THE PUBLIC FINANCE MANAGEMENT AMENDMENT BILL

As presented to the Standing Committee on Finance: proposed by Mr. Lebogang Mothopi on the Amendment of the PFMA so as to integrate risk element as core to the Public Finance Management.

(The English text is the official text of the Presentation)

MR. LEBOGANG MOTHOPI

EXECUTIVE DIRECTOR, LEBUT SOLUTIONS JW (PTY) LIMITED

PRINCIPLES

WHEREAS Mid-Term Strategic Framework (MTSF), Implementation Plan: Functional, Efficient and integrated government mandates the State to get into partnership with Risk Management Companies for Social Corporate Investment Contribution;

WHEREAS Mid-Term Strategic Framework (MTSF), Roles and Responsibilities of Non-Government Stakeholders mandates private sector through Public-Private Growth Initiative (PPGI) to work in collaboration with relevant government Departments to ensure constraints and inhibitors are urgently addressed;

WHEREAS Governance King Codes (King IV) of the Republic of South Africa stipulates that the executive should delegate to a risk committee the ultimate responsibility to perform risk management oversight function;

PARTICULARS OF THE PRESENTATION: BE IT THEREFORE PRESENTED by Mr. Lebogang Mothopi, as follows: —

OBJECTIVES OF THE PRESENTATION

The primary objectives of this Presentation is: -

- To propose the amendment of the Public Finance Management so as to integrate risk element as core to the Public Finance Management

THE PUBLIC FINANCE MANAGEMENT AMENDMENT BILL [B41 – 2018] AND THE PUBLIC FINANCE MANAGEMENT AMENDMENT BILL [B13 – 2020]

PFMA Section	Question	Proposed Amendment	Comment
Section 7: Banking, cash management and investment framework. **Sub-Sec 1:** The National Treasury must prescribe a framework within which departments, public entities listed in Schedule 3 and constitutional institutions must conduct their cash management. **Sub-sec 2:** A department authorized to open a bank account in terms of the prescribed framework, a public entity or a constitutional institution may open a bank account only— **Sub-sec 2(a):** With a bank registered in South Africa and approved in writing by the National Treasury; and **Sub-Sec 3:** A department, public entity listed in Schedule 3 or constitutional institution may not open a bank account abroad or with a foreign bank except with the written approval of the National Treasury.	What role can big banks play in protecting public funds? Consider the following to determine the Banks role. - The role of MEC and an Accounting Officer in Public Finances. - High Value Transactions +250 Million Does South Africa have any public entity with an offshore bank account? And if yes, are their financial statements disclosed to the public?		***In determining the role of big banks in Public Finance Management, we propose the following clause be added to the PFMA and measures be taken to facilitate the initiation of the process.***
Proposed Additional Clause 7: Sub-Sec (6): A bank which has opened a bank account for a			

department, a public entity listed in Schedule 3 or a constitutional institution, or any other institution that holds money for a department, a public entity listed in Schedule 3 or a constitutional institution must promptly, in the case of any bank withdrawal of above R250 Million, request in writing, National Treasury approved reason (s) for withdrawal.			
Section 10: Delegation by National Treasury **Sub-Sec 2 (c):** May authorize a provincial treasury, in the case of subsection (1) (b) (c)— **Sub-Sec 2 (c)(i)** To sub delegate, in writing, the delegated power to an official in that provincial treasury, or to the holder of a specific post in that provincial treasury, or to the accounting officer for a provincial department, or to the accounting authority for a provincial public entity; or			**Specify the post mentioned in that provincial treasury. This is too vague and compels exploitation of the Act leading to irregular expenditure and lack of accountability within public finance management.**
Section 11: Control of National Revenue Fund **Sub-Sec 1:** The National Treasury is in charge of the National Revenue Fund and must enforce	What money can possibly be excluded from public finances if public finances are to benefit public interests? Where's the transparency?		

compliance with the provisions of section 213 of the Constitution, namely that— **Sub-Sec 1(a):** all money received by the national government must be paid into the Fund, except money reasonably excluded by this Act or another Act of Parliament; and			
Section 13: Deposits into National Revenue Fund **Sub-Sec (b)**: All money received by the national government must be paid into the National Revenue Fund, except money received by— **Sub-Sec (e):** The national government from donor agencies which in terms of legislation or the agreement with the donor, must be paid to the Reconstruction and Development Programme Fund;	Why is the money received by the National Public Entities not paid into the National Revenue Fund and where is it deposited? Why is it that the money received by national government from donors not included or paid into the national revenue fund? Why do we still have Reconstruction Development Programme within PFMA when we faded the RDP away and moved to the National Development Plan in 2011?		

Section 18: Functions and Powers **Sub-sec (1)** A provincial treasury must—		**Sub-Sec (1)(a):** Prepare the Provincial Budget and submit the Budget to a Provincial Risk Committee, to consider effects of uncertainty on Budget Objectives; **Sub-Sec (2)(d):** must monitor and review the implementation in provincial public entities of international, national and provincial norms and standards; **Sub-Sec (2)(e):** Must assist provincial departments and provincial public entities in building their capacity for efficient, effective and transparent financial management;	**As is, we have 20 Million allocated to the water economy for job creation when the water economy has no anticipated jobs for the current Mid Term (2019-2024).** **It can no longer be viewed as correct for the provincial treasury to assist as it "MAY".** **Based on what may the decision for capacity building be made, whereas capacity building shouldn't be an option to sustainable public finance management.** **(It should be a must)!**
Section 19: Annual Consolidated financial statements		**Sub-Sec (3):** The Provincial Risk Management Committee must, after considering possible control breaks submit the risk report to the MEC for finance in a province. *(Proposed inception of*	

