



Financial  
Intelligence Centre

# The looming grey-listing threat – Why change legislation?

9 November 2022



# AGENDA

- Background
  - Legislative changes
  - The consequence of grey listing
  - Questions and answers
-



Financial  
Intelligence Centre

# Background

# Financial Action Task Force (FATF)



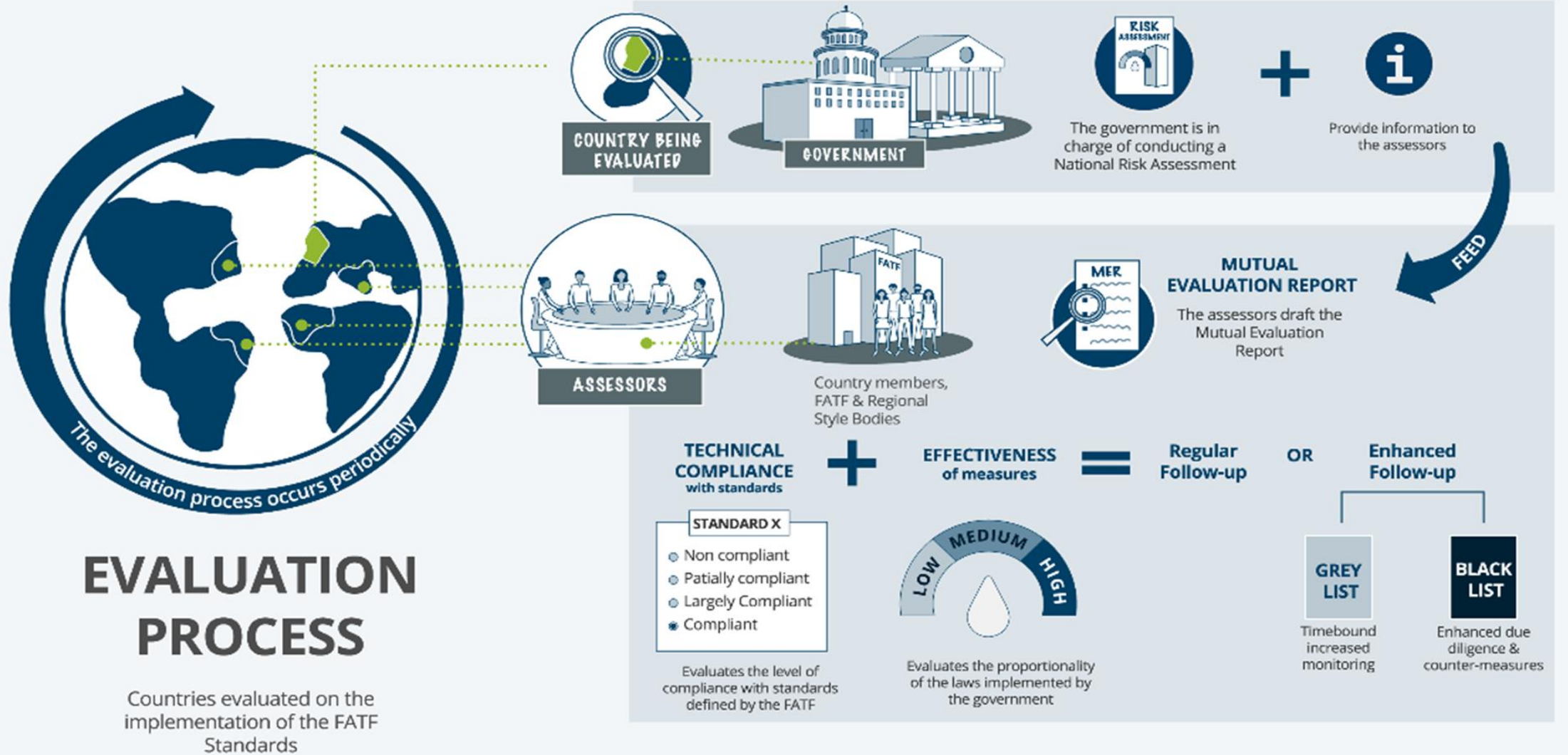
- Inter-governmental International standard setting body
- FATF 40 recommendations
- 11 Immediate Outcomes
- Standards on anti-money laundering and combating the financing of terrorism (AML/CFT)
- 2009 mutual evaluation, gaps identified, addressed in FIC Amendment Act 2017
- 2019 mutual evaluation, accepted in Plenary February 2021 and published in October 2021



