financial entity in South Africa. South Africa is barely emerging from a recession.

South Africa has been downgraded to junk status with more possible downgrades in future. The ratings agencies and investors are closely watching us, including the clouds hanging over the PIC.

COSATU will not condone any wrongdoing if it occurred at the PIC. If it did occur then the law must be applied. We are also not oblivious to the numerous factional battles and state capture at play across the state. COSATU is also not blind to how state organs have been and are being abused to settle scores and loot.

1. **Investment Mandate (Section 5)**

COSATU understands the mandate of the PIC is first to grow the government employees’ pension fund, the unemployment insurance fund and the compensation fund.

Second that these investments after generating healthy above inflation returns for their members and beneficiaries, namely workers, are to be invested in ways that will protect and create jobs, sustainable development, boost the industrialisation and infrastructural development of the nation.

COSATU wants to make it very clear to government that the PIC is not a slush fund. It is not there to balance the budget. It is not there for deficit funding. It is not a kitty for cash strapped ministries. It is not a bailout fund for state owned enterprises that have been run into the ground by corrupt leaders.

It is workers’ money. It is to take care of workers when they have retired, lost their job or been injured on duty.

COSATU strongly welcomes the proposed investment mandate in the SCOF bill. We support it wholeheartedly and strongly urge Members to retain it in full. It is in line with COSATU’s proposed mandate for the PIC and we believe in line with the PIC’s commitment. It is also in line with the mandate given to the PIC by the GEPF, UIF and COIDA.

We believe that it will protect the GEPF, UIF and COIDA. We welcome the commitment to:

* create jobs within South Africa,
* industrialise our economy;
* boost manufacturing and exports;
* support the principles of sustainable development;
* prioritise investments within South Africa as opposed to internationally, to support the nation’s developmental objectives;
* build a capacitated developmental state;
* transform the economy; and
* lastly to support where relevant public servants acquiring housing.

However it is critical that it is retained in the final draft of the bill. The PIC needs a clear mandate that is based in law. We are confident that the proposed investment mandate is not too restrictive upon the PIC’s operational needs and offers sufficient flexibility.

1. **PIC Board (Section 6)**

The existing PIC Act should be amended to remove the Minister’s de facto unilateral and sole discretion to appoint its Board.

Currently the Act only requires the Minister to “consult cabinet colleagues” and to “give due regard” to depositor’ nominations”. These are not binding. Neither is it clear how depositor nominations would be made.

We strongly welcome and accept in full the proposals of the SCOF bill with regards to the appointment of the PIC Board.

We strongly welcome the SCOF bill wording linking Ministerial directives to the PIC’s investment mandate. This will be a critical tool in providing checks and balances and fighting corruption.

* 1. **PIC Board Chairperson**

We understand the need for the state to provide guidance for the PIC Board in the form of the Minister or Deputy Minister for Finance chairing the board. We too want to see the PIC playing a key developmental role in the economy as its largest fund.

* 1. **Major Depositors’ Representation**

We welcome the wording requiring the PIC Board to include a representative of each major depositor. This would ensure that the GEPF, UIF and COIDA designate representatives.

* 1. **Union Representation**

**5.3.1. Background**

The PIC funds belong to workers. 87% of the PIC is public servants’ pension fund. 7% is the UIF. The remainder is from the compensation fund. It is not government money. It is workers’ money. If the PIC collapses then despite whatever defined benefits exist in paper in various acts, workers’ pension and unemployment funds will not be paid to workers and pensioners.

Unions must have representation on the PIC Board. Arguments that only chartered accountants, financial investment experts etc. must sit on boards is patronising and insulting to workers.

Why is it ok for union representatives to sit on private pension fund and other state entity boards but not the PIC Board? Any resistance to union representation sitting on the PIC Board will send a very suspicious message that perhaps there are persons who want to avoid scrutiny and accountability to workers.

One does not need to be a CA to know corruption is immoral and financially a disaster. Yet we have seen very worrying decisions made on behalf of workers’ pensions in both the public and private sector. Whilst union representation is not a guarantee that there will be no corruption, it is a critical oversight tool for workers to push the fight against looting and protect workers’ funds.

For COSATU this is non-negotiable. Unions must legally be guaranteed meaningful PSCBC deployed representation on the PIC Board. Anything less will be met with vociferous rejection and counter mobilisation by COSATU.

Union representation should be selected by the Public Service Central Bargaining Council and in proportion to representation by unions at the PSCBC.

COSATU and most other unions are based upon the principles of worker control. This is exercised by unions selecting their representation. This can best be done through the PSCBC and should be done on the basis of proportional representation as the most fair and democratic option.

Union representatives should not be chosen by a Minister. This will compromise their independence and to whom they owe their appointment and accountability to. The PIC Board is not like an SABC or Post Office Board. The PIC is tasked solely with investing workers’ pension and related funds.

