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| **COSATU Submission:**  **Auditing Profession Amendment Bill**  **09 February 2021** |
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1. **Introduction**

COSATU welcomes and supports the Auditing Profession Amendment Bill. It will be a welcome tool in the fight against corruption in both the public and private sector.

It will help assert the rule of law over a sector, the auditing fraternity, that all too often found and finds itself complicit in state and corporate capture.

COSATU supports the objectives and provisions of the Bill and urges Parliament to prioritise its passage.

However, the Federation does not believe it goes far enough in two critical areas and has thus proposed two amendments for the consideration of the Select Committee.

These deal with first, with the Bill’s proposed reduction in the Independent Regulatory Board of Auditors (IRBA)’s required meetings per annum.

COSATU’s second proposed amendment seeks to address the Bill’s alarming failure to formalise the IRBA industry rule requiring mandatory rotation of auditing firms after set periods.

The Bill seeks to address problems experienced in the auditing profession as seen recently where some auditors helped cover up corruption in the firms and SOEs they were contracted to be playing an auditing and oversight role in, however it requires further strengthening to ensure it achieves the progressive objectives it has set and that are so badly needed.

1. **COSATU Support for the Auditing Profession Amendment Bill**

COSATU supports the Bill’s progressive amendments of the Auditing Profession Act.

These are badly needed and long overdue as seen with recent exposure of collusion between auditors and the companies and SOEs over whom they were paid to provide oversight.

**COSATU supports the provisions of the Bill, in particular its provisions for:**

**Board and Committee Membership Criteria:**

* Setting clear criteria to serve on the IRBA and its investigative and disciplinary committees, in particular that practicing auditors cannot serve on these structures whilst still practicing or registered to avoid conflicts of interest. The provisions of the bill to prevent Board and committee members from having shares, receiving profits or payments from auditing firms or auditors are important. These will help to insulate Board and committee members from dangerous conflicts of interest.

**Board and Committee Investigative and Disciplinary Procedures:**

* The further capacitation of the IRBA to investigate and discipline offending auditors is critical. We cannot afford for the Regulator not to be fully capacitated.
* The tightening of disciplinary procedures will hopefully help reduce the delaying tactics by those who seek to collapse such processes.
  + It is critical for Treasury to ensure that the Act’s Regulations specific clear timeframes to avoid inordinate delays.
* The provision for disciplinary processes to be open to the public is welcome and will enable the public and the media to scrutinise what is taking place and to put pressure on holding offending auditors accountable.

**Board and Committee Search and Seizure Powers:**

* COSATU supports the bold and comprehensive search and seizure powers allocated to the IRBA and its structures.
* These are in line with legal norms and required to ensure IRBA is duly capacitated to fulfill its mandate.
* These progressive provisions are critical in the fight against corruption and state capture. They must be supported, strengthened and implemented.
* Any attempts to water them down, must be opposed and rejected. Of particular concern, have been attempts by some in the industry to have these clauses withdrawn from the Bill.
* Diplomacy is not needed when dealing with criminals and their accomplices.

1. **COSATU Proposed Amendment for Consideration by the 6th Parliament:**

Whilst supporting the progressive clauses in the Bill and its speedy enactment, the Bill needs further strengthening in order to ensure the IRBA is fully capacitated to deal with delinquent and corrupt auditors.

**COSATU’s Proposed Amendments:**

* 1. **Clause 5 (5), page 3 – Reduction in Mandatory IRBA Meetings**

**Delete Clause 5 (5) on page 3** which reduces the required number of meetings of the IRBA and its committees from a minimum of 4 to 2 a year.

The task of the IRBA and its committees are of such importance that reducing the number of required meetings per annum by half, from 4 to 2, sends a wrong message in fact will then allow the IRBA and any nefarious elements to in effect downgrade its critical work whilst remaining in compliance with the law.

This is extremely reckless in the era of state capture where auditors have been found complicit in allowing the capture and collapse of the state.

**COSATU Proposal:**

* **Delete Clause 5 (5) in its entirety from the Amendment Bill.**
  1. **Insertion of New Clause to Compel Mandatory Rotation of Auditors**

One of the key causes of this failure has been the cosy relationship between some auditors and their clients. Some auditors are contracted by their clients for decades.

The King Report has highlighted the failure to require mandatory rotation as a key cause of an at times fatal and incestuous relationship. Auditors will turn a blind eye or even be complicit in illegal activities etc to protect their long-standing contracts.

The King Report recommends time limits to such auditing contracts. IRBA has instituted a rule requiring the mandatory rotation of auditing firms after 10 years.

This mandatory auditing firm rotation rule needs to be entrenched in law. Otherwise the IRBA can simply delete that rule in the face of massive resistance from compromised auditors.

The IRBA rule providing for this to be done every 10 years itself is too broad. It must be reduced to 5 years.

COSATU raised the need to insert such a provision in the Amendment Bill during the public hearings held on it in 2019 before the national elections. COSATU raised this matter again during the hearings held by the Portfolio Committee in October 2020. Treasury indicated that this could be considered in a future amendment bill as it had not considered it yet.

The danger with this, is that there is no guarantee when such an amendment bill will be developed or tabled at Parliament. It takes on average 5 years for a bill to move from departmental drafting to passage into law.

There is the risk that the IRBA rotation rule could be rescinded. Placing it into law safeguards this critical anti-corruption tool. Reducing it from 10 to 5 years will help to begin to clean up the sector.

The tendency by government and Treasury to pick and choose which proposals raised during the Parliamentary processes to consider or incorporate is worrying. The Parliamentary processes are enshrined in the Constitution and should not be reduced to a rubber stamp or spell checks.

Incorporating the rotation principle in this Amendment Bill is critical towards empowering IRBA and protecting the public from future revisionist lapses.

**COSATU Proposal:**

* **Insert new section in the Bill formalising in law the existing IRBA rule providing for the mandatory rotation of auditing firms and auditors every 5 years.**

1. **Other Related Matters**

It is also important for the Minister for Finance and Treasury to significantly increase the monetary level of fines provided for in regulations for offending auditors. Recent examples of miniscule fines that pale in comparison to the profits these auditing firms make needs to be addressed.

COSATU appreciates the need for government to address the deficit and public debt crises, but any reckless reductions in financial allocations to IRBA should be guarded against given the critical role that IRBA plays and the greater costs to the fiscus and the economy of an incapacitated that would fail to hold auditors to account.

Measures to provide for oversight of Auditing Committees in public and private sector need to be considered and possibly provided for in future legislation and regulations.

1. **Conclusion**

COSATU would like to thank the Select Committee for the opportunity to share its views on this critical Bill.

The Federation strongly supports this progressive Bill. It will be a key tool in the fight against corruption and towards cleaning up the industry.

COSATU urges the Select Committee to pass this important Bill.

It is however as indicated above for the Bill to be strengthened now to enshrine in law a mandatory 5 year rotation of auditing firms.

The provision to reduce the number of mandatory meetings of IRBA by half needs to simply be deleted.

Failure to do so will give comfort for those who are determined to continue looting.

Thank you for your time and consideration.

Yours comradely,

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