# Mutual evaluation of South Africa

- A mutual evaluation is an important opportunity for a country to have its anti-money laundering and combating of financing of terrorism (AML/CFT) framework reviewed by its peers.
- The assessment was conducted by representatives from Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG), the Financial Action Task Force (FATF) and the International Monetary Fund (IMF).
- The assessment team met with representatives from government and industry to understand how they carried out their respective functions in implementing South Africa's AML/CFT measures.
- Following the on-site visit, the assessment team prepared a draft country report, which was adopted in June 2021 and is available on the websites of the FIC, FATF and ESAAMLG.
- Several deficiencies were identified by the assessment team, and now the various role players and stakeholders are working on addressing these deficiencies.

# Mutual Evaluation Process



# FATF Mutual Evaluation Methodology

## Effectiveness

Ratings that reflect the extent to which a country's measures are effective. The assessment is conducted on the basis of 11 immediate outcomes, which represent key goals that an effective AML/CFT system should achieve. See the FATF Methodology for more information.

- HE** High level of effectiveness - The Immediate Outcome is achieved to a very large extent. Minor improvements needed.
- SE** Substantial level of effectiveness - The Immediate Outcome is achieved to a large extent. Moderate improvements needed.
- ME** Moderate level of effectiveness - The Immediate Outcome is achieved to some extent. Major improvements needed.
- LE** Low level of effectiveness - The Immediate Outcome is not achieved or achieved to a negligible extent. Fundamental improvements needed.

## Technical Compliance

Ratings which reflect the extent to which a country has implemented the technical requirements of the FATF Recommendations. See the FATF Recommendations and the FATF Methodology for more information.

- C** Compliant
- LC** Largely compliant - There are only minor shortcomings.
- PC** Partially compliant - There are moderate shortcomings.
- NC** Non-compliant - There are major shortcomings.
- NA** Not applicable - A requirement does not apply, due to the structural, legal or institutional features of the country.



# Mutual evaluation of South Africa

South Africa received a poor ratings assessment

**Half (20) the ratings for FATF Recommendations are partially compliant (PC) or non-compliant (NC):**

- Compliant (3) – There are no shortcomings
- Largely Compliant (17) – There are only minor shortcomings
- Partially compliant (15) – There are moderate shortcomings
- Non-compliant (5) – There are major shortcomings

**SOUTH AFRICA'S MOST CRITICAL WEAKNESSES WERE ON TECHNICAL COMPLIANCE**

- Recommendation 5 (terrorist financing offence): PC
- Recommendation 6 (terrorist financing sanctions): NC
- Recommendation 10 (customer due diligence): PC

**ALL 11 IMMEDIATE OUTCOMES CRITICALLY WEAK (EFFECTIVENESS)**

- 8 Immediate Outcomes were MODERATE, 3 are LOW
- Moderate – IO achieved to some extent. Major improvements needed
- Low – IO not achieved or achieved to a negligible extent. Fundamental improvements needed



# Summary of South Africa's compliance ratings: Immediate outcome 1 to 11

MODERATE	<b>IO 1</b>	Risk, policy and coordination
MODERATE	<b>IO 2</b>	International cooperation
MODERATE	<b>IO 3</b>	Supervision
MODERATE	<b>IO 4</b>	Preventive measures
<b>LOW</b>	<b>IO 5</b>	<b>Beneficial ownership of legal persons and arrangements</b>
MODERATE	<b>IO 6</b>	Use of financial intelligence – ML/TF investigations
MODERATE	<b>IO 7</b>	ML investigation and prosecution
MODERATE	<b>IO 8</b>	Confiscation
<b>LOW</b>	<b>IO 9</b>	<b>TF investigation and prosecution</b>
<b>LOW</b>	<b>IO 10</b>	<b>TF preventative measures and financial sanctions</b>
MODERATE	<b>IO 11</b>	PF financial sanctions

## Effectiveness & Technical Compliance Ratings

**Table 1. Effectiveness Ratings**

IO.1 - Risk, policy and co-ordination <b>Moderate</b>	IO.2 International co-operation <b>Moderate</b>	IO.3 - Supervision <b>Moderate</b>	IO.4 - Preventive measures <b>Moderate</b>	IO.5 - Legal persons and arrangements <b>Low</b>	IO.6 - Financial intelligence <b>Moderate</b>
IO.7 - ML investigation & prosecution <b>Moderate</b>	IO.8 - Confiscation <b>Moderate</b>	IO.9 - TF investigation & prosecution <b>Low</b>	IO.10 - TF preventive measures & financial sanctions <b>Low</b>	IO.11 - PF financial sanctions <b>Moderate</b>	

Note: Effectiveness ratings can be either a High – HE, Substantial – SE, Moderate – ME, or Low – LE, level of effectiveness.

