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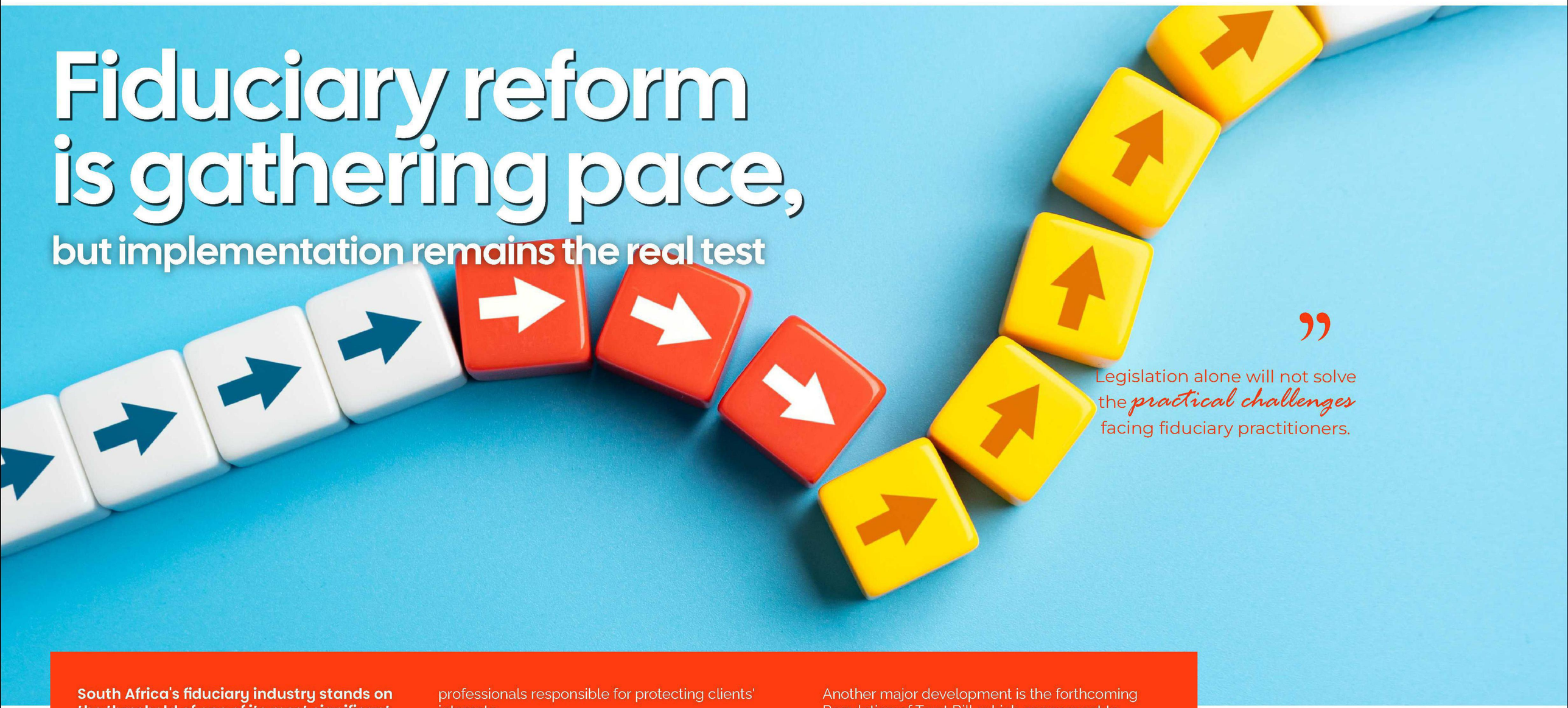
Fiduciary reform is gathering pace,

but implementation remains the real test



> Legislation alone will not solve the *practical challenges* facing fiduciary practitioners.

South Africa's fiduciary industry stands on the threshold of one of its most significant periods of legislative reform in many years.

While practitioners have become accustomed to incremental regulatory change, the developments currently underway suggest a broader shift towards greater accountability, transparency and governance across the administration of trusts and estates. These reforms are both necessary and welcome.

At the same time, however, legislation alone will not solve the practical challenges facing fiduciary practitioners. Efficient administration still depends on capable institutions, consistent processes and constructive collaboration between government departments, financial institutions and the professionals responsible for protecting clients' interests.

One of the most anticipated developments is the proposed introduction of legislation dealing with assisted decision-making. For many years, FISA has advocated for reform in this area, including the introduction of enduring powers of attorney that would allow individuals to appoint someone to manage their affairs should they lose the capacity to do so themselves. While the Department of Justice has confirmed that a new Bill has been drafted, its contents have not yet been made public. The fact that the legislative process is moving forward is encouraging, even though practitioners will need to wait until the Bill is published before they can evaluate its practical implications.

Another major development is the forthcoming Regulation of Trust Bill, which appears set to replace rather than simply amend existing legislation. Although the Bill has not yet been released for public comment, preliminary briefings suggest a number of important changes that will significantly affect trustees and fiduciary practitioners.

One of the most significant proposals is the introduction of greater accountability for trustees through mandatory annual financial statements to be lodged with the Master, although exemptions may apply for trusts with little or no financial activity. Trustees will also be required to formally notify the Master when a trust is terminated, allowing inactive trusts to be removed from the official register.

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