



23 August 2019

National Treasury  
South African Revenue Service

Per email: [2019AnnexCProp@treasury.gov.za](mailto:2019AnnexCProp@treasury.gov.za)  
[acollins@sars.gov.za](mailto:acollins@sars.gov.za)

Johannesburg  
Stock Exchange

One Exchange Square  
Gwen Lane  
Sandown, South Africa  
Private Bag X991174  
Sandton 2146

Tel: +27 11 520 7000  
Fax: +27 11 520 8584

[www.jse.co.za](http://www.jse.co.za)

Dear Sir/Madam

## **2019 DRAFT TAX ADMINISTRATION LAWS AMENDMENT BILL**

The JSE appreciates the opportunity to provide our comments on the proposed amendments to Sections 50E and 64H of the Income Tax Act, 1962, as set out in the draft Tax Administration Laws Amendment Bill.

We welcome the amendment to Section 64H (2)(c) which proposes the removal of the requirement for an investor to make a declaration in respect tax free investments. We have, however, concerns regarding the proposed insertion of sub-clause (4) in Sections 50E and 64H. Limiting the validity of a declaration and written undertaking for a period of two years will have the unintended consequence of a significant increase in the administrative burden on JSE authorised users (member firms) that have been authorised by the JSE, in terms of its rules, to perform custody services.

Of the 56 members of the JSE Equities Market, 21 member firms are authorised by the JSE as custody service providers (CSPs). A CSP is authorised to safeguard its clients' securities and funds, exercise control over its clients' securities and is responsible for the administration of matters incidental to those securities or funds. A CSP is a Regulated Intermediary.

JSE Equity members are required to use the central Broker Deal Accounting (BDA) system which is an accounting and portfolio management system that enables members to monitor and perform back office administration. The JSE runs and maintains the BDA system on behalf of the members and develops and maintains certain functionality and controls in the system to ensure various regulatory and legislative requirements are met. This includes, but is not limited to, the management and processing of all corporate action events and the related withholding tax calculations. The JSE processes, on average, in excess 1100 dividend payments and 200 interest payments per calendar year. The BDA system also produces withholding tax information enabling members to meet their reporting obligations to SARS regarding withholding tax.

**Executive Directors:** NF Newton-King (CEO), A Takoordeen (CFO)

**Non-Executive Directors:** N Nyembezi (Chairman), F Daniels, VN Fakude, Dr M Jordaan, Dr SP Kana, BJ Kruger, DM Lawrence, Dr MA Matooane

**Alternate Director:** JH Burke

**Group Company Secretary:** GA Brookes

The BDA system provides functionality for all the tax withholding exemptions or lower tax rates in respect of multiple Double Taxation Agreements. The administration of the withholding tax is already a resource intensive process for JSE members, as the relevant declarations and written undertakings must be obtained for all affected clients and the clients' status in respect of exemptions or lower rates status must be recorded on the BDA system on each client's account to ensure the accurate calculation of withholding tax on interest and dividend payments. Late receipt of declarations and written undertakings from clients results in refunds due to clients and corrections to SARS reporting, which increases the member's administrative burden.

We recognise that the aim of proposed amendment is to alleviate the administrative burden, however limiting the validity of a declaration and written undertaking for a period of two years will significantly increase the CSPs administrative burden: CSPs will be required to review all declarations and written undertakings, manually record the date of the declarations and written undertakings and request, on an ongoing basis, updated documents for the declarations and written undertakings that are older than two years. This is a significant exercise for the CSPs - currently there are in excess of 35 000 client accounts in the BDA system with an exemption or lower rate tax withholding status and it is very likely that a large number of the declarations and written undertakings pertaining to those client accounts are dated more than two years ago.

We note that the proposed amendments will come into operation on the date of promulgation of the Tax Administration Laws Amendment Act. Our concern is that the Act will be promulgated before CSPs have had sufficient time to review and request updated declarations and written undertakings. Consequently, on or after the date of promulgation of the Act, any dividend or interest payments made to a beneficial owner based on an invalid declaration and written undertaking (i.e. dated more than two years before) would be a contravention of the Income Tax Act or, if the CSP processed the payment without applying the relevant exemption or lower rates, the administrative burden on the CSP would be substantial as the CSP would be required to process refunds and correct the SARS reporting once the updated client's declaration and undertaking was received.

We respectfully request that the proposed insertion of sub-clause (4) in Sections 50E and 64H of the Income Tax Act is deleted and that National Treasury and SARS consult with companies and Regulated Intermediaries to find an alternative solution to alleviate the administrative burden on the payers of interest and dividends.

We thank you for the opportunity to submit our comments. Should you require clarity on any of our comments or any further information please contact the undersigned, [annec@jse.co.za](mailto:annec@jse.co.za) or 011 520 7791.

Yours sincerely



**Anne Clayton**

**Head: Policy and Regulatory Affairs**