**Table 2. Technical Compliance Ratings**

<b>R.1</b> - assessing risk & applying risk-based approach <b>PC</b>	<b>R.2</b> - national co-operation and co-ordination <b>PC</b>	<b>R.3</b> - money laundering offence <b>LC</b>	<b>R.4</b> - confiscation & provisional measures <b>LC</b>	<b>R.5</b> - terrorist financing offence <b>PC</b>	<b>R.6</b> - targeted financial sanctions – terrorism & terrorist financing <b>NC</b>
<b>R.7</b> - targeted financial sanctions - proliferation <b>PC</b>	<b>R.8</b> -non-profit organisations <b>NC</b>	<b>R.9</b> – financial institution secrecy laws <b>LC</b>	<b>R.10</b> – Customer due diligence <b>PC</b>	<b>R.11</b> – Record keeping <b>LC</b>	<b>R.12</b> – Politically exposed persons <b>NC</b>
<b>R.13</b> – Correspondent banking <b>LC</b>	<b>R.14</b> – Money or value transfer services <b>PC</b>	<b>R.15</b> –New technologies <b>NC</b>	<b>R.16</b> –Wire transfers <b>LC</b>	<b>R.17</b> – Reliance on third parties <b>NC</b>	<b>R.18</b> – Internal controls and foreign branches and subsidiaries <b>PC</b>
<b>R.19</b> – Higher-risk countries <b>LC</b>	<b>R.20</b> – Reporting of suspicious transactions <b>LC</b>	<b>R.21</b> – Tipping-off and confidentiality <b>C</b>	<b>R.22</b> - DNFBBPs: Customer due diligence <b>PC</b>	<b>R.23</b> – DNFBBPs: Other measures <b>PC</b>	<b>R.24</b> – Transparency & BO of legal persons <b>PC</b>
<b>R.25</b> - Transparency & BO of legal arrangements <b>PC</b>	<b>R.26</b> – Regulation and supervision of financial institutions <b>PC</b>	<b>R.27</b> – Powers of supervision <b>PC</b>	<b>R.28</b> – Regulation and supervision of DNFBBPs <b>PC</b>	<b>R.29</b> – Financial intelligence units <b>LC</b>	<b>R.30</b> – Responsibilities of law enforcement and investigative authorities <b>C</b>
<b>R.31</b> – Powers of law enforcement and investigative authorities <b>C</b>	<b>R.32</b> – Cash couriers <b>PC</b>	<b>R.33</b> – Statistics <b>LC</b>	<b>R.34</b> – Guidance and feedback <b>LC</b>	<b>R.35</b> – Sanctions <b>LC</b>	<b>R.36</b> – International instruments <b>LC</b>
<b>R.37</b> – Mutual legal assistance <b>LC</b>	<b>R.38</b> – Mutual legal assistance: freezing and confiscation <b>LC</b>	<b>R.39</b> – Extradition <b>LC</b>	<b>R.40</b> – Other forms of international co-operation <b>LC</b>		

Note: Technical compliance ratings can be either a C – compliant, LC – largely compliant, PC – partially compliant or NC – non compliant.

