



SUBMISSION:

**PARLIAMENT OF THE REPUBLIC OF SOUTH AFRICA
(SCOF - Standing Committee on Finance)**

Mr Allen Wicomb
awicomb@parliament.gov.za
Ms Teboho Sepanya
tsepanya@parliament.gov.za

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ORGANISATION:

The South African Institute of Stockbrokers (SAIS)

TYPE OF ORGANISATION:

Industry & Professional Body

CONTACT DETAILS:

ERICA BRUCE
[REDACTED]

KASHNIE NAIDOO
[REDACTED]

**GENERAL LAWS (ANTI-MONEY LAUNDERING AND COMBATting TERRORISM FINANCING)
AMENDMENT BILL**

INTRODUCTION

The South African Institute of Stockbrokers (SAIS) welcomes the opportunity afforded by The Parliament (SCOF - Standing Committee on Finance) to comment on the General Laws (Anti-Money Laundering and Combatting Terrorism Financing) Amendment Bill.

The SAIS is the professional body for stockbrokers (authorised users) and other financial markets professionals. It not only represents members but is also the industry representative. As the voice for industry, the SAIS has a responsibility to ensure that perspectives and opinions of the broader financial markets industry are considered when commenting and interacting with the regulators and government.

OBJECTIVE

The SAIS notes that the objective of the General Laws (Anti-Money Laundering and Combatting Terrorism Financing) Amendment Bill (The Bill) is to address the technical



compliance deficiencies that were identified in the Mutual Evaluation Report of South Africa issued by the Financial Action Task Force in 2021.

COMMENTS

We have considered the following proposed amendments to the General Laws (Anti-Money Laundering and Combatting Terrorism Financing) Amendment Bill:

- 1. The Financial Intelligence Centre Act, 2001**, by amending the definitions of “beneficial owner”, “domestic prominent influential person” and “foreign prominent public official”, and inserting a definition of “prominent influential person”; by amending the objectives of the Financial Intelligence Centre (“Centre”); by amending the functions of the Centre to include the provision of forensic information; by empowering the Centre to request information held by other organs of state; by providing for additional and ongoing due diligence measures, and by amending the process followed when there are doubts about the veracity of information; by aligning certain provisions and Schedules 3A and 3B to appropriately refer to domestic and foreign “politically exposed persons”, as distinct from “politically influential persons”, who will be dealt with in a new Schedule 3C; by amending certain provisions relating to resolutions of the Security Council of the United Nations; by amending the powers of access by authorised representatives to records of accountable institutions; by enabling the Centre to renew a direction not to proceed with a transaction; by providing for the safeguarding of information; by amending the provisions relating to the disclosure of information to the Centre and access to information by the Centre; by empowering the Minister to prescribe appropriate requirements relating to the access to personal information to ensure that adequate safeguards are in place as required by section 6(1)(c) of the Protection of Personal Information Act, 2013; by amending certain provisions relating to the risk management and compliance programme; by amending the offences provisions to empower the imposition of an administrative sanction; by amending the provision relating to the amendment by the Minister of Schedule 2; by amending Schedules 2, 3A and 3B, and by inserting a new Schedule 3C; and by substituting the index for an arrangement of sections; and
- 2. The Financial Sector Regulation Act, 2017**, by providing that a financial institution, key person, representative or contractor to which a regulator’s directive in terms of Part 2 of Chapter 10 has been issued must comply with the directive; by inserting a new Chapter dealing with beneficial owners into the Act, which provides a definition of “beneficial owner” and empowers standards and regulator’s directives to be made in relation to beneficial owners.



CONCLUSION

The SAIS notes that the amendments are aimed at responding to the deficiencies identified during South Africa's peer review conducted by the Financial Action Task Force (FATF). South Africa was found to be lacking in twenty areas and the Bill seeks to address about fourteen of the areas identified. The Protection of Constitutional Democracy against Terrorist & Related Activities Amendment (POCDATARA) Bill addresses two of the deficiencies noted. The remaining four are to be dealt with in subordinate regulations.

We note that the amendments are key in preventing South Africa from being grey listed. Grey listing can have an adverse impact on South Africa's international risk profile. As such, the SAIS has considered the General Laws (Anti-Money Laundering and combatting Terrorism Financing) Amendment Bill and have no additional comment to provide in relation to the proposed Bill.

As such, it is important to note that consistency and alignment of legislation and regulation is key in establishing and maintaining an effective South African regulatory landscape. The unintended consequence and impact of conflicting legislation and regulation must be carefully considered (per sector) and at all costs avoided. Timeous and sector specific and relevant guidance must be provided by regulators and supervisory bodies. This is a key component of the successful implementation of the preventative measures. The consequences of overregulation i.e., frictional costs and operations cost of implementation must be duly considered so as not to create a barrier to operate within the financial markets and ensure alignment with international best practices.

The SAIS wants to thank The Parliament (SCOF - Standing Committee on Finance) for the opportunity afforded to it, to comment on the General Laws (Anti-Money Laundering and Combatting Terrorism Financing) Amendment Bill. The comments provided are those of the SAIS.

Should you require to discuss this further, please do not hesitate to contact us.

Many thanks & kind regard

ERICA BRUCE