



27 April 2008
 The Secretary to Parliament
 C/o Mr. Bradley Viljoen
 Committee Section
 Parliament of the RSA
 P.O. Box 15
 CAPETOWN
 8000

For attention: Bradley Viljoen

Dear Mr Viljoen

COMMENTS: FINANCIAL INTELLIGENCE CENTRE AMENDMENT BILL, 2008.

1. In responding to the invitation contained in Government Notice 403 of 2008, Transnet Limited ("Transnet") wishes to express its appreciation for being afforded the opportunity to make representation on the proposed Financial Intelligence Centre Amendment Bill, 2008 (hereafter "the Bill"). The purpose of the representations made below is to enhance legal certainty regarding the ambit and application of the Financial Intelligence Centre Act, 2001 (Act No. 38 of 2001) (hereafter "the Act"), especially in view of the increase in penalties being proposed and the introduction of the notion of "administrative sanctions".
2. It has been noted that both the explanatory summary of the Bill and the long title of the Bill indicate that the Bill is, amongst others, intended "to update references to legislation". This intention is given effect to in, for example, clause 9 of the Bill that amends section 34(3) of the Act by replacing the references to the repealed Stock Exchanges Control Act, 1985 and the Financial Markets Control Act, 1989 with a reference to the Securities Services Act, 2004. However, this intention and purpose is not carried through to Schedule 1 to the Act that also refers to the repealed Stock Exchanges Control Act, 1985 and the Financial Markets Control Act, 1989.

It is clear that Schedule 1 to the Act is the main defining instrument that defines the ambit or "footprint" of the Act in so far as "accountable institutions" are concerned. It follows, therefore, that there should be absolute certainty as to whether an entity is to be regarded as an "accountable institution" listed in Schedule 1 to the Act or not, especially in view of the new and onerous arrangements and penalties being introduced by the Bill. In so far as Schedule 1 to the Act contains references to

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Group Company Secretary: Z Stephen

outdated Acts and concepts, it is proposed that the provisions of Schedule 1 to the Act be reviewed and updated to ensure certainty and clarity as to which institutions are to be regarded as "accountable institutions" for purposes of the Act.

3. A review of Schedule 1 to the Act may also present an opportunity to provide clarity as to whether major public entities listed in Schedule 2 to the Public Finance Management Act, 1999 (Act No. 1 of 1999), are to be regarded as "accountable institutions" for purposes of the Act.

Kind regards

A handwritten signature in black ink, appearing to be 'PJ Bouwer', with a stylized flourish extending to the right.

PJ Bouwer

Chief Specialist: Regulatory Analysis