FATF



Anti-money laundering and counter-terrorist financing measures

South Africa

Mutual Evaluation Report

October 2021

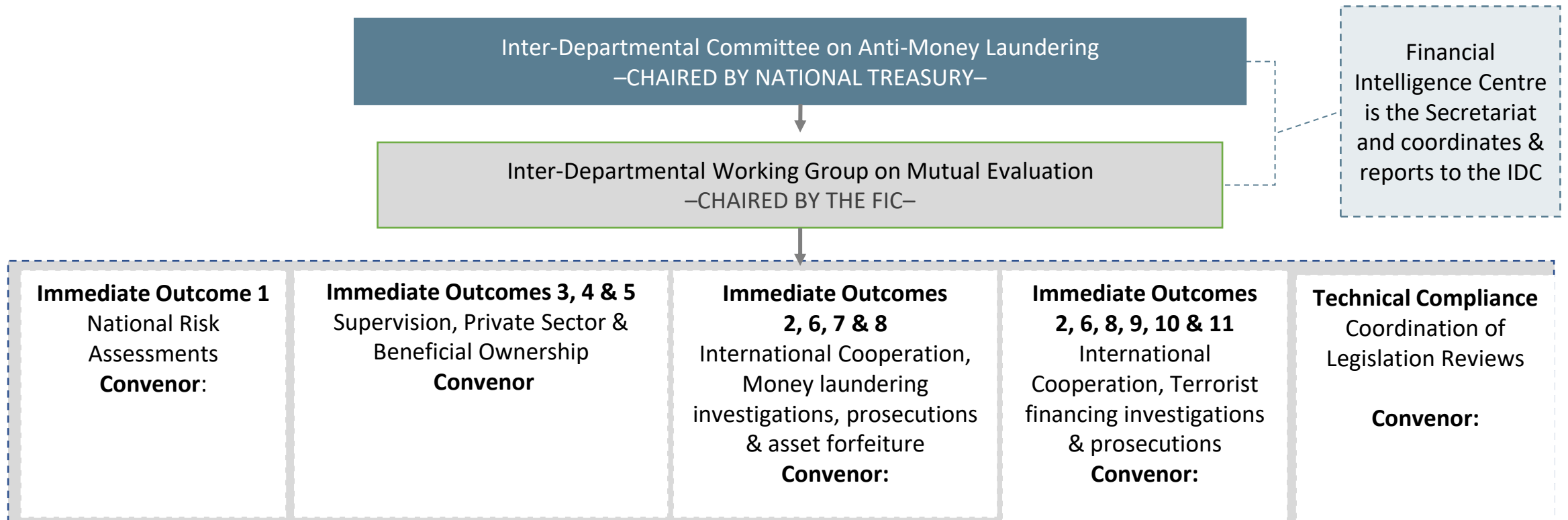


# Consequences of SA's Mutual Evaluation Report and demonstrated Remediation Efforts

- These results imply **significant strategic deficiencies** in South Africa's AML/CFT system.
- South Africa is **eligible for FATF enhanced follow-up procedures** and is subject to FATF **consideration as a jurisdiction posing high ML/TF risks** to the global financial system.
- South African must address the shortcomings within the one-year observation period, **(October 2021 – October 2022)** to avoid increased monitoring by the FATF under the International Co-operation Review Group (ICRG) (Grey Listing) process potentially from February 2023.
- If what is required is not achieved by the end of the observation period, and should SA not be able to demonstrate to the FATF ICRG sufficient country progress in enhancing effectiveness it will be placed on FATF's **"GREY LIST"** (as a **jurisdiction under increased monitoring**)
- **A country can remain on the grey list indefinitely but can also be removed from the grey list subject to it satisfying all concerns and remedying all identified ICRG action items**

# South Africa ME Remediation Co-ordination Cabinet-approved Co-ordination Mechanism

- South Africa established an Interdepartmental Working Group (IDWG) on the mutual evaluation follow-up, chaired by the FIC and reporting to the IDC on AML/CFT chaired by the DG NT, to coordinate government's response to the findings and recommended actions arising from the mutual evaluation report.
- The IDWG comprises law enforcement, supervisors, ministries, departments and agencies.



Financial Intelligence Centre is the Secretariat and coordinates & reports to the IDC



Financial  
Intelligence Centre

# **Legislative changes “Omnibus Bill” – General Laws (AML & CTF) Amendment Bill (Bill 18 of 2022)**



# Legislative changes

- Proposed changes to legislation to address the technical deficiencies identified in the Mutual Evaluation Report
- Legislative changes to bring us closer to compliance with the FATF standards
- Legislative changes to provide foundation for improvement in effectiveness
- Improved compliance with technical and effectiveness standards to prevent or to shorten grey listing



# General Laws (AML & CFT) Amendment Bill 18 of 2022

- Cabinet has approved tabling of the General Laws (Anti-Money Laundering and Combating Terrorism Financing) Amendment Bill in Parliament, demonstrating its commitment to the fight against corruption, money laundering and terror financing.
- The proposed amendment of five pieces of legislation which are administered by different Ministers seeks to fully satisfy the technical compliance deficiencies (deficiencies relating to the adequacy of laws and legal frameworks related to the 40 FATF Recommendations) as identified in the Mutual Evaluation Report.
- To ensure that the necessary laws are enacted as soon as possible in line with the need to show progress in our report back to the FATF, all amendments across several Acts are incorporated in one Omnibus Bill.
- In parallel, the Protection of Constitutional Democracy against Terrorist and Related Activities Amendment Bill, 2022 (administered by the Minister of Police) is currently before Parliament and is expected to be enacted by November 2022.

