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Kamla Govender, Legal and Policy
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24 November 2016



Ms Angélique Visser
The Fiduciary Institute of Southern Africa
P O Box 67027
Bryanston
2021

By Email: angelique@fidsa.org.za / angelique@BarazaWealth.com

Dear Ms Visser

AMENDMENT OF THE SCHEDULES TO THE FINANCIAL INTELLIGENCE CENTRE ACT, 2001 (ACT 38 OF 2001)

Thank you for your response to the notice which was published on the Financial Intelligence Centre's website ("the FIC") in respect of the above subject matter. For ease of reference, a copy of the notice is attached.

As per the notice, the FIC has begun a process of reviewing South Africa's anti-money laundering and anti-terrorist financing legislative framework. The Financial Intelligence Centre Amendment Bill is one initiative in the review process. The amendments to schedules 1, 2 and 3 to the Financial Intelligence Centre Act, 2001 (Act 38 of 2001) ("FIC Act") is another initiative in the review process.

The process of amending the schedules to the FIC Act will widen the application of the FIC Act by including additional categories of institutions and businesses under its scope. This will improve the FIC's ability to obtain information concerning the identities and financial activities of customers of a wider range of financial and other institutions. In turn, this will advance FIC's ability to produce high-quality analysis for law enforcement and security agencies, as well as for supervisory bodies and policy formulating entities.

Furthermore, this will bring South Africa's legal framework against money laundering and the financing of terrorism in line with international standards set by the Financial Action

Task Force (FATF). South Africa is a member of the FATF, an international standard-setting body on measures to combat money laundering and terrorist financing.

As an FATF standard, South Africa is required to bring "trust and company service providers" (TCSPs) under the scope of money laundering and terrorist financing legislation, this being the FIC Act. TCSPs are often involved in some way in the establishment and administration of most legal persons and arrangements and in many jurisdictions they play a key role as the gatekeepers for the financial sector. TCSPs refers to all persons or businesses which, as a business, provide any of the following services to third parties:

- acting as a formation agent of legal persons;
- acting as (or arranging for another person to act as) a director or secretary of a company, a partner of a partnership, or a similar position in relation to other legal persons;
- providing a registered office; business address or accommodation, correspondence or administrative address for a company, a partnership or any other legal person or arrangement;
- acting as (or arranging for another person to act as) a trustee of an express trust or performing the equivalent function for another form of legal arrangement;
- acting as (or arranging for another person to act as) a nominee shareholder for another person.

The notice called for associations or bodies which represent any of these industries to contact the FIC for further engagement during the course of this process. If there are similar associations you are aware of that represent the trust service provider profession, kindly inform us of their details and we will make contact with them directly.

The details for our meeting with representatives of the trust service provider industry are as follows:

DAY AND DATE: Wednesday, 8 February 2017

TIME: 09:30 – 12:30

VENUE: Financial Intelligence Centre

The FIC hopes you will take the opportunity to engage in a constructive discussion during the consultation process. Should you be available to meet for this industry consultation,

please contact Thuli Lehong via e-mail at events@fic.gov.za by 15 December 2016. Once you have made contact with us, we will send you a confirmation.

Yours sincerely



PIETER SMIT
EXECUTIVE MANAGER: LEGAL AND POLICY



Financial
intelligence Centre

**NOTICE: AMENDMENT OF THE SCHEDULES TO THE FINANCIAL
INTELLIGENCE CENTRE ACT, 2001 (ACT 38 OF 2001)**



The Financial Intelligence Centre (“the Centre”) has begun a process of reviewing the current legislative framework against money laundering and terrorist financing with the view to improving South Africa’s measures to combat money laundering and terrorist financing. The Financial Intelligence Centre Amendment Bill is one initiative in the review process. The Bill was introduced in the National Assembly on 27 October 2015. Since then both Houses of Parliament have approved the Bill. Parliament has referred the Bill to the President for assent and signature. The amendments to Schedules 1, 2 and 3 to the Financial Intelligence Centre Act, 2001 (Act 38 of 2001) (“FIC Act”) is another initiative in the review process.

The process of amending the Schedules to the FIC Act will widen the application of the Act by including additional categories of institutions and businesses under its scope. This will improve the Centre’s ability to obtain information concerning the identities and financial activities of customers of a wider range of financial and other institutions. This will in turn improve the Centre’s ability to produce high-quality analysis for law enforcement and security agencies, as well as to supervisory bodies and policy formulating entities.

The widening of the scope of the FIC Act will also bring South Africa’s legal framework against money laundering in line with international standards set by the Financial Action Task Force (“the FATF”). South Africa is a member of the FATF, an international standard-setting body on measures to combat money laundering and terrorist financing. It was created at a G-7 Summit that was held in Paris in 1989 in response to mounting concern over money laundering and in recognition of the threat posed to banking systems and financial institutions worldwide.

Based on its experience in implementing the provisions of the FIC Act and supporting efforts of law enforcement and other agencies in combating money laundering and terror financing, the Centre has identified a number of activities that should be brought within the scope of the FIC Act, with a view to improving the transparency of the financial system. The proposal to include certain businesses or institutions is based, in part, on the Centre’s view that these businesses or institutions may present a higher risk of being used to carry out money laundering or terror financing activities. The Centre will therefore start a discussion process with businesses and institutions that perform the following categories of activities which are currently completely outside the scope of the FIC Act with a view to potentially including them in Schedule 1 to the FIC Act:

- Professional accountants
- Persons who provide trust and/or company services
- Dealers in high value goods (including, amongst others, precious metals and stones, motor vehicles and coins)
- Co-operatives which provide financial services, as defined in the Co-operatives Banks Act, 2007 (Act 40 of 2007)
- Short-term insurers as defined in the Short-Term Insurance Act, 1998 (Act 53 of 1998)
- Credit providers who are required to register as contemplated in section 40 of the National Credit Act, 2005 (Act 34 of 2005)
- Money or value transfer providers
- Providers of private security boxes or security vaults for the safekeeping of valuables
- Auctioneers, including sheriffs, as defined in the Sheriff's Act, 1986 (Act 90 of 1986) when performing the job of an auctioneer at a public auction
- Dealers in copper material
- Virtual currency exchanges where virtual currency is bought and sold for fiat currency (money that government has declared to be legal tender).

Associations or other bodies which represent any of these industries are requested to contact the Centre at any of the addresses below in order to establish the correct points of contact for further engagement during the course of this process:

Issued by the Director

Financial Intelligence Centre

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