		provincial risk committees)	
Section 21: Control of Provincial Revenue Funds		**Sub-Sec (3):** A provincial treasury must establish appropriate and effective risk and cash management, and banking arrangements for its Provincial Revenue Fund in accordance with the framework that must be prescribed in terms of section 7.	**Integrated risk management measures will enhance the preservation and administration of the provincial revenue fund.**
Section 25: Use of funds in emergency situations		**Sub-Sec (4)(a):** Must undergo a risk assessment process to consider effects of uncertainty on objectives and be reported to the provincial legislature and the Auditor-General within 14 days; and **Sub-Sec (5):** A report to a provincial legislature in terms of subsection (4)(a) must be submitted to the provincial legislature, integrating risk report for tabling in the legislature and made public.	
PROPOSED ADDITIONAL CLAUSE: Section 26: Sub-Sect (1) (a) Submit to the			

National and Provincial risk management committee to conduct risk assessment, so as to consider effects of uncertainty on financial objectives;			
Section 27: National Annual Budgets		**Sub-Sec (1):** The Minister must table the annual budget integrating risk report for a financial year in the National Assembly before the start of that financial year or, in exceptional circumstances, on a date as soon as possible after the start of that financial year, as the Risk Committee may determine. **Sub-Sec (g):** Proposals for financing any anticipated deficit for that financial year should undergo risk assessment to consider effects of uncertainty on proposal objectives.	**Leaving the minister to determine their dates of reporting to parliament is undermining international best practice in reporting and poses a threat to effective governance and financial management.**
Section 29: Expenditure before annual budget is passed		**Sub-Sec (1):** If an annual budget is not passed before the start of the financial year to which it relates, the Minister	

	What happens in the case where a need arises and there are new items on the budget that were previously not included in the previous annual budget appropriation and are beneficial to the public or public finance management?	should, in writing, inform Treasury of such miss-conduct before funds may be withdrawn in accordance with this section from the relevant Revenue Fund for the services of the state or the province concerned during that financial year as direct changes against the Fund until the budget is passed. **Sub-Sec (2)(b):** Depending on the magnitude of the requirement, it may- **Sub-Sec (2)(i):** During the first two months of that financial year, exceed 25 percent of the total amount appropriated in the previous annual budget;	

			It cannot be possible that the financial appropriations be the same as previous financial year appropriations (a clear sign of lack of growth and mechanisms for growth within public finance management). ***This perpetuates wishful reporting. (Use of the same report for different financial years).***
	What happens in the case where there are new items on the budget that were previously not included in the appropriation and is above 45% and it adds value to the public and economic interest? Why is that the funds appropriated for in subsection (1) not considered additional to funds appropriated for that relevant financial year?	**Sub-Sec (3):** The funds provided for in subsection (1) must be included in the funds appropriated for the relevant financial year, and any funds withdrawn in terms of that subsection must be regarded as forming part of the funds	

	Sub-Sec (4): This section does not apply in respect of a province unless a provincial Act provides that the withdrawal of funds in terms of this section is a direct charge against that province's Revenue Fund. Why is it that the section above does not apply in respect of a province if and when Objects of the PFMA are to regulate public finances at National and Provincial Spheres?	appropriated in the relevant annual budget for that financial year.	
Section 36: Accounting Officers		**Sub-Sec (5):** The employment contract of an accounting officer for a department, trading entity or constitutional institution must be in writing and, include performance standards and an element of risk identification at a strategic level. The provisions of sections 38 to 42, as may be appropriate, are regarded as forming part of each such contract.	

MOTIVATION

Attention: Standing Committee on Finance

Thank you for the opportunity to conduct business with Lebut Solutions. We have always been pro good governance and adequate financial management, be it as it may, we are of the view that the audit outcomes for national and provincial governments do not yet show the progressive and sustainable improvements required to prevent accountability and service delivery failures and deal with them appropriately and consistently. Risk Assessment and poor record in dealing with irregular expenditure continues, non-compliance with procurement supply chain management legislation persistently increased too, and Public Sector financial health continues to deteriorate.

We are determined to persevere in finding ways to encourage action that will lead to improved financial management within National and Provincial Governments, integrating risk element within the context of the PFMA, using ISO31000 Standard as reference. The novel approach of conducting real-time risk assessments enable proactive executive oversight to play in a consistent, coherent and formalized manner and assist the Chief Risk Officers to deal with the matters identified and reported in relation to risk management processes. The diversity of policies, strategies, departmental, programmes and projects covered by the real-time risk assessment required multi-disciplinary committees, and the capacity of an effective Public Private Growth Initiative (PPGI) to build and roll out risk management programme within National and Provincial Governments, performance and information systems auditing and the integrations of these specialists into our regular risk assessment stands us in good stead.

The Standing Committee on Finance acknowledges the required corrective actions and the need for speedy consequences. Our focus has therefore been on intensifying our advocacy for risk management, resilience and strong preventative controls in the public sector. Ultimately, we can succeed in achieving the full benefit of our enhanced powers only if all relevant role players in the overall ecosystem of accountability execute their functions accordingly. As part of our strategy to systematically champion risk management in the Republic of South Africa, we continue to pay special attention to those National, Provincial Departments and Entities that are critical to the functioning of National and Provincial Governments. We will work on key risk areas, areas of public interest and deepen their understanding of the unbundling process timelines.

Looking forward to a healthy public finance management system.

Kind Regards
Lebogang Mothopi