

PRESENTATION TO SCOF

“NUGENT RECOMMENDATIONS – UPDATE”

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INTRODUCTION

Whilst we are reporting progress against explicit Nugent recommendations, the diagnostic aspects of the report requires a response beyond the recommendations.

- Nugent Report : intervention to stabilise SARS and enable creation of platform to rebuild SARS and transform it into digital revenue agency
- Nugent provides the diagnostic: breakdown in governance of SARS and within SARS
- Nugent Report contains a number of very useful recommendations but insufficient to rebuild SARS, e.g. missing: strategy, leadership, technology, people management
- Governance of SARS
- Governance within SARS

THE STATE OF SARS (2014 – 2019)

SARS HAD BEEN DELIBERATELY WEAKENED AS REPORTED IN THE NUGENT REPORT

SINCE 2014, SARS EXPERIENCED:

- A MASSIVE FAILURE IN GOVERNANCE & INTEGRITY
- THE “BAIN OPERATING MODEL REVIEW” DELIBERATELY SOUGHT TO RENDER THE ORGANIZATION INCAPABLE OF FULLY SERVING ITS MANDATE BY:
 - Dismantling trusted functional capacity such as the Large Business Centre, Compliance Unit, High Court Litigation Unit, and the capacity to deal with the Illicit Economy
 - Impeded the SARS Modernization Programme
 - Disintermediate and marginalized Senior Employees and Executives
 - Triggered an exodus of capable and experienced staff
 - Significantly weakened the SARS Leadership system

RESULTING IN:

- A DECLINE IN REVENUE PERFORMANCE
- A DECLINE OF EMPLOYEE MORALE & CONFIDENCE
- A DECLINE IN HARD WON PUBLIC CONFIDENCE IN SARS

A YEAR OF INTENSE ENGAGEMENT WITH EMPLOYEES & LEADERSHIP HAS CONFIRMED

1. EMPLOYEES:

- a. High levels of trauma
- b. Low levels of trust - Disconnect between employees and leadership
- c. Low employee morale
- d. Transactional behaviour

2. LEADERSHIP:

- a. Integrity challenges
- b. Experience & Suitability
- c. Performance Issues

3. CAPABILITY - ALMOST 3000 DOWN SINCE 2014, INCLUDING:

- a. > 400 Compliance & Investigative Auditors
- b. > 200 Debt Management
- c. > 60 Customs Officers
- d. ±115 Highly Skilled Auditors & Risk Profiling – LBC
- e. > 200 IT Specialists

PROGRESS UPDATE ON NUGENT RECOMMENDATIONS

November 2020

PROGRESS ON RECOMMENDATIONS

1. The Nugent Recommendations have been substantively been addressed and implemented.
2. The Nugent Report expressly records 16 recommendations that break down into 27 sub-recommendations.
3. Ten of the 27 sub-recommendations fall under the mandate of National Treasury of which one relates to procurement policy and the remaining nine relate to other matters relate to the governance of SARS).
4. SARS is responsible for implementing the remaining 19 recommendations.
5. In this regard, this report shows that 14 recommendations have been implemented to date,
6. A further 5 recommendations are in process of being implemented.

RECOMMENDATIONS IMPLEMENTED [1/5]

NUGENT REPORT REF	RECOMMENDATION	RESPONSE/ACTION
<p>CH3 [Para 69] The Seizing of SARS</p>	<p>National Treasury should review the procurement process where multiple contracts are envisaged for a project to prevent the abuse arising from ‘loss leaders’ at the outset.</p>	<ul style="list-style-type: none"> • SARS addressed the matter of “loss leaders” with the office of the CPO. • The common understanding is that “loss leaders” as such may be beneficial if government manages and monitors the contracts with integrity and enhanced controls. The CPO is therefore still considering the desirability of a total prevention of “loss leaders”. • The matter will also be considered as part of the ongoing process of procurement reforms required as part of the Fourth Industrial Revolution. <p>RECOMMENDATION IMPLEMENTED</p>
<p>CH4 [Para 13] The Fabric of the SARS Restructuring</p>	<p>The Large Business Centre be re-established.</p>	<p>The segment Large Business and International has been re-established.</p> <p>RECOMMENDATION IMPLEMENTED</p>
<p>CH4 [Para 15] The Fabric of the SARS Restructuring</p>	<p>The SARS Litigation Unit be re-established.</p>	<p>The SARS Litigation Unit has been re-established and is in the process of being mobilised.</p> <p>RECOMMENDATION IMPLEMENTED</p>
<p>CH4 [Para 30] The Fabric of the SARS Restructuring</p>	<p>The Compliance Unit be re-established, and that a high-level Integrity Unit be established.</p>	<ul style="list-style-type: none"> • The Compliance Unit has been re-established as the Enterprise Compliance Risk Unit and its mandate was reviewed and expanded to include Regulatory Compliance and Taxpayer and Trader Compliance. • The Integrity Unit has been re-established. <p>RECOMMENDATION IMPLEMENTED</p>

