



**Progress update on the Road Accident  
Fund Investigation to the Standing  
Committee on Public Accounts**

**By Adv. Andy Mothibi**

**29 November 2023**

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**Proclamation R.44 of 2021**

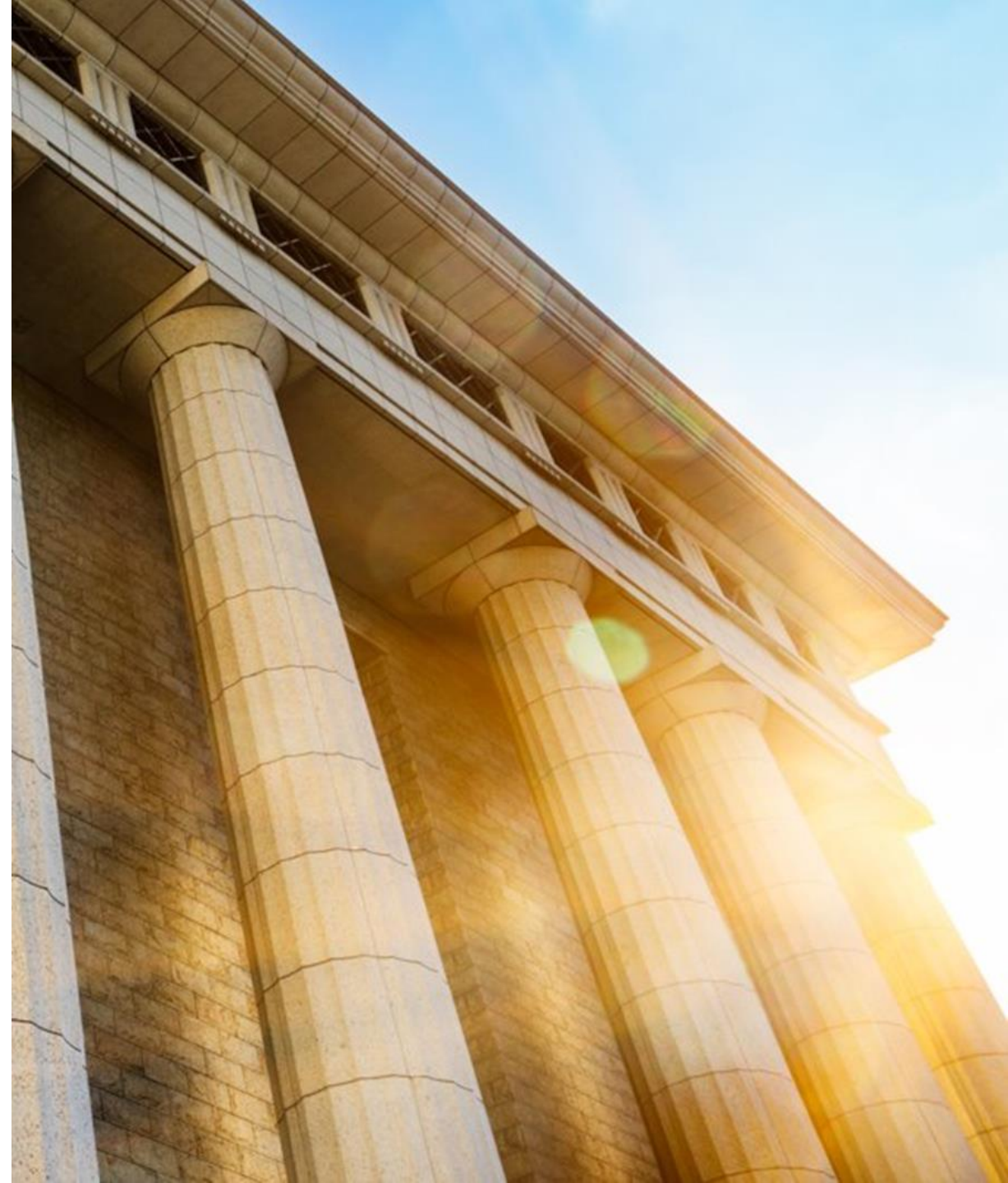
**SIU<sub>SA</sub>**

**STRIKING AGAINST CORRUPTION**

# OUTLINE

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1. **About the SIU**
2. **Proclamation details**
3. **Progress update**
4. **Observations**
5. **Systemic Recommendations**
6. **Invoices**