# General Laws (AML & CFT) Amendment Bill 18 of 2022

- The Omnibus Bill seeks to address deficiencies in at least 14 of the 20 Recommendations, including an appropriate enhancement of powers and procedures for regulatory authorities. A separate Bill, the **Protection of Constitutional Democracy against Terrorist and Related Activities Amendment Bill, 2022**, deals with 2 further (and core) Recommendations.
- The outstanding 4 deficient Recommendations will be dealt with via policy processes and mechanisms to be developed by October/November 2022. The Amendment Bill proposes to amend the following laws:
  - Trust Property Control Act, 1988: Minister of Justice and Correctional Services
  - Non-Profit Organisations Act, 1997: Minister of Social Development
  - Financial Intelligence Centre Act, 2001: Minister of Finance
  - Companies Act, 2008: Minister of Trade, Industry and Competition
  - Financial Sector Regulation Act, 2017: Minister of Finance.



# Legislative changes - Omnibus Bill

## Amendments to the TPCA

FATF Recommendation 25 requires countries to take measures to prevent the misuse of trusts for money laundering or terrorist financing

- Countries should ensure that there is adequate, accurate and timely information on trusts, including information on the trustee and beneficiaries, that can be obtained or accessed in a timely fashion by the authorities
- The amendments to the Trust Property Control Act address the deficiencies relating to trustees being required to obtain full information on beneficial ownership when they are creating trusts
- Amendments to the Trust Property Control Act entail:
  - **Clause 1** inserts definitions of “accountable institution” and “beneficial owner” in section 1
  - **Clause 2** amends section 6 to specify matters disqualifying a person from acting or continuing to act as a trustee
  - **Clause 3** amends section 10 to require a trustee to disclose their position as trustee to any accountable institution with which the trustee engages in that capacity, and to make it known to the accountable institution that the relevant transaction or business relationship relates to trust property.

# Legislative changes - Omnibus Bill – Explanation of the different clauses

## Amendments to the TPCA

- **Clause 4** amends section 11(1) to require that a trustee records the prescribed details relating to accountable institutions which the trustee uses as agents to perform any of the trustee's functions relating to trust property and from which the trustee obtains any services in respect of their functions relating to trust property.
- **Clause 5** inserts a new section 11A that specifies information that must be kept by trustees in relation to the beneficial ownership of the trust, requires the Master to maintain a register containing information relating to the beneficial ownership of trusts, and provides for the access to information regarding beneficial ownership.
- **Clause 6** amends section 19 to specify that a failure by a trustee to perform duties in terms of sections 10(2), 11(1)(dA), and 11A(1) of the Act is a criminal offence.
- **Clause 7** amends section 20 to specify that a trustee may be removed by the Master if the trustee becomes disqualified to continue to act as a trustee.

# Legislative changes - Omnibus Bill

## Amendments to the NPO Act

- The objective of FATF Recommendation 8 is to ensure that NPOs are not misused by terrorist organisations. It requires countries to review the adequacy of laws and regulations that relate to NPOs which the country has identified as being vulnerable to terrorist financing abuse
- The registration and compliance with the act of all non-profit organizations to be made mandatory, including legal requirements relating to governance, transparency and accountability
- The Directorate for non-profit organisations to be granted powers to collaborate, co-operate, co-ordinate and enter into arrangements with other organs of state and also to disqualify a person from becoming an office bearer for non-profit organisations or to remove existing office bearers
- Non-profit organisations to provide prescribed information relating to office bearers, controls, governance and operations to the Directorate and for that information to be maintained by the Directorate
- Offences relating to the failure to comply with section 12 and section 18(1)(bA) of the Act, to be included.

# Legislative changes - Omnibus Bill

## Amendments to the FIC Act - Proposed Amendments relating to Beneficial Owner and CDD

- The **definition of 'beneficial owner'** is amended to ensure that the definition encapsulates every natural person who is a beneficial owner of a client that is a legal person, partnership or trust – 'look through' principle
- Section 21B is amended to provide for instances **where the partners** in a partnership or, in the case of trusts, trustees or beneficiaries **are legal persons**
- The amendment to section 21B(4) relates to the **additional CDD measures** to be taken in respect of all **parties to a trust** i.e, founders, trustees and beneficiaries
- Section 21C to provide for instances where the accountable institution suspects that a transaction or activity is suspicious in terms of section 29 (STR) **and the institution reasonably believes that performing the CDD measures in terms of section 21C will disclose to the client that a STR** will be made to the FIC, it may discontinue the CDD process and consider filing an STR