**5.3.2 PMB Wording**

Union representation needs to meaningful. One union representative as provided for in the Private Member’s Bill will be meaningless.

One person on a board can easily be outvoted, ignored, marginalised or bribed. Union representation has to be substantial and in line with the industry norm and principle of 50/50 representation between employee and employer.

We feel that the Private Member’s Bill’s proposed wording of one union representative appointed by the Minister will be insufficient as he or she can easily be outvoted or marginalized or even bought. We also are keen that the union representative should not be selected by a Minister as it could then be susceptible to being abused e.g. selecting someone based on friendship or from a small and marginal union or in exchange for favours. Union representative selected by the unions through the PSCBC will help to ensure accountability.

**5.3.3 SCOF Bill Wording**

We strongly welcome and support the SCOF bill’s proposal for not less than 2 and not more than 3 union representatives selected by unions at the Public Service Central Bargaining Council in proportion to their composition.

Union representation on the PIC Board must be mandatory and provided for in law and not voluntary or dependent upon the good will or personal preference of a Minister.

1. **Reports and Tabling of Requests (Section 10 and 11)**

It is a massive blunder that the PIC is not currently legally required to submit annual and other reports to Parliament. This is not in line with the requirements placed upon other state entities and in fact in violation of government’s constitutional requirements. It is extremely dangerous given the size and role of the PIC in the economy and the crisis of state capture.

Simply put, it is workers’ money and workers must at all times have direct access to PIC reports. These must be in a reader friendly format and not cluttered with technical jargon aimed at confusing readers and hiding looting.

We welcome the wording in the SCOF Bill’s proposed provisions requiring the tabling of annual reports on all investments to the Minister and all Ministerial requests, for tabling at Parliament and for publication on the PIC’s website.

These will serve as critical tools for transparency and accountability and oversight as well as to help fight corruption.

We are sensitive to the confidential nature of investments at times e.g. before purchasing shares. However we do not feel this should mean a permanent secrecy. Once such investments have been done then there should not any reasons that they cannot be included in such annual reports. We are comfortable with the proposed wording in the SCOF Bill but feel it needs to be expanded to include major depositors.

We feel that there is one omission in this section. It does not provide for the tabling of reports and Ministerial directives to the PIC’s major depositors. 87% of the PIC funds come from the GEPF, 6% from the UIF etc. We feel that the PIC should be required to table its annual reports to its major depositors.

**COSATU Proposals (wording to be inserted after 10 (4) (a) and before (c) as well as after 11A. (2) :**

***(4) (b) submitted to major shareholders; and***

1. **Regulations (Section 16)**

COSATU welcomes the SCOF Bill wording guiding the formulation and tabling of regulations. This is critical for transparency etc.

We have one simple proposed amendment based upon the above proposals for the engagement of major depositors and the public when drafting regulations. This will be in line with the standard practise when drafting regulations across government.

**COSATU Proposals (wording to be inserted after 10 (4) (a) and before (c) as well as after 11A. (2) :**

***That 16 be expanded to provide for consultation with and input from major depositors and the public.***

1. **Conclusion**

COSATU would like to thank the Committee and its Members for drafting these important bills and engagements between Parliament, government, the PIC and unions on this critical matter for workers, the state and the economy.

COSATU is committed to playing a constructive role. We are equally committed to representing our members and their families’ interests and to defending their hard earned pensions and funds.

We will not hesitate to oppose government if we feel it is threatening the rights and pensions of workers.

We hope that government understands the mandate workers gave it in 2014 and that it will not disappoint them. Government should remember the next elections are a year away.

COSATU wants to warn government, that it will not hesitate to mobilise its members to go on strike and take to the streets if there are any moves to loot the PIC.

Government must not take this warning lightly. Teachers, nurses, police officers, prison wardens, doctors, public servants across the board will not hesitate to go on strike if government thinks it can allow the PIC and their pensions to be looted like how it allowed chaos and looting to run unabated at SAA, Eskom, the SABC, SASSA etc. If government does not want the state to collapse, then it must not provoke workers and touch their pensions.

We hope this submission helps the Committee in its important work.  We will continue to avail ourselves to assist the Committee at any time.

Lastly COSATU expects Parliament to treat this PIC Amendment Bill as a matter of the highest urgency. It must be prioritised. It cannot be dropped due to an excitement of elections. It must be adopted by Parliament by the end of 2018 and come into effect by 2019. Anything less will be a clear message to workers that their deep and legitimate anger, concerns and proposals are not taken seriously.

We are confident that our MPs will not reject COSATU’s clear, reasonable, logical and correct proposals. We hope that our comrades will not disappoint the 1.7 million members of COSATU, the 400 000 GEPF current pensioners, the 1.2 public servants, 12 million workers and the 57 million South Africans who depend upon these workers for their livelihoods.

We look forward to engaging with the the Finance Committee on our proposals as soon as possible and ideally before the extended parliamentary recess.

Thank you for your time and support.

Yours comradely,

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