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| **COSATU Submission:**  **Public Investment Corporation Amendment Bill**  **08 March 2019** |
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1. **Introduction**

The Congress of South African Trade Unions (COSATU), its 16 affiliate unions, its almost 2 million members and their 10 million family dependents strongly support the PIC Amendment Bill.

COSATU urges the National Council of Provinces (NCOP) to pass the Public Investment Corporation (PIC) Amendment Bill before rising on March 28 2019.

The PIC Amendment Bill has the overwhelming support of the following trade unions and workers:

1. National Health, Education and Allied Workers’ Union (NEHAWU) and its 277 000 members;
2. South African Democratic Teachers’ Union (SADTU) and its 251 000 members;
3. of the Police and Prisons Civil Rights Union (POPCRU) and its 156 000 members;
4. 80 000 members of the Democratic Nurses’ Association of South Africa (DENOSA);
5. National Union of Mine Workers (NUM) and its 183 000 members;
6. South African Commercial and Catering and Allied Workers’ Union (SACCAWU) and its 120 000 members;
7. South African Transport and Allied Workers’ Union (SATAWU) and its 101 000;
8. South African Municipal Workers’ Union (SAMWU) and its 150 000 members;
9. Southern African Textile and Clothing Workers’ Union (SACTWU) and its 120 000 members;
10. South African Medical Association Trade Union (SAMATU) and its 12 000 members;
11. South African Emergency Personnel Union (SAEPU) and its 7 000 members;
12. Chemical, Pulp and Printing and Allied Workers’ Union and its 50 000 members;
13. South African Services and Banking Organisation (SASBO) and its 80 000 members;
14. Communications Workers’ Union and its 13 000 members;
15. Public and Allied Workers’ Union of South Africa (PAWUSA) and its 12 000 members;
16. Liberated Metal Workers’ Union of South Africa (LIMUSA) and its 8 000 members

The PIC Amendment Bill is long overdue. It was drafted by the National Assembly (NA)’s Finance Committee (SCOF)’s ANC Study Group. COSATU was intricately involved in its development. It has been overwhelmingly adopted by SCOF and the NA across political party lines.

It is in response to the explosion of allegations of serious corruption at the PIC and in the context of a PIC Act that provides little oversight and transparency mechanisms.

The Bill is reasonable and rational. It is in line with legislative norms. It will provide the required intervention and framework to preserve the integrity of workers’ pensions and insurance monies invested in the PIC. It is progressive, long overdue and urgently needed to address the litany of corruption allegations and governance crises engulfing the PIC.

Its passage by Parliament should not and cannot afford to be delayed.

In short, the NCOP is urged to hear the cries of millions of workers, pensioners and their families as well as the entire nation. The mass looting at the PIC cannot afford to be allowed to continue. The PIC Bill is a critical weapon in this life and death struggle for the nation. It must be passed before the end of the 5th Parliament.

1. **Context**

COSATU, its affiliates, its members, workers, pensioners and their families’ concerns about the state of the PIC and their support for the Bill are informed by several critical factors.

* 1. **What is the PIC?**

First and the most important is the simple fact that the PIC is workers and pensioners’ hard earned money. 87% of the PIC is public servants’ pension funds (GEPF). 7% is workers’ unemployment insurance money (UIF). 3% is workers’ injury on duty insurance (COIDA).

In short it is neither government nor business funds. The PIC’s mandate is to invest, protect and to grow the funds of the GEPF, UIF and COIDA. It is not lottery money. It did not fall out of the sky. Workers worked hard for these funds. It is there to take care of them during retirement, unemployment, maternity and parental leave, and when injured on duty.

This are mathematical facts that are all too often ignored by government, the PIC, politicians and businesses who seem to view and treat the PIC as source of petty cash to bail out State Owned Enterprises (SOEs) that have driven to the point of collapse due to looting, as petty cash for a state that has been bled dry by gross mismanagement and to enrich amoral politicians, their parasitic relatives and shameless business persons.

