

## **FIDUCIARY ADVISORS FACE MAJOR CHALLENGES FOLLOWING GENERAL LAWS AMENDMENT ACT 22 OF 2022**

The promulgation of the Act has brought significant challenges for advisors in the fiduciary space.

Louis Van Vuren, CEO of the Fiduciary Institute of South Africa (FISA), sheds light on the legislative changes and FISA's response to the new regulations. In a recent conversation, Tony interviews Louis to understand the implications of the amendments and how advisors are expected to navigate the compliance landscape.

### **The Impact of the General Laws Amendment Act**

Louis begins by highlighting the context behind the General Laws Amendment Act. South Africa was potentially to be "grey listed" by the Financial Action Task Force (FATF) due to concerns regarding money laundering and terrorism financing. In response, the government published the General Laws Amendment Bill in August of the previous year, which later became the General Laws Amendment Act of 2022. The Act, along with the subsequent promulgation of regulations, introduced a new compliance burden for the industry, raising concerns among advisors.

### **The Concept of Beneficial Ownership**

One of the key aspects of the General Laws Amendment Act is the introduction of the concept of beneficial ownership into the Trust Property Control Act of 1988. However, Louis explains that this concept is unfamiliar in South African common law, as it originated from Anglo-American legal systems. While beneficial ownership has been applied in company law to address shareholding arrangements, it does not align with South African property law, which recognizes unitary and universal ownership. Louis argues that introducing beneficial ownership into South African trust law is foreign and raises valid concerns about its compatibility with South African legal principles.