# Legislative changes - Omnibus Bill

## Amendments to the FIC Act - Proposed Amendments relating to Politically Exposed Persons

- **Schedule 3A** is amended to **change the name to 'domestic politically exposed persons'** and to provide for those individuals to be considered a domestic politically exposed person if that person **currently holds or has held the position at any time**
- **New Schedule 3C** named **'prominent influential persons'**. An individual is considered to be a prominent influential person if the person currently holds the position, including in an acting position for a period exceeding six months or has held the position at any time in the preceding 12 months
- **Schedule 3B** is amended to **change the name to 'foreign politically exposed persons'** and the term 'at any time in the preceding 12 months' is deleted to provide that such an individual is considered a foreign politically exposed person if the person **currently holds or has held** the position listed in Schedule 3B

# Legislative changes - Omnibus Bill

## Amendments to the FIC Act - Proposed Amendments relating to the Risk Management and Compliance Programme

- Section 42 is amended to include the requirement that accountable institutions **must take into account the proliferation financing risks** when developing its RMCP
- Section 42 is amended to provide for the manner and processes by which group-wide programmes of an accountable institution for all its branches and majority owned subsidiaries is implemented so as to enable the institution to comply with the requirements of the Act. This also extends to the **exchange of information** within its branches or subsidiaries relating to the analysis of STRs. Institutions are now also required to have **adequate safeguards to protect the confidentiality of information exchanged**
- Section 42 also provides for the additional obligation for AIs to provide for the manner in which the AI will apply appropriate additional measures to manage the risks if the host country does not permit the implementation of measures required in terms of the Act

# Legislative changes - Omnibus Bill

## Amendments to the FIC Act - Proposed Amendments relating to Targeted Financial Sanctions and Proliferation Financing

- The **definition of “proliferation financing” is added** consistent with the term being introduced through the amendments contained in the Bill
- Section 26A is amended to provide for the resolutions of the United Nations Security Council to become **enforceable immediately on the adoption of a resolution**
- Section 26B prohibits, among others, any person from transacting with a person or entity identified in terms of a resolution of the United Nations Security Council. The amendment extends this prohibition to also **include persons who are acting on behalf of or at the direction of the designated person or entity**

# Legislative changes - Omnibus Bill

## Amendments relating to the Companies Act

- FATF Recommendation 24 requires countries to ensure that there is adequate, accurate and up-to-date information on the beneficial ownership and control of legal persons that can be obtained or accessed rapidly and efficiently by the authorities, through either a register of beneficial ownership or an alternative mechanism. The main deficiencies addressed in the amendment to the Companies Act relate to the finding that beneficial ownership information is not always timely available to the authorities.
- Proposed amendments include a definition of “beneficial owner”, the provision for a comprehensive mechanism through which the Commission can keep accurate and updated beneficial ownership information.
- In addition, provision is made for a requirement for a company to keep a record of the natural person(s) who owns or controls the company as per the definition of “beneficial owner”, and to provide for specified timelines within which the company must record any changes in this information.





# Legislative changes - Omnibus Bill

## **Amendments relating to the Financial Sector Regulation Act**

- Provision that a financial institution, key person, representative or contractor to which a regulator's directive has been issued must comply with the directive.
- Insertion of a new Chapter in the Financial Sector Regulation Act dealing with beneficial owners, providing for a definition of "beneficial owner" for the purposes of the Chapter, addressing standards in relation to beneficial owners and empowering regulator's directives to be made in relation to beneficial owners.

# Amendments to the Schedules of the FIC Act

## Schedule 1

- Item 1: **Legal practitioners:** Technical amendment – to take into account new legislation. Following the repeal of the Attorneys Act, 1979 (Act 53 of 1979), the Legal Practice Act, 2014 (Act 28 of 2014) (LPA) was introduced. Included in this amendment Item are attorneys practicing for their own account; advocates that practice with a Fidelity Fund Certificate, that is, those advocates that are able to deal directly with the clients from the public, and legal firms. The FC will be the supervisor of this sector once the Schedules amendments are approved by Parliament and the Minister publishes it in Government gazette.
- Item 2: **Trust service providers** – Amendment to widen current Item 2 – to include certain activities carried out by trust and company service providers, including accountants, in line with the FATF requirements. Currently the FIC is the supervisor of trust service providers that fall under this Item. The FIC will be the supervisor of this sector of trust and company service providers, including accountants that carry out the listed activities under Item 2.