* 1. **State Capture, Mass Looting and the Collapse of SOEs**

Workers’ fears about the PIC have not appeared in isolation. They appear in a climate where state capture became the norm. Corruption and wasteful expenditure consumes about 10% or R150 billion of the fiscus. Workers are now being made to pay the price of the former President, Ministers and management of SOEs’ betrayal of the very workers who voted them into office.

SABC wants to retrench 3100 workers, Minister Mboweni and Eskom want to throw 30 000 workers into unemployment, Minister Mboweni wants to shut down SAA and throw its 12 000 workers into the oblivion, the Post Office not so long ago could not pay staff, many municipalities today fail to pay their workers, treasury wants to replace older workers with young workers so they can pay them less.

One out of three workers is unemployed. Thousands have been and are being retrenched by the mines, banks, retailers, farms etc. Most of these workers will take years to find new jobs.

Few if any, have been held accountable for state capture. No one has been imprisoned. Precious few money and assets returned to the state. The Guptas have even had their arrest warrants cancelled by a hollowed out state!

Yet workers have had their income tax, fuel taxes, electricity and water tariffs, VAT etc. hiked again and again and again by Treasury to compensate for the looting of the state.

Not only has this bled workers dry, it has reduced economic growth to a recession and at best economic growth below population growth.

Public funds have been diverted from the fiscus to bail out SOEs. Critical posts in teaching, health care, policing left frozen. Class room, health care and policing ratios have rapidly risen.

* 1. **Pension Looting**

Workers have seen their pensions disappear. Fidentia was looted dry. Workers left penniless. Each year former Transnet workers march to Parliament demanding action about their stolen pensions. Little has changed for them.

Workers have been bombarded with a flood of reports about wide scale looting at the PIC by the rich, politicians and businesses. Many of these investments cannot stand subject to scrutiny. They have no economic benefit and the beneficiaries fail to repay the PIC loans. They are dubious at best. The PIC cannot explain how they come about and on what mandate. At best obfuscation and comical conspiracy theories are offered in defence when exposed in the media.

Now it is reported that things are no longer safe in the GEPF and that a R25 billion shortfall is projected in the future. Such a shortfall were it to happen would threaten to plunge pensioners into absolute poverty and drain the fiscus.

* 1. **Accountability**

Workers are represented on the boards of the GEPF, UIF and COIDA. Yet they have struggled to hold the PIC accountable. They are frequently informed of matters late or long after they have happened, critical issues are omitted, looting hidden etc.

Parliament has equally struggled to hold the PIC to account. It took former Deputy Minister Jonas’ intervention to force the PIC to disclose its unlisted investments to Parliament! In short, the PIC has not fulfilled its obligation to account meaningfully to its depositors, workers, pensioners and Parliament.

* 1. **Restoring Confidence in the PIC**

Workers and pensioners no longer have faith in the PIC or government. Far too much has taken place, is still happening and will still happen. Workers have been made to pay the price for state capture by politicians and management. Decisive intervention is needed to rebuild this relationship. Words and commissions will not suffice.

The PIC is the largest investment manager in the continent. It has shares in most listed companies. It owns 12.5% of the JSE. If it goes the way of Eskom, the damage will be so severe to the economy, that even the IMF won’t be able to bail the nation out. Government on its own is not trusted by workers to fix the problem or manage it on behalf of workers and pensioners.

* 1. **The Role of Treasury**

It is important for Treasury in particular acknowledge its failures to provide active oversight over the PIC on behalf of workers, pensioners, government and the public. Looting at the PIC has and is still taking place under the watch of Treasury.

Whilst officials at Treasury played a key role in the fight against state capture, they failed miserably when it came to the PIC. This has caused massive damage to their relationship with workers, pensioners and unions.

Treasury needs to accept they failed the nation in this matter. Treasury needs to explain to workers, pensioners and unions what it will do to stop the looting and to prevent it from happening again.

It needs to be noted by Treasury that ridiculing union concerns, views and proposals does not help. In fact it further poisons the water and makes unions and workers question Treasury’s sincerity in the fight against looting.

