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THE PRESIDENCY

No. 1532 — 29 December 2022

It is hereby notified that the President has assented to the following Act, which is hereby published for general information:—

Act No. 22 of 2022: General Laws (Anti-Money Laundering and Combating Terrorism Financing) Amendment Act, 2022

DIE PRESIDENSIE

No. 1532 — 29 Desember 2022

Hierby word bekend gemaak dat die President sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

Wet No. 22 van 2022: Wysigingswet op Algemene Wette (Teengeldwassery en Bekamping van Terrorismefinansiering, 2022

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GENERAL EXPLANATORY NOTE:

[ ]	Words in bold type in square brackets indicate omissions from existing enactments.
______	Words underlined with a solid line indicate insertions in existing enactments.

(English text signed by the President)
(Assented to 22 December 2022)

ACT

To amend—

- **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 clarifying that a person who was appointed outside the Republic as trustee must be authorised by the Master to act as 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;**
- **the Nonprofit Organisations Act, 1997, by requiring registration of specified nonprofit organisations 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 clarifying the scope of powers of the director in relation to the registration and cancellation of registration of nonprofit organisations, and in respect of the power to require amendments to be effected to the constitution of a nonprofit oganisation; by requiring registered 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 registered 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 registered nonprofit organisation; by providing for the removal of an office-bearer; and by providing for certain contraventions;**
- **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**

ALGEMENE VERDUIDELIKENDE NOTA:

[ ]	Woorde in vetdruk in vierkantige hake dui skrappings uit bestaande verordeninge aan.
________	Woorde met 'n volstreep daaronder dui invoegings in bestaande verordeninge aan.

(Engelse teks deur die President geteken)
(Goedgekeur op 22 Desember 2022)

WET

Tot wysiging van—

- **die Wet op die Beheer van Trustgoed, 1988, deur omskrywings in te voeg van "rekenpligtige instelling" en "uiteindelike geregtigde"; deur sekere vereistes aan trustees op te lê; deur aangeleenthede te spesifiseer wat 'n persoon onbevoeg sal maak om as 'n trustee aangestel te word of voort te gaan om as 'n trustee op te tree; deur duidelik te stel dat 'n persoon wat buite die Republiek as 'n trustee aangestel is, deur die Meester gemagtig moet word om as trustee op te tree; deur voorsiening te maak vir die verwydering van 'n trustee wat onbevoeg word om voort te gaan om as trustee op te tree; deur inligting te spesifiseer wat deur trustees gehou moet word betreffende uiteindelike geregtigdes betreffende trusts; deur te vereis dat die Meester 'n register hou met inligting oor uiteindelike geregtigheid van trusts; en deur voorsiening te maak vir toegang tot inligting rakende uiteindelike geregtigheid; en deur sekere misdrywe te spesifiseer;**
- **die Wet op Organisasies sonder Winsoogmerk, 1997, deur registrasie van gespesifiseerde organisasies sonder winsoogmerk ingevolge die Wet te vereis; deur die Direktoraat vir Organisasies Sonder Winsoogmerk te bemagtig, ten einde hulle werksaamhede te verrig, om saam te werk, te koördineer en reëlings aan te gaan met ander staatsorgane; deur die bestek van bevoegdhede van die direkteur duidelik te stel in verband met die registrasie en intrekking van registrasie van organisasies sonder winsoogmerk, en ten opsigte van die bevoegdheid om te vereis dat wysigings aan die konstitusie van 'n organisasie sonder winsoogmerk gemaak word; deur te vereis dat geregistreerde organisasies sonder winsoogmerk voorgeskrewe inligting oor die ampsdraers, beheerstruktuur, beheer, bestuur, administrasie en bedryf van geregistreerde organisasies sonder winsoogmerk voorlê vir insluiting in die register wat die direkteur moet hou, en deur voorsiening te maak vir toegang tot daardie inligting; deur voorsiening te maak vir gronde vir onbevoegdheid vir 'n persoon om aangestel te word of voort te gaan om op te tree as ampsdraer van 'n geregistreerde organisasie sonder winsoogmerk; voorsiening te maak vir die ontheffing van 'n ampsdraer; en deur voorsiening te maak vir sekere oortredings;**
- **die Wet op die Finansiële Intelligensiesentrum, 2001, deur die omskrywings van "uiteindelik geregtigde", "binnelandse-vooraanstaande-invloedryke-persoon", en "buitelandse-vooraanstaande-openbare-beampte" te wysig, en 'n omskrywing van "vooraanstaande persoon met invloed" in te voeg; deur die oogmerke van die Finansiële Intelligensiesentrum ("Sentrum") te wysig; deur die werksaamhede van die Sentrum te wysig om die voorsiening van forensiese inligting in te sluit; deur die Sentrum te bemagtig om inligting aan**

"politically exposed persons", as distinct from "politically influential persons", who will be 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 the 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 sanction; 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 by substituting the index for an arrangement of sections;

- **the Companies Act, 2008, by inserting definitions of "affected company" and "beneficial owner"; by providing for a comprehensive mechanism through which the Companies and Intellectual Property 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 or are subject to a resolution of the UN Security Council are prohibited from registering as company directors; and**
- **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;**

and to provide for matters connected therewith.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

Amendment of section 1 of Act 57 of 1988

1. Section 1 of the Trust Property Control Act, 1988, is hereby amended—

(a) by the insertion before the definition of ''banking institution'' of the following definition:

''**'accountable institution'** has the meaning defined in section 1(1) of and Schedule 1 to the Financial Intelligence Centre Act, 2001 (Act No. 38 of 2001);''; and

(b) by the insertion after the definition of ''banking institution'' of the following definition:

'' **'beneficial owner'**, in respect of the provisions of a trust instrument, means—

(a) a natural person who directly or indirectly ultimately owns the relevant trust property;

(b) a natural person who exercises effective control of the administration of the trust arrangements that are established pursuant to a trust instrument;

bykomende en voortgesette omsigtigheidsmaatreëls, en deur die proses te wysig wat gevolg moet word wanneer twyfel bestaan oor die waarheid van inligting; deur sekere bepalings en Bylaes 3A en 3B in lyn te bring om gepas te verwys na binnelandse en buitelandse "politiesblootgesteldepersone", afsonderlik van "persone met politieke invloed", wat in 'n nuwe Bylae 3C hanteer sal word; deur sekere bepalings te wysig wat handel oor resolusies van die Veiligheidsraad van die Verenigde Nasies; deur die bevoegdhede van toegang deur gemagtigde verteenwoordigers tot rekords van verantwoordingspligtige instellings te wysig; deur die Sentrum in staat te stel om 'n lasgewing om nie met 'n transaksie voort te gaan nie, te hernu; deur voorsiening te maak vir die veiligheid van inligting; deur die bepalings rakende die bekendmaking van inligting aan die Sentrum en toegang tot inligting deur die Sentrum te wysig; deur die Minister te magtig om gepaste vereistes rakende die toegang tot persoonlike inligting voor te skryf om te verseker dat genoegsame veiligheidsmaatreëls in plek is soos vereis deur artikel 6(1)*(c)* van die Wet op Beskerming van Persoonlike Inligting, 2013; deur sekere bepalings te wysig wat verband hou met die risikobestuur- en voldoeningsprogram; deur die misdryfbepalings te wysig om die oplegging van 'n administratiewe sanksie te bemagtig; deur die bepaling oor die wysiging deur die Minister van Bylae 2 te wysig; deur Bylaes 2, 3A en 3B te wysig, en deur 'n nuwe Bylae 3C in te voeg; en deur die inhoudsopgawe deur 'n indeling van artikels te vervang;

- **die Maatskappywet, 2008, deur 'n omskrywing van uiteindelik geregtigde in te voeg; deur voorsiening te maak vir 'n omvattende meganisme waardeur die Kommissie vir Maatskappye en Intellektuele Eiendom akkurate en opgedateerde inligting oor uiteindelike geregtigheid kan hou; deur te vereis dat 'n maatskappy 'n rekord by die Kommissie indien van enige natuurlike persoon wat die maatskappy besit of beheer ingevolge die omskrywing van "uiteindelik geregtigde", en deur te spesifiseer dat persone wat skuldig bevind word aan misdrywe wat met geldwassery-, terroristefinansierings-, of proliferasiefinansieringsaktiwiteite verband hou daarvan belet is om as maatskappydirekteure te registreer; en**
- **die Setswana-teks van die "Financial Sector Regulation Act", 2017, deur te bepaal dat 'n finansiële instelling, sleutelpersoon, verteenwoordiger of kontrakteur waaraan 'n reguleerderslasgewing ingevolge Deel 2 van Hoofstuk 10 uitgereik is, moet voldoen aan die lasgewing; deur 'n nuwe Hoofstuk in te voeg wat oor uiteindelik geregitgdes handel, wat 'n omskrywing voorsien van "uiteindelik geregtigde", en standaarde en reguleerderslasgewings bemagtig om in verband met uiteindelik geregtigdes gemaak te word;**

en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

DAAR WORD BEPAAL deur die Parlement van die Republiek van Suid-Afrika, soos volg:—

Wysiging van artikel 1 van Wet 57 van 1988

1. Artikel 1 van die Wet op die Beheer oor Trustgoed, 1988, word hierby gewysig—

(a) deur die volgende omskrywing na die omskrywing van "Meester" in te voeg: "**'rekenpligtige instelling'** het die betekenis soos omskryf in artikel 1 van, en Bylae 1, by die Wet op die Finansiële Intelligensiesentrum, 2011 (Wet No. 38 van 2001);";

(b) deur die volgende omskrywing na die omskrywing van "trustgoed" in te voeg:

"**'uiteindelik geregtigde'** ten opsigte van die bepalings van 'n trustakte—

(a) 'n natuurlike persoon wat die tersaaklike trustgoed regstreeks of onregstreeks besit;

(b) 'n natuurlike persoon wat doelmatige beheer uitoefen oor die administrasie van die trustreëlings wat ingestel word ingevolge 'n trustakte:

(ii) if a founder of the trust is a legal person, a person acting on behalf of a partnership or in pursuance of the provisions of a trust instrument, the natural person who directly or indirectly ultimately owns or exercises effective control of that legal person or partnership or the relevant trust property or trust arrangements pursuant to that trust instrument;

(d)(i) each trustee of the trust; or

(ii) if a trustee of the trust is a legal person or a person acting on behalf of a partnership, the natural person who directly or indirectly ultimately owns or exercises effective control of that legal person or partnership; and

(e)(i) each beneficiary referred to by name in the trust instrument or other founding instrument in terms of which the trust is created; or

(ii) if a beneficiary referred to by name in the trust instrument is a legal person, a partnership or a person acting on behalf of a partnership or a person acting in pursuance of the provisions of a trust instrument, the natural person who directly or indirectly ultimately owns or exercises effective control of that legal person or partnership or the relevant trust property or trust arrangements pursuant to that trust instrument;''.

Amendment of section 6 of Act 57 of 1988

2. Section 6 of the Trust Property Control Act, 1988, is hereby amended by the insertion after subsection (1) of the following subsection:

''(1A) A person is disqualified from being authorized as a trustee if the person—

(a) is an unrehabilitated insolvent;

(b) has been prohibited by a court to be a director of a company, or declared by a court to be delinquent in terms of section 162 of the Companies Act, 2008 (Act No. 71 of 2008), or section 47 of the Close Corporations Act, 1984 (Act No. 69 of 1984);

(c) is prohibited in terms of any law to be a director of a company;

(d) has been removed from an office of trust, on the grounds of misconduct involving dishonesty;

(e) has been convicted, in the Republic or elsewhere, and imprisoned without the option of a fine, or fined more than the prescribed amount in terms of section 69 of the Companies Act, 2008, for theft, fraud, forgery, perjury or an offence—

(i) involving fraud, misrepresentation or dishonesty, or money laundering, terrorist financing or proliferation financing activities as those terms are defined in section 1(1) of the Financial Intelligence Centre Act, 2001 (Act No. 38 of 2001);

(ii) in connection with the promotion, formation or management of a company, or in connection with any act contemplated in section 69(2) or (5) of the Companies Act, 2008; or

(iii) under this Act, the Companies Act, 2008, the Insolvency Act, 1936 (Act No. 24 of 1936), the Close Corporations Act, 1984, the Competition Act, 1998 (Act No. 89 of 1998), the Financial Intelligence Centre Act, 2001, the Financial Markets Act, 2012 (Act No. 19 of 2012), Chapter 2 of the Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004), the Protection of Constitutional Democracy Against Terrorist and Related Activities Act, 2004 (Act No. 33 of 2004), or the Tax Administration Act, 2011 (Act No. 28 of 2011);

(f) is subject to a resolution adopted by the Security Council of the United Nations when acting under Chapter VII of the Charter of the United Nations, providing for financial sanctions which entail the identification of persons or entities against whom member states of the United Nations must take the actions specified in the resolution; or

(g) is an unemancipated minor, or is under a similar legal disability.

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(ii) indien 'n stigter van die trust 'n regspersoon is, of 'n persoon wat namens 'n vennootskap handel of ingevolge die bepalings van 'n trustinstrument, die persoon wat regstreeks of onregstreeks uiteindelik daardie regspersoon of vennootskap of die tersaaklike trustgoed of trustreëlings ingevolge daardie trustakte besit of doelmatige beheer daaroor uitoefen;

(d)(i) elke trustee van die trust; of

(ii) indien 'n trustee van die trust 'n regspersoon is of 'n persoon wat namens 'n vennootskap handel, die natuurlike persoon wat regstreeks of onregstreeks uiteindelik daardie regspersoon of vennootskap besit of doelmatige beheer daaroor uitoefen;

(e)(i) elke begunstigde by die naam genoem in die trustakte of ander stigtingsakte ingevolge waarvan die trust geskep is; of

(ii) indien 'n begunstigde wat by die naam genoem word in die trustakte 'n regspersoon, 'n vennootskap of 'n persoon is wat namens 'n vennootskap handel of 'n persoon is wat ingevolge die bepalings van 'n trustakte handel, die natuurlike persoon wat regstreeks of onregstreeks uiteindelik daardie regspersoon, vennootskap of die tersaaklike trustgoed of trustreëling besit of doelmatige beheer daaroor uitoefen;''.

Wysiging van artikel 6 van Wet 57 van 1988

2. Artikel 6 van die Wet op die Beheer van Trustgoed, 1988, word hierby gewysig deur die volgende subartikel na subartikel (1) in te voeg:

''(1A) 'n Persoon is onbevoeg om as 'n trustee gemagtig te word indien die persoon—

(a) 'n ongerehabiliteerde insolvent is;

(b) deur 'n hof verbied is om 'n direkteur van 'n maatskappy te wees, of deur 'n hof misdadig verklaar is ingevolge artikel 162 van die Maatskappywet, 2008 (Wet No. 71 van 20008), of artikel 47 van die Wet op Beslote Korporasies, 1984 (Wet No. 69 van 1984);

(c) ingevolge enige wetsbepaling belet is om 'n direkteur van 'n maatskappy te wees;

(d) uit 'n vertrouensamp verwyder is, op grond van wangedrag wat oneerlikheid behels het;

(e) in die Republiek of elders skuldig bevind is en gevangenisstraf uitgedien het sonder die opsie van 'n boete, of meer as die voorgeskrewe bedrag ingevolge artikel 69 van die Maatskappywet, 2008, beboet is, vir diefstal, bedrog, vervalsing, meineed of 'n misdryf—

(i) wat bedrog, wanvoorstelling of oneerlikheid, of geldwassery, terroristefinansiering of proliferasiefinansiering behels soos daardie terme omskryf word in artikel 1(1) van die Wet op die Finansiële Intelligensiesentrum, 2001 (Wet No. 38 van 2001);

(ii) in verband met die promosie, vorming of bestuur van 'n maatskappy, of in verband met enige handeling beoog in artikel 69(2) of (5) van die Maatskappywet, 2008; of

(iii) kragtens hierdie Wet, die Maatskappywet, 2008, die Insolvensiewet, 1936 (Wet No. 24 van 1936), die Wet op Beslote Korporasies, 1984, die Wet op Mededinging, 1998 (Wet No. 89 van 1998), die Wet op die Finansiële Intelligensiesentrum, 2001, die 'Financial Markets Act, 2012' (Wet No. 19 van 2012), Hoofstuk 2 van die Wet op die Voorkoming en Bestryding van Korrupte Bedrywighede, 2004 (Wet No. 12 van 2004), die Wet op Beskerming van Konstitusionele Demokrasie teen Terroriste- en Verwante Aktiwiteite, 2004 (Wet No. 33 van 2004), of die Wet op Belastingadministrasie, 2011 (Wet No. 28 van 2011);

(f) onderhewig is aan 'n resolusie deurgevoer deur die Veiligheidsraad van die Verenigde Nasies handelend kragtens Hoofstuk VII van die Handves van die Verenigde Nasies, waarin voorsiening gemaak word vir finansiële sanksies wat die indentifikasie behels van persone of entiteite teen wie lidstate van die Verenigde Nasies die stappe in die resolusie gespesifiseer, moet doen; of

(a) five years after the date of removal from office, or the completion of the sentence imposed for the relevant offence, as the case may be; or

(b) one or more extensions, as determined by a court from time to time, on application by the Master in terms of subsection (1C).

(1C) A disqualification in terms of subsection (1A)*(f)* ends when the Security Council of the United Nations takes a decision to no longer apply that resolution to a person contemplated in that subsection.

(1D) At any time before the expiry of a person's disqualification in terms of subsection (1A)*(d)* or *(e)*—

(a) the Master may apply to a court for an extension contemplated in subsection (1B)*(b)*; and

(b) the court may extend the disqualification for no more than five years at a time, if the court is satisfied that an extension is necessary to protect the public,

having regard to the conduct of the disqualified person up to the time of the application.

(1E) A court may exempt a person from the application of any provision of subsection (1A)*(a)*, *(c)*, *(d)* or *(e)*.

(1F) The Registrar of the Court must, upon—

(a) the issue of a sequestration order;

(b) the issue of an order for the removal of a person from any office of trust on the grounds of misconduct involving dishonesty; or

(c) a conviction for an offence referred to in subsection (1A)*(e)*,

send a copy of the relevant order or particulars of the conviction, as the case may be, to the Master.