# Amendments to the Schedules of the FIC Act

## Schedule 1

- Item 11 – **Credit providers** – amendment to widen this category to include all types of financial institutions in line with the FATF standards. The FIC will be the supervisor.
- New Item 20: **High-value goods dealers** - will include businesses dealing in high-value goods receiving payments in any form of R100 000 or more per item, whether payments are a single transaction or more operations. These include motor vehicle dealers, Kruger rand dealers, dealers in precious metals and precious stones. The wording of the new item does not limit the item to dealers in specific types of goods. This means that any business that deals in goods that are priced at R100 000 or more falls in this category.
- The FIC currently is the supervisor of motor vehicle dealers and Kruger rand dealers. However, the additional businesses of dealers in precious metals and stones and other types that will under this Item will be supervised by the FIC. It is a deficiency identified by the FATF that dealers in precious metals and dealers in precious stones are not covered under the scope of AML/CFT.

# Amendments to the Schedules of the FIC Act

## Schedule 1

- New Item 21: **South African Mint Company** (RF) Proprietary Limited (SA Mint). Its business includes selling collectable and non-circulation coins of different precious metals to the retail trade. The SARB and SA Mint requested that they be specifically listed under Schedule 1. The FIC is currently the supervisor of Kruger rand dealers and will supervise this sector.
- New Item 22: **Crypto asset service providers** (CASPs). The inclusion of this sector was necessitated by the revision in the FATF standards which require that countries regulate CASPs for AML/CFT. The FIC will be the supervisor.
- Once the FSCA amends its FAIS legislation to deal with the licensing of this CASP sector – discussion will be had regarding the supervision of the sector by the FSCA.

# Amendments to the Schedules of the FIC Act

## Schedule 1 – Related Supervisory Bodies

The FIC is not the supervisor of these sectors –

- New Item 7A: **Co-operative banks** to be included - PA
- Item 8: **Long-term insurance business** – Amendment. The status quo of item 8 (and 12) to remain, however, reinsurance business will be excluded - PA
- New Item 23: **Clearing system** participants for facilitation of electronic funds transfer. This is to enable the capture of electronic payments made through non-bank clearing houses. The National Payment System Department (NPSD) of the South African Reserve Bank proposed the inclusion of this Item. – NPSD

## Schedule 2

- Deletion of Item 5 – Independent Regulatory Board for Auditors
- Deletion of Item 6 – National Gambling Board
- Deletion of Item 8 – Law Societies – (The FIC will supervise the legal profession as agreed with Legal Practice Council)

## Schedule 3

- Deletion of Items 1 and 2: Motor vehicle dealers and Kruger rand dealers – would fall under high value goods dealers (where the FIC will be the supervisor)



Financial  
Intelligence Centre

# The consequence of grey listing

# FATF International Co-operation and Review Group (ICRG) Review Process

- Where a country which **achieved poor results on its Mutual Evaluation**, specifically:
  - it has 20 or more non-Compliant (NC) or Partially Compliance (PC) ratings for technical compliance; or
  - it is rated NC/PC on 3 or more of the following Recommendations: 3, 5, 6, 10, 11, and 20; or
  - it has a low or moderate level of effectiveness for 9 or more of the 11 Immediate Outcomes, with a minimum of two lows; or
  - it has a low level of effectiveness for 6 or more of the 11 Immediate Outcomes.
- The FATF's International Co-operation Review Group (ICRG) oversees the review process of the jurisdictions
- A jurisdiction that enters the ICRG review process as a result of its mutual evaluation results has a **one-year Observation Period** to work with the FATF to address deficiencies **before possible public identification**
- During the review process the FATF considers the strategic AML/CFT deficiencies identified, and progress made
- If **progress is insufficient** to address its strategic deficiencies, the FATF develops an action plan with the jurisdiction to address the remaining strategic deficiencies.

