

GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

NATIONAL TREASURY

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PUBLICATION OF EXPLANATORY SUMMARY OF GENERAL LAWS (ANTI-MONEY LAUNDERING AND COMBATING TERRORISM FINANCING) AMENDMENT BILL

The Minister of Finance intends introducing the General Laws (Anti-Money Laundering and Combating Terrorism Financing) Amendment Bill ("the Bill") in the National Assembly in the third quarter of 2022. The explanatory summary of the Bill is hereby published in accordance with rule 276(1)(c) of the Rules of the National Assembly.

The Bill seeks to amend—

- (a) the Trust Property Control Act, 1988, by inserting definitions of "accountable institution and "beneficial owner"; by imposing certain requirements on trustees; by specifying matters that would disqualify a person from being appointed or continuing to act as a trustee; by providing for the removal of a trustee who becomes disqualified to continue to act as a trustee; by specifying information that must be kept by trustees in relation to beneficial owners in relation to trusts; by requiring the Master to maintain a register containing information relating to beneficial ownership of trusts, and providing for access to information regarding beneficial ownership; and by specifying certain offences;
- (b) the Nonprofit Organisations Act, 1997, by requiring registration in terms of the Act; by enabling the Nonprofit Organisations Directorate, in order to perform its functions, to collaborate, co-operate, co-ordinate and enter into arrangements with other organs of state; by requiring nonprofit organisations to submit prescribed information about the office-bearers, control structure, governance, management, administration, and operations of nonprofit organisations to the director; to require prescribed information relating to the office-bearers, control structure, governance, management, administration, and operations of nonprofit organisations to be included in the register that the director must keep, and by providing for access to that information; by providing for grounds for disqualification for a person to be appointed or continuing to act as an office-bearer of a nonprofit organization; by providing for the removal of an office-bearer; and by specifying certain offices;
- (c) the Financial Intelligence Centre Act, 2001, by amending the definitions of "beneficial owner", "domestic prominent influential person" and "foreign prominent public official", and inserting a definition of "prominent influential person"; by amending the objectives of the Financial Intelligence Centre ("Centre"); by amending the functions of the Centre to include the provision of forensic information; by empowering the Centre to request information held by other organs of state; by providing for additional and ongoing due diligence measures, and by amending the process followed when there are doubts about the veracity of information; by aligning certain provisions and Schedules 3A and 3B to appropriately refer to domestic and foreign "politically exposed persons", as distinct from "politically influential persons", who will dealt with in a new Schedule 3C; by amending certain provisions relating to resolutions of the Security Council of the United Nations; by amending the powers of access by authorised representatives to records of accountable institutions; by enabling the Centre to renew a direction not to proceed with a transaction; by providing for the safeguarding of information; by amending the provisions relating to the disclosure of information to the Centre and access to information by the Centre; by empowering Minister to prescribe appropriate requirements relating to the access to personal information to ensure that adequate safeguards are in place as required by section 6(1)(c) of the Protection of Personal Information Act, 2013; by amending certain provisions relating to the risk management and compliance programme; by amending the offences provisions to empower the imposition of an administrative sanctions; by amending the provision relating to the amendment by the Minister of Schedule 2; by amending Schedules 2, 3A and 3B, and by inserting a new Schedule 3C; and
- (d) the Companies Act, 2008, by inserting a definition of "beneficial owner"; by providing for a comprehensive mechanism through which the Commission can keep accurate and updated beneficial ownership information; by requiring a company to keep a record of a natural person who owns or controls the company in terms of the definition of "beneficial owner", and by providing for specified timelines within which the company must record any changes in this information; by requiring a company to file a record of any natural person who owns or controls the company in terms the definition of "beneficial owner", with the Commission; and by specifying that persons who are convicted of offences relating to money laundering, terrorist financing, or proliferation financing activities are prohibited from registering as company directors; the Financial Sector Regulation Act, 2017, by providing that a financial institution, key person, representative or contractor to which a regulator's directive in terms of Part 2 of Chapter 10 has been issued must comply with the directive; by inserting a new Chapter dealing with beneficial owners into the Act, which provides a definition of "beneficial owner", and empowers standards and regulator's directives to be made in relation to beneficial owners.

A copy of the Bill will be obtainable from the National Treasury's website at <http://www.treasury.gov.za> after introduction of the Bill in the third quarter of 2022, and from Mr A Hendricks, Parliament, PO Box 15, Cape Town, 8000, Phone: 021 403 8223