(1G) The Master must notify each trust which has as a trustee to whom the order or conviction relates, of the order or conviction.

(1H) *(a)* The Master must establish and maintain in the prescribed manner a public register of persons who are disqualified from serving as a trustee, in terms of an order of a court pursuant to this Act or any other law.

(b) The prescribed requirements referred to in paragraph *(a)* must be prescribed after consultation with the Minister of Finance and the Financial Intelligence Centre, established by section 2 of the Financial Intelligence Centre Act, 2001 (Act No. 38 of 2001).''.

Amendment of section 8 of Act 57 of 1998

3. The following section is hereby substituted for section 8 of the Trust Property Control Act, 1998:

''**Foreign trustees**

8. When a person who was appointed outside the Republic as trustee has to administer or dispose of trust property in the Republic, the provisions of this Act shall apply to such trustee in respect of such trust property and such person shall act in that capacity only if authorized thereto in writing by the Master **[may authorize such trustee]** under section 6 **[to act as trustee in respect of that property]**.''.

Amendment of section 10 of Act 57 of 1988

4. Section 10 of the Trust Property Control Act, 1988, is hereby amended by the addition of the following subsection, the existing provision becoming subsection (1):

''(2) A trustee must disclose their position as trustee to any accountable institution with which the trustee engages in that capacity, and must make it known to the accountable institution that the relevant transaction or business relationship relates to trust property.''.

(a) vyf jaar na die datum van ontheffing uit die amp, of die voltooiing van die vonnis wat vir die tersaaklike misdryf opgelê is, na gelang van die geval; of

(b) een of meer verlengings, soos van tyd tot tyd deur 'n hof bepaal, by aansoek deur die Meester ingevolge subartikel (1C).

(1C) 'n Onbevoegdheid ingevolge subartikel (1A)*(f)* eindig wanneer die Veiligheidsraad van die Verenigde Nasies 'n besluit neem om nie meer daardie resolusie toe te pas teen 'n persoon in daardie subartikel beoog nie.

(1D) Te eniger tyd voor die verstryking van 'n persoon se onbevoegdheid ingevolge subartikel (1A)*(d)* of *(e)*—

(a) kan die Meester by die hof aansoek doen om 'n verlenging in subartikel (1B)*(b)* beoog; en

(b) die hof kan die onbevoegdheid verleng vir nie meer nie as vyf jaar op 'n keer, indien die hof oortuig is dat 'n verlenging nodig is om die publiek te beskerm,

met inagneming van die gedrag van die onbevoegde persoon tot op die tydstip van die aansoek.

(1E) 'n Hof kan 'n persoon vrystel van die toepassing van enige bepaling van subartikel (1A)*(a)*, *(c)*, *(d)* of *(e)*.

(1F) Die griffier van die Hof moet, by—

(a) die uitreiking van 'n sekwestrasiebevel;

(b) die uitreiking van 'n bevel vir die ontheffing van 'n persoon uit enige vertrouensamp op grond van wangedrag wat oneerlikheid behels; of

(c) 'n skuldigbevinding vir 'n misdryf in subartikel (1A)*(e)* bedoel,

'n afskrif van die tersaaklike bevel of besonderhede van die skuldigbevinding, na gelang van die geval, aan die Meester stuur.

(1G) Die Meester moet elke trust wat 'n trustee het op wie die bevel betrekking het, in kennis stel van die bevel of skuldigbevinding.

(1H) *(a)* Die Meester moet 'n publieke register instel en byhou van persone wat onbevoeg is om as trustees te dien ingevolge 'n hofbevel in navolging van hierdie Wet of enige ander wetsbepaling.

(b) Die voorgeskrewe vereistes in paragraaf *(a)* bedoel, moet voorgeskryf word na oorleg met die Minister van Finansies en die Finansiële Intelligensiesentrum, ingestel by artikel 2 van die Wet op die Finansiële Intelligensiesentrum, 2001 (Wet No. 38 van 2001).''.

Wysiging van artikel 8 van Wet 57 van 1998

3. Artikel 8 van die Wet op die Beheer van Trustgoed, 1998, word deur die volgende artikel vervang:

''**Buitelandse trustees**

8. Wanneer iemand wat buite die Republiek as 'n trustee aangestel is, trustgoed in die Republiek moet administreer of daaroor moet beskik, is die bepalings van hierdie Wet ten opsigte van daardie trustgoed op daardie trustee van toepassing en **[kan]** daardie persoon tree slegs in daardie hoedanigheid op met die skriftelike magtiging van die Meester **[so 'n trustee]** kragtens artikel 6 **[magtig om as trustee ten opsigte van daardie goed op te tree]**.''.

Wysiging van artikel 10 van Wet 57 van 1988

4. Artikel 10 van die Wet op die Beheer van Trustgoed, 1988, word hierby gewysig deur die volgende subartikel by te voeg, sodat die bestaande bepaling subartikel (1) word:

''(2) 'n Trustee moet hul posisie as trustee openbaar maak aan enige rekenpligtige instelling waarmee die trustee in daardie hoedanigheid te doen het, en moet dit bekend maak aan die rekenpligtige instelling dat die tersaaklike transaksie of sakeverhouding met trustgoed verband hou.''.

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Amendment of section 11 of Act 57 of 1988

5. Section 11 of the Trust Property Control Act, 1988, is hereby amended in subsection (1)—

(a) by the substitution in paragraph *(d)* for the full stop of "; and"; and

(b) by the insertion after paragraph *(d)* of the following paragraph and subsection:

"*(e)* record 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 the trustee's functions relating to trust property.

(1A) The prescribed requirements referred to in paragraph *(e)* must be prescribed after consultation with the Minister of Finance and the Financial Intelligence Centre, established by section 2 of the Financial Intelligence Centre Act, 2001 (Act No. 38 of 2001).".

Insertion of section 11A in Act 57 of 1988

6. The following section is hereby inserted after section 11 of the Trust Property Control Act, 1988:

"**Beneficial ownership**

11A. (1) A trustee must—

(a) establish and record the beneficial ownership of the trust;

(b) keep a record of the prescribed information relating to the beneficial owners of the trust;

(c) lodge a register of the prescribed information on the beneficial owners of the trust with the Master's Office; and

(d) ensure that the prescribed information referred to in paragraphs *(a)* to *(c)* is kept up to date.

(2) The Master must keep a register in the prescribed form containing prescribed information about the beneficial ownership of trusts.

(3) A trustee must make the information contained in the register referred to in subsection (1)*(c),* and the Master must make the information in the register referred to in subsection (2), available to any person as prescribed.

(4) The prescribed requirements referred to in this section must be prescribed after consultation with the Minister of Finance and the Financial Intelligence Centre, established by section 2 of the Financial Intelligence Centre Act, 2001 (Act No. 38 of 2001).".

Amendment of section 19 of Act 57 of 1988

7. The following section is hereby substituted for section 19 of the Trust Property Control Act, 1988:

"**Failure by trustee to account or perform duties**

19. (1) If any trustee fails to comply with a request by the Master in terms of section 16 or to perform any duty imposed upon **[him]** the trustee by this Act, the trust instrument or by any other law, the Master or any person having an interest in the trust property may apply to the court for an order directing the trustee to comply with **[such]** the Master's request or to perform **[such]** the duty.

(2) A trustee who fails to comply with an obligation referred to in section 10(2), 11(1)*(e)* or 11A(1), commits an offence and on conviction is liable to a fine not exceeding R10 million, or imprisonment for a period not exceeding five years, or to both such fine and imprisonment.".

Wysiging van artikel 11 van Wet 57 van 1988

5. Artikel 11 van die Wet op die Beheer van Trustgoed, 1988, word hierby gewysig in subartikel (1)—

(a) deur in paragraaf *(d)* die punt te vervang deur ''; en''; en

(b) deur die volgende paragraaf en subartikel na paragraaf *(d)* in te voeg:

''*(e)* die voorgeskrewe besonderhede opneem oor rekenpligtige instellings wat die trustee as agente gebruik om enige van die trustee se werksaamhede rakende trustgoed te verrig, en waarvandaan die trustee enige dienste ten opsigte van die trustee se werksaamhede rakende trustgoed verkry.

(1A) Die voorgeskrewe vereistes in paragraaf *(e)* bedoel, moet voorgeskryf word na oorlegpleging met die Minister van Finansies en die Finansiële Intelligensiesentrum, ingestel by artikel 2 van die Wet op die Finansiële Intelligensiesentrum, 2001 (Wet No. 38 van 2001).''.

Invoeging van artikel 11A in Wet 57 van 1988

6. Die volgende artikel word hierby na artikel 11 van die Wet op die Beheer van Trustgoed, 1988, ingevoeg:

''**Uiteindelike geregtigheid**

11A. (1) 'n Trustee moet—

(a) die uiteindelike geregtigheid van die trust vasstel en aanteken;

(b) rekord hou van die voorgeskrewe inligting rakende die uiteindelik geregtigdes van die trust;

(c) 'n register van die voorgeskrewe inligting oor die uiteindelik geregtigdes van die trust by die Meesterskantoor indien; en

(d) verseker dat die voorgeskrewe inligting in paragrawe *(a)* tot *(c)* bedoel op datum gehou word.

(2) Die Meester moet 'n register in die voorgeskrewe vorm hou met voorgeskrewe inligting oor die uiteindelike geregtigheid van trusts.

(3) 'n Trustee moet inligting in die register in subartikel (1)*(c)* bedoel, en die Meester moet die inligting in die register in subartikel (2) bedoel, aan enige persoon beskikbaar stel soos voorgeskryf.

(4) Die voorgeskrewe vereistes in hierdie artikel bedoel, kan voorgeskryf word na oorleg met die Minister van Finansies en die Finansiële Intelligensiesentrum, ingestel by artikel 2 van die Wet op die Finansiële Intelligensiesentrum, 2001 (Wet No. 38 van 2001).''.

Wysiging van artikel 19 van Wet 57 van 1988

7. Artikel 19 van die Wet op die Beheer van Trustgoed, 1988, word hierby deur die volgende artikel vervang:

''**Versuim deur trustee om rekenskap te gee of pligte te verrig**

19. (1) Indien 'n trustee versuim om aan 'n versoek van die Meester ingevolge artikel 16 te voldoen of om enige plig in hierdie Wet, die trustdokument of **[regtens hom]** enige ander wetsbepaling aan die trustee opgelê, te verrig, kan die Meester of iemand wat 'n belang by die trustgoed het, by die hof aansoek doen om 'n bevel wat die trustee gelas om aan **[sodanige]** die Meester se versoek te voldoen of om **[sodanige]** die plig te verrig.

(2) 'n Trustee wat versuim om aan 'n verpligting bedoel in artikel 10(2), 11(1)*(e)* of 11A(1) te voldoen, pleeg 'n misdryf en is by skuldigbevinding strafbaar met 'n boete van hoogstens R10 miljoen, of gevangenisstraf vir 'n tydperk van hoogstens vyf jaar, of met beide sodanige boete en gevangenisstraf.''.

Amendment of section 20 of Act 57 of 1988

8. Section 20 of the Trust Property Control Act, 1988, is hereby amended by the substitution for subsection (2) of the following subsection:

"(2) A trustee may at any time be removed from office by the Master—

(a) if **[he has been convicted in the Republic or elsewhere of any offence of which dishonesty is an element or of any other offence for which he has been sentenced to imprisonment without the option of a fine]** the person becomes disqualified to be authorised as a trustee in terms of section 6(1A); or

(b) if the trustee fails to give security or additional security, as the case may be, to the satisfaction of the Master within two months after having been requested **[thereto]** to do so by the Master, or within **[such]** a further period **[as]** that is allowed by the Master; or

(c) if **[his]** the trustee's estate is sequestrated or liquidated or placed under judicial management; or

(d) if **[he]** the trustee has been declared by a competent court to be mentally ill or incapable of managing **[his]** their own affairs or if **[he]** the trustee is by virtue of the **[Mental Health Act, 1973 (Act No. 18 of 1973)]** Mental Health Care Act, 2002 (Act No. 17 of 2002), detained as a patient in an institution or as a State patient; or

(e) if **[he]** the trustee fails to perform satisfactorily any duty imposed upon **[him]** the trustee by or under this Act or to comply with the requirements of this Act or any lawful request of the Master.".

Amendment of section 2 of Act 71 of 1997

9. Section 2 of the Nonprofit Organisations Act, 1997, is hereby amended by the substitution for paragraphs *(b)* and *(c)* of the following paragraphs:

"*(b)* establishing an administrative and regulatory framework within which registered nonprofit organisations **[can]** must conduct their affairs;

(c) **[encouraging]** requiring registered nonprofit organisations to maintain adequate standards of governance, transparency and accountability and to improve those standards.".

Amendment of section 5 of Act 71 of 1997

10. Section 5 of the Nonprofit Organisations Act, 1997, is hereby amended by the addition of the following subsection, the existing provision becoming subsection (1):

"(2) In order to promote the achievement of the objects of this Act and to perform its functions and duties, the Directorate may collaborate, co-operate, co-ordinate and enter into arrangements with other organs of state, which may include—

(a) measures to co-ordinate their approach to performing their functions in terms of legislation;

(b) entering into a memorandum of understanding, which, among other matters, may provide for—

(i) the sharing of information between the parties, including—

(aa) the types of information to be furnished by each party; or

(bb) measures to protect the confidentiality of the information, including limiting access to specified persons or incumbents of specified positions, subject to the provisions of applicable legislation;

(ii) collaboration, co-operation between the parties, and assisting each other in the performance of their respective duties in terms of legislation, including through the provision of advice and support; and

(iii) the delegation by the Directorate to another organ of state of specified administrative functions.".

Wysiging van artikel 20 van Wet 57 van 1988

8. Artikel 20 van die Wet op die Beheer van Trustgoed, 1988, word hierby gewysig deur subartikel (2) deur die volgende subartikel te vervang:

"(2) 'n Trustee kan te eniger tyd deur die Meester van sy of haar amp onthef word—

(a) indien **[hy in die Republiek of elders skuldig bevind is aan 'n misdryf waarvan oneerlikheid 'n element is of aan 'n ander misdryf waarvoor hy tot gevangenisstraf sonder die keuse van 'n boete gevonnis is]** die persoon ingevolge artikel 6(1A) onbevoeg word om as 'n trustee gemagtig te word; of

(b) indien **[hy]** die trustee versuim om binne twee maande nadat hy **[daartoe]** of sy deur die Meester versoek is om dit te doen, of binne **[daardie]** 'n verdere tydperk wat die Meester toelaat, tot tevredenheid van die Meester sekerheid of bykomende sekerheid, na gelang van die geval, te stel; of

(c) indien **[hy]** die trustee se boedel gesekwestreer of gelikwideer of onder geregtelike bestuur geplaas word; of

(d) indien **[hy]** die trustee deur 'n bevoegde hof geestesongesteld verklaar is of onbevoeg verklaar is om **[sy]** hul eie sake te behartig of indien **[hy]** die trustee uit hoofde van die **[Wet op Geestesgesondheid, 1973 (Wet No. 18 van 1973)]** 'Mental Health Care Act, 2002' (Wet No. 17 van 2002), aangehou word as 'n pasiënt in 'n inrigting of as 'n Staatspasiënt; of

(e) indien **[hy]** die trustee versuim om 'n plig wat **[hom]** die trustee by of kragtens hierdie Wet opgelê is bevredigend te verrig of om aan die vereistes van hierdie Wet of 'n wettige versoek van die Meester te voldoen.".

Wysiging van artikel 2 van Wet 71 van 1997

9. Artikel 2 van die Wet op Organisasies sonder Winsoogmerk, 1997, word hierby gewysig deur paragrawe *(b)* en *(c)* deur die volgende paragrawe te vervang:

"*(b)* 'n administratiewe en regulerende raamwerk in te stel waarbinne geregistreerde organisasies sonder winsoogmerk hul sake **[kan]** moet behartig;

(c) te vereis dat geregistreerde organisasies sonder winsoogmerk **[aan te moedig om]** toereikende standaarde van bestuur, deursigtigheid en rekenpligtigheid **[te]** handhaaf en daardie standaarde **[te]** verbeter.".

Wysiging van artikel 5 van Wet 71 van 1997

10. Artikel 5 van die Wet op Organisasies Sonder Winsoogmerk, 1997, word hierby gewysig deur die volgende subartikel by te voeg, sodat die bestaande bepaling subartikel (1) word:

"(2) Ten einde die bereiking van die oogmerke van hierdie Wet te bevorder en om die werksaamhede en pligte daarvan te verrig, mag die Direktoraat met ander staatsorgane saamwerk, koördineer en ooreenkomste aangaan, wat kan insluit—

(a) maatreëls om hul benadering tot die verrigting van hulle werksaamhede ingevolge wetgewing te koördineer;

(b) 'n memorandum van verstandhouding aangaan wat, onder andere, kan voorsiening maak vir—

(i) die deel van inligting tussen partye, met inbegrip van—

(aa) die tipes inligting wat deur elke party verstrek moet word; of

(bb) maatreëls om die vertroulikheid van die inligting te beskerm, met inbegrip van om toegang tot spesifieke persone of ampsbekleërs van spesifieke posisies te beperk, behoudens die bepalings van toepaslike wetgewing;

(ii) samewerking tussen die partye, en bystand aan mekaar in die verrigting van hulle onderskeie pligte ingevolge wetgewing, met inbegrip van deur die voorsiening van advies en ondersteuning; en

(iii) die delegering deur die Direktoraat aan 'n ander staatsorgaan van spesifieke administratiewe werksaamhede.".

Amendment of section 12 of Act 71 of 1997

11. Section 12 of the Nonprofit Organisations Act, 1997, is hereby amended—

(a) by the substitution for subsection (1) of the following subsection:

"(1) *(a)* A nonprofit organisation referred to in paragraph *(b)* must apply, and any other nonprofit organisation that is not an organ of state may apply, to the director for registration, subject to paragraph *(c)*, and in accordance with the requirements and procedure contemplated in sections 13, 14 and 15.

(b) A nonprofit organisation must be registered under this Act if it—

(i) makes donations to individuals or organisations outside of the Republic's borders; or

(ii) provides humanitarian, charitable, religious, educational or cultural services outside of the Republic's borders.

