

on 4 May 2023 reminding (informing) the public that these new measures have come into effect from 1 April 2023. The Chief Master also issued Directive 8 of 2023, effective 16 October 2023, titled 'Beneficial ownership register', which reminds trustees that the requirements apply to all trusts, 'irrelevant of when and for what purpose it has been registered'. No extension is provided to submit beneficial ownership information to the Master, and it stresses that 'all South Africans are required to provide records and reports on all information about beneficial owners as from 1 April 2023'.

The Minister of Finance, Enoch Godongwana, delivered his Medium-Term Budget Policy Statement (MTBPS) on 1 November 2023. He stressed that 'there is a significant amount of work that must still be done' to prove to the FATF that enough is being done to remove South Africa from the grey list.

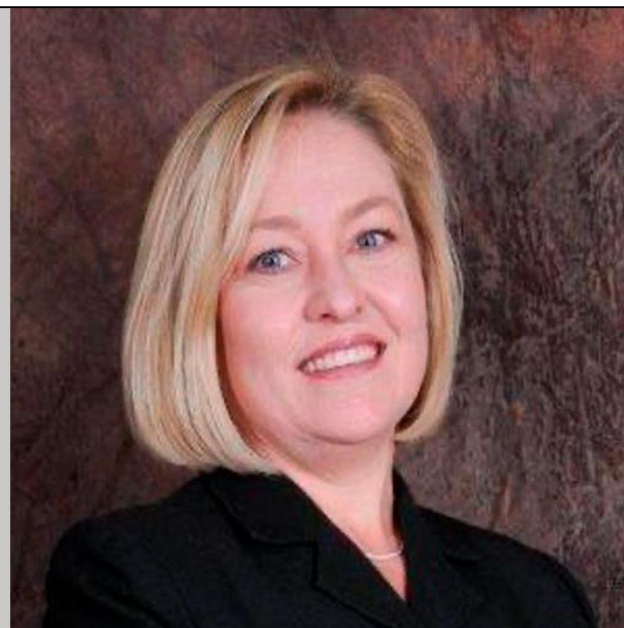
The South African Revenue Service (SARS) also jumped on the bandwagon with trusts. SARS provided guidance on 31 August 2023 when they issued a communication titled 'Clarification of certain matters pertaining to the completion of the trust income tax return (ITR12t)'. SARS confirmed that it aims to record all beneficial owners of registered trusts to comply with the FATF requirements.

In November 2023, Justice and Correctional Services Minister Ronald Lamola approved a welcome rescue plan for the Master's Office, which has been plagued with backlogs and inefficient processes across the country. The rescue plan attempts to address various shortfalls in the Master's administration of deceased estates, the setting up and liquidating of trusts, and managing the Guardian's Fund. What is included in the plan is the aim to address backlogs, improve digitisation – interesting choice of words, as digitisation only focuses on converting and recording data, whilst digitalisation is about developing processes and changing workflows to improve manual systems – as well as to increase capacity, ensure standardisation and transparency, and stop corruption in offices across the country.

## WHAT IS TO COME IN 2024?

Even though many people believe that government will not enforce the new measures, the media statement issued by the department on 4 May 2023 reminded us that South Africa is obliged, as a member of the FATF, to ensure that its regulatory environment is geared towards international standards in anti-money laundering and combating the financing of terrorism. Non-compliance will have potentially severe consequences.

The Minister reminded us in his MTBPS that government expects to address all the deficiencies identified by the FATF by early 2025. With only one year left, it can only be deduced that this year will see government 'pulling out all the stops' to prove to the FATF that they have done enough for us to



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be removed from the grey list. Some of the relevant areas the FATF requires South Africa to address are its focus on improving risk-based supervision of designated non-financial businesses and professions such as lawyers, notaries, other independent legal professionals and accountants, and trust and company service providers, ensuring that competent authorities have timely access to accurate and up-to-date beneficial ownership information on legal persons and arrangements, applying sanctions for breaches of violations by legal persons to beneficial ownership obligations, and demonstrating that all anti-money laundering and counter-terrorism finance supervisors apply effective, proportionate, and effective sanctions for non-compliance. The warning for the issuing of fines (maximum of R10 million, imprisonment for up to five years, or both) was pretty clear!

Beneficial ownership information is but one of the three new legal requirements of trustees attracting the aforementioned penalties for non-compliance. The other two requirements require trustees to keep a real-time record of their interactions with 'accountable institutions'. Trustees are warned about the implications of non-compliance during 2024. Trust service providers, including accountants, should educate and guide their trustee clients, who are often laypersons.

## AUTHOR

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