**SIU**<sup>SA</sup>  
STRIKING AGAINST CORRUPTION

# ABOUT THE SIU

# SIU FUNCTIONS & POWERS

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The SIU was established in terms of Special Investigating Units & Special Tribunals Act 74 of 1996 by Proclamation No. R118 of 2001. The SIU is a public entity that conducts investigations conducted by a Proclamation from the President, once the investigation is complete the President receives a final report with findings.

## Major Functions

- Investigate corruption, malpractice and maladministration
- Institute civil proceedings
- Referrals to relevant prosecuting authority
- Referrals for disciplinary action

## SIU Powers

- Able to subpoena, search and seize evidence, and interrogate witnesses under oath (once a proclamation has been issued)
- Institute civil litigation to recover state funds lost or to prevent future losses

## Out of SIU Mandate

- Arrest or prosecute offenders
- Implement disciplinary action
- Works closely with other relevant agencies where its powers fall short in order to ensure consequence management



# SIU CRITICAL SKILLS AND EXPERTISE

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**Forensic Data  
Analytics**

**Forensic  
Accounting**

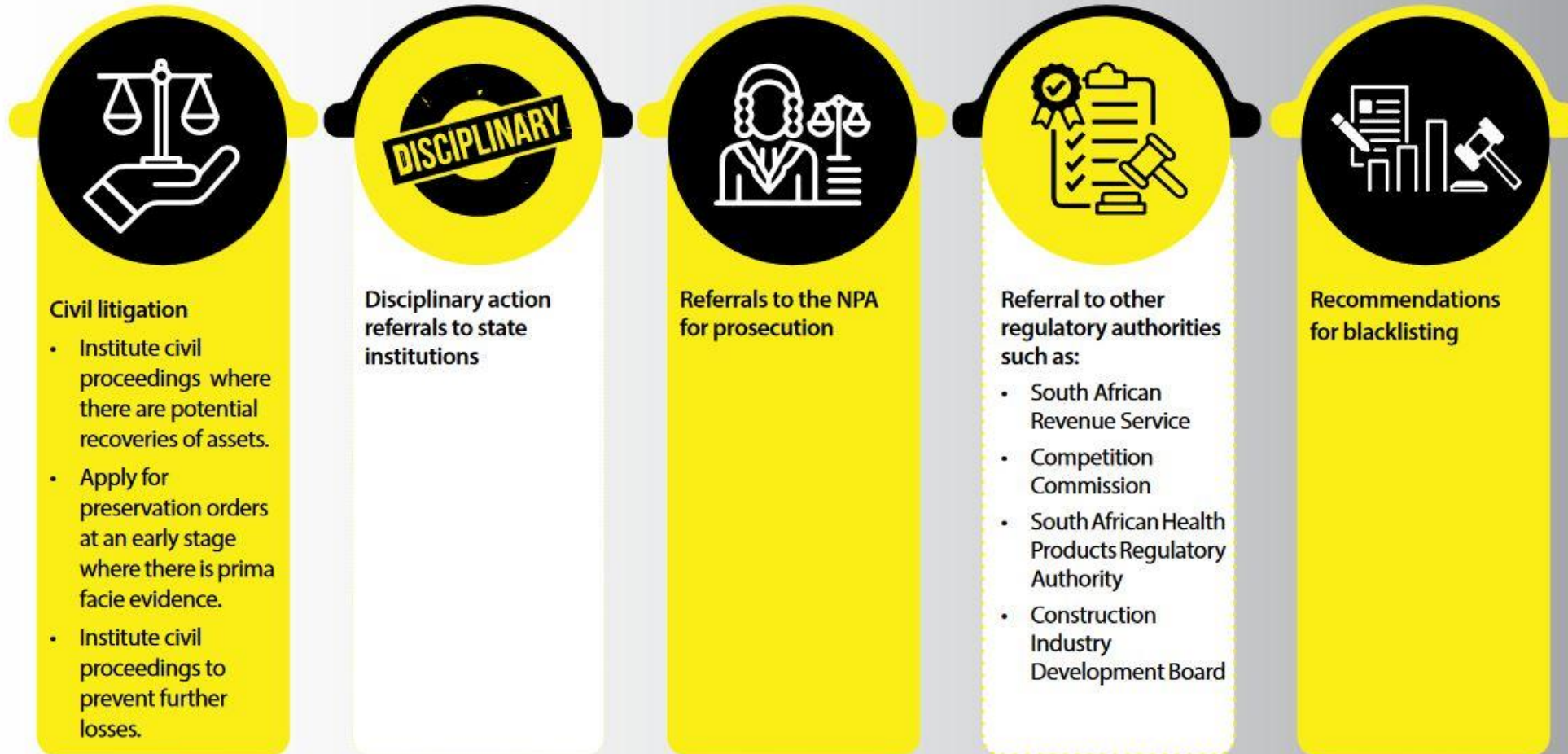
**Forensic  
Investigation**

**Civil litigation**

**Forensic Legal**

**Cyber  
Forensics**

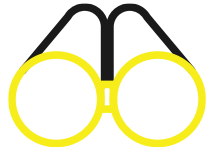
# SIU OUTCOMES & CONSEQUENCE MANAGEMENT



# THE SIU'S LEGISLATIVE MANDATE

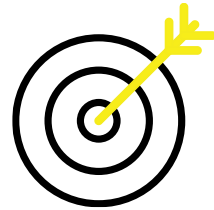
## Empowering Legislation

Special Investigating Units and Special Tribunals Act, 1996 (Act no. 74 of 1996) ("SIU act").



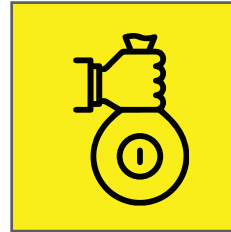
### Vision

The State's preferred and trusted anti-corruption, forensic investigation and litigation agency.