(c) A nonprofit organisation referred to in paragraph *(b)* that is operating but is not registered in terms of this Act on the date of commencement of this provision, must apply to register within the period determined by the Minister by notice in the *Gazette*.

(d) A registered nonprofit organisation, and nonprofit organisation referred to in paragraph *(b)* whether it is in fact registered in terms of the Act or not, must comply with the requirements of this Act.";

(b) by the substitution in subsection (2) for the words preceding paragraph *(a)* of the following words:

"Unless the laws in terms of which a nonprofit organisation is established or incorporated make provision for the matters in this subsection, the constitution of a nonprofit organisation that is required in terms of subsection (1)*(b)* or intends to register must—";

(c) by the substitution in subsection (3) for the words preceding paragraph *(a)* of the following words:

"The constitution of a nonprofit organisation that is required in terms of subsection (1)*(b)* or that intends to register may make provision for matters relevant to conducting its affairs, including matters that—"; and

(d) by the insertion after subsection (3) of the following subsection:

"(4) The director when considering an application for registration in terms of section 13, after having received amendments to the constitution in terms of section 19, or at any other time, may only require a nonprofit organisation to make an alteration to its constitution to ensure that the constitution addresses the matters referred to in subsection (2).".

Amendment of section 13 of Act 71 of 1997

12. Section 13 of the Nonprofit Organisations Act, 1997, is hereby amended—

(a) by the substitution in subsection (1) for the wording preceding paragraph *(a)* of the following wording:

"A nonprofit organisation **[may apply]** applies for registration by submitting to the director—"; and

(b) by the insertion after subsection (6) of the following paragraphs:

"(7) The director may only refuse to register a nonprofit organisation on the grounds that the applicant has not complied with the requirements for registration in section 12 or has not complied with a notice issued in terms of subsection (3), as referred to in subsection (6).

Wysiging van artikel 12 van Wet 71 van 1997

11. Artikel 12 van die Wet op Organisasies Sonder Winsoogmerk, 1997, word hierby gewysig—

(a) deur subartikel (1) deur die volgende subartikel te vervang:

"(1) *(a)* 'n Organisasie sonder winsoogmerk bedoel in paragraaf *(b)* moet, en enige ander organisasie sonder winsoogmerk wat nie 'n staatsorgaan is nie kan, by die registrateur aansoek doen om registrasie, behoudens paragraaf *(c)* en ooreenkomstig die vereistes en prosedure in artikels 13, 14 en 15 beoog.

(b) 'n Organisasie sonder winsoogmerk moet kragtens hierdie Wet geregistreer word indien dit—

(i) donasies maak aan individue of organisasies buite die grense van die Republiek; of

(ii) humanitêre, liefdadige, godsdienstige, onderwys- of kulturele dienste buite die grense van die Republiek verskaf.

(c) 'n Organisasie sonder winsoogmerk in paragraph *(b)* bedoel wat in bedryf is maar nie op die datum van inwerkingtreding van hierdie bepaling ingevolge hierdie Wet geregistreer is nie, moet aansoek doen om te registreer binne die tydperk deur die Minister by kennisgewing in die *Staatskoerant* vasgestel.

(d) 'n Geregistreerde organisasie sonder winsoogmerk, en organisasie sonder winsoogmerk in paragraaf *(b)* bedoel, hetsy dit werklik ingevolge die Wet geregistreer is al dan nie, moet aan die vereistes van hierdie Wet voldoen.";

(b) deur in subartikel (2) die woorde wat paragraaf *(a)* voorafgaan deur die volgende woorde te vervang:

"Tensy die wette ingevolge waarvan 'n organisasie sonder winsoogmerk ingestel of geïnkorporeer is, vir die aangeleenthede in hierdie subartikel voorsiening maak, moet die konstitusie van 'n organisasie sonder winsoogmerk wat ingevolge subartikel (1)*(b)* moet registreer of wil registreer—";

(c) deur in subartikel (3) die woorde wat paragraaf *(a)* voorafgaan deur die volgende woorde te vervang:

"Die konstitusie van 'n organisasie sonder winsoogmerk wat ingevolge subartikel (1)*(b)* moet registreer of wat wil registreer, kan voorsiening maak vir aangeleenthede wat tersaaklik is by die bestuur van sy besigheid, met inbegrip van aangeleenthede wat—"; en

(d) deur die volgende subartikel in subartikel (3) in te voeg:

"(4) Die direkteur kan by die oorweging van 'n aansoek om registrasie ingevolge artikel 13, nadat wysigings aan die konstitusie ingevolge artikel 19 ontvang is of te eniger ander tyd, slegs vereis dat 'n organisasie sonder winsoogmerk 'n verandering aan hul konstitusie maak om te verseker dat die konstitusie die aangeleenthede bedoel in subartikel (2) hanteer.".

Wysiging van artikel 13 van Wet 71 van 1997

12. Artikel 13 van die Wet op Organisasies sonder Winsoogmerk, 1997, word hierby gewysig—

(a) deur in subartikel (1) die bewoording wat paragraaf *(a)* voorafgaan deur die volgende bewoording te vervang:

"'n Organisasie sonder winsoogmerk **[kan]** doen aansoek **[doen]** om registrasie deur aan die direkteur voor te lê—"; en

(b) deur die volgende paragrawe na subartikel (6) in te voeg:

"(7) Die direkteur kan slegs weier om 'n organisasie sonder winsoogmerk te registreer indien die aansoeker nie aan die vereistes vir registrasie in artikel 12 voldoen het nie, of nie aan 'n kennisgewing uitgereik ingevolge subartikel (3), soos in subartikel (6) bedoel, voldoen het nie.

(8) A nonprofit organisation that has submitted an application for registration is deemed to be registered unless and until the director has given notice to the applicant in terms of subsection (3) and the process envisaged in subsections (4) to (6) has been completed.''.

Amendment of section 18 of Act 71 of 1997

13. Section 18 of the Nonprofit Organisations Act, 1997, is hereby amended—

(a) by the insertion in subsection (1) after paragraph *(b)* of the following paragraph:

"*(b*A*)* prescribed information about the office-bearers, control structure, governance, management, administration and operations of registered nonprofit organisations;''; and

(b) by the insertion after subsection (1) of the following subsections:

"(1A) The prescribed requirements referred to in paragraph *(b*A*)* of subsection (1) must be prescribed after consultation with the Minister of Finance and the Financial Intelligence Centre, established by section 2 of the Financial Intelligence Centre Act, 2001 (Act No. 38 of 2001).

(1B) A registered nonprofit organisation must ensure that the information referred to in subsection (1)*(b*A*)* that must be provided to the director is kept up to date.''.

Amendment of section 24 of Act 71 of 1997, as amended by section 3 of Act 17 of 2000

14. Section 24 of the Nonprofit Organisations Act, 1997, is hereby amended—

(a) by the deletion in paragraph *(b)* of subsection (1) of "and'';

(b) by the substitution in paragraph *(c)* of subsection (1) for the full stop of "; and'';

(c) by the addition to subsection (1) of the following paragraph:

"*(d)* prescribed information about the office-bearers, control structure, governance, management, administration and operations of registered nonprofit organisations.''; and

(d) by the addition of the following subsections:

"(4) A registered nonprofit organisation must make the information referred to in section 18(1)*(b*A*)*, and the director must provide access to the information in the register referred to in subsection (1)*(d)*, available to any person as prescribed.

(5) The prescribed requirements referred to in subsections (1)*(d)* and (4) must be prescribed after consultation with the Minister of Finance and the Financial Intelligence Centre, established by section 2 of the Financial Intelligence Centre Act, 2001 (Act No. 38 of 2001).''.

Insertion of Chapter 3A in Act 71 of 1997

15. The Nonprofit Organisations Act, 1997, is hereby amended by the insertion after Chapter 3 of the following Chapter:

"CHAPTER 3A

OFFICE-BEARERS OF NONPROFIT ORGANISATIONS

Disqualification and removal of office-bearers

25A. (1) A person is disqualified from being an office-bearer of a registered nonprofit organisation if the person—

(a) is an unrehabilitated insolvent;

(b) has been prohibited by a court to be a director of a company, or has been declared by a court to be delinquent in terms of section 162 of the

(8) 'n Organisasie sonder winsoogmerk wat 'n aansoek om registrasie voorgelê het, word geag geregistreer te wees tensy en totdat die direkteur ingevolge subartikel (3) aan die aansoeker kennis gegee het en die proses in subartikels (4) tot (6) beoog, afgehandel is.''.

Wysiging van artikel 18 van Wet 71 van 1997

13. Artikel 18 van die Wet op Organisasies sonder Winsoogmerk, 1997, word hierby gewysig—

(a) deur die volgende paragraaf na paragraaf *(b)* in subartikel (1) in te voeg:

''*(b*A*)* voorgeskrewe inligting oor die ampsdraers, beheerstruktuur, beheer, bestuur, administrasie en bedryf van geregistreerde organisasies sonder winsoogmerk;''; en

(b) deur die volgende subartikels na subartikel (1) in te voeg:

''(1A) Die voorgeskrewe vereistes in paragraaf *(b*A*)* van subartikel (1) bedoel, moet voorgeskryf word na oorlegpleging met die Minister van Finansies en die Finansiële Intelligensiesentrum, ingestel by artikel 2 van die Wet op die Finansiële Intelligensiesentrum, 2001 (Wet No. 38 van 2001).

(1B) 'n Geregistreerde organisasie sonder winsoogmerk moet verseker dat die inligting bedoel in subartikel (1)*(b*A*)* wat aan die direkteur voorsien moet word, op datum gehou word.''.

Wysiging van artikel 24 van Wet 71 van 1997, soos gewysig deur artikel 3 van Wet 17 van 2000

14. Artikel 24 van die Wet op Organisasies sonder Winsoogmerk, 1997, word hierby gewysig—

(a) deur in paragraaf *(b)* van subartikel (1) ''en'' te skrap;

(b) deur in paragraaf *(c)* van subartikel (1) die punt te vervang deur ''; en'';

(c) deur die volgende paragraaf by subartikel (1) te voeg:

''*(d)* voorgeskrewe inligting oor die ampsdraers, beheerstruktuur, beheer, bestuur, administrasie en bedryf van geregistreerde organisasies sonder winsoogmerk.''; en

(d) deur die volgende subartikels by te voeg:

''(4) 'n Geregistreerde organisasie sonder winsoogmerk moet die inligting bedoel in artikel 18(1)*(b*A*)* beskikbaar stel, en die direkteur moet toegang voorsien tot die inligting in die register bedoel in subartikel (1)*(d)*, aan enige persoon soos voorgeskryf.

(5) Die voorgeskrewe vereistes in subartikels (1)*(d)* en (4) bedoel, moet voorgeskryf word na oorlegpleging met die Minister van Finansies en die Finansiële Intelligensiesentrum, ingestel by artikel 2 van die Wet op die Finansiële Intelligensiesentrum, 2001 (Wet No. 38 van 2001).''.

Invoeging van Hoofstuk 3A in Wet 71 van 1997

15. Die Wet op Organisasies sonder Winsoogmerk, 1997, word hierby gewysig deur die volgende Hoofstuk na Hoofstuk 3 in te voeg:

''**HOOFSTUK 3A**

AMPSDRAERS VAN ORGANISASIES SONDER WINSOOGMERK

Onbevoegdheid en ontheffing van ampsdraers

25A. (1) 'n Persoon is onbevoeg om as 'n ampsdraer van 'n geregistreerde organisasie sonder winsoogmerk gemagtig te word indien die persoon—

(a) 'n ongerehabiliteerde insolvent is;

(b) deur 'n hof verbied is om 'n direkteur van 'n maatskappy te wees, of

Companies Act, 2008 (Act No. 71 of 2008), or section 47 of the Close Corporations Act, 1984 (Act No. 69 of 1984);

(c) is prohibited in terms of any law to be a director of a company;

(d) has been removed from an office of trust, on the grounds of misconduct involving dishonesty;

(e) has been convicted, in the Republic or elsewhere, and imprisoned without the option of a fine, or fined more than the amount prescribed in terms of section 69 of the Companies Act, 2008, for theft, fraud, forgery, perjury or an offence—

(i) involving fraud, misrepresentation or dishonesty, or money laundering, terrorist financing or proliferation financing activities as those terms are defined in section 1(1) of the Financial Intelligence Centre Act, 2001 (Act No. 38 of 2001);

(ii) in connection with the promotion, formation or management of a company, or in connection with any act contemplated in section 69(2) or (5) of the Companies Act, 2008; or

(iii) under this Act, the Companies Act, 2008, the Insolvency Act, 1936 (Act No. 24 of 1936), the Close Corporations Act, 1984, the Competition Act, 1998 (Act No. 89 of 1998), the Financial Intelligence Centre Act, 2001, the Financial Markets Act, 2012 (Act No. 19 of 2012), Chapter 2 of the Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004), the Protection of Constitutional Democracy Against Terrorist and Related Activities Act, 2004 (Act No. 33 of 2004), or the Tax Administration Act, 2011 (Act No. 28 of 2011); or

(f) is subject to a resolution adopted by the Security Council of the United Nations when acting under Chapter VII of the Charter of the United Nations, providing for financial sanctions which entail the identification of persons or entities against whom member states of the United Nations must take the actions specified in the resolution contemplated in that subsection; or

(g) is an unemancipated minor, or is under a similar legal disability.

(2) A person who is disqualified, as set out in this section, may not—

(a) be appointed or elected as an office-bearer of a registered nonprofit organisation, or consent to being appointed or elected as an office-bearer; or

(b) act as an office-bearer of a registered nonprofit organisation.

(3) A disqualification in terms of subsection (1)*(d)* or *(e)* ends at the later of—

(a) five years after the date of removal from office, or the completion of the sentence imposed for the relevant offence, as the case may be; or

(b) one or more extensions, as determined by a court from time to time, on application by the Directorate in terms of subsection (4).

(4) A disqualification in terms of subsection (1)*(f)* ends when the Security Council of the United Nations takes a decision to no longer apply that resolution to a person contemplated in that subsection.

(5) At any time before the expiry of a person's disqualification in terms of subsection (1)*(d)* or *(e)*—

(a) the Directorate may apply to a court for an extension contemplated in subsection (3)*(b)*; and

(b) the court may extend the disqualification for no more than five years at a time, if the court is satisfied that an extension is necessary to protect the public,

having regard to the conduct of the disqualified person up to the time of the application.

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Maatskappywet, 2008 (Wet No. 71 van 2008), of artikel 47 van die Wet op Beslote Korporasies, 1984 (Wet No. 69 van 1984);

(c) ingevolge enige wetsbepaling daarvan verbied is om 'n direkteur van 'n maatskappy te wees;

(d) uit 'n vertrouensamp verwyder is, op grond van wangedrag wat oneerlikheid behels het;

(e) in die Republiek of elders skuldig bevind is en gevangenisstraf uitgedien het sonder die opsie van 'n boete, of meer as die voorgeskrewe bedrag voorgeskryf ingevolge artikel 69 van die Maatskappywet, 2008, beboet is, vir diefstal, bedrog, vervalsing, meineed of 'n misdryf—

(i) wat bedrog, wanvoorstelling of oneerlikheid, of geldwassery, terroristefinansiering of proliferasiefinansiering behels soos daardie terme omskryf word in artikel 1(1) van die Wet op die Finansiële Intelligensiesentrum, 2001 (Wet No. 38 van 2001);

(ii) in verband met die bevordering, vorming of bestuur van 'n maatskappy, of in verband met enige handeling beoog in artikel 69(2) of (5) van die Maatskappywet, 2008; of

(iii) kragtens hierdie Wet, die Maatskappywet, 2008, die Insolvensiewet, 1936 (Wet No. 24 van 1936), die Wet op Beslote Korporasies, 1984, die Wet op Mededinging, 1998, (Wet No. 89 van 1998), die Wet op die Finansiële Intelligensiesentrum, 2001, die 'Financial Markets Act, 2012' (Wet No. 19 van 2012), Hoofstuk 2 van die Wet op die Voorkoming en Bestryding van Korrupte Bedrywighede, 2004 (Wet No. 12 van 2004), die Wet op Beskerming van Konstitusionele Demokrasie teen Terroriste- en Verwante Aktiwiteite, 2004 (Wet No. 33 van 2004), of die Wet op Belastingadministrasie, 2011 (Wet No. 28 van 2011);

(f) is onderhewig aan 'n resolusie deurgevoer deur die Veiligheidsraad van die Verenigde Nasies handelend kragtens Hoofstuk VII van die Handves van die Verenigde Nasies, waarin voorsiening gemaak word vir finansiële sanksies wat die indentifikasie behels van persone of entiteite teen wie lidstate van die Verenigde Nasies die stappe in die resolusie beoog in daardie subartikel gespesifiseer, moet doen; of

(g) 'n minderjarige is, of onder 'n soortgelyke regsgestremdheid is.

(2) 'n Persoon wat onbevoeg is, soos in hierdie artikel uiteengesit, mag nie—

(a) as 'n ampsdraer van 'n geregistreerde organisasie sonder winsoogmerk aangestel word nie, of daartoe instem om as 'n ampsdraer aangestel of gekies te word nie; of

(b) as 'n ampsdraer van 'n geregistreerde organisasie sonder winsoogmerk optree nie.

(3) 'n Onbevoegdheid ingevolge subartikel (1)*(d)* of *(e)* eindig teen die latere van—

(a) vyf jaar na die datum van ontheffing uit die amp, of by voltooiing van die vonnis wat vir die tersaaklike misdryf opgelê is, na gelang van die geval; of

(b) een of meer verlengings, soos van tyd tot tyd deur 'n hof bepaal, by aansoek deur die Direktoraat ingevolge subartikel (4).

(4) 'n Onbevoegdheid ingevolge subartikel (1)*(f)* eindig wanneer die Veiligheidsraad van die Verenigde Nasies 'n besluit neem om nie meer daardie resolusie toe te pas teen 'n persoon in daardie subartikel beoog nie.

(5) Te eniger tyd voor die verstryking van 'n persoon se onbevoegdheid ingevolge subartikel (1)*(d)* of *(e)*—

(a) kan die Direktoraat by die hof aansoek doen om 'n verlenging in subartikel (3)*(b)* beoog; en

(b) kan die hof die onbevoegdheid verleng vir nie meer nie as vyf jaar op 'n keer, indien die hof oortuig is dat 'n verlenging nodig is om die publiek te beskerm,

met inagneming van die gedrag van die onbevoegde persoon tot op die

(6) A court may exempt a person from the application of any provision of subsection (1)*(a)*, *(c)* or *(e)*.

