

**Standing Committee on Finance - Public
hearings on Draft Amendment of
Schedules 1, 2 and 3 to the Financial
Intelligence Centre Act, 2001
16 August 2022**

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SAICA support

- SAICA supports the FIC's initiatives to curb money laundering
- Changes left late
- Need to action swiftly

FATF report - Designated Non-Financial Business and Professions - not subject to AML

- High risk areas
- General compliance required –
- regulated and unregulated service providers
- Poor data reporting/ compliance
- Lack of monitoring and enforcement

Lack of clarity

Accountable Institution

AI: a **person** who carries on a business of preparing or carrying out transactions for a client”

Who is this person?

FIC Act defines a “Legal person” as:

“Any person, other than a natural person, that establishes a business relationship or enters into a single transaction, with an accountable institution, and includes a person incorporated as a company, close corporation, foreign company or any other form of corporate arrangement or association, but excludes a trust, partnership or sole proprietor”

Lack of clarity

Accountable Institution

SAICA members
("accountants")
Perform services in various
entities (Pvt co, CC,
Partnership etc)

Possible high
number of
people

All natural persons
performing the service -
register

Lack of clarity

Other regulators

- Various professions regulated
- Auditors
 - Business rescue practitioners
 - Tax practitioners

Detection
risk

BUT accountants
as such is not
regulated

Lack of clarity

Carries on a business

“a person who carries on a business of preparing or carrying out transactions for a client”

When is a
person
carrying on a
business?

Questions:

- How many times must you have done it?
 - What if ancillary to the business?
- What if natural person in company performs the service?
 - Is it applicable to person / business?
 - Who is the accountable institution?

Lack of clarity Trust arrangement

Trust
arrangement?

“business of creating a trust arrangement”
“business of preparing for or carrying out transactions related to the investment, safe keeping, control or administering of trust property”

Questions / comments:

- Clarification whether ALL trustees including independent trustees of a trust will now be classified as “accountable institution”
- Monitoring and enforcement of trustees
- Master’s office, end of 2018, 180 159 trusts registered
- Master’s office does not verify the data
- Trusts registered by SA citizens outside of SA outside of Master’s scope

Lack of clarity

Creation, operation or management

”creation, operation or management of a company”

Request clarity on the wording creation, operation or management
SAICA members in practice perform services such as accounting, tax, compilation of annual financial statements, audit of annual financial statements

Cost of Compliance

Will the administrative burden of registering numerous small practitioners/accountants curb money laundering and terrorist financing?

Recommendation:

- SMME's should be subject to a lesser requirement
- Other mechanisms such as transaction value etc. could be used to manage risk

Transitional provision

No transitional period

Proposals would need to be clarified so that “accountants” that are impacted are aware of their responsibilities,
Scalable, not all the compliance obligations can be done by a small sole practitioner
Practitioners would need time to implement these new requirements

End