### Mission

We provide forensic investigation and civil litigation services to Combat corruption, serious malpractices and maladministration to protect the interest of the State and the public.



### Major Functions

- Investigate corruption, malpractice and maladministration
- Institute civil proceedings



### SIU Powers

- Able to subpoena, search and seize evidence, and interrogate witnesses under oath (once a proclamation has been issued)
- Institute civil litigation to recover state funds lost or to prevent future losses



### Out of SIU Mandate

- Arrest or prosecute offenders
- Implement disciplinary actions
- Works closely with other relevant agencies where its powers fall short



# PROCLAMATION DETAILS





# Proclamation details

## Proclamation No. R44 of 2021

The Proclamation R44 must be read with the Schedule thereto. The Schedule provides for the investigation of the following matters:

1. Serious maladministration in the affairs of the RAF in respect of -
  - a) Compensation payments made by the RAF to claimants and claimant's agent; and
  - b) Payments made by the RAF to service providers, in a manner that was -
    - i) Contrary to applicable -
      - aa) legislation;
      - bb) manuals, guidelines, practice notes or instructions issued by National Treasury; or
      - cc) manuals, policies, procedure, prescripts, instructions or practices of, or applicable to the RAF; or
    - ii) In a fraudulent or corrupt manner;

And any other related losses or irregular or fruitless and wasteful expenditure incurred by the RAF or the state result thereof.

2. Any irregular, improper or unlawful conduct by –
  - a) officials or employee of the RAF; or
  - b) any other person or entity,

in relation to the allegations set out in paragraph 1 of this Schedule.



# PROGRESS UPDATE



# IDENTIFIED FOCUS AREAS

The Investigation is divided into four phases.