(7) The Registrar of the Court must, upon—

(a) the issue of a sequestration order;

(b) the issue of an order for the removal of a person from any office of trust on the grounds of misconduct involving dishonesty; or

(c) a conviction for an offence referred to in subsection (1)*(e)*,

send a copy of the relevant order or particulars of the conviction, as the case may be, to the Directorate.

(8) The Directorate must notify each registered nonprofit organisation which has an office-bearer to whom the order or conviction relates, of the order or conviction.

(9) *(a)* The Directorate must establish and maintain in the prescribed manner a public register of persons who are disqualified from serving as an office-bearer, in terms of an order of a court pursuant to this Act or any other law.

(b) The prescribed requirements referred to paragraph *(a)* must be prescribed after consultation with the Minister of Finance and the Financial Intelligence Centre, established by section 2 of the Financial Intelligence Centre Act, 2001 (Act No. 38 of 2001).

(10) A registered nonprofit organisation may not knowingly permit a disqualified person to serve or act as an office-bearer.

(11) A person who becomes ineligible or disqualified while serving as an office-bearer of a registered nonprofit organisation ceases to be entitled to continue to act as an office-bearer immediately.

(12) An office-bearer of a registered nonprofit organisation may at any time be removed from office by the director if—

(a) the person becomes disqualified to be an office-bearer in terms of subsection (1);

(b) the office-bearer's estate is sequestrated or liquidated or placed under judicial management; or

(c) the office-bearer fails to perform satisfactorily any duty imposed upon the office-bearer by or under this Act or to comply with the requirements of this Act or any lawful request of the director.''.

Amendment of section 21 of Act 71 of 1997

16. Section 21 of the Nonprofit Organisations Act, 1997, is hereby amended by the insertion after subsection (3) of the following subsection:

''(4) The director may only cancel the registration of a non-profit organisation as contemplated in section 20 and this section.''.

Amendment of section 29 of Act 71 of 1997

17. Section 29 of the Nonprofit Organisations Act, 1997, is hereby amended—

(a) by the substitution for the heading of the section of the following heading:

''**Offences and contraventions**''; and

(b) by the insertion after subsection (3) of the following subsection:

''(4) The following contraventions of this Act by a nonprofit organisation are subject to a prescribed administrative sanction:

(a) a registered nonprofit organisation that fails to perform any duty imposed or comply with a requirement in terms of section 12 or 18(1)*(b*A); and

(b) a nonprofit organisation that is required to register in terms of section 12(1)*(b)* but fails to do so.''.

(6) 'n Hof kan 'n persoon vrystel van die toepassing van enige bepaling van subartikel (1)*(a)*, *(c)* of *(e)*.

(7) Die griffier van die Hof moet, by—

(a) die uitreiking van 'n sekwestrasiebevel;

(b) die uitreiking van 'n bevel vir die ontheffing van 'n persoon uit enige vertrouensamp op grond van wangedrag wat oneerlikheid behels; of

(c) 'n skuldigbevinding vir 'n misdryf in subartikel (1)*(e)* bedoel,

'n afskrif van die tersaaklike bevel of besonderhede van die skuldigbevinding, na gelang van die geval, aan die Direktoraat stuur.

(8) Die Direktoraat moet elke geregistreerde organisasie sonder winsoogmerk wat 'n ampsdraer het op wie die bevel of skuldigbevinding betrekking het, in kennis stel van die bevel of skuldigbevinding.

(9) *(a)* Die Direktoraat moet op die voorgeskrewe wyse 'n publieke register instel en byhou van persone wat onbevoeg is om as 'n ampsdraer te dien ingevolge 'n hofbevel in navolging van hierdie Wet of enige ander wetsbepaling.

(b) Die voorgeskrewe vereistes in paragraaf *(a)* bedoel, moet voorgeskryf word na oorleg met die Minister van Finansies en die Finansiële Intelligensiesentrum, ingestel by artikel 2 van die Wet op die Finansiële Intelligensiesentrum, 2001 (Wet No. 38 van 2001).

(10) 'n Geregistreerde organisasie sonder winsoogmerk mag nie wetend 'n onbevoegde persoon toelaat om as 'n ampsdraer te dien of op te tree nie.

(11) 'n Persoon wat ongeskik of onbevoeg word terwyl hy of sy as ampsdraer van 'n geregistreerde organisasie sonder winsoogmerk dien, hou onmiddellik op om geregtig te wees om voort te gaan om as 'n ampsdraer op te tree.

(12) 'n Ampsdraer van 'n geregistreerde organisasie sonder winsoogmerk kan te eniger tyd deur die direkteur uit die amp onthef word indien—

(a) die persoon ingevolge subartikel (1) onbevoeg word om 'n ampsdraer te wees;

(b) die ampsdraer se boedel gesekwestreer of gelikwideer of onder geregtelike bestuur geplaas word; of

(c) die ampsdraer versuim om enige plig aan die ampsdraer opgelê deur of kragtens hierdie Wet bevredigend te verrig of om aan die vereistes van hierdie Wet of enige ander wettige versoek van die direkteur te voldoen.''.

Wysiging van artikel 21 van Wet 71 van 1997

16. Artikel 21 van die Wet op Organisasies sonder Winsoogmerk, 1997, word hierby gewysig deur die volgende subartikel na subartikel (3) in te voeg:

''(4) Die direkteur kan slegs die registrasie van 'n organisasie sonder winsoogmerk intrek soos in artikel 20 en hierdie artikel beoog.''.

Wysiging van artikel 29 van Wet 71 van 1997

17. Artikel 29 van die Wet op Organisasies sonder Winsoogmerk, 1997, word hierby gewysig—

(a) deur die opskrif van die artikel deur die volgende opskrif te vervang:

''**Misdrywe en oortredings**''; en

(b) deur die volgende subartikel na subartikel (3) in te voeg:

''(4) Die volgende oortredings van hierdie Wet deur 'n organisasie sonder winsoogmerk is onderhewig aan 'n voorgeskrewe administratiewe sanksie:

(a) 'n geregistreerde organisasie sonder winsoogmerk wat versuim om enige opgelegde plig te verrig of aan enige vereiste te voldoen ingevolge artikel 12 of 18(1)*(b*A*)*; en

(b) 'n organisasie sonder winsoogmerk wat ingevolge artikel 12(1)*(b)* moet registreer, maar versuim om dit te doen.''.

Amendment of section 1 of Act 38 of 2001, as amended by section 27 of Act 33 of 2004, section 1 of Act 11 of 2008, section 53 of Act 11 of 2013 and section 1 of Act 1 of 2017

18. Section 1(1) of the Financial Intelligence Centre Act, 2001, is hereby amended—

(a) by the deletion in paragraph *(h)* of the definition of ''authorised officer'' of ''or'';

(b) by substitution in the definition of ''authorised officer'' for paragraph *(i)* of the following paragraph:

''*(i)* an investigative division in **[an organ of state]** a national department authorised by the head of **[the organ of state]** that national department to act under this Act; or'';

(c) by the addition in the definition of ''authorised officer'' after paragraph *(i)* of the following paragraph:

''*(j)* an investigative division of the Auditor-General authorised by the Auditor-General to act under this Act;'';

(d) by the substitution for the definition of ''beneficial owner'' of the following definition:

'' **'beneficial owner'**—

(a) means a natural person who directly or indirectly—

(i) ultimately owns or exercises effective control of—

(aa) a client of an accountable institution; or

(bb) a legal person, partnership or trust that owns or exercises effective control of, as the case may be, a client of an accountable institution; or

(ii) exercises control of a client of an accountable institution on whose behalf a transaction is being conducted; and

(b) includes—

(i) in respect of legal persons, each natural person contemplated in section 21B(2)*(a)*;

(ii) in respect of a partnership, each natural person contemplated in section 21B(3)*(b)*; and

(iii) in respect of a trust, each natural person contemplated in section 21B(4)*(c)*, *(d)* and *(e)*;'';

(e) by the substitution for the definition of ''domestic prominent influential person'' of the following definition:

'' **'domestic [prominent influential] politically exposed person'** means a person referred to in Schedule 3A;'';

(f) by the substitution for the definition of ''foreign prominent public official'' of the following definition:

'' **'foreign [prominent public official] politically exposed person'** means a person referred to in Schedule 3B;'';

(g) by the substitution for the definition of ''investigative division in an organ of state'' of the following definition:

'' **'investigative division in [an organ of state] a national department'** means an investigative **[division or]** component in **[an organ of state in the Republic]** a national department listed in Schedule 1 to the Public Service Act, 1994 (Act No. 103 of 1994), having a function by law to investigate unlawful activity within **[the organ of state]** that national department or in another organ of state;'';

(h) by the insertion after the definition of ''investigative division in an organ of state'' of the following definition:

'' **'investigative division of the Auditor-General'** means the investigative component of the Auditor-General having the function by law to investigate material irregularities in accordance with the Public Audit Act, 2004 (Act No. 25 of 2004);''; and

(i) by the insertion after the definition of ''proceeds of unlawful activities'' of the following definitions:

'' **'proliferation financing'** or **'proliferation financing activity'** means an activity which has or is likely to have the effect of providing property

Wysiging van artikel 1 van Wet 38 van 2001, soos gewysig deur artikel 27 van Wet 33 van 2004, artikel 1 van Wet 11 van 2008, artikel 53 van Wet 11 van 2013 en artikel 1 van Wet 1 van 2017

18. Artikel 1(1) van die Wet op die Finansiële Intelligensiesentrum, 2001, word hierby gewysig—

(a) deur die omskrywing van ‘‘binnelandse-vooraanstaande-invloedryke-persoon’’ deur die volgende omskrywing te vervang:

‘‘**‘[binnelandse-vooraanstaande-invloedryke-persoon] binnelandse politiesblootgesteldepersoon’** ’n persoon in Bylae 3A bedoel;’’;

(b) deur die omskrywing van ‘‘buitelandse-vooraanstaande-openbare-beampte’’ deur die volgende omskrywing te vervang:

‘‘**‘[buitelandse-vooraanstaande-openbare-beampte] buitelandse politiesblootgesteldepersoon’** ’n persoon in Bylae 3B bedoel;’’;

(c) deur in paragraaf *(h)* van die omskrywing van ‘‘gemagtigde beampte’’, die ‘‘of’’ te skrap;

(d) deur in die omskrywing van ‘‘gemagtigde beampte’’ paragraaf *(i)* deur die volgende paragraaf te vervang:

‘‘*(i)* ’n ondersoekafdeling in ’n **[staatsorgaan]** nasionale departement deur die hoof van daardie **[staatsorgaan]** nasionale departement gemagtig om kragtens hierdie Wet op te tree; of’’;

(e) deur die volgende paragraaf na paragraaf *(i)* in die omskrywing van ‘‘gemagtigde beampte’’ in te voeg:

‘‘*(j)* ’n ondersoekafdeling van die Ouditeur-generaal deur die Ouditeur-generaal gemagtig om kragtens hierdie Wet te handel;’’;

(f) deur die omskrywing van ‘‘ondersoekafdeling in ’n staatsorgaan’’ deur die volgende omskrywing te vervang:

‘‘**‘ondersoekafdeling in ’n [staatsorgaan] nasionale departement**’ ’n **[ondersoekafdeling in ’n staatsorgaan in die Republiek]** ondersoekkomponent in ’n nasionale departement gelys in Bylae 1 by die Staatsdienswet, 1994 (Wet No. 103 van 1994), wat ’n regsfunksie het om onregmatige aktiwiteite binne **[die]** daardie nasionale departement of in ’n ander staatsorgaan te ondersoek;’’;

(g) deur die volgende omskrywing na die omskrywing ‘‘ondersoekafdeling in ’n staatsorgaan’’ in te voeg:

‘‘**‘ondersoekafdeling van die Ouditeur-generaal’** die ondersoekkomponent van die Ouditeur-generaal met die regsfunksie om wesenlike ongeruimdhede ooreenkomstig die Wet op Openbare Oudit, 2004 (Wet No. 25 van 2004), te ondersoek;’’;

(h) deur die volgende omskrywing na die omskrywing van ‘‘Openbare Beskermer’’ in te voeg:

‘‘**‘proliferasiefinansiering’** of **‘proliferasiefinansieringsaktiwiteit’** ’n aktiwiteit wat die uitwerking het of waarskynlik ’n uitwerking kan hê dat eiendom, ’n finansiële of ander diens of ekonomiese ondersteuning aan ’n nie-Staatsakteur voorsien word, wat gebruik kan word om die vervaardiging, verkryging, besit, ontwikkeling, vervoer, oordrag of gebruik van kernwapens, chemiese of biologiese wapens en die middele vir die lewering daarvan te finansier, en sluit enige aktiwiteit in wat ’n misdryf ingevolge artikel 49A uitmaak;’’;

(i) deur die omskrywing van ‘‘uiteindelik geregtigde’’ deur die volgende omskrywing te vervang:

‘‘**‘uiteindelik geregtigde’**—

(a) ’n natuurlike persoon wat regstreeks of onregstreeks—

(i) uiteindelik—

(aa) ’n kliënt van ’n verantwoordingspligtige instelling besit of beheer daaroor uitoefen; of

(bb) ’n regspersoon, vennootskap of trust besit of beheer daaroor uitoefen, wat ’n kliënt van ’n verantwoordingspligtige instelling, besit of doelmatige beheer daaroor uitoefen, na gelang van die geval; of

(ii) beheer oor ’n kliënt van ’n verantwoordingspligtige instelling

a financial or other service or economic support to a non-State actor, that may be used to finance the manufacture, acquisition, possessing, development, transport, transfer or use of nuclear, chemical or biological weapons and their means of delivery, and includes any activity which constitutes an offence in terms of section 49A;
'prominent influential person' means a person referred to in Schedule 3C;''.

Amendment of section 3 of Act 38 of 2001, as amended by section 27 of Act 33 of 2004, section 2 of Act 11 of 2008 and section 2 of Act 1 of 2017

19. Section 3 of the Financial Intelligence Centre Act, 2001, is hereby amended—

(a) by the substitution for subsection (1) of the following subsection:
''(1) The principal objective of the Centre is to assist in the—
(a) identification of the proceeds of unlawful activities;
*(a*A*)* identification of persons involved in money laundering activities, offences relating to the financing of terrorist and related activities and proliferation financing activities;
(b) combating of money laundering activities **[and]**, the financing of terrorist and related activities and proliferation financing activities; and
(c) implementation of financial sanctions pursuant to resolutions adopted by the Security Council of the United Nations, under Chapter VII of the Charter of the United Nations.'';

(b) by the substitution in subsection (2) for the words preceding paragraph *(a)* of the following words:
''to make information **[collected by]** it collects and produces available to—'';

(c) by the substitution in paragraph *(a)* of subsection (2) for subparagraphs (ix) and (x) of the following subparagraphs:
''(ix) an investigative division in **[an organ of state]** a national department; **[or]**
(x) a supervisory body**[,]**; or
(xi) the investigative division of the Auditor-General,'';

(d) by the substitution in subsection (2) for item *(aa)* of the following item:
''*(aa)* to administer measures requiring **[accountable institutions]** persons to freeze property and transactions pursuant to financial sanctions that may arise from resolutions adopted by the Security Council of the United Nations **[referred to in a notice]** contemplated in section 26A;''; and

(e) by the insertion in subsection (2) after item *(aa)* of the following item:
''*(aa*A*)* to produce forensic evidence, based on the application of specialised scientific methods and techniques, pertaining to the flow of financial transactions and the links between persons, and between persons and property, based on the flow of financial transactions;''.

Amendment of section 4 of Act 38 of 2001, as amended by section 4 of Act 11 of 2008 and section 3 of Act 1 of 2017

20. Section 4 of the Financial Intelligence Centre Act, 2001, is hereby amended—

(a) by the substitution in paragraph *(b)* for subparagraphs (ix) and (x) of the following subparagraphs:

(b) ook—
(i) ten opsigte van regspersone, elke natuurlike persoon in artikel 21B(2)*(a)* beoog;
(ii) ten opsigte van 'n vennootskap, elke natuurlike persoon in artikel 21B(3)*(b)* beoog; en
(iii) ten opsigte van 'n trust, elke natuurlike persoon in artikel 21B(4)*(c)*, *(d)* en *(e)* beoog;''; en

(j) deur die volgende omskrywing na die omskrywing van ''verslag-doeningsinstelling'' in te voeg:
''**'vooraanstaande persoon met invloed'** 'n persoon in Bylae 3C bedoel;''.

Wysiging van artikel 3 van Wet 38 van 2001, soos gewysig deur artikel 27 van Wet 33 van 2004, artikel 2 van Wet 11 van 2008 en artikel 2 van Wet 1 van 2017

19. Artikel 3 van die Wet op die Finansiële Intelligensiesentrum, 2001, word hierby gewysig—

(a) deur subartikel (1) deur die volgende subartikel te vervang:
''(1) Die vernaamste oogmerk van die Sentrum is om bystand te verleen in die —
(a) identifisering van die opbrengs van onregmatige aktiwiteite;
*(a*A*)* identifikasie van persone betrokke by geldwassery-aktiwiteite, misdrywe wat verband hou met die finansiering van terroriste- en verwante aktiwiteite en proliferasiefinansieringsaktiwiteite;
(b) bekamping van geldwassery-aktiwiteite **[en]**, van die finansiering van terroriste- en verwante aktiwiteite en proliferasie-finansieringsaktiwiteite; en
(c) implementering van finansiële sanksies na aanleiding van resolusies deurgevoer deur die Veiligheidsraad van die Verenigde Nasies, kragtens Hoofstuk VII van die Handves van die Verenigde Nasies.'';

(b) deur in subartikel (2) die woorde wat paragraaf *(a)* voorafgaan deur die volgende woorde te vervang:
''om inligting **[deur hom]** wat die Sentrum versamel en produseer, beskikbaar te stel aan—'';

(c) deur in paragraaf *(a)* van subartikel (2) subparagrawe (ix) en (x) deur die volgende subparagrawe te vervang:
''(ix) 'n ondersoekafdeling in 'n **[staatsorgaan]** nasionale departement; **[of]**
(x) 'n toesighoudende liggaam**[,]**; of
(xi) die ondersoekafdeling van die Ouditeur-generaal,'';

(d) deur in subartikel (2) item *(aa)* deur die volgende item te vervang:
''*(aa)* om maatreëls te administreer wat verg dat **[verantwoordingspligtige instellings]** persone eiendom en transaksies bevries na aanleiding van finansiële sanksies wat kan voortspruit uit resolusies, deur die Veiligheidsraad van die Verenigde Nasies deurgevoer, **[bedoel in 'n kennisgewing]** in artikel 26A beoog;''; en

(e) deur in subartikel (2), die volgende item na item *(aa)* in te voeg:
''*(aa*A*)* om forensiese getuienis te produseer, gebaseer op die toepassing van gespesialiseerde wetenskaplike metodes en tegnieke, betreffende die vloei van finansiële transaksies en die skakels tussen persone, en tussen persone en eiendom, gebaseer op die vloei van finansiële transaksies;''.

