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11 August 2022

The Chairperson: Standing Committee on
Finance
Parliament of the Republic of South Africa
Cape Town
8000

Grain Building, 1st Floor, 477 Witherite Street

The Willows, Pretoria, South Africa, 0184

Attention: Hon. Maswanganyi

Mr Allen Wicomb

Ms Teboho Sepanya

Per email: awicomb@parliament.gov.za; tsepanya@parliament.gov.za

**Agbiz written submission on the Financial Intelligence Centre Act: Draft
Amendments to Schedules 1, 2 and 3**

Dear Honourable Maswanganyi, Ms Sepanya and Mr Wicomb

Agbiz would like to thank the Standing Committee for the opportunity to submit written comments. We trust that our input will assist the Portfolio Committee in its deliberations.

1. Who we are?

The Agricultural Business Chamber (Agbiz) is a voluntary, dynamic and influential association of agribusinesses operating in South and southern Africa. Key constituents of Agbiz include the major banks in South Africa, Development Finance Institutions, short term and crop insurance companies, agribusinesses, commodity organisations and co-operatives providing a range of services and products to farmers, and various other businesses and associations in the food and fibre value chains in the country. Conservative estimates attribute 14% of South Africa's GDP to the food and fibre value chain, although its proportionate contribution to the rural economy and rural job creation is significantly higher.

Agbiz's function is to ensure that agribusiness plays a constructive role in the country's economic growth, development and transformation, and to create an environment in which agribusinesses of all sizes, can thrive, expand and be competitive. One way in which we seek to achieve this is by providing thoroughly researched inputs on draft laws and policies affecting our members.

2. Introduction and general comments

As a responsible corporate citizen and the leading representative of agribusiness in South Africa, Agbiz and its members have committed to support the President's call to grow our economy in an inclusive manner.

Agbiz's membership consists of agricultural businesses, many of which extend credit to their clients, being the stakeholders in the farming sector both big and small. A large number of our members will be impacted on by the proposed changes in the FICA schedules as they are either providers of credit or may be considered to be dealing in high-value goods to the value of more than the R100 000 threshold. Compliance with FICA as an accountable institution will bring about substantial additional administration and cost for these members. These responsibilities include registration, adopting FICA policies, appointing a risk manager, reporting and doing consumer due diligence in respect of all customers. It seems that these requirements would apply to small business as well, who will probably struggle to carry the additional cost and administrative burden.

The definition of a dealer in high value goods is very broad. It is not clear who the target market is nor what the threshold will be for becoming a dealer in high-value goods, whether one or two transactions of this nature will cause a business to have to register and comply with all the FICA requirements in terms of reporting and doing due diligence. To use an example, livestock and wildlife stud breeders will sell their studs at auction from time to time. Would the seller be deemed the dealer or would the livestock auctioneers be the party responsible for complying with the FICA requirements? The value of these animals or animal products sold at auction are variable and there may be little way of knowing whether a breeding stud will surpass the R100 000 threshold when sold at auction. Is there any rationality in FICA compliance for a breeder whose animal is sold for R90 000 at auction versus a breeder whose animal sells for R105 000? This is but one example of an unintended consequence of vagaries in the definition.

Also, will such a business only have to comply during the financial year in which the transactions take place, or will they then have to comply forever? There is no definition of "dealer" or "high value goods". Agbiz wishes to point out that, in terms of European

Union legislation, only cash transactions would trigger compliance¹. Also, the agricultural sector is not a high-risk sector in terms of money laundering.²

3. Specific comments on the proposed amendments to the schedules

3.1. Lack of definitions

As pointed out above, there are no definitions of the terms “dealer” or “high-value goods”. Agbiz believes that these terms should be defined as they are very vague and broad. We would like to argue that the agricultural sector should be excluded in these definitions, as the agricultural sector is not a high-risk sector in terms of money laundering and the impact of applying FICA to the sector will add greatly to the cost of doing business in a sector that is critical to the economy and to food security in this country. Also, we believe that, if the sector is not excluded that “high value transactions” should be defined as cash transactions only.

3.2 Clauses 11(a) and (b) and 20

These clauses relate to credit providers and dealers in high-value goods in excess of R100 000. Agbiz has argued above that compliance with FICA for members who fall in these categories will add to the cost of doing business and that the agricultural sector should be excluded due to it not being a high-risk sector.

¹ <https://eur-lex.europa.eu/EN/legal-content/summary/preventing-abuse-of-the-financial-system-for-money-laundering-and-terrorism-purposes.html>

²<https://www.fsca.co.za/Regulatory%20Frameworks/Temp/4.4.1%20%20Sector%20Risk%20Assessment%20-%20Short%20Version%2031%20May%202019.pdf>

<https://sanctions.io/high-risk-industries-for-money-laundering-and-terrorist-financing/>

4. Conclusion

Thank you once again for the opportunity to submit comments and trust that you will consider our comments favourably.

Yours sincerely

A handwritten signature in black ink. It consists of a large, stylized 'A' followed by a period, then a large 'C', and finally the word 'rosby' in a cursive script.

Annelize Crosby

Your reference: **Annelize Crosby**
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