- Focus Area 1: Duplicate claims-payments made to Attorneys, Claimants and Sheriffs and change of mandates; **Anticipated date of completion is 31 March 2024.**
- Focus Area 2: Procurement and tender irregularities (Fruitless and wasteful expenditure); **Anticipated date of completion is 30 April 2024.**
- Focus Area 3: Payments made to Service Providers in terms of RAF Act and/or Contract; **Anticipated date of completion is 30 June 2024.**
- Focus Area 4: Fraudulent Claims. **Anticipated date of completion is 30 June 2024.**



## **Focus Area # 1**

**Duplicate claims-payments made to Attorneys,  
Claimants and Sheriffs and change of mandates;**



## Duplicate claims-payments made to Attorneys, Claimants and Sheriffs and change of mandates

- The investigation focuses on the losses incurred to the State caused by duplicate payments made to several firms of Attorneys as at 01 March 2021, which also includes unlawful acts of appropriation.
- These duplicate payments were effected by the Sheriffs who executed upon writs of execution and received funds on behalf of the instructing attorney.
- The RAF has a payment system which dictates that when a claim offer is accepted whether by settlement or by a way of a court order, such claim will await 180 days before it is paid. As a result, the Attorneys would then attach the RAF bank account by the way of writs of execution served by the sheriff, causing the RAF bank to effect payment in terms of the writs upon the 180 days lapsing, the same claim would be paid again, thus constituting duplicate payment.





## Focus Area 1: Duplicate claim payments made to Attorneys, Claimants and Sheriffs and change of mandates

### OUTCOMES TO DATE

- The SIU is investigating 102 Law firms (which includes the Sheriffs) which received duplicate payments from RAF of approximately R340 060 277, 97.
- When approached with the evidence, several legal practitioners have opted to cooperate with the SIU investigation in defrayal of their indebtedness by signing acknowledgments of debt (AOD). From the approximate amount of R340 060 277, 97 the RAF and SIU have managed to recover as per the below amount.
- To date, the SIU has signed AoDs to the value of R 70 951 378.08 with actual amount recoveries to date amounting to R 41 578 297. 77
- The SIU through its investigation has reconciled the total monies paid directly to RAF to the amount of R 276 092 191.76 thus far.
- Based on the above it therefore means, of the R340 060 277 an amount of R317 670 489 has been recovered to date.



## OUTCOMES TO DATE

### **National Prosecuting Authority referral**

- In the duplicate payments made as alluded above, SIU found evidence pointing to criminality wherein trust account monies were misappropriated.
- Amongst those are the law firms which have signed the AoD's with the SIU.
- There are other law firms who have since refunded the duplicate payments directly to the RAF, however, the proof of payment submitted to the SIU depicts such payments were made either from the lending institutions or other accounts other than trust account.
- The SIU have referred twelve (12) law firms/legal practitioners to the NPA.



## OUTCOMES TO DATE

### Legal Practice Council (LPC)

- SIU found that there were attorneys who have received duplicate payments and have since been struck-off the roll, some have been suspended and others have since passed away.
- SIU is working with the LPC appointed *curator bonis* to recover the monies.
- Reconciliation is done periodically on the legal costs with due and payable to the suspended, struck-off the roll of practitioners and the deceased practitioners in order to recover monies due.
- Wherever there is evidence of misappropriation of trust funds on a practicing practitioner, referrals have been made to the LPC to take the appropriate action.
- Currently there are five (5) practicing practitioners who have been referred to the LPC.
- Change of mandate by the claimants on the implicated practitioners is handled by the appointed LPC *curator bonis* and regular updates are provided to the SIU on the bi-monthly meetings between the SIU and the LPC



## OUTCOMES TO DATE

### **Disciplinary Referrals**

- The SIU is currently in the process of identifying the RAF officials who cause the Duplicate payments.
- Disciplinary referrals will be made against those implicated officials who failed to ensure that proper controls are in place to mitigate duplicate payments or officials who failed to implement the controls.
- Those officials who left the employment of RAF will be referred to the NPA where there is evidence of criminality in their conduct.



