**3. The Standing Committee on Finance having processed the Public Investment Corporation Amendment Bill (Committee Bill) and the and the Private Members Bill – Public Investment Corporation Amendment Bill [B 01 – 2018] , 12 February 2019, reports as follows:**

1. **Context of the Bills**
   1. Following various allegations of wrong-doing by the PIC in the public domain and the concerns of the trade unions and pensioners in the public sector that the PIC was making questionable investments, and representations by the trade unions, individual pensioners and the PIC to the Standing Committee on Finance (Scof) in this regard, the Committee arranged several briefings with the major parties concerned in 2017 and adopted a resolution on 18 October 2017 to introduce a Bill in Parliament that would seek to address these issues. The Committee received permission from the National Assembly to process the Committee Bill on 15 June 2018.
   2. Following the Committee resolution of 18 October 2017 to effect amendments to the PIC Act, Mr David Maynier of the Democratic Alliance introduced a Private Members Bill in the National Assembly on 17 January 2018, covering many of the issues in the 18 October 2017 Committee resolution.
   3. There were discussions with Mr Maynier to merge his Bill with the Committee Bill but there was no agreement on this, and the Committee decided to process both Mr Maynier’s and the Committee’s Bill simultaneously.
   4. The Committee held meetings on the PIC on 17 October 2017, where it was briefed by the Government Employees Pension Fund (GEPF), the PIC and the trade unions. On 18 October 2017, the Committee adopted a resolution to receive further briefings and, among other decisions, introduce amendments to the principal Act governing the PIC. The Committee held a follow-up briefing on 14 November where it was further briefed by the PIC, the GEPF, the then Deputy Minister of Finance, Mr. Sifiso Buthelezi and trade unions.
   5. On 24 April, the Committee received a briefing on the two draft PIC Bills (the Private Members Bill and the Committee Bill) and adopted a legislative proposal to amend the PIC Act through a Committee Bill as required by Rule 273 of the Rules of the National Assembly on 22 May 2018.
   6. Public hearings were held on the two Bills on 31 May and 15 August 2018.
   7. The Committee also met on 27 February 2018, 16 March 2018, 24 April 2018, 5 June 2018, 14 November 2018 and 6 February and 12 February 2019
2. **Key issues in the Bills**
   1. The Bills seek to provide greater transparency and better governance in the PIC. Among the key issues are the following:
      1. The Minister must appoint 10 non-executive Board members, including a representative of National Treasury; two representatives from the largest depositor and one representative of any depositor whose assets under management by the PIC are at least 10%; and two representatives of the trade union with the majority of the members in the GEPF (Government Employees Pension Fund) and one representative from another trade union, as decided by the Public Service Co-ordinating Bargaining Council (PSCBC) based upon proportional representation. The Minister of Finance must designate the Deputy Minister of Finance or, in consultation with Cabinet, any other Deputy Minister within the economic cluster to chair the PIC Board. The Board must include three executive members – one of which must be the Chief Executive Officer or of a similar designation. All Board members should have the necessary knowledge and expertise, including those representing the unions. The Minister must progressively comply with the appointment of Board members according to these requirements taking into account the rights of current members of the Board.
      2. The PIC must invest in projects that will benefit the beneficiaries of the depositors and act in accordance with the instructions of the depositors and, in doing so, seek to invest according to certain guidelines. The PIC investment policies must also consider these guidelines.
      3. The Minister must table a report annually to Parliament on all investments of deposits and requests for approval of any significant transactions in terms of the PFMA and must table regulations on the PIC in Parliament.
   2. Mr Maynier’s Private Members Bill required the National Assembly to follow a public nomination process to recommend to the Minister a person to be appointed as the Chairperson of the Board. Other members of the Board were to be appointed by the Minister in consultation with Cabinet. Of the non-executive members of the Board, each major depositor could appoint one member, and only one member to represent one or more registered trade unions. Furthermore, the Private Member’s Bill does not provide any guidelines that the PIC should seek to take into account when implementing the instructions of the depositors.
   3. The majority in the Committee decided that the Minister must designate the Deputy Minister of Finance or, in consultation with Cabinet, any other Deputy Minister within the economic cluster, to chair the Board as the public sector employees have a ‘defined benefit’ fund and if the PIC makes losses that reduce the pension benefits of the employees, it is the national fiscus that will have to make up for this. While providing for a Deputy Minister to chair the Board, the Bill also has strengthened Parliament’s oversight role over the PIC. The appointment of one member to the Board for each major depositor raised the need to define a ‘major depositor’. The GEPF is by far the biggest depositor with 87.12 per cent. The other depositors include the Unemployment Insurance Fund (7.53%), the Compensation Commissioner Fund (2.02%), the Compensation Commissioner Pension Fund (1.12%) and the Associated Institutions Pension Fund (0.77%). Unlike the Committee Bill, the Private Member’s Bill gives no indication on whether the threshold of 10 per cent would allow a depositor to nominate a Board member.
   4. After the public participation process, the Committee deliberated and resolved to remove the proposed clause which mandated the PIC to provide housing loans to members of the GEPF who are in the ‘missing middle” – with an income too high to qualify for state housing and too low to qualify for a loan from a financial institution. It was proposed that these housing loans for these members of the GEPF should be dealt with by the GEPF in terms of the Pension Funds Act, which already makes some provision for this. The Committee therefore proposes that the GEPF considers amending its rules to provide for these housing loans.
   5. The Committee strongly believes that the GEPF laws should be reviewed reasonably soon after the new SCoF is established in the Sixth Parliament.
3. **Commission of Inquiry into allegations of impropriety regarding the Public Investment Corporation** 
   1. The Committee discussed at length whether to postpone processing the PIC Bills before it in view of the ‘Commission of Inquiry into allegations of impropriety regarding the PIC”. However, for a variety of reasons, it was decided to go ahead with the Bills. Among the issues raised were the following:
      1. The legislative amendment process should be in two phases: the first, is the introduction of the amendments proposed above before the end of this 5th term of Parliament, and the second would be a further review of the legislation depending on the recommendations of the PIC Commission in the next term of Parliament.
      2. A resolution was taken in the National Assembly to process the Committee Bill.
      3. There have been extensive public hearings held on these Bills and considerable consensus among the stakeholders in these hearings on the issues raised in the Bills and the need to urgently address them.
      4. The Committee has done extensive work on these Bills and many of its current members may not be in this Committee in the next parliamentary term. It may well mean that the new members of the Committee will need to cover the same ground again that has already been covered by the current Committee and the value of the current process will have been largely lost.
      5. If the Bills are not finalised by the end of this term of Parliament they lapse. Even though they can be revived, there is no obligation on the new Committee in the next term to do so.

Report to be considered.

The DA reserves its rights