RECOMMENDATIONS IMPLEMENTED [2/5]

NUGENT REPORT REF	RECOMMENDATION	RESPONSE/ACTION
CH5 [Para 12]	New Commissioner of SARS recruit one or more suitably qualified persons from within or outside SARS to be placed in a position to take control of SARS information technology and to develop and implement a strategy to renew development of information technology.	SARS embarked on a recruitment process, which amongst others, advertised a number of positions, which collectively reimagine the leadership of SARS IT in anticipation of the establishment of the digitalised revenue agency. RECOMMENDATION IMPLEMENTED
CH6 [Para 63] The Resignation of Senior Employees	We recommend that the new Commissioner of SARS evaluates employees in supernumerary posts , and considers their placement in positions in which they are able to add most value to SARS	Reinstatement of “supernumerary” employees in their previous jobs or, alternatively, in meaningful jobs. RECOMMENDATION IMPLEMENTED
CH7 [Para 46] The New EXCO	The new Commissioner of SARS conduct a performance review of EXCO members appointed by Mr Moyane , taking account of their capacity for senior management, their appreciation of good governance, and their capacity for inspiring public confidence in the integrity of SARS, bearing in mind the matters dealt with in this report.	The completion of the performance review of former EXCO members. One matter remains to be addressed in the CCMA and the proceedings will continue in January 2021. RECOMMENDATION IMPLEMENTED
CH7 [Para 46] The New EXCO	The remuneration and benefits of EXCO members who were appointed without ministerial approval of their terms of appointment be reviewed , and be referred to the Minister of Finance to consider whether to grant approval, and that the benefits accorded to members of EXCO be reviewed.	The completion of the review of remuneration and benefits of former EXCO members. RECOMMENDATION IMPLEMENTED
CH8 [Para 27] The Anti-Corruption Unit and Related Events	SARS re-establish capacity to monitor and investigate the illicit trades , in particular the trade in cigarettes, within appropriate governance structures.	<ul style="list-style-type: none"> • A Focused Investigations Unit has been established and is functioning. • The Unit is mandated to investigate and audit matters associated with the illicit economy and matters arising from the Zondo and PIC COIs. RECOMMENDATION IMPLEMENTED

RECOMMENDATIONS IMPLEMENTED [3/5]

NUGENT REPORT REF	RECOMMENDATION	RESPONSE/ACTION
CH10 [Para 6] VAT Refunds	SARS urgently undertakes an operational investigation for the purpose of correcting systemic obstacles preventing the prompt refunding of VAT that is due.	<ul style="list-style-type: none"> The operational review was undertaken and operational adjustments were made. The efficacy of refunds is under ongoing review to optimise lawfully due, payable and timely refunds. <p>RECOMMENDATION IMPLEMENTED</p>
CH12 [Para 14] Settlements	The terms of reference of bodies authorised to settle claims be reviewed to ensure and, if necessary, strengthen governance mechanisms.	<ul style="list-style-type: none"> The delegations of authority with regard to settlements were reviewed and SARS is confident that they meet the required governance and risk standards. A proposed amendment to the settlement governance system, that sought to locate decisions involving amounts in excess of R100m with the Commissioner assent by the erstwhile Commissioner, was not approved. <p>RECOMMENDATION IMPLEMENTED</p>
CH16 [Para 28] Debt Collection Contracts	Debt collection contracts be reviewed , and that the use of debt collection services be reviewed to determine whether they add sufficient value to SARS.	<p>All debt collection contracts have terminated.</p> <p>RECOMMENDATION IMPLEMENTED</p>
CH17 [Para 12] Media Statements	Disciplinary action be considered against any executive for publishing the media statements referred to in this paragraph. It is further recommended that any such executive be deprived of any authority he or she might have to speak on behalf of SARS without the approval of the Commissioner.	<p>The authority to speak on behalf of SARS from the executive involved had been withdrawn. The executive has since left SARS. To maximise efficiency and reduce risk, all communication with the media is routed through a single office, and the Commissioner's office is involved in each media inquiry.</p> <p>RECOMMENDATION IMPLEMENTED</p>