Wysiging van artikel 4 van Wet 38 van 2001, soos gewysig deur artikel 4 van Wet 11 van 2008 en artikel 3 van Wet 1 van 2017

20. Artikel 4 van die Wet op die Finansiële Intelligensiesentrum, 2001, word hierby gewysig—

(a) deur in paragraaf *(b)* subparagrawe (ix) en (x) deur die volgende sub-

"(ix) an investigative division in **[an organ of state]** a national department; **[or]**

(x) a supervisory body; or

(xi) the investigative division of the Auditor-General;";

(b) by the substitution for paragraph *(c*A*)* of the following paragraph:

"*(c*A*)* provide information and guidance to **[accountable institutions]** persons that will assist **[accountable institutions]** in meeting requirements to freeze property and transactions pursuant to resolutions adopted by the Security Council of the United Nations **[referred to in a notice]** contemplated in section 26A;";

(c) by the substitution for paragraph *(e)* of the following paragraph:

"*(e)* annually review the implementation of this Act and submit a report **[thereon]** that includes information that is necessary to demonstrate the implementation of the Act, to the Minister;"; and

(d) by the substitution for paragraph *(g)* of the following paragraph:

"*(g)* supervise and enforce compliance with this Act or any directive made in terms of this Act by accountable institutions, reporting institutions and other persons to whom the provisions of this Act apply that—

(i) are not **[regulated or]** supervised by a supervisory body in terms of this Act **[or any other law]**;

(ii) are **[regulated or]** supervised by a supervisory body in terms of this Act **[or any other law]**, if that supervisory body fails to enforce compliance despite any recommendation of the Centre made in terms of section 44*(b)*.".

Amendment of section 5 of Act 38 of 2001

21. Section 5 of the Financial Intelligence Centre Act, 2001, is hereby amended—

(a) by the insertion in subsection (1) after paragraph *(h)* of the following paragraph:

"*(h*A*)* enter into public private partnerships for the purposes of achieving any of the objectives of the Centre in section 3;"; and

(b) by the insertion after subsection (1) of the following subsection:

"(2) The Centre may, for the purposes of this Act and to perform its functions effectively—

(a) request information from any organ of state;

(b) request access to any database held by any organ of state; or

(c) have access to information contained in a register that is kept by an organ of state in the execution of a statutory function of that organ of state.".

Amendment of section 21B of Act 38 of 2001, as inserted by section 10 of Act 1 of 2017

22. Section 21B of the Financial Intelligence Centre Act, 2001, is hereby amended—

(a) by the substitution in paragraph *(a)* of subsection (2) for subparagraph (ii) of the following subparagraph:

"(ii) if in doubt whether a natural person contemplated in subparagraph (i) is the beneficial owner of the legal person or no natural person has a controlling ownership interest in the legal person, determining the identity of each natural person who exercises control of that legal person through other means, including through his or her ownership or control of other legal persons, partnerships or trusts; or"; and

"(ix) 'n ondersoekafdeling in 'n **[staatsorgaan]** nasionale departement; **[of]**

(x) 'n toesighoudende liggaam; of

(xi) die ondersoekafdeling van die Ouditeur-generaal;";

(b) deur paragraaf *(c*A*)* deur die volgende subparagraaf te vervang:

"*(c*A*)* inligting en leiding aan **[verantwoordingspligtige instellings]** persone voorsien wat **[verantwoordingspligtige instellings]** sal help om te voldoen aan vereistes om eiendom en transaksies te bevries na aanleiding van resolusies deur die Veiligheidsraad van die Verenigde Nasies deurgevoer, **[bedoel in 'n kennisgewing]** in artikel 26A beoog;";

(c) deur paragraaf *(e)* deur die volgende paragraaf te vervang:

"*(e)* jaarliks die toepassing van hierdie Wet hersien en 'n verslag **[daaroor]** wat inligting insluit wat nodig is om die toepassing van die Wet te demonstreer, aan die Minister voorlê;"; en

(d) deur paragraaf *(g)* deur die volgende paragraaf te vervang:

"*(g)* toesig hou oor verantwoordingspligtige instellings, verslagdoeningsinstellings en ander persone op wie die bepalings van hierdie Wet of 'n lasgewing uitgereik ingevolge hierdie Wet van toepassing is en wat—

(i) **[nie ingevolge hierdie Wet of enige ander wet deur 'n toesighoudende liggaam gereguleer word of]** oor wie 'n toesighoudende liggaam nie ingevolge hierdie Wet of enige ander wet toesig hou nie;

(ii) **[ingevolge hierdie Wet of enige ander wet deur 'n toesighoudende liggaam gereguleer word of]** oor wie 'n toesighoudende liggaam ingevolge hierdie Wet **[of enige ander wet]** toesig hou, indien daardie toesighoudende liggaam versuim om nakoming af te dwing ondanks 'n aanbeveling van die Sentrum wat ingevolge artikel 44*(b)* gedoen is,".

Wysiging van artikel 5 van Wet 38 van 2001

21. Artikel 5 van die Wet op die Finansiële Intelligensiesentrum, 2001, word hierby gewysig—

(a) deur in subartikel (1) die volgende paragraaf na paragraaf *(h)* in te voeg:

"*(h*A*)* publieke private vennootskappe aangaan met die doel om enige van die oogmerke van die sentrum in artikel 3 te bereik;"; en

(b) deur die volgende subartikel na subartikel (1) in te voeg:

"(2) Die Sentrum kan, vir die doeleindes van hierdie Wet en om die Sentrum se werksaamhede doeltreffend uit te voer—

(a) inligting van enige staatsorgaan aanvra;

(b) toegang versoek tot enige databasis wat enige staatsorgaan hou; of

(c) toegang hê tot inligting vervat in 'n register wat deur 'n staatsorgaan gehou word in die uitvoering van 'n statutêre funksie van daardie staatsorgaan.".

Wysiging van artikel 21B van Wet 38 van 2001, soos ingevoeg deur artikel 10 van Wet 1 van 2017

22. Artikel 21B van die Wet op die Finansiële Intelligensiesentrum, 2001, word hierby gewysig—

(a) deur in paragraaf *(a)* van subartikel (2) subparagraaf (ii) deur die volgende subparagraaf te vervang:

"(ii) indien twyfel bestaan of 'n natuurlike persoon in subparagraaf (i) beoog die uiteindelik geregtigde van die regspersoon is of geen natuurlike persoon 'n beherende eienaarskapsbelang in die regspersoon het nie, die identiteit uit te vind van elke natuurlike persoon wat op ander maniere beheer oor daardie regspersoon uitoefen, met inbegrip van deur sy of haar eienaarskap of beheer van

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(b) by the substitution for subsections (3) and (4) of the following subsections:

"(3) If a **[natural]** person, in entering into a single transaction or establishing a business relationship as contemplated in section 21, is acting on behalf of a partnership **[between natural persons]**, an accountable institution must, in addition to the steps required under sections 21 and 21A and in accordance with its Risk Management and Compliance Programme—

(a) establish the identifying name of the partnership, if applicable;

(b) establish the identity of—

(i) every partner, including every member of a partnership en commandite, an anonymous partnership or any similar partnership;

(ii) if a partner in the partnership is a legal person or a natural person acting on behalf of a partnership or in pursuance of the provisions of a trust agreement, the beneficial owner of that legal person, partnership or trust;

[*(c)*] (iii) **[establish the identity of]** the natural person who exercises executive control over the partnership; and

[*(d)*] (iv) **[establish the identity of]** each natural person who purports to be authorised to enter into a single transaction or establish a business relationship with the accountable institution on behalf of the partnership; and

[*(e)*] *(c)* take reasonable steps to verify—

(i) the particulars obtained in paragraph *(a)*; and

[*(f)*] (ii) **[take reasonable steps to verify]** the identities of the natural persons referred to in **[paragraphs]** paragraph *(b)* **[to *(d)*]** so that the accountable institution is satisfied that it knows the identities of the natural persons concerned.

(4) If a **[natural]** person, in entering into a single transaction or establishing a business relationship as contemplated in section 21, is acting in pursuance of the provisions of a trust agreement **[between natural persons]**, an accountable institution must, in addition to the steps required under sections 21 and 21A and in accordance with its Risk Management and Compliance Programme—

(a) establish the identifying name and number of the trust, if applicable;

(b) establish the address of the Master of the High Court where the trust is registered, if applicable;

(c) in respect of the founders of the trust, establish the identity of—

(i) **[the]** each founder; and

(ii) if a founder of the trust is a legal person or a person acting on behalf of a partnership or in pursuance of the provisions of a trust agreement, the beneficial owner of that legal person, partnership or trust;

(d) in respect of the trustees of the trust, establish the identity of—

(i) each trustee;

(iA) if a trustee is a legal person or a person acting on behalf of a partnership, the beneficial owner of that legal person or partnership; and

(ii) each natural person who purports to be authorised to enter into a single transaction or establish a business relationship with the accountable institution on behalf of the trust, whether such a person is appointed as a trustee of the trust or not;

(e) in respect of the beneficiaries of the trust, establish—

(i) the identity of each beneficiary referred to by name in the trust **[deed]** instrument or other founding instrument in terms of which the trust is created;

(b) deur subartikels (3) en (4) deur die volgende subartikels te vervang:

"(3) Indien 'n **[natuurlike]** persoon, by die sluit van 'n enkeltransaksie of aangaan van 'n sakeverhouding soos beoog in artikel 21, ten behoewe van 'n vennootskap **[tussen natuurlike persone]** optree, moet 'n verantwoordingspligtige instelling, benewens die stappe kragtens artikels 21 en 21A en ooreenkomstig sy Risikobestuur- en Nakomingsprogram—

(a) die identifiserende naam van die vennootskap vasstel, indien van toepassing;

(b) die identiteit vasstel van—

(i) elke vennoot **[vasstel]**, met inbegrip van elke lid van 'n vennootskap en commandite, 'n anonieme vennootskap of enige soortgelyke vennootskap;

(ii) indien 'n vennoot in die vennootskap 'n regspersoon of 'n natuurlike persoon is wat namens 'n vennootskap of ingevolge die bepalings van 'n trustooreenkoms optree, die uiteindelik geregtigde van daardie regspersoon, vennootskap of trust;

[*(c)*] (iii) **[die identiteit vasstel van]** die natuurlike persoon wat uitvoerende beheer oor die vennootskap uitoefen; en

[*(d)*] (iv) **[die identiteit vasstel van]** elke natuurlike persoon wat voorgee om gemagtig te wees om namens die vennootskap 'n enkeltransaksie te sluit of 'n sakeverhouding aan te gaan met die verantwoordingspligtige instelling; en

[*(e)*] *(c)* redelike stappe doen om—

(i) die besonderhede wat kragtens paragraaf *(a)* verkry is, te verifieer;

[*(f)*] (ii) **[redelike stappe doen om]** die identiteite van die natuurlike persone in **[paragrawe]** paragraaf *(b)* **[tot *(d)*]** bedoel te verifieer sodat die verantwoordingspligtige instelling tevrede is dat hy die identiteite van die betrokke natuurlike persone ken.

(4) Indien 'n **[natuurlike]** persoon, by die sluit van 'n enkeltransaksie of die aangaan van 'n sakeverhouding soos beoog in artikel 21, ingevolge die bepalings van 'n trustooreenkoms **[tussen natuurlike persone]** optree, moet 'n verantwoordingspligtige instelling, benewens die stappe kragtens artikels 21 en 21A vereis en ooreenkomstig sy Risikobestuur- en Nakomingsprogram—

(a) die identifiserende naam en nommer van die trust vasstel, indien van toepassing;

(b) die adres van die Meester van die Hooggeregshof waar die trust geregistreer is, vasstel, indien van toepassing;

(c) ten opsigte van die stigters van die trust, die identiteit vasstel—

(i) van **[die]** elke stigter **[vasstel]**; en

(ii) as 'n stigter van die trust 'n regspersoon is of 'n persoon is wat namens 'n vennootskap handel of ingevolge die bepalings van 'n trustooreenkoms, die uiteindelik geregtigde van daardie regspersoon, vennootskap of trust;

(d) ten opsigte van die trustees van die trust, die identiteit vasstel van—

(i) elke trustee;

(iA) as 'n trustee 'n regspersoon is of 'n persoon is wat ten behoewe van 'n vennootskap optree, die uiteindelik geregtigde van daardie regspersoon of vennootskap; en

(ii) elke natuurlike persoon wat voorgee om gemagtig te wees om namens die trust 'n enkeltransaksie te sluit of 'n sakeverhouding aan te gaan met die verantwoordingspligtige instelling namens die trust, hetsy sodanige persoon as 'n trustee van die trust aangestel word, al dan nie;

(e) ten opsigte van die begunstigdes van die trust—

(i) die identiteit vasstel van elke begunstigde wat in die **[trustakte]** trustinstrument of ander stigtingsakte ingevolge

(iA) if a beneficiary referred to by name in the trust instrument is a legal person or a person acting on behalf of a partnership or in pursuance of the provisions of a trust agreement, the beneficial owner of that legal person, partnership or trust; **[or]** and

(ii) if beneficiaries are not referred to by name in the trust **[deed]** instrument or other founding instrument in terms of which the trust is created, the particulars of how the beneficiaries of the trust are determined;

(f) take reasonable steps to verify the particulars obtained in paragraphs *(a)*, *(b)* and *(e)*(ii); and

(g) take reasonable steps to verify the identities of the natural persons referred to in paragraphs *(c)*, *(d)* **[and]**, *(e)*(i) and (iA) so that the accountable institution is satisfied that it knows the identities of the natural persons concerned.''.

Amendment of section 21C of Act 38 of 2001, as inserted by section 10 of Act 1 of 2017

23. Section 21C of the Financial Intelligence Centre Act, 2001, is hereby amended by the addition of the following subsection, the existing provision becoming subsection (1):

''(2) If an accountable institution suspects that a transaction or activity is suspicious or unusual as contemplated in section 29, and the institution reasonably believes that in performing the customer due diligence requirements in terms of this section will disclose to the client that a report will be made in terms of section 29, it may discontinue the customer due diligence process and consider making a report under section 29.''.

Substitution of section 21D of Act 38 of 2001, as inserted by section 10 of Act 1 of 2017

24. The following section is hereby substituted for section 21D of the Financial Intelligence Centre Act, 2001:

''**Doubts about veracity of previously obtained information and when reporting suspicious and unusual transactions**

21D. When an accountable institution, subsequent to entering into a single transaction or establishing a business relationship**[,]** —

(a) doubts the veracity or adequacy of previously obtained information which the institution is required to verify as contemplated in sections 21 and 21B; or

(b) makes a suspicious or unusual transaction report in terms of section 29,

the institution must repeat the steps contemplated in sections 21 and 21B in accordance with its Risk Management and Compliance Programme and to the extent that is necessary to confirm the information **[in question]** previously obtained.''.

Amendment of section 21F of Act 38 of 2001, as inserted by section 10 of Act 1 of 2017

25. Section 21F of the Financial Intelligence Centre Act, 2001, is hereby amended—

(a) by the substitution for the heading of the following heading:

''**Foreign [prominent public official] politically exposed person**''; and

(b) by the substitution for the words preceding paragraph *(a)* of the following words:

''If an accountable institution determines in accordance with its Risk Management and Compliance Programme that a prospective client with whom it engages to establish a business relationship, or the beneficial owner of that prospective client, is a foreign **[prominent public official]**

(iA) of 'n begunstige wat by die naam genoem word in die trustinstrument 'n regspersoon is of 'n persoon is wat ten behoewe van 'n vennootskap of ingevolge die bepalings van 'n trustooreenkoms optree, die identiteit vasstel van die uiteindelik geregtigde van daardie regspersoon, vennootskap of trust; **[of]** en

(ii) indien begunstigdes nie in die **[trustakte]** trustinstrument of ander stigtingsakte ingevolge waarvan die trust geskep is by die naam genoem word nie, die besonderhede vasstel van hoe die begunstigdes van die trust bepaal word;

(f) redelike stappe doen om die besonderhede in paragrawe *(a)*, *(b)* en *(e)*(ii) verkry, te verifieer; en

(g) redelike stappe doen om die identiteite te verifieer van die natuurlike persone in paragrawe *(c)*, *(d)* **[en]**, *(e)*(i) en (iA) bedoel sodat die verantwoordingspligtige instelling tevrede is dat hy die identiteite van die betrokke natuurlike persone ken.".

Wysiging van artikel 21C van Wet 38 van 2001, soos ingevoeg deur artikel 10 van Wet 1 van 2017

23. Artikel 21C van die Wet op die Finansiële Intelligensiesentrum, 2001, word hierby gewysig deur die volgende subartikel by te voeg, sodat die bestaande bepaling subartikel (1) word:

"(2) Indien 'n verantwoordingspligtige instelling vermoed dat 'n transaksie of aktiwiteit verdag of ongewoon is soos in artikel 29 beoog, en die instelling redelikerwys glo dat die uitvoering van klante-omsigtigheidsvereistes ingevolge hierdie artikel aan die kliënt sal openbaar maak dat 'n verslag ingevolge artikel 29 gemaak gaan word, kan hulle die klante-omsigtigheidsproses staak en dit oorweeg om 'n verslag kragtens artikel 29 te doen.".