* 1. **Minister Gigaba’s Address to COSATU’s September 2017 CEC**

Minister Gigaba informed COSATU’s September 2017 Central Executive Committee that he could not guarantee that the PIC would not be used to bail out Eskom, SAA, SABC, SA Express, Denel etc. as well as to fund free tertiary education, the National Health Insurance etc. Endless Ministers clamored for the PIC to fund their various departments and bail out the numerous SOEs that they had allowed and led to be looted dry.

The PIC was on the verge of being raided and bankrupted by government and the looting brigades.

This was nothing less than a declaration of war on workers, pensioners and their families. If allowed to happen it would have bankrupted the GEPF, UIF and COIDA and destroyed the economy.

It was an act of extreme provocation and lunacy that COSATU and its affiliates immediately rejected and vowed to defeat. Workers’ pensions and insurance is there to take care of them. If allowed to happen it would make the piracy at Eskom look like a Sunday school picnic.

1. **Drafting of the PIC Amendment Bill**

After Minister Gigaba’s alarming address to COSATU’s September 2017 CEC and in the backdrop of numerous reports of corruption at the PIC, COSATU approached SCOF to request its interventions in the PIC crises.

SCOF has spent a great deal of time holding the PIC to account. They have held more meetings dealing with the PIC than any other issue. In October 2017 they held the first public hearings with unions on the crises at the PIC.

One of the key recommendations emanating from this hearing was the need to overhaul the PIC Act which was judged to be woefully inadequate.

It was agreed that transparency and oversight clauses needed to be inserted, that checks and balances on the Minister’s unfettered powers to issue any instruction to the PIC needed to be introduced, that provision for worker representation on the board must be included and that mandating and investment guidelines be provided for.

Two PIC Amendment Bills were drafted. One a private bill by DA MP D. Maynier and the second a committee bill. In the end, the DA bill was rejected by SCOF and the NA. The SCOF bill was approved overwhelmingly by both SCOF and the NA.

SCOF spent an extraordinary amount of time developing its bill. More than four rounds of public hearings were held to further fine tune the bill. Unions, Treasury, PIC, GEPF, and NGOs etc. were all invited to make inputs throughout these processes. Additional committee meetings were held to further develop and amend the bills to take into account contributions from Treasury, the PIC, GEPF, Parliament’s legal advisers, union concerns and the views of opposition MPs.

SCOF’s processing of the bill took over two years. It was inclusive and in fact set a new progressive bench mark for public participation in Parliament. It was an active partnership between Parliament, MPs, government and unions. The views of all parties were heard, compromises made and efforts to address all concerns made and achieved.

As the ANC is the majority party in Parliament, the Bill enjoyed the active involvement of the ANC and its leadership both in Parliament and Luthuli House. Deputy Minister Jonas played an important role too.

COSATU made numerous submissions to SCOF throughout this process. COSATU’s key concerns and proposals were addressed and included in the Bill. COSATU equally had to make some concessions and compromises during these negotiations. These were necessary to achieve consensus with both the ANC and SCOF as well as to address issues raised by Treasury, the PIC and GEPF.

COSATU is pleased with the Bill and wholeheartedly endorses it.

COSATU is proud of the excellent work done by the ANC MPs in drafting the Bill and in SCOF and the NA for processing it. It is critical for the ANC to regain the trust of workers. This major anti-corruption bill is a major part of that healing process.

1. **PIC Act**

The 2004 PIC Act is four and a half pages. These four and a half pages are all that governs the largest investment fund in the continent.

The Broadcasting Act governing SABC and its R2 billion budget is a much more comprehensive 34 pages with numerous checks and balances.

It’s an indictment upon Treasury for having drafted such a woefully thin and adequate act. It is a leadership failure of Parliament for having passed such a deficient law.

The PIC Act is fatally flawed in numerous measures.

* 1. **PIC Board**

It allows the Minister essentially a blank cheque when it comes to establishing the board. The only limitations upon the Minister are to take into account nominations from the depositors and to consult cabinet.

There are no provisions for depositor and worker representation.

There are no specified requirements for who can serve on the board. Nothing. Given the many cronies, Guptas et all appointed to serve on boards by Ministers, this is simply unbelievable. The South African Weather Service Board has more legislative requirements to meet!