RECOMMENDATIONS IMPLEMENTED [4/5]

NUGENT REPORT REF	RECOMMENDATION	RESPONSE/ACTION
<p>CH18 [Para 3] SARS and Other State Institutions</p>	<p>SARS must take steps to restore the cordial relations that formerly existed with other state institutions including the National Prosecuting Authority, the Financial Intelligence Centre, the Auditor-General and the National Treasury, and develop protocols for interaction with the National Treasury.</p>	<p>SARS is bound by the Constitutional principle of co-operative governance amongst organs of state.</p> <p>SARS has through its Stakeholder Management Unit and the SARS Liaison Unit undertaken the following steps to repair and deepen co-operative governance with the law enforcement agencies in the sphere of investigations that relate to criminal and civil litigation involving tax matters or requiring taxpayer information.</p> <ul style="list-style-type: none"> • Regularising the cooperative governance through a series of MoUs; • Joint working procedures including joint prioritisation and planning of investigations; • Framework for lawful exchange of information; • Sharing of resources. SARS has seconded three officials to the ID <p>A focused effort has been made to repair relationships with organs of state, such as the National Prosecuting Authority, The Financial Intelligence Centre, the Auditor-General, the DPCI, the SARB, the SIU, the SSA, the Department of Trade, Industry and Competition and the Department of Home Affairs, amongst others.</p> <p>RECOMMENDATION IMPLEMENTED</p>

RECOMMENDATIONS IMPLEMENTED [5/5]

NUGENT REPORT REF	RECOMMENDATION	RESPONSE/ACTION
<p>CH19 [Para 3] International Relations</p>	<p>Steps be taken to restore cordial relations with the OECD.</p>	<p>SARS has broadened the application of this recommendation to include restoration of cordial relations with all international bodies relevant to the SARS mandate. This entails, amongst others:</p> <ul style="list-style-type: none"> • Reviewing the SARS International Stakeholder Strategy to ensure that SARS is part of the global brain trust • Mapping the stakeholders according to interest and priority • Preparing SARS priority positions to direct its engagement in the international organisation • Engaging actively: <ul style="list-style-type: none"> ○ The Commissioner is personally reconnecting with his counterparts in the international organisations ○ SARS officials are reconnecting at the operational level ○ Where practicable, SARS officials will be seconded to international organisation for exposure, skills enhancement, and advancing the SARS mandate • Action plans arising from participation in the proceeding of international organisations are being integrated in SARS operational plans <p>RECOMMENDATION IMPLEMENTED</p>

RECOMMENDATIONS IN PROGRESS [1/2]

