126-941 NPO

Mr. Alllen Wicomb and

Teboho Sepanya

Parliament of South Africa

Dear Sirs

**COMMENTS ON THE ANTI MONEY LAUNDERING AND COMBATING TERRORISM FINANCING AMENDMENT BILL**

I am setting out my comments as per the Bill numbering. Reference to Act is the NPO Act, Act 71 of 1997.

1. Amendment of section 2 (b). The deletion of ‘can’ and insertion of ‘must’ is not supported.

The common law recognises the creation of a NPO. Normally common law provisions do not

get consolidated into statute law. It should remain as it is currently but the compliance issues

can be regulated by legislation.

Furthermore, the NPO Directorate cannot cope with current registrations. There will be a

flood of applications if this becomes mandatory and result in the prejudice of organisations.

NPO’s can be formed very quickly at present with no legal hindrance. NPO’s are formed by

people who are passion and community driven. This will have a negative impact on the

formation of NPO’s. NPO’s are formed according to needs. They can currently be formed and

be funded quickly. NPO’s must wait unfair long periods before they start

operating. Government control is not supported in an open and democratic society.

2. Amendment of section 5. This can lead to abuse. The definition is too wide. I say this with

authority as the Registrar is applying the provisions of the Income Tax Act when considering

applications. I challenged this a few years ago and cautioned the Registrar that it cannot

invoke provisions of other laws if they are not specifically empowered to do so in terms of

administrative law, due process and retrospective application is mala fide if no provision is

made for the retrospective application thereof.

We must be informed when and how this will be used. I don’t support the addition thereof.

3. Amendment of section 12. Not supported. Same argument for section 2(b) can be used.

4. Amendment of section 18. Supported because it’s in line with compliance.

5. Amendment of section 24. Supported because it’s in line with compliance.

6. Insertion of Chapter 3A. Supported because it’s in line with compliance. This brings NPO’s

more in line with the Companies Act which means that NPO’s must be governed ethically

and legally which is a good thing as funders will feel more at ease.

7. Amendment of section 29. Supported because it’s in line with compliance.

Please acknowledge receipt of this submission. Can we have full updated on the progress of the Bill. We take it that submissions will just ignored as you have not made public the criteria that you will use to adjudicate.

Yours faithfully

**S.A.BHOLA**

**(AVIN BHOLA)**

**EXECUTIVE DIRECTOR/CHAIRMAN**