## FINANCIAL INSTITUTIONS – MAJOR BANKS

- The writs were served to the bank/s in order to attach RAF bank account, that is, after the 180 days had lapsed.
- In the instances where a writ was served to the bank/s the bank would deduct the writ amount into the RAF bank account, transfer it to the suspense account, in order to satisfy the writ of execution.
- SIU has since established that there are substantial monies (millions) in the bank/s suspense account that were not disbursed and as such those monies are to date retained by the bank/s.
- According to one of the major banks, the amount currently sitting on their suspense account in respect of the writs amounts to R15 490 044.26
- The total sum is held in respect of judicial attachments that were served to them by various sheriffs against the RAF account with them.
- The reasons for retention of such monies are the subject of an investigation which is still ongoing.
- SIU is currently engaging with the bank/s and there is cooperation from the bank/s – this investigation is ongoing.





## **Focus Area # 2**

**Procurement and tender irregularities  
(Fruitless and wasteful expenditure)**



## Focus Area 2: Procurement and tender irregularities (Fruitless and wasteful expenditure)

- The focus area two (2) deals with payments made as a result of the irregular procurement processes followed by RAF.
- The SIU is currently conducting investigation into eight (8) contracts which were awarded to certain service providers by way of a procurement processes.
- Amongst these contracts there are procurement irregularities which were flagged by the Auditor General of SA.
- The SIU has identified potential cash and assets to be disinvested and/or disgorged and to be recovered from service providers. The processes encapsulate and are based on various legal processes which include reviews and setting aside of a contract, payment of money interdicted pending civil proceedings against these service provider/s and the signing of acknowledgments of debt.

## Focus Area 2: Procurement and tender irregularities (Fruitless and wasteful expenditure)



### 1. Claims backlog Contract

<b>Allegations</b>	It is alleged that the contract was issued out irregularly
<b>Potential Finding/ Observations</b>	<ul style="list-style-type: none"><li>• The project that was established to reduce the RAF claims backlog</li><li>• The contract was awarded to two(2) service providers.</li><li>• As per the need analysis the contract was earmarked to reduce backlog claims however when the contract was awarded it included new recent claims.</li><li>• There were also issues of performance on the contract as one of the service providers were given 2472-files and had only successfully completed 96 of those files.</li><li>• One of the contract was awarded to a consortium which one member of the consortium fell off during the contract and RAF Internal Audit conducted a verification on the BBBEE only on the full standing of the consortium.</li><li>• The budgeted amount for the contract over 5 years was R742 000 000.00 and the actual amount spent amounted to R312 670 586 and R530 566.98 for travel and accommodation for the duration of the contract excluding medical costs.</li><li>• The contract lasted for 3 years.</li><li>• SIU Found that in awarding this contract RAF contravened Section 217 (1) of the Constitution of the Republic of South Africa and section 51(1)(a)(iii) of the Public Finance Management Act ("PFMA")</li></ul>
<b>Outcomes</b>	<p><b>Civil recovery:</b></p> <p>There is potential recovery</p> <p>This matter will be referred to the SIU Civil Litigation for assessments and possibly to the Tribunal.</p> <p><b>NPA Referral</b></p> <p>The Investigation is ongoing and there may be potential NPA referrals</p> <p><b>Disciplinary referral</b></p> <p>There is potential DC referral, however the majority of the role players are no longer with the RAF. The response officials who left the employment of RAF will be cited in civil litigation papers.</p>



## Focus Area 2: Procurement and tender irregularities (Fruitless and wasteful expenditure)

### Contract 2: SAP Licenses Contracts

#### Allegations

It is alleged that the RAF procured SAP Licenses which the RAF is not using.

The contract value is R 1,811,764,00

#### Finding/Observations

The preliminary findings indicate that RAF is not using the said SAP licenses, thus this amount to fruitless and wasteful expenditure.

The investigation is ongoing

#### Outcomes

##### **Civil recovery:**

There is a potential recovery because the RAF is not using the licenses

##### **NPA Referral**

The investigation is ongoing and were there are matter pointing to criminality, same will be referred to the NPA.

##### **Disciplinary referral**

There are possible referral of Disciplinary Action to be made to RAF.