* 1. **Ministerial Directives to the PIC**

The Act allows the Minister to issue any directives to the PIC as long as they are “in the public interest” and “reasonably necessary”!

It is amazing how Treasury could draft and Parliament could pass such an act. Essentially the Minister can issue any instruction to the PIC. This is reckless at best and criminally negligent at the very least given our state threatening challenges of state capture.

* 1. **Accountability and Transparency Provisions**

There are no accountability and transparency provisions in the Act. None at all. Not a single one. This in a pubic fund worth R2 trillion.

* 1. **Depositor Mandating and Investment Guidelines**

The Act does not have a single sentence stipulating that the PIC must act upon the mandates given to it by its depositors, e.g. the GEPF, UIF, and COIDA etc.

It does not contain a single word governing its investment guidelines. Instead it simply says the PIC can decide upon whatever guidelines it likes.

The Act was passed in 2004. Treasury and Parliament should be made to account for having drafted such a shocking act. Treasury and Parliament should not be allowed to escape unscathed for such an abysmal and irresponsible betrayal of the workers and pensioners trust.

The looters at the PIC have been allowed to run amok in large part due to the failure by Treasury to provide meaningful oversight and by Treasury and Parliament for drafting and passing a four and a half pages blank cheque in lieu of a proper oversight act.

1. **PIC Amendment Bill**

The Bill essentially provides three main overhauls of the Act. These are the composition of the board, transparency and accountability mechanisms, and mandating and investment guidelines.

These go to the heart of the governance crises and looting engulfing the PIC. Whilst length is not a guarantor of depth, at 8 pages the bill is far more substantive and meaningful than the 2004 Act.

* 1. **PIC Board**

The bill provides for two new provisions when the Minister appoints the board.

* + 1. **Board Chairperson**

First the Minister may appoint Deputy Minister for Finance as the PIC Board Chair. If this is not appropriate etc., then the Minister in consultation with cabinet can appoint another Deputy Minister for cabinet’s economic cluster to chair the board.

COSATU had previously raised concerns about the DM chairing the board as at that time the then DM appeared to have a clear conflict of interest in chairing it as it had been reported that his sister had applied for PIC funding.

However the ANC raised three key motivations as to why it was keen for the DM to chair the board.

These were that the GEPF is a defined benefit and that the fiscus must fund any shortfall. The state thus has a direct and massive interest in the performance of the PIC.

Secondly, the PIC as the largest investment fund in the country and continent can if invested correctly and progressively, play a major transformational role in the economy and society.

Lastly as the PIC must account to the Minister, the Minister cannot thus chair it.

In the spirit of compromise and having been convinced by the ANC’s motivations, COSATU endorsed the ANC’s proposal for the DM to chair the board.

Whilst the DA and others have opposed the DM chairing the board and have motivated for an external chairperson, such models have not been shown to be panaceas elsewhere e.g. Eskom, SABC, SAA and in many private sector examples too. A DM can at least be made to account to Parliament.

* + 1. **Union Representation on the PIC Board**

Currently the Act provides for no union representation on the board. No union representatives have been appointed to the board.

This is in contrast to the norms locally and internationally of a 50/50 ratio on pension boards between employers and employees. Currently only the employer has appointed representatives to the board.

This points to a culture and attitude of arrogance in Treasury towards workers and unions. In fact throughout this process, officials from Treasury have continuously whispered that they do not want unions to sit on the board. They have repeatedly said that workers are not competent nor qualified to sit on the board, that unions are conflicted and corrupt and have no place on the board that manages workers’ own monies!

For COSATU and other unions this is a major matter. It is not one that they can compromise upon. The PIC manages workers’ hard earned pensions and insurance monies. More than 98% of the PIC is workers’ monies. It is not Treasury’s funds. Workers have a fundamental right and need to serve on the board and thus to have a voice on how it is invested and an eye to make sure it too is not looted by government etc.

In the spirit of compromise and negotiations, COSATU has made several major concessions on this issue.

First we agreed to reduce our demand for worker representation on the board from 50% of the board to only 3 representatives on a board of 13. In other words, less than 25%. Second we agreed that the union representatives must meet the same qualification and skills and experience requirements of all other board members.