# What does the “grey list” mean?

- **Jurisdictions under increased monitoring** actively work with the FATF to address **strategic deficiencies** in their regimes to counter money laundering, terrorist financing, and proliferation financing.
- When the FATF places a jurisdiction under increased monitoring, it means the **country has committed to resolve swiftly the identified strategic deficiencies within agreed timeframes and is subject to increased monitoring.**
- This list is often externally referred to as the “grey list”.
- The FATF will continue working with the jurisdictions as they report on progress achieved in addressing strategic deficiencies.
- The FATF welcomes their commitment and will closely monitor their progress.
- The **FATF does not call for the application of enhanced due diligence measures** to be applied to these jurisdictions, **but encourages its members and all jurisdictions to take into account the information** presented in their **risk analysis.**
- **Country actively works with FATF to remedy the deficiencies**



# What does the FATF “black-list” mean v EU Listing

## High-Risk Jurisdictions subject to a Call for Action

- High-risk jurisdictions have significant strategic deficiencies in their regimes to counter money laundering, terrorist financing, and financing of proliferation.
- Where a country does not actively work with FATF to remedy the failings
- For all countries identified as high-risk, the FATF calls on all members and urges all jurisdictions to apply **enhanced due diligence**, and **in the most serious cases**, countries are called upon to apply **counter-measures** to protect the international financial system from the ongoing money laundering, terrorist financing, and proliferation financing (ML/TF/PF) risks emanating from the country.
- This list is often externally referred to as the “black list”.

## EU Listing of countries with strategic deficiencies in their AML/CFT frameworks.

To Protect EU financial system from these risks - banks and other entities covered by EU AML rules will be required to apply increased checks (due diligence) on financial operations involving customers and financial institutions from these high-risk third countries to better identify any suspicious money flows.

# Currently on the “grey list” and “black-list”

GREY LIST	BLACK LIST
<ul style="list-style-type: none"><li>• Albania</li><li>• The Bahamas</li><li>• Barbados</li><li>• Cambodia</li><li>• Iceland</li><li>• Jamaica</li><li>• Mongolia</li><li>• Nicaragua</li><li>• Pakistan</li><li>• Panama</li><li>• Syria</li><li>• Uganda</li><li>• Yemen</li></ul> <p>*Botswana, Ghana, Zimbabwe and Mauritius recently removed</p>	<ul style="list-style-type: none"><li>• Democratic People's Republic of Korea (DPRK)</li><li>• Iran</li><li>• Myanmar</li></ul>

# Grey - Listing Summation

- SA faces grey-listing by FATF at its February 2023 Plenary
- SA has been put under *International Co-operation Review Group* (ICRG) OBSERVATION period for one year, ending in Oct 2022. SA also under ENHANCED FOLLOW-UP process (more frequent report back to FATF)
- Will be followed by POST-OBSERVATION PERIOD REPORTS (POPRs)
- SA will submit a first brief report end of August (Technical Compliance), and a more detailed report end of Oct 2022 (on TC and all 11 effectiveness measures)
- FATF Plenary will meet in Feb 2023 to consider recommendation of Joint Group on grey-listing of SA
- Useful Sources - IMF working paper 2021 - The Impact of Gray-Listing on Capital Flows: An Analysis Using Machine Learning - Paper sets out an analysis of impact of grey listing

# Risks of Grey - Listing

- Concerns among foreign regulators, supervisors and global financial institutions that South African financial institutions may be exposing foreign counterparts to ML/TF risks
- Potential that foreign counterpart financial institutions will take more conservative approaches to establishing correspondent relationships with South African financial institutions or introduce stricter controls to maintain current correspondent relationships
- Potential that foreign financial sector regulators or supervisors will view South African financial institutions as high-risk
- Worst-case scenarios:
  - De-risking of South African financial institutions by foreign counterparts
  - Refusal of market entry for South African financial institutions by foreign financial sector regulators
- Negative impact on credit to South Africa
- Negative impact on correspondent banks
- Portfolio Capital inflow declines, Private sector impacted due to Foreign direct investment decline, may indirectly impact monetary and fiscal policy



# How to be removed from the “grey list”

- The jurisdiction must address all or nearly all the components of its action plan.
- FATF will determine whether that jurisdiction has done so, and
- FATF will conduct an on-site visit to confirm that the implementation of the legal, regulatory, and/or operational reforms and political commitment and institutional capacity to sustain implementation.
- If the on-site visit has a positive outcome, the FATF will decide on removing the jurisdiction from public identification at the next FATF plenary.
- The concerned jurisdiction will then continue to work within the FATF through its normal follow-up process, to improve its AML/CFT regime



Financial  
Intelligence Centre

A large, abstract graphic on the left side of the slide. It features a dark blue triangle pointing downwards, which is partially filled with a pattern of smaller, lighter blue triangles. Below this triangle is a light blue trapezoidal shape that tapers to the right.

THANK  
YOU