## Focus Area 2: Procurement and tender irregularities (Fruitless and wasteful expenditure)



### Contract 3: Office Furniture

<p><b>Allegations</b></p>	<p>Alleged that an internal audit report showed that the R36 million office furniture contract escalated to R40 million irregularly. Also, the legal opinion from the internal legal department indicated that the amendment of the Service Provider Agreement (SPA) which escalated the costs was irregular and invalid.</p>
<p><b>Finding/ Observations</b></p>	<p>The investigation is ongoing, thus no findings as yet. Analysis of documents is underway.</p>
<p><b>Outcomes</b></p>	<p><b>Civil recovery:</b> There is a potential recover to be made to RAF.</p> <p><b>NPA Referral</b> The matter is ongoing and where there are matter pointing to criminality, same will be referred to the NPA</p> <p><b>Disciplinary referral</b> There are possibility of DC Referrals</p>



## Focus Area 2: Procurement and tender irregularities (Fruitless and wasteful expenditure)



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### Contract 4: Office Building – Head Office

<b>Allegations</b>	It is alleged that the RAF rented a building and did not follow the correct procurement process. The process followed to rent that building was flawed.
<b>Finding/ Observations</b>	<p>The interim findings reveal that due procurement processes were not followed in the procurement of Head office building. It appears that the RAF went at length to ensure that this building was procured.</p> <p>The investigation is ongoing.</p>
<b>Outcomes</b>	<p><b>Civil recovery:</b></p> <p>There is a potential recovery. The potential amount will be determined after the quantification process.</p> <p><b>NPA Referral</b></p> <p>The matter is ongoing and were there are matter pointing to criminality, same will be referred to the NPA</p> <p><b>Disciplinary referral</b></p> <p>There are possibility of DC Referrals</p>

## Focus Area 2: Procurement and tender irregularities (Fruitless and wasteful expenditure)



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### Contract 5: Office Building – Johannesburg

#### Allegations

It is alleged that the RAF did not follow the correct procurement process in acquiring the Johannesburg Office Building.

#### Finding/ Observations

For a period of ten years there had been cancellation of this tender and the final rental was done by way of a deviation. There were many deviations and the preliminary findings points that this contract may have been awarded irregularly.

The investigation is ongoing.

#### Outcomes

##### **Civil recovery:**

There is a potential recovery

##### **NPA Referral**

The matter is ongoing and were there are matter pointing to criminality, same will be referred to the NPA

##### **Disciplinary referral**

There are possibility of DC Referrals

## Focus Area 2: Procurement and tender irregularities (Fruitless and wasteful expenditure)



### Contract 6: Fleet Tender

#### Allegations

It is alleged that an appointed service provider failed to deliver vehicles as per the SLA.

#### Finding/ Observations

- The preliminary findings indicated that the RAF delayed signing the SLA by over a year after it was awarded ,which resulted in the service provider losing the agreement with their respective bank and when the RAF finally signed the SLA and requested for the said fleet the Service Provider was unable to deliver.
- The investigation is ongoing

#### Outcomes

##### **Civil recovery:**

There is a potential recovery

##### **NPA Referral**

The matter is ongoing and were there are matter pointing to criminality, same will be referred to the NPA

##### **Disciplinary referral**

There are possibility of DC Referrals

## Focus Area 2: Procurement and tender irregularities (Fruitless and wasteful expenditure)



### Contract #7: Panels of Attorneys

#### Allegations

It is alleged that RAF cancelled the panel of attorneys without a plan

#### Finding/ Observations

- RAF had a panel of attorneys that represented RAF in court involving claim disputes.
- RAF had since cancelled the contract of the panel of attorneys.
- The rationale for such decision is a subject of investigation.
- SIU noted that there has been an increase in default judgements issued against RAF since the termination of the panel of attorneys
- The total amount of default judgements issued against RAF for cost and fees from 2018 until 2nd quarter of 2023 amounts to **R4 780 244 641.47** (Four Billion seven hundred and eighty Million, two hundred and forty-four Thousand, six hundred and forty-one Rand, forty-seven Cents.
- A sharp increase on the default judgments is noted between 2021 and 2022.
- There was a matter where a claimant was awarded a default court order amounting to R 11 171 022 which RAF failed to honour on time which led to this amount accumulating interest worth around R500 000 which was paid out in respect of the claimant.
- This investigation is at an advance stage and the team is finalizing the findings and giving the right of reply to persons involved.