The Bill provides for 3 union representatives on the board. It provides for these to be selected by the Public Service Collective Bargaining Council (PSCBC). Two will be from the majority unions and one will be from the minority unions. These will be selected in proportion to union representation on the PSCBC.

These are critical for several reasons. First union representatives will be selected by the unions and not by a Minister. This helps ensure that they are accountable to workers and not a Minister on the basis of friendship, manipulability etc.

The allocation of two to the majority unions and one to the minority unions helps to ensure inclusivity and representivity. It helps to build workers’ unity across federation divides. In the current make up of union representation in the PSCBC, 2 representatives would come from COSATU as the majority unions and 1 would come from FEDUSA as the minority unions. This would not be possible if there were only 1 or 2 representatives. This inclusive model is similar to that adopted in Nedlac.

Having three and not one union representative is important in preventing worker representatives from being corrupted, manipulated, ignored etc. Three will be better placed to police each other.

* 1. **Transparency and Accountability Mechanisms**

The Bill will bring the PIC into line with the standard oversight, transparency and accountability requirements of public institutions. It provides for the normal requirements of public service and sector entities to account to government, Parliament and the public. Its requirements focus on three areas of reporting.

* + 1. **Regulations**

First it requires the PIC to table all PIC regulations to Parliament for noting and scrutiny. This is the norm across all departments for regulations. It is an anomaly that the Act is silent in this regard.

* + 1. **Annual Reports**

Second the Bill requires the PIC to report annually on all investments, listed and unlisted to the Minister. The Minister is required to table this report in Parliament. This report must also be published on the PIC’s website for public accessibility. This is the norm for all public sector entities and SOEs. Again is it an indictment that the Act does not require this.

This clause was a sight of much discussion. The PIC was not keen to be compelled to report on either listed or unlisted investments. On listed investments at one stage it said its investments can be gleaned by reading reports of companies listed on the JSE. With hundreds of companies on the JSE, this is neither accessible nor transparent. It was tantamount to contempt of Parliament, depositors and the public. It was an attempt to hide corruption.

If companies can disclose to the public the shareholders, then the PIC can have no excuse where it invests the public’s funds. Worse, it is the international norm for similar pension and investment funds to disclose their investments to the public. In California, the teachers’ pension fund investments are disclosed on their website within 24 hours!

The second major debate was about unlisted investments. For a long time the PIC did not want to report on unlisted investments. No meaningful reason was provided. It took the intervention of Deputy Minister Jonas to compel the PIC to report on unlisted investments to Parliament. This is not a small matter. Approximately 10% of the PIC is invested in unlisted investments. This is equal to R200 billion. Many of the instances of corruption appear to be located here.

* + 1. **Ministerial Directives**

The Bill requires the PIC to report on all Ministerial directives in the annual report that it submits to the Minister for tabling in Parliament. Again this is the norm for public sector entities.

Its inclusion is critical in ensuring checks and balances on ministerial directives, more so given the extent of state capture and the abuse of ministerial powers. It addresses a major weakness in the existing Act.

* 1. **Depositor Mandates and Investment Guidelines**

The Bill addresses the omissions of the Act and provides clear mandating and investment guidelines for the PIC. This was a major matter of concern to workers, pensioners and COSATU with Minister Gigaba and many other ministers threatening to raid the PIC and fears about the GEPF etc’s sustainability and the security of pension funds.

Opponents of the Bill have sought to deliberately distort its provisions. They have spoken of prescribed investments being imposed. It appears that critics have not in fact read the wording of the bill and instead have sought to chant slogans aimed at whipping up the fears of pensioners.