NUGENT REPORT REF	RECOMMENDATION	RESPONSE/ACTION
CH3 [Para 75] The Seizing of SARS	The National Director of Public Prosecutions should consider prosecutions in connection with the award of the Bain & Co. contracts.	Charges with the DPCI have been laid against a service provider and a NPA prosecutor has been assigned to the case – investigation underway. Awaiting recommendation from DPCI RECOMMENDATION IN PROCESS OF BEING IMPLEMENTED
CH5 [Para 42] Information Technology and the Gartner Contracts	SARS considers commencing proceedings to set aside the Gartner contracts and to recover expenditure incurred that added no value to SARS.	SARS has initiated negotiations with Gartner and those are ongoing. RECOMMENDATION IN PROCESS OF BEING IMPLEMENTED
CH11 [Para 26] Litigation	SARS takes steps to recover from the former Commissioner legal costs and expense incurred by SARS for litigation commenced and instructions given in the following instances: <ul style="list-style-type: none"> • ‘The Maputo Connection’: Whether it made reference to Mr Moyane, R120 000, and ‘Rogue’ : whether taxpayer information had been disclosed R770 000 • Whether the Financial Intelligence Centre had acted lawfully in obtaining the information re suspicious transactions carried out by Jonas Makwakwa. 	SARS issued letters of demand recovery of costs and awaiting response. RECOMMENDATION IN PROCESS OF BEING IMPLEMENTED
CH14 [Para 6] Taxpayer Affairs	The case selection and audit protocols be reviewed to consider further protocols to ensure proper investigation of tax returns with reference to the ostensible assets of the taxpayer concerned, and that the key performance indicators be reviewed to facilitate such investigations.	<ul style="list-style-type: none"> • A new case selection methodology and approach was formulated and is being adopted for implementation. This is an ongoing exercise in keeping with continue improvement. • The Focused Investigations Unit has adopted an integrated multi-disciplinary project approach to audits and investigations. Best practices will incrementally be shoehorned into the business as usual areas of audit and investigation RECOMMENDATION IN PROCESS OF BEING IMPLEMENTED

RECOMMENDATIONS IN PROGRESS [2/2]

NUGENT REPORT REF	RECOMMENDATION	RESPONSE/ACTION
<p>CH6 [Para 63] The Resignation of Senior Employees</p>	<p>We recommend that the new Commissioner of SARS evaluates employees in supernumerary posts, and considers their placement in positions in which they are able to add most value to SARS. We recommend as well that posts in the establishment be evaluated and, where appropriate, active steps be taken to recruit former employees to those posts. In addressing the Commission, the acting Commissioner of SARS rightly apologised unreservedly for the damage done to employees and former employees during the period under inquiry. We recommend that SARS consider possibilities for reparation, not necessarily in pecuniary terms.</p>	<p>The recommendation has far-reaching implications for SARS and manifests in numerous ways. Accordingly, the Commissioner has launched a broad reparation programme that, to date, includes amongst others:</p> <ul style="list-style-type: none"> • Pastoral and “listening” campaigns. • Contract employment for some specialist employees who left SARS between 2014 and 2018. • Recruitment for new positions for which former employees had opportunities to apply. • Engagement with KPMG who, amongst others, enabled the capture of SARS with a view to committing KPMG to making reparations to SARS. • The review of external and internal investigations and disciplinary actions that may have been unlawful. The first Report has been submitted and is currently under consideration. • Addressing any protected disclosures made by SARS employees. • Reparations for current employees: review completed, final decisions under way. Reparations for former employees are under consideration. <p>RECOMMENDATION IN PROCESS OF BEING IMPLEMENTED</p>

Whilst we are reporting progress against explicit Nugent recommendations, the diagnostic aspects of the report requires a response beyond the recommendations

RECOMMENDATIONS WIDER APPROACH

These cited matters namely relate to:

1. The **rebuilding of SARS** and its **institutional integrity**
2. Engagement with Stakeholder and Public to **rebuild Public Confidence and Trust**
3. The **intelligence gathering powers** of SARS – *we work strictly within the powers of the TAA & Customs Acts and this has been clarified by the SC opinion that clarifies our powers to gather tax and customs related intelligence & information*
 - SARS has proposed that its intelligence gathering powers be expressly confirmed and circumscribed in the new SARS Governance Framework that is being prepared by National Treasury. This matter will be addressed in the proposed new SARS Governance Framework.
 - The recent withdrawal of the Report of the Inspector General for Intelligence further confirms SARS' position in this regard.
4. The **confidentiality of taxpayer information** – *this matter between SARS and the PP that is awaiting court ruling challenging the Chapter 6 provisions*
5. The status of the **KPMG and Sikhakhane Reports** – *SARS has notified the authors that it does not place reliance on the reports as well as the employees concerned*
6. SARS' treatment of **High Net Worth Individuals** – *we are currently setting up a dedicated segment and unit*
7. **Enhancement of Customs operations** – *established AEO unit, reengaged WCO, reviewing of Mutual Administration Agreements, building operational capacity and capability, reviewing the NCAP modernisation, pursuing the Smart Border concept including BMA. These efforts together with other is highly dependent on adequate Funding*

REBUILDING

THE SOUTH AFRICAN REVENUE SERVICE

OUR CURRENT FOCUS TO REBUILD SARS WILL REQUIRE TIME, EFFORT, PERSISTENCE, & YOUR HELP!