#### Outcomes

##### **Civil recovery:**

There is a potential recovery, the quantification thereof will be determined upon conclusion of the investigation.

##### **NPA Referral**

The matter is ongoing

##### **Disciplinary referral**

There are possibility of DC Referrals

## Focus Area 2: Procurement and tender irregularities (Fruitless and wasteful expenditure)



### Contract 8: Cleaning and Security Services

#### Allegations

It is alleged that the RAF awarded expired tender for cleaning and security services

#### Finding/ Observations

- The preliminary finding is the RAF issued Security and cleaning service contract in a form of tender and RFQs.
- The investigation is ongoing

#### Outcomes

##### **Civil recovery:**

There is a potential recovery

##### **NPA Referral**

The matter is ongoing and were there are matter pointing to criminality, same will be referred to the NPA

##### **Disciplinary referral**

There are possibility of DC Referrals





**Focus Area # 3**

**Payments made to Service Providers in  
terms of RAF Act and/or Contract**

## Focus Area 3: Payments made to Service Providers in terms of RAF Act and/or Contract

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The focus area three (3) involves payments made to Service Providers by RAF in terms of their Act.

The RAF pays claims from service providers who have rendered services to the victims of the motor vehicle accident.

These claims includes, *inter alia*, ambulance claims, hospital claims, doctors claims and other experts.

## Focus Area 3: Payments made to Service Providers in terms of RAF Act and/or Contract



No	Name of the contract	Allegations	Findings/ observations	Outcomes
1	Service providers who have rendered services to the victims of the motor vehicle accident.	It is alleged that the service provider had been overpricing for its services	The investigation is ongoing and no findings have been identified as yet.	There is a possible recovery, NPA and Disciplinary referrals.
2	Various Hospitals, Doctors, Experts (actuaries) ambulances	It is alleged that the experts are submitting inflated invoices to RAF	<ul style="list-style-type: none"> <li>• The SIU has gathered information and data in respect of such claims and in some instance appointed experts to assist with the claims related to over-servicing by the hospitals, doctors etc.</li> <li>• The investigation also identified possible collusion between the RAF employee and the services providers.(Law firms and ambulances)</li> <li>• The investigation is ongoing.</li> </ul>	There is a possible recovery, NPA and Disciplinary referrals



# **Focus Area # 4**

# **Fraudulent Claims**



## Focus Area 4: Fraudulent Claims

<b>Allegations</b>	It is alleged that there was an attempt to change banks account/s of the service providers
<b>Finding/ Observation s</b>	<ul style="list-style-type: none"><li>• RAF received internal intelligence report related to the attempt to change banks account/s of the service providers.</li><li>• Upon investigation SIU established that the RAF employees have made bank fraudulent account changes on the RAF system and redirected monies meant for services providers into their personal bank accounts.</li><li>• The amount found to date on the personal account of those employees is R 1 901 140.00 (One Million nine Hundred and one Thousand one Hundred and forty Rand. The substantial amount of R1.9 m was used to purchase travelers' cheques.</li><li>• The investigation is ongoing</li></ul>
<b>Outcomes</b>	<p><b>Civil recovery:</b> There is a potential recovery</p> <p><b>NPA Referral</b> Upon finalization of the financial analysis the SIU will refer the matter to the NPA</p> <p><b>Disciplinary referral</b> There is possibility of DC Referrals</p>