The Bill says the following:

*‘‘(3) The corporation must, when investing a deposit on behalf of depositors, invest to the benefit of the members or beneficiaries of the respective depositors.*

*(4) For the purposes of subsection (3), the corporation must act in accordance with the instructions of the depositors, and in so doing, the corporation must, as far as possible, seek to invest to—*

*(a) ensure its security and financial sustainability;*

*(b) create and protect local jobs;*

*(c) industrialise the economy of the Republic, by building the manufacturing sector and boosting exports;*

*(d) promote sustainable development;*

*(e) be in line with the Republic’s development objectives;*

*(f) strive to build a capacitated developmental State;*

*(g) transform the economy and society; or*

*(h) prioritise investments in the Republic.”*

The Bill is exceedingly clear. The PIC must act upon the mandate of the depositors e.g. GEPF etc. Second it must invest in the interests of their members e.g. pensioners, workers etc. Third it must ensure their investments’ security and financial sustainability. These provisions are fundamental to protecting the pensions and insurance of workers. They are sacrosanct.

Secondly the Bill provides for investment guidelines. The wording chosen here was chosen deliberately to find the correct balance between protecting the interests of workers and pensioners and their investments on the one hand and on the other to promote job creation, economic growth, economic diversity and transformation and building a capacitated developmental state.

It should be noted that the PIC has regularly told Parliament that it conducts its investments in this manner. It should also be noted that these investment guidelines are in sync with the National Development Plan, government investment objectives, the ANC manifesto, the norms of investment funds locally and internationally.

The Bill has been excellently drafted and is emphatic that at all times the mandate and interests of the depositors reigns supreme. There is no compromising on that matter at all. There can never be.

The investment guidelines are important to help, where financially viable, to encourage investments that will benefit society at large. E.g. that job creation projects in South Africa are preferable over ones of dubious value in a remote location overseas. It will help hold the PIC accountable in future if they have been found to have invested in very dubious investments that cannot be explained.

Lastly SCOF went out of its way to craft the wording in a manner that addressed concerns raised by Treasury and the PIC and even the DA and Fedusa. The investment guidelines state that the PIC must seek to follow the guidelines only where possible and even then it is not compelled to achieve all or any of them. This was done deliberately to allay the fears of prescribed asset management or forcing investments that would not be in the interests of depositors nor financially sustainable.

SCOF must be commended for going the extra mile in this regard to address every single issue raised by Treasury, the PIC, depositors, COSATU etc.

1. **Resistance to the Bill**

Throughout the development of this bill there has been strange, unusual and determined covert resistance against it. The critics have largely been those who want to see the status quo of looting and poor governance and a sheer lack of accountability remain.

Workers and pensioners and COSATU fear that the looting at the PIC if allowed to continue will bankrupt the GEPF, UIF and COIDA. If this happens it will not only collapse the state but also send the economy into a depression leaving millions unemployed and pensioners condemned to poverty. Such fears as shown by the Commission of Enquiry into the PIC are not irrational or sensationalist.

It is clear that the strong systematic provisions of the Bill to root out corruption and install good governance, transparency and accountability, provide for worker representation, depositor mandates and investment guidelines have struck a nerve with those individuals who have benefited from the status quo of looting, poor governance and little accountability.

Issues raised by Treasury, the PIC, GEPF, the DA, Fedusa, asset managers etc. have all been addressed methodically and provided for in the bill e.g. the depositor mandates and investment guidelines, the chairing of the board, proportional union representation, reporting requirements etc. Not one issue has been ignored or not addressed. SCOF has spent two years dealing with each issue one by one until they were successfully and reasonably accommodated.

It has been one of the most inclusive legislative processes in Parliament since the drafting of the Constitution.

1. **Way Forward**

COSATU supports this key anti-corruption bill 100%. There are two ways forward. One progressive. The other a disastrous capitulation to the looting demons.

The progressive and correct way forward is for the Select Committee and the NCOP to process and adopt the Bill as is before rising on March 28. COSATU supports this and is adamant that this is the only way forward that will protect workers and pensioners’ monies.

The NCOP rises in 2 weeks time. There is thus simply no time to waste. The NCOP has drafted a clear programme to process and adopt the Bill. No one must be allowed to undermine, interfere or delay it.