1. Engagement with Staff to instil focus & pride ✓ 
2. Broad Engagement with Stakeholders ✓ 
3. Rebuilding Public Confidence & Trust ✓ 
4. Re-imagined what SARS Could Be ✓
5. Re-purposing SARS:
 - a. Implementing Vision 2024 & Strategic Intent ✓ 
 - b. Organisational Rearrangements ✓ 
 - c. Implemented a Revenue Recovery Programme ✓
 - d. Rebuilding a Capable Leadership System ✓ 

SARS STRATEGY 2020-2024

CLARITY OF PURPOSE

Whilst our Mandate is to:

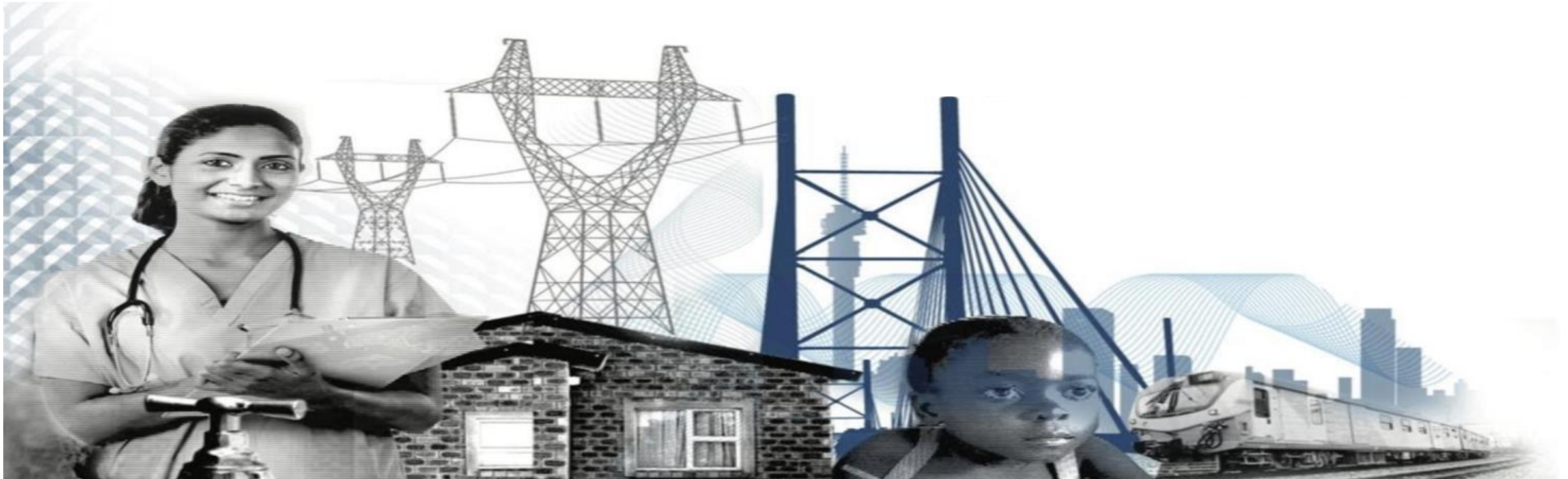
- Collect all revenues due
- Ensure optimal compliance with tax and customs legislation
- Provide a customs service to optimize revenue, border protection & facilitate legitimate trade

SARS exists to serve the **HIGHER PURPOSE** of

***ENABLING GOVERNMENT TO BUILD A CAPABLE STATE THAT FOSTERS
SUSTAINABLE ECONOMIC GROWTH & SOCIAL DEVELOPMENT THAT
SERVES THE WELLBEING OF ALL SOUTH AFRICANS***