Vervanging van artikel 21D van Wet 38 van 2001, soos deur artikel 10 van Wet 1 van 2017 ingevoeg:

24. Artikel 21D van die Wet op die Finansiële Intelligensiesentrum, 2001, word hierby deur die volgende artikel vervang:

"**Twyfel oor geloofwaardigheid van inligting wat voorheen verkry is en wanneer verdagte en ongewone transaksies aangemeld word**

21D. Wanneer 'n verantwoordingspligtige instelling, na die sluit van 'n enkeltransaksie of die aangaan van 'n sakeverhouding**[,]**—

(a) twyfel oor die betroubaarheid of genoegsaamheid van inligting wat voorheen verkry is wat die instelling moet verifieer soos in artikels 21 en 21B beoog; of

(b) 'n verdagte of ongewone transaksie rapporteer ingevolge artikel 29,

moet die instelling die stappe in artikels 21 en 21B beoog ooreenkomstig sy Risikobestuur- en Nakomingsprogram en tot die mate nodig om die **[betrokke]** inligting wat voorheen verkry is, te bevestig, herhaal.".

Wysiging van artikel 21F van Wet 38 van 2001, soos ingevoeg deur artikel 10 van Wet 1 van 2017

25. Artikel 21F van die Wet op die Finansiële Intelligensiesentrum, 2001, word hierby gewysig—

(a) deur die opskrif deur die volgende opskrif te vervang:

"**[Buitelandse-vooraanstaande-openbare-beampte] Buitelandse politiesblootgesteldepersoon**"; en

(b) deur die woorde wat paragraaf *(a)* voorafgaan deur die volgende woorde te vervang:

"Indien 'n verantwoordingspligtige instelling ooreenkomstig sy Risikobestuur- en Nakomingsprogram vasstel dat 'n voornemende kliënt waarmee hy 'n sakeverhouding sluit, of die uiteindelik geregtigde van

Amendment of section 21G of Act 38 of 2001, as inserted by section 10 of Act 1 of 2017

26. Section 21G of the Financial Intelligence Centre Act, 2001, is hereby amended—

(a) by the substitution for the heading of the following heading:

“**Domestic [prominent influential] politically exposed person and prominent influential person**”; and

(b) by the substitution for the words preceding paragraph *(a)* of the following words:

“If an accountable institution determines that a prospective client with whom it engages to establish a business relationship, or the beneficial owner of that prospective client, is a domestic **[prominent influential]** politically exposed person or a prominent influential person and that, in accordance with its Risk Management and Compliance Programme, the prospective business relationship entails higher risk, the institution must—”.

Amendment of section 21H of Act 38 of 2001, as inserted by section 10 of Act 1 of 2017

27. Section 21H of the Financial Intelligence Centre Act, 2001, is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) Sections 21F and 21G apply to immediate family members and known close associates of **[a person in]** a foreign or domestic **[prominent position]** politically exposed person or a prominent influential person, as the case may be.”.

Substitution of section 26A of Act 38 of 2001, as inserted by section 17 of Act 1 of 2017

28. The following section is hereby substituted for section 26A of the Financial Intelligence Centre Act, 2001:

“**Notification of persons and entities identified by Security Council of the United Nations**

26A. (1) **[Upon the adoption of a]** A resolution adopted by the Security Council of the United Nations when acting under Chapter VII of the Charter of the United Nations, providing for financial sanctions which entail the identification of persons or entities against whom member states of the United Nations must take the actions specified in the resolution, **[the Minister must announce the adoption of the resolution by notice in the *Gazette* and other appropriate means of publication]** has immediate effect for the purposes of this Act upon its adoption by the Security Council of the United Nations.

(1A) A resolution contemplated in subsection (1) ceases to be in effect upon a decision of the Security Council of the United Nations to no longer apply that resolution.

(2) This section does not apply to resolutions of the Security Council of the United Nations contemplated in section 25 of the Protection of Constitutional Democracy against Terrorist and Related Activities Act, 2004 (Act No. 33 of 2004).

(3) **[Following a notice contemplated in subsection (1) the]** The Director must, **[from time to time and]** by appropriate means of publication, give notice of—

(Aa) the adoption of a resolution by the Security Council of the United Nations contemplated in subsection (1);

Wysiging van artikel 21G van Wet 38 van 2001, soos ingevoeg deur artikel 10 van Wet 1 van 2017

26. Artikel 21G van die Wet op die Finansiële Intelligensiesentrum, 2001, word hierby gewysig—

(a) deur die opskrif deur die volgende opskrif te vervang:

“**[Binnelandse-vooraanstaande-invloedryke-persoon]** **Binnelandse politiesblootgesteldepersoon en vooraanstaande persoon met invloed**”; en

(b) deur die woorde wat paragraaf *(a)* voorafgaan deur die volgende woorde te vervang:

“Indien ’n verantwoordingspligtige instelling vasstel dat ’n voornemende kliënt met wie hy onderhandel om ’n sakeverhouding aan te gaan, of die uiteindelik geregtigde van daardie voornemende kliënt, ’n **[binnelandse-vooraanstaande-invloedryke-persoon]** binnelandse politiesblootgesteldepersoon of ’n vooraanstaande persoon met invloed is en dat, ooreenkomstig sy Risikobestuur- en Nakomingsprogram, die voorgenome sakeverhouding groter risiko behels, moet die instelling—”.

Wysiging van artikel 21H van Wet 38 van 2001, soos ingevoeg deur artikel 10 van Wet 1 van 2017

27. Artikel 21H van die Wet op die Finansiële Intelligensiesentrum, 2001, word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

“(1) Artikels 21F en 21G is van toepassing op die gesinslede en bekende nabye vennote van **[’n persoon in]** ’n buitelandse of binnelandse **[vooraanstaande posisie]** politiesblootgesteldepersoon of ’n vooraanstaande persoon met invloed, na gelang van die geval.”.

Vervanging van artikel 26A van Wet 38 van 2001, soos ingevoeg deur artikel 17 van Wet 1 van 2017

28. Artikel 26A van die Wet op die Finansiële Intelligensiesentrum, 2001, word hierby deur die volgende artikel vervang:

“**Kennisgewing van persone en entiteite deur Veiligheidsraad van Verenigde Nasies geïdentifiseer**

26A. (1) **[By die deurvoer van]** ’n **[resolusie]** Resolusie deur die Veiligheidsraad van die Verenigde Nasies deurgevoer handelende kragtens Hoofstuk VII van die Handves van die Verenigde Nasies, wat vir finansiële sanksies voorsiening maak wat die identifikasie behels van persone of entiteite teen wie lidstate van die Verenigde Nasies die stappe in die resolusie vermeld, moet instel, **[moet die Minister die deurvoer van die resolusie by kennisgewing in die *Staatskoerant* en ander gepaste publikasiemiddels, aankondig]** onmiddellik van krag vir die doeleindes van hierdie Wet by die deurvoer daarvan deur die Veiligheidsraad van die Verenigde Nasies.

(1A) ’n Resolusie in subartikel (1) bedoel, hou op om van krag te wees by ’n besluit van die Veiligheidsraad van die Verenigde Nasies om nie meer daardie resolusie toe te pas nie.

(2) Hierdie artikel is nie van toepassing nie op die resolusies van die Veiligheidsraad beoog in artikel 25 van die Wet op Beskerming van Konstitusionele Demokrasie teen Terroriste- en Verwante Aktiwiteite, 2004 (Wet No. 33 van 2004).

(3) **[Na aanleiding van ’n kennisgewing in subartikel (1) bedoel, moet die]** Die Direkteur moet, **[van tyd tot tyd en]** deur gepaste publikasiemiddels, kennis gee van—

(Aa) die deurvoer van ’n resolusie deur die Veiligheidsraad van die

(a) persons and entities being identified from time to time by the Security Council of the United Nations pursuant to a resolution contemplated in subsection (1); **[and]**

(b) a decision of the Security Council of the United Nations to no longer apply a resolution contemplated in subsection (1A) to previously identified persons or entities; and

(c) a decision of the Security Council of the United Nations to no longer apply a resolution contemplated in subsection (1A).

[(4) The Minister may revoke a notice contemplated in subsection (1) if the Minister is satisfied that the notice is no longer necessary to give effect to financial sanctions in terms of a resolution contemplated in subsection (1).]''.

Amendment of section 26B of Act 38 of 2001, as inserted by section 17 of Act 1 of 2017

29. Section 26B of the Financial Intelligence Centre Act, 2001, is hereby amended—

(a) by the substitution for the words following paragraph *(e)* of the following words:

''intending that the property, financial or other service or economic support, as the case may be, be used, or while the person knows or ought reasonably to have known or suspected that the property, service or support concerned will be used, directly or indirectly, in whole or in part, for the benefit of, or on behalf of, or at the direction of, or under the control of a person or an entity identified pursuant to a resolution of the Security Council of the United Nations contemplated in **[a notice referred to in]** section 26A(1).'';

(b) by the substitution for subsection (2) of the following subsection:

''(2) No person may, directly or indirectly, in whole or in part, and by any means or method deal with, enter into or facilitate any transaction or perform any other act in connection with property which such person knows or ought reasonably to have known or suspected to have been acquired, collected, used, possessed, owned or provided for the benefit of, or on behalf of, or at the direction of, or under the control of a person or an entity—

(a) identified pursuant to a resolution of the Security Council of the United Nations contemplated in **[a notice referred to in]** section 26A(1); or

(b) acting on behalf of or at the direction of a person or entity contemplated in paragraph *(a)*.''; and

(c) by the substitution in subsection (3) for paragraph *(a)* of the following paragraph:

''*(a)* making it possible for a person or an entity identified pursuant to a resolution of the Security Council of the United Nations contemplated in **[a notice referred to in]** section 26A(1) to retain or control the property;''.

Amendment of section 26C of Act 38 of 2001, as inserted by section 17 of Act 1 of 2017

30. Section 26C of the Financial Intelligence Centre Act, 2001, is hereby amended by the substitution for subsection (1) of the following subsection:

''(1) The Minister may, in writing and on the conditions as he or she considers appropriate and in accordance with a resolution of the Security Council of the United Nations contemplated in **[a notice referred to in]** section 26A(1), permit a person to conduct financial services or deal with property referred to in section 26B in the circumstances referred to in subsection (2).''.

Amendment of section 27A of Act 38 of 2001, as inserted by section 19 of Act 1 of 2017

(a) persone en entiteite wat van tyd tot tyd deur die Veiligheidsraad van die Verenigde Nasies geïdentifiseer word ingevolge 'n resolusie in subartikel (1) beoog; **[en]**

(b) 'n besluit van die Veiligheidsraad om nie 'n resolusie in subartikel (1A) beoog op persone of entiteite wat voorheen geïdentifiseer is, toe te pas nie; en

(c) 'n besluit van die Veiligheidsraad van die Verenigde Nasies om nie meer 'n resolusie in subartikel (1A) beoog, toe te pas nie.

[(4) Die Minister kan 'n kennisgewing beoog in subartikel (1) intrek indien die Minister oortuig is dat die kennisgewing nie meer nodig is om gevolg te gee aan finansiële sanksies ingevolge 'n resolusie in subartikel (1) beoog nie.]".

Wysiging van artikel 26B van Wet 38 van 2001, soos ingevoeg deur artikel 17 van Wet 1 van 2017

29. Artikel 26B van die Wet op die Finansiële Intelligensiesentrum, 2001, word hierby gewysig—

(a) deur die woorde wat op paragraaf *(e)* volg deur die volgende woorde te vervang:

"met die voorneme dat die eiendom, finansiële of ander diens of ekonomiese ondersteuning, na gelang van die geval, gebruik word, of terwyl die persoon weet of redelikerwys moes geweet of vermoed het dat die betrokke eiendom, diens of ondersteuning gebruik sou word, regstreeks of onregstreeks, in geheel of gedeeltelik, tot voordeel van, of ten behoewe van, of in opdrag van, of onder die beheer van 'n persoon of 'n entiteit geïdentifiseer ingevolge 'n resolusie van die Veiligheidsraad van die Verenigde Nasies bedoel in **['n kennisgewing in]** artikel 26A(1) beoog.";

(b) deur subartikel (2) deur die volgende subartikel te vervang:

"(2) Geen persoon mag, regstreeks of onregstreeks, in die geheel of gedeeltelik, en op enige wyse of metode 'n transaksie aangaan of vergemaklik of enige ander handeling verrig nie in verband met eiendom wat daardie persoon weet of redelikerwys moes geweet of vermoed het verkry, versamel, gebruik, besit of voorsien is ten bate van, of ten behoewe van, of in opdrag van, of onder die beheer van 'n persoon of 'n entiteit—

(a) geïdentifiseer ingevolge 'n resolusie van die Veiligheidsraad van die Verenigde Nasies **[in 'n kennisgewing]** in artikel 26A(1) bedoel; of

(b) handelend ten behoewe van of in opdrag van 'n persoon of entiteit in paragraaf *(a)* beoog."; en

(c) deur in subartikel (3) paragraaf *(a)* deur die volgende paragraaf te vervang:

"*(a)* dit vir 'n persoon of entiteit ingevolge 'n resolusie van die Veiligheidsraad van die Verenigde Nasies beoog in **['n kennisgewing in]** artikel 26A(1) bedoel, moontlik maak om die eiendom te behou of te beheer;".

Wysiging van artikel 26C van Wet 38 van 2001, soos ingevoeg deur artikel 17 van Wet 1 van 2017

30. Artikel 26C van die Wet op die Finansiële Intelligensiesentrum, 2001, word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

"(1) Die Minister kan, op skrif en op die voorwaardes wat hy of sy gepas ag en ooreenkomstig 'n resolusie van die Veiligheidsraad van die Verenigde Nasies beoog in **['n kennisgewing in]** artikel 26A(1) bedoel, 'n persoon toelaat om finansiële dienste te lewer of eiendom in artikel 26B bedoel te hanteer in die omstandighede in subartikel (2) bedoel.".

Wysiging van artikel 27A van Wet 38 van 2001, soos ingevoeg deur artikel 19 van Wet 1 van 2017

31. Artikel 27A van die Wet op die Finansiële Intelligensiesentrum, 2001, word

(a) by the substitution for the heading of the following heading:

"**Powers of access by authorised representative to records [in respect of reports required to be submitted to Centre]** **of accountable institutions**"; and

(b) by the substitution for subsection (3) of the following subsection:

"(3) A warrant may only be issued if it appears to the judge, magistrate or regional magistrate from information on oath or affirmation that there are reasonable grounds to believe that the records referred to in subsection (1) may assist the Centre to identify the proceeds of unlawful activities or to combat money laundering activities, **[or]** the financing of terrorist and related activities or proliferation financing activities.".

Amendment of section 28A of Act 38 of 2001, as amended by section 20*(c)* of Act 1 of 2017

32. Section 28A of the Financial Intelligence Centre Act, 2001, is hereby amended by the substitution in subsection (1) for paragraph *(c)* of the following paragraph:

"*(c)* a person or an entity identified pursuant to a resolution of the Security Council of the United Nations contemplated in **[a notice referred to in]** section 26A(1).".

Amendment of section 34 of Act 38 of 2001, as amended by section 27(1) of Act 33 of 2004, section 9 of Act 11 of 2008 and section 23 of Act 1 of 2017

33. Section 34 of the Financial Intelligence Centre Act, 2001, is hereby amended by the substitution in paragraph *(a)* of subsection (1) for subparagraph (ii) of the following subparagraph:

"(ii) property owned or controlled by or on behalf of, or at the direction of a person or entity identified pursuant to a resolution of the Security Council of the United Nations contemplated in **[a notice referred to in]** section 26A(1); or".

Amendment of section 35 of Act 38 of 2001, as amended by section 27(1) of Act 33 of 2004 and section 24 of Act 1 of 2017

34. Section 35 of the Financial Intelligence Centre Act, 2001, is hereby amended—

(a) by the substitution in paragraph *(a)* of subsection (1) for subparagraph (iii) of the following subparagraph:

"(iii) property owned or controlled by or on behalf of, or at the direction of a person or entity identified pursuant to a resolution of the Security Council of the United Nations contemplated in **[a notice referred to in]** section 26A(1);"; and

(b) by the substitution in paragraph *(b)* of subsection (1) for subparagraph (iii) of the following subparagraph:

"(iii) property owned or controlled by or on behalf of, or at the direction of a person or entity identified pursuant to a resolution of the Security Council of the United Nations contemplated in **[a notice referred to in]** section 26A(1);".

Amendment of section 36 of Act 38 of 2001, as amended by section 10 of Act 11 of 2008

35. Section 36 of the Financial Intelligence Centre Act, 2001, is hereby amended by the substitution for subsection (3) of the following subsection:

"(3) The Commissioner for the South African Revenue Service and the chief executive officer of a supervisory body may make such reasonable procedural arrangements and impose such reasonable safeguards regarding the furnishing of information referred to in section 5(2) and subsections (1) and (2) of this section as the Commissioner or such officer considers appropriate to maintain the confidentiality, if any, of that information.".

(a) deur die opskrif deur die volgende opskrif te vervang:

"**Toegangsbevoegdhede deur gemagtigde verteenwoordiger tot rekords [ten opsigte van verslae wat aan Sentrum voorgelê moet word] van verantwoordingspligtige instellings**"; en

(b) deur subartikel (3) deur die volgende subartikel te vervang:

"(3) 'n Lasbrief kan slegs uitgereik word as dit vir die regter, landdros of streekslanddros uit inligting onder eed of bevestiging blyk dat daar redelike gronde is om te glo dat die rekords in subartikel (1) bedoel, die Sentrum kan help om die opbrengs van onregmatige aktiwiteite te identifiseer of om geldwassery-aktiwiteite, **[of]** die finansiering van terroriste- en verwante aktiwiteite of proliferasiefinansieringsaktiwiteite te bekamp.".

Wysiging van artikel 28A van Wet 38 van 2001, soos gewysig deur artikel 20*(c)* van Wet 1 van 2017

32. Artikel 28A van die Wet op die Finansiële Intelligensiesentrum, 2001, word hierby gewysig deur in subartikel (1) paragraaf *(c)* deur die volgende paragraaf te vervang:

"*(c)* 'n persoon of 'n entiteit geïdentifiseer na aanleiding van 'n resolusie van die Veiligheidsraad van die Verenigde Nasies beoog in **['n kennisgewing in]** artikel 26A(1) **[bedoel]**.".