COSATU is sensitive to the NCOP’s long standing and legitimate concerns about bills being dumped upon them at the end of Parliament by the NA. This is a unique bill and situation. COSATU had already engaged SCOF in September 2018 on the need to conclude the Bill before the end of November 2018 in order to avoid undermining or rushing the NCOP. Whilst SCOF was ready to pass the Bill in November, it was delayed from doing so until the end of February. COSATU appreciates and recognises the NCOP’s frustrations and challenges, we nonetheless respectfully urge the NCOP to prioritise this Bill. It is simply too important to fail or allowed to collapse to delays.

Given the tight time frames, a single delay will cause the Bill not to be adopted by March 28.

Whilst there may be proposed reasonable amendments to the Bill by parties, there is simply no time left. COSATU urges Members not to allow amendments at this stage.

COSATU has experienced a massive covert resistance campaign by those who are determined to defend the looting and want to see the status quo remain.

Equally the DA, COPE and two other opposition parties voted in the NA against the bill. It’s their right as opposition parties to oppose legislation drafted by the ANC. It is unfortunate that the DA, COPE etc. have chosen not to join the ANC in voting for this historic anti-corruption bill.

COSATU urges the NCOP to pass this Bill now for the following fundamental reasons:

* It is a progressive, anti-corruption, pro-worker, pro-pensioner bill;
* It is needed as a matter of national urgency to stem the flood of looting and restore good governance at the PIC.
* Any delays will only serve to exacerbate the crises at the PIC;
* Parliament has undertaken extensive public consultation on this bill for over 2 years. Any delay and thus collapse of this Bill will render those public hearings and engagements useless. It would send a deafeningly blow to public participation at Parliament which is only now beginning to restore public confidence in it after years of turning a blind eye to state capture;
* It takes years on average for any bill to go from departmental drafting, public consultation, cabinet discussion, processing by both the NA and the NCOP and finally presidential assent etc. Uncontested bills have often taken at least 5 and more often 7 to 10 years to be concluded. The PIC cannot afford a day longer will the extent of corruption and poor governance. As we speak the PIC has an acting CEO and an acting board and daily media articles of wide scale looting and loan defaulting.
* Lastly the covert resistance to this anti-corruption bill is not an accident. There are powerful people in the PIC, government, politics and business who want to stop this Bill. They are making phone calls, writing letters, knocking on doors. Some have even made hints that deals can be made if the Bill can be killed. Powerful persons are seeking to convince Members to stop the Bill. To allow it to lapse by March 28. To amend and gut it of its anti-corruption content. To propose amendments until it’s too late to pass by March 28. They are working very hard to do anything to ensure March 28 happens without the NCOP having passed the Bill.
* If this Bill is allowed to lapse, it won’t come again. Those who are campaigning to kill this Bill will then ensure that any other Bill takes years to reach Parliament. That when it does come to Parliament will be gutted of worker representation on the board, will have its comprehensive oversight and accountability measures deleted, its depositor mandate and investment guidelines removed.
* This is an historic progressive bill. It is fundamental to the fight against state capture. It must be passed by the 5th Parliament.
  1. **PIC Commission of Enquiry**

COSATU has welcomed the PIC Commission of Enquiry. We applaud the good work it is doing to shed light on the looting at the PIC. COSATU looks forward to any recommendations it may make in its report to government to strengthen the Act.

COSATU has made a written submission to the Commission. We have requested an opportunity to make an oral submission. We have yet to receive a reply in this regard.

COSATU was surprised and alarmed to hear from the media that the Commission wrote to the Minister requesting his intervention in stopping the Bill. COSATU was deeply shocked and angered to hear that the Minister then wrote to the Speaker requesting the Bill be stopped.

Both acts are tantamount to undermining the constitutionally guaranteed independence of Parliament. The commission is an extension of the executive. The executive accounts to Parliament. Under no circumstances can the executive issue an instruction to Parliament. It is completely unacceptable that the Minister did this.

It is an act of bad faith that the Minister did so without engaging workers on a matter about their pensions and monies. This is despite repeated attempts by COSATU to engage with Treasury over the past 2 years on the Bill as part of ensuring that both government and labour have a common position on such an important manner. Treasury has yet to respond to any of these letters, emails, sms, phone calls etc. from COSATU.