**Focus Area 4: Fraudulent Claims**

<b>Allegations</b>	It is alleged that there are fraudulent claims submitted and paid by RAF
<b>Finding/Observations</b>	<p>The investigation covers all the provinces in the RSA and foreign claims.</p> <p>This investigation cover, inter alia, the following:</p> <ul style="list-style-type: none"> <li>➤ Both foreign and national claims;</li> <li>➤ modifications across the entire RSA;</li> <li>➤ Repudiated claims etc.</li> </ul> <p><b>Progress update</b></p> <p>The SIU is currently mirror-imaging the RAF claims system whereafter the SIU will conduct data analyses in order to identify the red-flags for further investigation.</p>
<b>Outcomes</b>	<p><b>Civil recovery:</b></p> <p>There are potential recoveries to be made to RAF.</p> <p><b>NPA Referral</b></p> <p>There are possible criminal referral to be made after the finalization of the investigation.</p> <p><b>Disciplinary referral</b></p> <p>There are possibility of DC Referrals after finalization of the investigation.</p>



# Observations





# OBSERVATIONS

- RAF claims system has many modules and thus SIU IT experts are working on ensuring the integrity of data and thereof accuracy is not compromised.
- There are attorneys who have since paid the money received in duplicate directly to the RAF. The SIU is investigating whether in such instances there were possible misappropriation of trust funds.
- Influx of Writs of Execution (during the time of our review) attaching the RAF bank account whilst the said claim is already loaded on the RAF payment process. Thus, payments would be made in terms of the writs of execution and the RAF would effect payment, constituting duplicate payments. Therefore, duplicate payments would be made to both the Sheriffs and to the Attorneys.
- The foregoing observation also revealed a lack or delay in reconciling the RAF bank account against the claims paid under the normal payment process and the writs payments.
- Although the investigation is ongoing there is an indication that the RAF may have made duplicate payments to the other experts, e.g. Doctors and other service providers.



# OBSERVATIONS

- The RAF employees who are key to the investigation are no longer in the employment of the RAF.
- The RAF had three instances of ransomware attacks that occurred during December 2020, June 2021 and August 2021, thus some of the information relevant to the investigation was lost – at this stage the impact is minimal, but the SIU investigation is ongoing and the impact will be monitored.
- The SIU noted the high risk of litigation, particularly from the persons of interest.
- The RAF claim system has many modules and thus more IT expert will be appointed to assist with the analysis of the system.
- There are instances whereby RAF blocked attorneys without just reasons to do so i.e. If there's one claim in question it affects all claims under the blocked attorney. As at March 2023 RAF the amount of R482 097 602. 42 for Attorneys were blocked for payment due to the RAF internal investigation.
- The RAF has a tendency of not deleting user profiles upon termination which results in those profiles used to commit fraud.
- Documents management at RAF remains a concern.



# SYSTEMIC RECOMMENDATIONS



# SYSTEMIC RECOMMENDATIONS

The SIU re-emphasizes that these systemic recommendations made on the basis of strength since our last SCOPA there has been no communication on whether same will be implemented.

- Periodic bank reconciliation in order to prevent and detect possible duplicate payment.
- Prior to effecting payments perform checks and balances on whether there had been any writs of execution on the claim.
- Review of the claims payment process.

# Summary of outcomes



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<b>KEY OUTCOMES</b>	<b>NUMBER / VALUE OF CASES</b>
<b>Civil matters before court</b>	<b>0</b>
<b>Value of contracts in respect of civil matters before court</b>	<b>n/a</b>
<b>Actual Cash recoveries</b>	<b>R317 670 489</b>
<b>Value of contracts set aside/civil actions</b>	<b>0</b>
<b>Disciplinary referrals</b>	<b>0</b>
<b>NPA referrals</b>	<b>12</b>
<b>Administrative referrals (SARS, Blacklisting, CIDB, LPC)</b>	<b>5</b>
<b>Interim Presidential Reports</b>	<b>Under review</b>



# ***INVOICES***





## INVOICE REPORT (To be updated when Ms Siavhe comes back from Leave next week)

Total	Amount
Total Invoices	R 3 376 805,00
Total paid by RAF	R 0,00
Total owed to the SIU	R 3 376 805,00





# THANK YOU

Hotline: 0800 037 774/0860 00 5050

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