SARS VISION 2024

*A SMART, MODERN SARS WITH UNQUESTIONABLE
INTEGRITY, TRUSTED & ADMIRABLE*



STRATEGIC CLARITY

STRATEGIC INTENT:

Develop a Tax & Customs system based on Voluntary Compliance

In support of our Strategic Intent we have **9 Strategic Objectives:**

1. Provide **Clarity & Certainty** for Taxpayers & Traders of their obligations
2. Make it **Easy** for Taxpayers & Traders to Comply with their obligations
3. **Detect** Taxpayers & Traders who do not Comply, and make non-compliance **Hard & Costly**
4. Develop a **High Performing, Diverse, Agile, Engaged** and **Evolved** workforce
5. Increase and expand the use of **Data** within a comprehensive knowledge management framework to ensure integrity, drive insight and improve outcomes
6. Modernize our systems to provide **Digital and Streamlined** online services
7. Demonstrate effective **Resource Stewardship** to ensure efficiency and effectiveness in the delivery of quality outcomes and performance excellence
8. Work with and through **Stakeholders** to improve the tax ecosystem
9. Build **Public Trust and Confidence** in the tax administration system

ORGANISATIONAL AND GOVERNANCE ARRANGEMENTS

PREVIOUS ORGANIZATIONAL ARRANGEMENT

The PREVIOUS Organizational Arrangement:

- 1. Based on functions: Taxpayer Service, Enforcement and Customs**
- 2. Not to the Compliance Theory and Model**
- 3. Not centered around the Taxpayer from the perspective of:**
 - a. Segmentation**
 - b. Differentiated Compliance Approach**
- 4. Inefficient and multi-level management levels**
- 5. “Head Office Centric”**
- 6. Service & Delivery (Taxpayer Engagement) not always fully empowered**

NEWLY IMPLEMENTED ORGANIZATIONAL ARRANGEMENTS

OUR NEW ORGANIZATIONAL ARRANGEMENTS

SOUTH AFRICAN REVENUE SERVICE (SARS)

TAXPAYER ENGAGEMENT CLUSTER (OPERATIONS)				ENTERPRISE DESIGN & ENABLEMENT CLUSTER			ENTERPRISE SERVICES & SUPPORT CLUSTER
NATIONAL OPERATIONS	REGIONS		CENTRALISED OPERATIONS	SEGMENT LEADERS	PRODUCT-PORCESS OWNERS	ENTERPRISE ENABLEMENT	
	STANDARD OPERATIONS	SEGMENTED OPERATIONS					

OFFICE OF THE COMMISSIONER

GOVERNANCE WITHIN SARS

SARS GOVERNANCE & MANAGEMENT COMMITTEES

[GOVERNANCE WITHIN SARS]

EXCO

CLUSTER COMMITTEES

TAXPAYER ENGAGEMENT
CLUSTER COMMITTEE

ENTERPRISE DESIGN AND ENABLEMENT
CLUSTER COMMITTEE

ENTERPRISE SERVICES AND SUPPORT
CLUSTER COMMITTEE

NATIONAL REVENUE COMMITTEE

DIRECTORS FORUM (TAXPAYER ENGAGEMENT)

ENFORCEMENT COMMITTEE

CUSTOMS COMMITTEE

PEOPLE COMMITTEE

GOVERNANCE & RISK COMMITTEE

Regional Revenue
Steering Committees

Centralised Operations
Sub-cluster Committee

Regional Operations
Sub-cluster Committee

Segment leaders
Sub-cluster Committee

Design and Enabling
Sub-cluster Committee

Product and Process Owners
Sub-cluster Committee

Governance and Legal
Sub-cluster Committee

Financial and Physical Resources
Sub-cluster Committee

OFFICE OF THE COMMISSIONER

GOVERNANCE OF SARS

STATUTORY OVERSIGHT

[GOVERNANCE OF SARS]

MINISTER OF FINANCE

Legislation allows the Minister to establish additional Committees in consultation with the SARS Commissioner


PARLIAMENT

Audit & Risk Committee (ARC) ito Regulation 27.1.1 issued under PFMA, 2005

SARS

SARS/AG Steering Committee

 Bodies to which SARS accounts

 Legislatively required Committees

 Convened in terms of MOU between SARS & AG

THANK YOU!