The attempt by the Minister to stop the NA from adopting the PIC Bill is reckless, constitutionally undermining and politically dangerous at best. It plays straight into the hands of those who have looted, are looting and want to continue to loot at the PIC. A single day delaying passing the Bill is one more day where looting and governance chaos remains rampant at the PIC.

1. **Conclusion**

COSATU, its 16 affiliates, their almost 2 million members and 10 million dependents strongly support this Bill.

It is a key anti-corruption weapon. It is progressive, pro-worker and pensioner. It is in line with the accountability, transparency and governance requirements of public sector entities.

It decisively deals with the fatally flawed and flimsy Act currently in place.

The extent of corruption in the public sector in general and the very worrying reports of looting in the PIC as shown by the PIC Commission of Enquiry are clear evidence as to why urgent intervention is now needed. We simply cannot wait a day longer.

Any delay in passing the bill, will provoke massive anger and outrage amongst workers. Workers and in particular COSATU members are furious at the extent of corruption in the state and the PIC. Any delays or attempts to gut the Bill will only deepen that anger and sense of betrayal.

COSATU’s alliance with the ANC has been battered and bruised for far too long. Not passing this anti-corruption bill, will be a devastating blow to the alliance. This is not something that the ANC can afford on its most difficult election since 1994. More so, that it is limping into the election under the heavy clouds of looting and state capture. It cannot afford to alienate its most reliable ally.

COSATU applauds the ANC for having drafted this anti-corruption bill. We thank SCOF for their excellent work against all odds in processing it. We commend the NA for overwhelmingly adopting. We appreciate the leadership shown by the Chair and Whip of SCOF, Y. Carrim and T. Tobias-Pikolo, and Chief Whip of the NA Mthembu for their leadership in seeing this bill through the NA.

The ball is now in the NCOP’s hands. This is an historic occasion. Workers and pensioners are depending upon the NCOP to finish this race. Do not fail them.

Thank you.

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| cid:image005.jpg@01CC26CB.2C4815C0 | Matthew Parks  Parliamentary Coordinator  Cell: 082 785 0687  Tel: 021 461 3829  Email: [matthew@cosatu.org.za](mailto:matthew@cosatu.org.za)  6th Floor, Constitution House  124 Adderley Street  Cape Town 8000  South Africa |

**Appendix:**

**South African Communist Party**

**Central Committee statement**

24 February 2019

**SACP supports Cosatu on Public Investment Corporation Bill in Parliament**

Through engagements with Cosatu and others, our own experiences and the media, we are aware that from 2015, there have been constant allegations of bad investment decisions and corruption at the PIC. The Public Service Association threatened to withdraw from the PIC and trade unions demanded that they be represented by their nominated experts on the PIC Board. There have also been endless fights within the PIC. This has contributed to the failure by the PIC to address these and other issues. The ANC’s Parliamentary Finance Committee adopted a resolution in 2017 to introduce a draft Committee Bill to address these issues, in consultation with all stakeholders. The DA opportunistically tried to use the resolution to also introduce a Private Members Bill on the PIC, but the Committee’s Bill prevailed.

After 18 months of intensive engagements, the Committee voted on its PIC Bill. It provides for union representation on the PIC Board; the Finance Deputy Minister to chair the Board (and protects losses to the fiscus by bad PIC investment decisions); and in implementing the instructions of the depositors the PIC consider developmental guidelines.  The Minister and the Board of the PIC also have to be more accountable to Parliament. The Bill is part of the overall commitment of the Alliance and government to tackle corruption, and has been supported by the relevant parliamentary and other ANC structures.  It has already been voted on by the parliamentary committee. The SACP supports the Bill and calls on the ANC to vote on it in the National Assembly as soon as possible.

The SACP also looks forward to the recommendations of the Mpati PIC Commission Report and the Bill that the Minister of Finance will introduce thereafter which will propose further amendments to the PIC Act.

The PIC is extremely important for the workers and the country as a whole, particularly in the present very difficult economic climate, and there is a need for the Alliance to work together with government and other stakeholders to strengthen the PIC.  We call upon our allies, COSATU, and the broader progressive trade union movement, to mobilise in support of these changes and improvements.