Wysiging van artikel 34 van Wet 38 van 2001, soos gewysig deur artikel 27(1) van Wet 33 van 2004, artikel 9 van Wet 11 van 2008 en artikel 23 van Wet 1 van 2017

33. Artikel 34 van die Wet op die Finansiële Intelligensiesentrum, 2001, word hierby gewysig deur in paragraaf *(a)* van subartikel (1) subparagraaf (ii) deur die volgende subparagraaf te vervang:

"(ii) eiendom besit of beheer deur of ten behoewe van, of in opdrag van 'n persoon of entiteit geïdentifiseer na aanleiding van 'n resolusie van die Veiligheidsraad van die Verenigde Nasies beoog in **['n kennisgewing in]** artikel 26A(1) **[bedoel]**; of".

Wysiging van artikel 35 van Wet 38 van 2001, soos gewysig deur artikel 27(1) van Wet 33 van 2004 en artikel 24 van Wet 1 van 2017

34. Artikel 35 van die Wet op die Finansiële Intelligensiesentrum, 2001, word hierby gewysig—

(a) deur in paragraaf *(a)* van subartikel (1) subparagraaf (iii) deur die volgende subparagraaf te vervang:

"(iii) eiendom besit of beheer deur of ten behoewe van, of in opdrag van 'n persoon of entiteit geïdentifiseer na aanleiding van 'n resolusie van die Veiligheidsraad van die Verenigde Nasies beoog **[in 'n kennisgewing]** in artikel 26A(1) **[bedoel]**,"; en

(b) deur in paragraaf *(b)* van subartikel (1) subparagraaf (iii) deur die volgende subparagraaf te vervang:

"(iii) eiendom besit of beheer deur of ten behoewe van, of in opdrag van 'n persoon of entiteit geïdentifiseer na aanleiding van 'n resolusie van die Veiligheidsraad van die Verenigde Nasies beoog **[in 'n kennisgewing]** in artikel 26A(1) **[bedoel]**,".

Wysiging van artikel 36 van Wet 38 van 2001, soos gewysig deur artikel 10 van Wet 11 of van 2008

35. Artikel 36 van die Wet op die Finansiële Intelligensiesentrum, 2001, word hierby gewysig deur subartikel (3) deur die volgende subartikel te vervang:

"(3) Die Kommissaris vir die Suid-Afrikaanse Inkomstediens en die hoof-uitvoerende beampte van 'n toesighoudende liggaam kan die redelike prosedurereëlings tref en die redelike veiligheidsmaatreëls instel aangaande die voorsiening van inligting in artikel 5(2) en subartikels (1) en (2) van hierdie artikel bedoel wat die Kommissaris of sodanige beampte gepas ag om die vertroulikheid,

Amendment of section 37 of Act 38 of 2001, as amended by section 11 of Act 11 of 2008

36. Section 37 of the Financial Intelligence Centre Act, 2001, is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) Subject to subsection (2), no duty of secrecy or confidentiality or any other restriction on the disclosure of information, whether imposed by legislation or arising from the common law or agreement, affects compliance by an accountable institution, supervisory body, reporting institution**[, the South African Revenue Service]** or any other person with a provision of this Part, Part 4 and Chapter 4.".

Amendment of section 40 of Act 38 of 2001, as amended by section 27 of Act 33 of 2004, section 13 of Act 11 of 2008 and section 25 of Act 1 of 2017

37. Section 40 of the Financial Intelligence Centre Act, 2001, is hereby amended—

(a) by the substitution in subsection (1) for paragraph *(a*F*)* of the following paragraph:

"*(a*F*)* an investigative division in **[an organ of state]** a national department;";

(b) by the substitution in subsection (1) for paragraph *(a*G*)* of the following paragraph:

"*(a*G*)* the Public Protector; **[or]**";

(c) by the substitution in subsection (1) for paragraph *(a*H*)* of the following paragraph:

"*(a*H*)* the South African Revenue Service; or";

(d) by the insertion in subsection (1) of the following paragraph after paragraph *(a*H*)*:

"*(a*I*)* the investigative division of the Auditor-General;"; and

(e) by the substitution in subsection (1A) for the words preceding paragraph *(a)* of the following words:

"(1A) Information contemplated in subsection (1) may only be made available to an entity referred to in subsection (1)*(a)*, *(a*A*)*, *(a*B*)*, *(a*C*)*, *(a*D*)*, *(a*E*)*, *(a*F*)*, *(a*G*)*, **[or]** *(a*H*)* or *(a*I*)*—".

Amendment of section 41A of Act 38 of 2001, as inserted by section 26 of Act 1 of 2017

38. Section 41A of the Financial Intelligence Centre Act, 2001, is hereby amended by the insertion after subsection (2) of the following subsection:

"(3) The Minister may prescribe requirements for the protection of personal information to facilitate the sharing of information between accountable institutions when the sharing of information is necessary for the purposes of carrying out the provisions of section 29, to ensure that adequate safeguards are in place as required by section 6(1)*(c)* of the Protection of Personal Information Act, 2013.".

Amendment of section 42 of Act 38 of 2001, as amended by section 27 of Act 1 of 2017

39. Section 42 of the Financial Intelligence Centre Act, 2001, is hereby amended—

(a) by the substitution for subsection (1) of the following subsection:

"(1) An accountable institution must develop, document, maintain and implement a programme for anti-money laundering, **[and]** counter-terrorist financing and proliferation financing risk management and compliance.";

(b) by the substitution in paragraph *(a)* of subsection (2) for the words following subparagraph (v) of the following words:

"the risk that the provision by the accountable institution of new and existing products or services may involve or facilitate money laundering activities **[or]**, the financing of terrorist and related activities or proliferation financing activities;";

(c) by the substitution in subsection (2) for paragraph *(i)* of the following

Wysiging van artikel 37 van Wet 38 van 2001, soos gewysig deur artikel 11 van Wet 11 van 2008

36. Artikel 37 van die Wet op die Finansiële Intelligensiesentrum, 2001, word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

"(1) Behoudens subartikel (2) raak geen plig van geheimhouding of vertroulikheid of enige ander beperking op die openbaarmaking van inligting, hetsy deur wetgewing opgelê of voortspruitend uit die gemene reg of ooreenkoms, nakoming deur 'n verantwoordingspligtige instelling, toesighoudende liggaam, verslagdoeningsinstelling**[, die Suid-Afrikaanse Inkomstediens]** of enige ander persoon van 'n bepaling van hierdie Deel, Deel 4 en Hoofstuk 4 nie.".

Wysiging van artikel 40 van Wet 38 van 2001, soos gewysig deur artikel 27 van Wet 33 van 2004, artikel 13 van Wet 11 van 2008 en artikel 25 van Wet 1 van 2017

37. Artikel 40 van die Wet op die Finansiële Intelligensiesentrum, 2001, word hierby gewysig—

(a) deur in subartikel (1) paragraaf *(a*F*)* deur die volgende paragraaf te vervang:
"*(a*F*)* 'n ondersoekeenheid in 'n **[staatsorgaan]** nasionale departement;";

(b) deur in subartikel (1) paragraaf *(a*G*)* deur die volgende paragraaf te vervang:
"*(a*G*)* die Openbare Beskermer; **[of]**";

(c) deur in subartikel (1) paragraaf *(a*H*)* deur die volgende paragraaf te vervang:
"*(a*H*)* die Suid-Afrikaanse Inkomstediens; of";

(d) deur die volgende paragraaf na paragraaf *(a*H*)* in te voeg:
"*(a*I*)* die ondersoekafdeling van die Ouditeur-generaal;"; en

(e) deur in subartikel (1A) die woorde wat paragraaf *(a)* voorafgaan deur die volgende woorde te vervang:
"(1A) Inligting in subartikel (1) beoog kan slegs voorsien word aan 'n entiteit in subartikel (1)*(a)*, *(a*A*)*, *(a*B*)*, *(a*C*)*, *(a*D*)*, *(a*E*)*, *(a*F*)*, *(a*G*)* **[of]**, *(a*H*)* of *(a*I*)* bedoel—".

Wysiging van artikel 41A van Wet 38 van 2001, soos ingevoeg deur artikel 26 van Wet 1 van 2017

38. Artikel 41A van die Wet op die Finansiële Intelligensiesentrum, 2001, word hierby gewysig deur die volgende subartikel na subartikel (2) in te voeg:

"(3) Die Minister kan vereistes voorskryf vir die beskerming van persoonlike inligting om die deel van inligting tussen verantwoordingspligtige instellings te vergemaklik wanneer dit nodig is om inligting te deel vir doeleindes van die uitvoer van die bepalings van artikel 29, om te verseker dat genoegsame beskermingsmaatreëls in plek is soos deur artikel 6(1)*(c)* van die Wet op die Beskerming van Persoonlike Inligting, 2013, vereis.".

Wysiging van artikel 42 van Wet 38 van 2001, soos gewysig deur artikel 27 van Wet 1 van 2017

39. Artikel 42 van die Wet op die Finansiële Intelligensiesentrum, 2001, word hierby gewysig—

(a) deur subartikel (1) deur die volgende subartikel te vervang:
"(1) 'n Verantwoordingspligtige instelling moet 'n **[Risikobestuur- en Nakomingsprogram]** risikobestuur- en nakomingsprogram vir anti-geldwassery- **[en]**, teenterrorismefinansiering en proliferasie-finansiering ontwikkel, dokumenteer, onderhou en implementeer.";

(b) deur in paragraaf *(a)* van subartikel (2) die woorde wat op subparagraaf (v) volg deur die volgende woorde te vervang:
"wat die voorsiening deur die verantwoordingspligtige instelling van nuwe en bestaande produkte of dienste kan behels of geldwassery-aktiwiteite **[of]**, die finansiering van terroriste- en verwante aktiwiteite of proliferasiefinansieringsaktiwiteite kan vergemaklik of behels;";

"*(i)* provide for the manner in which and the process by which the institution will confirm information relating to a client when the institution has doubts about the veracity of previously obtained information and when reporting suspicious and unusual transactions in accordance with section 21D;";

(d) by the substitution in subsection (2) for paragraph *(l)* of the following paragraph:

"*(l)* provide for the manner in which and the processes by which the accountable institution determines whether a prospective client or an existing client is a foreign **[prominent public official]** or a domestic politically exposed person or a prominent influential person;";

(e) by the substitution in subsection (2) for paragraph *(m)* of the following paragraph:

"*(m)* provide for the manner in which and the processes by which the accountable institution conducts enhanced due diligence **[is conducted]** for higher-risk single transactions and business relationships and when simplified customer due diligence might be permitted in the institution;";

(f) by the substitution in subsection (2) for paragraph *(q)* of the following paragraph:

"*(q)* provide for the manner in which—

(i) the Risk Management and Compliance Programme is implemented in branches, subsidiaries or other operations of the institution in foreign countries so as to enable the institution to comply with its obligations under this Act;

(ii) the institution will determine if the host country of a foreign branch, **[or]** subsidiary or other operation permits the implementation of measures required under this Act; **[and]**

(iii) the institution will inform the Centre and supervisory body concerned if the host country contemplated in subparagraph (ii) does not permit the implementation of measures required under this Act; and

(iv) taking into consideration the level of risk of the host country, the institution will apply appropriate additional measures to manage the risks if the host country does not permit the implementation of measures required under this Act;"; and

(g) by the insertion in subsection (2) of the following paragraph after paragraph *(q)*:

"*(q*A*)* provide for the manner in which and the processes by which group-wide programmes of an accountable institution for all its branches and majority-owned subsidiaries situated in the Republic is implemented so as to enable the institution to—

(i) comply with its obligations under this Act;

(ii) exchange information with its branches or subsidiaries relating to the customer due diligence requirements in terms of this Act;

(iii) exchange information with its branches or subsidiaries relating to the analysis of transactions or activities which the institution suspects to be suspicious or unusual as contemplated in section 29; and

(iv) have adequate safeguards to protect the confidentiality of information exchanged in accordance with this paragraph and this Act.".

Amendment of section 49A of Act 38 of 2001, as inserted by section 39 of Act 1 of 2007

40. Section 49A of the Financial Intelligence Centre Act, 2001, is hereby amended by the addition of the following subsection, the existing provision becoming subsection (1):

"*(i)* voorsiening maak vir die wyse waarop en die prosesse waarvolgens die instelling inligting oor 'n kliënt sal bevestig wanneer die instelling twyfel oor die geloofwaardigheid van inligting wat voorheen verkry is en wanneer verdagte en ongewone transaksies ingevolge artikel 21D gerapporteer word;";

(d) deur in subartikel (2) paragraaf *(l)* deur die volgende paragraaf te vervang:

"*(l)* voorsiening maak vir die wyse waarop en die prosesse waarvolgens die verantwoordingspligtige instelling bepaal of 'n voornemende kliënt of 'n bestaande kliënt 'n **[buitelandse-vooraanstaande-openbare-beampte]** buitelandse politiesblootgesteldepersoon of 'n **[binnelandse-vooraanstaande-invloedryke-persoon]** binnelandse politiesblootgesteldepersoon of 'n vooraanstaande persoon met invloed is;";

(e) deur in subartikel (2) paragraaf *(m)* deur die volgende paragraaf te vervang:

"*(m)* voorsiening maak vir die wyse waarop en die prosesse waarvolgens die verantwoordingspligtige instelling verbeterde omsigtigheid **[gedoen word]** uitvoer vir hoër-risiko **[verhoudings]** enkeltransaksies en sakeverhoudings en wanneer vereenvoudigde klante-omsigtigheid in die instelling toegelaat kan word;";

(f) deur paragraaf *(q)* in subartikel (2) deur die volgende paragraaf te vervang:

"*(q)* voorsiening maak vir die wyse waarop—

(i) die Risikobestuur- en Nakomingsprogram in takke, filiale of ander bedrywe van die instelling in die buiteland geïmplementeer word ten einde die instelling in staat te stel om sy verpligtinge kragtens hierdie Wet na te kom;

(ii) die instelling sal vasstel of die gasheerland van 'n buitelandse tak **[of]**, filiaal of ander bedryf die implementering van maatreëls kragtens hierdie Wet vereis, toelaat; **[en]**

(iii) die instelling sal die Sentrum en betrokke toesighoudende liggaam inlig as die gasheerland in subparagraaf (ii) bedoel nie die implementering van maatreëls kragtens hierdie Wet vereis, toelaat nie; en

(iv) met inagneming van die risikovlak van die gasheerland, sal die instelling gepaste bykomende maatreëls toepas om die risiko's te bestuur as die gasheerland nie die instelling van maatreëls kragtens hierdie Wet vereis, toelaat nie;"; en

(g) deur die volgende paragraaf na paragraaf *(q)* in subartikel (2) in te voeg:

"*(q*A*)* voorsiening maak vir die wyse waarop en die prosesse waarmee groepwyeprogramme van 'n verantwoordingspligtige instelling vir al hul takke en filiale in meerderheidsbesit in die Republiek geleë, geïmplementeer word ten einde die instelling in staat te stel om—

(i) te voldoen aan die instelling se verpligtinge kragtens hierdie Wet;

(ii) inligting met hul takke of filiale uit te ruil oor die klante-omsigtigheidsvereistes ingevolge hierdie Wet;

(iii) inligting met hul takke of filiale uit te ruil oor die analise van transaksies of aktiwiteite wat die instelling vermoed verdag of ongewoon te wees soos in artikel 29 beoog; en

(iv) voldoende veiligheidsmaatreëls te hê om die vertroulikheid van inligting te beskerm wat ooreenkomstig hierdie paragraaf en hierdie Wet uitgeruil word.".

Wysiging van artikel 49A van Wet 38 van 2001, soos ingevoeg deur artikel 39 van Wet 1 van 2007

40. Artikel 49A van die Wet op die Finansiële Intelligensiesentrum, 2001, word hierby gewysig deur die volgende subartikel by te voeg, sodat die bestaande bepaling

"(2) An accountable institution, reporting institution or any other person that fails to comply with a provision of section 26B is non-compliant and is subject to an administrative sanction.".

Amendment of section 50 of Act 38 of 2001, as amended by section 40 of Act 1 of 2017

41. Section 50 of the Financial Intelligence Centre Act, 2001, is hereby amended by the addition of the following subsection, the existing provision becoming subsection (1):

"(2) An accountable institution, reporting institution or any other person that fails to inform the Centre in accordance with section 27 is non-compliant and is subject to an administrative sanction.".

Amendment of section 52 of Act 38 of 2001

42. Section 52 of the Financial Intelligence Centre Act, 2001, is hereby amended by the addition of the following subsections after subsection (2):

"(3) An accountable institution, reporting institution or any other person that fails, within the prescribed period, to report to the Centre the prescribed information in respect of a suspicious or unusual transaction or series of transactions or enquiry in accordance with section 29(1) or (2), is non-compliant and is subject to an administrative sanction.

(4) An accountable institution, reporting institution or any other person that reasonably ought to have known or suspected that any of the facts referred to in section 29(1)*(a), (b)* or *(c)* or section 29(2) exists, and who negligently fails to report the prescribed information in respect of a suspicious or unusual transaction or series of transactions or enquiry, is non-compliant and is subject to an administrative sanction.".

Substitution of section 57 of Act 38 of 2001, as amended by section 20 of Act 11 of 2008

43. The following section is hereby substituted for section 57 of the Financial Intelligence Centre Act, 2001:

"**Failure to comply with request**

57. (1) An accountable institution, reporting institution or any other person that fails to comply with a request made by—

(a) the Centre **[or an investigating authority acting under the authority of an authorised officer]** in terms of section 32(2); or

(b) a supervisory body in terms of section 45(1B)*(d)*,

is guilty of an offence.

(2) An accountable institution, reporting institution or any other person that fails to comply with a request made by—

(a) the Centre in terms of section 32(2); or

(b) a supervisory body in terms of section 45(1B)*(d)*,

is non-compliant and is subject to an administrative sanction.".

Amendment of section 59 of Act 38 of 2001

44. Section 59 of the Financial Intelligence Centre Act, 2001, is hereby amended by the addition of the following subsection, the existing provision becoming subsection (1):

"(2) An accountable institution that fails to comply with an order by a judge in accordance with section 35 is non-compliant and is subject to an administrative sanction.".

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"(2) 'n Verantwoordingspligtige instelling, verslagdoeningsinstelling of enige ander persoon wat versuim om te voldoen aan 'n bepaling van artikel 26B is nienakomend en is onderhewig aan 'n administratiewe sanksie.".

Wysiging van artikel 50 van Wet 38 van 2001, soos gewysig deur artikel 40 van Wet 1 van 2017

41. Artikel 50 van die Wet op die Finansiële Intelligensiesentrum, 2001, word hierby gewysig deur die volgende subartikel by te voeg, sodat die bestaande bepaling subartikel (1) word:

"(2) 'n Verantwoordingspligtige instelling, verslagdoeningsinstelling of enige ander persoon wat versuim om te voldoen aan 'n bepaling van artikel 27 is nienakomend en is onderhewig aan 'n administratiewe sanksie.".

Wysiging van artikel 52 van Wet 38 van 2001

42. Artikel 52 van die Wet op die Finansiële Intelligensiesentrum, 2001, word hierby gewysig deur die volgende subartikels na subartikel (2) in te voeg:

"(3) 'n Verantwoordingspligtige instelling, verslagdoeningsinstelling of enige ander persoon wat versuim, binne die voorgeskrewe tydperk, om die voorgeskrewe inligting oor 'n verdagte of ongewone of reeks transaksies of navraag by die Sentrum te rapporteer ooreenkomstig artikel 29(1) of (2), is nienakomend en is onderhewig aan 'n administratiewe sanksie.

(4) 'n Verantwoordingspligtige instelling, verslagdoeningsinstelling of enige ander persoon wat redelik moes geweet het of vermoed het dat enige van die feite bedoel in artikel 29(1)*(a)*, *(b)* of *(c)* of artikel 29(2) bestaan, en wat nalatig versuim om die voorgeskrewe inligting ten opsigte van 'n verdagte of ongewone transaksie of reeks transaksies of navraag te rapporteer, is nienakomend en is onderhewig aan 'n administratiewe sanksie.".

Vervanging van artikel 57 van Wet 38 van 2001, soos gewysig deur artikel 20 van Wet 11 van 2008

43. Artikel 57 van die Wet op die Finansiële Intelligensiesentrum, 2001, word hierby deur die volgende artikel vervang:

"**Versuim om aan versoek te voldoen**

57. (1) 'n Verantwoordingspligtige instelling, verslagdoeningsinstelling of enige ander persoon wat versuim om te voldoen aan 'n versoek gerig deur—

(a) die Sentrum **[of 'n ondersoekowerheid wat onder die gesag van 'n gemagtigde beampte]** optree ingevolge artikel 32(2); of

(b) 'n toesighoudende liggaam ingevolge artikel 45(1B)*(d)*,

is aan 'n misdryf skuldig.

(2) 'n Verantwoordingspligtige instelling, verslagdoeningsinstelling of enige ander persoon wat versuim om te voldoen aan 'n versoek deur—

(a) die Sentrum ingevolge artikel 32(2); of

(b) 'n toesighoudende liggaam ingevolge artikel 45(1B)*(d),*

is nienakomend en is onderhewig aan 'n administratiewe sanksie.".

Wysiging van artikel 59 van Wet 38 van 2001

44. Artikel 59 van die Wet op die Finansiële Intelligensiesentrum, 2001, word hierby gewysig deur die volgende subartikel by te voeg, sodat die bestaande bepaling subartikel (1) word:

"(2) 'n Verantwoordingspligtige instelling wat versuim om aan 'n bevel van 'n regter ooreenkomstig artikel 35 te voldoen, is nienakomend en is onderhewig aan 'n administratiewe sanksie.".

Amendment of section 64 of Act 38 of 2001

45. Section 64 of the Financial Intelligence Centre Act, 2001, is hereby amended by the addition of the following subsection, the existing provision becoming subsection (1):

"(2) An accountable institution, reporting institution or any other person that conducts, or causes to be conducted, two or more transactions with the purpose, in whole or in part, of avoiding giving rise to a reporting duty under this Act is non-compliant and is subject to an administrative sanction.".

Amendment of section 75 of Act 38 of 2001, as amended by section 54 of Act 1 of 2017

46. Section 75 of the Financial Intelligence Centre Act, 2001, is hereby amended by the substitution in subsection (1) for paragraphs *(a)* and *(b)* of the following paragraphs:

"*(a)* add to the list any entity or functionary which **[performs supervisory or regulatory functions]** will be responsible for supervising and enforcing compliance with this Act or any order, determination or directive made in terms of this Act in relation to any category of accountable institutions;

(b) delete any supervisory body from the list if the Minister reasonably believes that supervisory body is not satisfactorily performing or no longer performs supervisory or **[regulatory]** enforcement functions in terms of this Act in relation to any category of accountable institutions; or".

Amendment of section 79A of Act 38 of 2001, as amended by section 58 of Act 1 of 2017

47. Section 79A of the Financial Intelligence Centre Act, 2001, is hereby amended—

(a) by the substitution for the heading of the following heading:

"**Amendment of list of domestic [prominent influential] politically exposed persons**"; and

(b) by the substitution in subsection (1) for the words preceding paragraph *(a)* of the following words:

"The Minister may, by notice in the *Gazette*, amend the list of domestic **[prominent influential]** politically exposed persons in Schedule 3A to—".

Amendment of section 79B of Act 38 of 2001, as amended by section 58 of Act 1 of 2017

48. Section 79B of the Financial Intelligence Centre Act, 2001, is hereby amended—

(a) by the substitution for the heading of the following heading:

"**Amendment of list of foreign [prominent public officials] politically exposed persons**"; and

(b) by the substitution in subsection (1) for the words preceding paragraph *(a)* of the following words:

"The Minister may, by notice in the *Gazette*, amend the list of foreign **[prominent public officials]** politically exposed persons in Schedule 3B to—".

Insertion of section 79C in Act 38 of 2001

49. The following section is hereby inserted after section 79B of the Financial Intelligence Centre Act, 2001:

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Wysiging van artikel 64 van Wet 38 van 2001

45. Artikel 64 van die Wet op die Finansiële Intelligensiesentrum, 2001, word hierby gewysig deur die volgende subartikel by te voeg, sodat die bestaande bepaling subartikel (1) word:

"(2) 'n Verantwoordingspligtige instelling, verslagdoeningsinstelling of enige ander persoon wat twee of meer transaksies doen of laat doen, met die doel, gedeeltelik of in die geheel, om te vermy dat 'n verslagdoeningsplig kragtens hierdie Wet ontstaan, is nienakomend en is onderhewig aan 'n administratiewe sanksie.".

Wysiging van artikel 75 van Wet 38 van 2001, soos gewysig deur artikel 54 van Wet 1 van 2017

46. Artikel 75 van die Wet op die Finansiële Intelligensiesentrum, 2001, word hierby gewysig deur in subartikel (1) paragrawe *(a)* en *(b)* deur die volgende paragrawe te vervang:

"*(a)* enige entiteit of funksionaris wat **[toesighoudende of regulerings-werksaamhede]** sal verantwoordelik wees vir toesig oor en afdwinging van voldoening aan hierdie Wet of enige bevel, vasstelling of voorskrif ingevolge hierdie Wet gemaak met betrekking tot enige kategorie verantwoordingspligtige instellings **[verrig]**, by die lys te voeg;

(b) enige toesighoudende liggaam uit die lys te skrap indien die Minister redelikerwys glo daardie toesighoudende liggaam nie meer toesighoudende of **[reguleringswerksaamhede]** afdwingingswerksaamhede ingevolge hierdie Wet met betrekking tot enige kategorie verantwoordingspligtige instellings verrig of bevredigend verrig nie; of".

Wysiging van artikel 79A van Wet 38 van 2001, soos gewysig deur artikel 58 van Wet 1 van 2017

47. Artikel 79A van die Wet op die Finansiële Intelligensiesentrum, 2001, word hierby gewysig—

(a) deur die opskrif deur die volgende opskrif te vervang:

"**Wysiging van lys van [binnelandse-vooraanstaande-invloedryke-persone] binnelandse politiesblootgesteldepersone**"; en

(b) deur in subartikel (1) die woorde wat paragraaf *(a)* voorafgaan deur die volgende woorde te vervang:

"Die Minister kan, by kennisgewing in die *Staatskoerant*, die lys van **[binnelandse-vooraanstaande-invloedryke-persone]** binnelandse politiesblootgesteldepersone in Bylae 3A wysig om—".

Wysiging van artikel 79B van Wet 38 van 2001, soos gewysig deur artikel 58 van Wet 1 van 2017

48. Artikel 79B van die Wet op die Finansiële Intelligensiesentrum, 2001, word hierby gewysig—

(a) deur die opskrif deur die volgende opskrif te vervang:

"**Wysiging van lys van [buitelandse-vooraanstaande-openbare-beamptes] buitelandse politiesblootgesteldepersone**"; en

(b) deur in subartikel (1) die woorde wat paragraaf *(a)* voorafgaan deur die volgende woorde te vervang:

"Die Minister kan, by kennisgewing in die *Staatskoerant*, die lys van **[buitelandse-vooraanstaande-openbare-beamptes]** buitelandse politiesblootgesteldepersone in Bylae 3B wysig om—".

Invoeging van artikel 79C in Wet 38 van 2001

49. Die volgende artikel word na artikel 79B van die Wet op die Finansiële Intelligensiesentrum, 2001, ingevoeg:

"**Amendment of list of prominent influential persons**

79C. (1) The Minister may, by notice in the *Gazette*, amend the list of prominent influential persons in Schedule 3C to—

(a) add to the list any person or category of persons;

(b) delete any person or category of persons from the list; or

(c) make technical changes to the list.

(2) Before the Minister amends Schedule 3C in terms of subsection (1), the Minister must—

(a) in the *Gazette*, give notice where a draft of the amendments will be available and invite submissions; and

(b) consider submissions received.

(3) Any addition to or deletion from the list of persons in Schedule 3C in terms of subsection (1) must, before publication in the *Gazette*, be submitted to Parliament for its approval.".

Amendment of Schedule 2 to Act 38 of 2001, as amended by Government Notice No. 1105 of 2010

50. Schedule 2 to the Financial Intelligence Centre Act, 2001, is hereby amended by the deletion of items 4 and 9.

Amendment of Schedule 3A to Act 38 of 2001, as inserted by section 59 of Act 1 of 2017

51. Schedule 3A to the Financial Intelligence Centre Act, 2001, is hereby amended—

(a) by the substitution for the heading of the following heading:

"**DOMESTIC [PROMINENT INFLUENTIAL] POLITICALLY EXPOSED PERSON**";

(b) by the substitution for the words preceding paragraph *(a)* of the following words:

"A domestic **[prominent influential]** politically exposed person is an individual who **[holds, including in an acting position for a period exceeding six months, or has held at any time in the preceding 12 months, in the Republic]**—";

(c) by the substitution in paragraph *(a)* for the words preceding subparagraph (i) of the following words:

"holds, including in an acting position for a period exceeding six months, or has held a prominent public function in the Republic, including that of—";

(d) by the substitution in paragraph *(a)* for subparagraph (xiv) of the following subparagraph:

"(xiv) an officer of the South African National Defence Force above the rank of major-general; or";

(e) by the deletion of paragraph *(b)*; and

(f) by the substitution for paragraph *(c)* of the following paragraph:

"*(c)* holds, including in an acting position for a period exceeding six months, or has held the position of head, or other executive directly accountable to that head, of an international organisation **[based in the Republic]**.".

Amendment of Schedule 3B to Act 38 of 2001, as inserted by section 59 of Act 1 of 2017

52. Schedule 3B to the Financial Intelligence Centre Act, 2001, is hereby amended—

(a) by the substitution for the heading of the following heading:

"**FOREIGN [PROMINENT PUBLIC OFFICIAL] POLITICALLY EXPOSED PERSON**"; and

"**Wysiging van lys van vooraanstaande invloedryke persone**

79C. (1) Die Minister kan, by kennisgewing in die *Staatskoerant*, die lys van vooraanstaande invloedryke persone in Bylae 3C wysig om—
(a) enige persoon of kategorie van persone by die lys te voeg;
(b) enige persoon of kategorie van persone van die lys te skrap; of
(c) tegniese veranderinge aan die lys aan te bring.

(2) Voor die Minister Bylae 3C ingevolge subartikel (1) wysig, moet die Minister—
(a) in die *Staatskoerant* kennis gee waar 'n konsep van die wysigings beskikbaar sal wees en voorleggings vra; en
(b) voorleggings wat ontvang is, oorweeg.

(3) Enige byvoeging of skrapping van die lys van persone in Bylae 3C ingevolge subartikel (1) moet, voor publikasie in die *Staatskoerant*, aan die Parlement voorgelê word vir goedkeuring.".

Wysigng van Bylae 2 by Wet 38 van 2001, soos gewysig deur Goewermentskennisgewing No. 1105 van 2010

50. Bylae 2 by die Wet op die Finansiële Intelligensiesentrum, 2001, word hierby gewysig deur items 4 en 9 te skrap.

Wysiging van Bylae 3A by Wet 38 van 2001, soos deur artikel 59 van Wet 1 van 2017 ingevoeg

51. Bylae 3A by die Wet op die Finansiële Intelligensiesentrum, 2001, word hierby gewysig—
(a) deur die opskrif deur die volgende opskrif te vervang:
"**[BINNELANDSE-VOORAANSTAANDE-INVLOEDRYKE-PERSOON]** BINNELANDSE POLITIESBLOOTGESTELDE-PERSOON";
(b) deur die woorde wat paragraaf *(a)* voorafgaan deur die volgende woorde te vervang:
"'n **[Binnelandse-vooraanstaande-invloedryke-persoon]** Binnelandse politiesblootgesteldepersoon is 'n individu wat **[in die Republiek]**—";
(c) deur in paragraaf *(a)* die woorde wat subparagraaf (i) voorafgaan deur die volgende woorde te vervang:
"'n vooraanstaande openbare funksie in die Republiek beklee of beklee het, insluitend in 'n waarnemende posisie vir 'n tydperk van meer as ses maande, met inbegrip van dié van—";
(d) deur in paragraaf *(a)* subparagraaf (xiv) deur die volgende subparagraaf te vervang:
"(xiv) 'n offisier van die Suid-Afrikaanse Nasionale Weermag bo die rang van majoor-generaal; of";
(e) deur paragraaf *(b)* te skrap;
(f) deur paragraaf *(c)* deur die volgende paragraaf te vervang:
"*(c)* die posisie van hoof, of ander uitvoerende beampte regstreeks verantwoordbaar aan daardie hoof, van 'n internasionale organisasie **[in die Republiek gebaseer.]** beklee, met inbegrip van in 'n waarnemende posisie vir 'n typerk van meer as ses maande."; en
(g) deur die woorde wat op paragraaf *(c)* volg te skrap.

Wysiging van Bylae 3B by Wet 38 van 2001, soos ingevoeg deur artikel 59 van Wet 1 van 2017

52. Bylae 3B by die Wet op die Finansiële Intelligensiesentrum, 2001, word hierby gewysig—
(a) deur die opskrif deur die volgende opskrif te vervang:
"**[BUITELANDSE-VOORAANSTAANDE-OPENBARE-BEAMPTE]** BUITELANDSE POLITIESBLOOTGESTELDE-

(b) by the substitution for the words preceding paragraph *(a)* of the following words:

"A foreign **[prominent public official]** politically exposed person is an individual who holds, or has held **[at any time in the preceding 12 months]**, in any foreign country a prominent public function including that of a—".

Insertion of Schedule 3C in Act 38 of 2001

53. The following schedule is hereby inserted after Schedule 3B to the Financial Intelligence Centre Act, 2001:

"**Schedule 3C**

PROMINENT INFLUENTIAL PERSON

A prominent influential person is an individual who holds, or has held at any time in the preceding 12 months, the position of—

(a) chairperson of the board of directors;

(b) chairperson of the audit committee;

(c) executive officer; or

(d) chief financial officer,

of a company, as defined in the Companies Act, 2008 (Act No. 71 of 2008), if the company provides goods or services to an organ of state and the annual transactional value of the goods or services or both exceeds an amount determined by the Minister by notice in the *Gazette*.".

Substitution of Index of Act 38 of 2001

54. The Index of the Financial Intelligence Centre Act, 2001, is hereby substituted by the following:

"**ARRANGEMENT OF SECTIONS**

1. Definitions
1A. Application of Act when in conflict with other laws

CHAPTER 1

FINANCIAL INTELLIGENCE CENTRE

2. Establishment
3. Objectives
4. Functions
5. General powers
6. Appointment of Director
7. Removal from office
8. Acting Director
9. Proof of appointment
10. Responsibilities of Director
11. Staff
12. Security screening of staff of Centre other than Director
13. Security screening of Director of Centre
14. Funds and financial year of Centre
15. Audit
16. Delegation

CHAPTER 2

17. . . .
18. . . .
19. . . .
20. . . .

(b) deur die woorde wat paragraaf *(a)* voorafgaan deur die volgende woorde te vervang:

"'n **[Buitelandse-vooraanstaande-openbare-beampte]** Buitelandse politiesblootgesteldepersoon is 'n individu wat **[te eniger tyd in die voorafgaande 12 maande]** in enige vreemde land 'n vooraanstaande openbare funksie beklee of beklee het, met inbegrip van dié van—".

Invoeging van Bylae 3C in Wet 38 van 2001

53. Die volgende bylae word hierby na Bylae 3B by die Wet op die Finansiële Intelligensiesentrum, 2001, ingevoeg:

"**Bylae 3C**

VOORAANSTAANDE PERSOON MET INVLOED

'n Vooraanstaande persoon met invloed wat die posisie van—

(a) voorsitter van die direksie;

(b) voorsitter van die ouditkomitee;

(c) uitvoerende beampte; of

(d) hoof- finansiële beampte,

van 'n maatskappy beklee of te eniger tyd in die voorafgaande 12 maande beklee het, soos omskryf in die Maatskappywet, 2008 (Wet No. 71 van 2008), indien die maatskappy goedere of dienste aan 'n staatsorgaan voorsien en die jaarlikse transaksiewaarde van die goedere of dienste of beide 'n bedrag oorskry soos deur die Minister by kennisgewing in die *Staatskoerant* vasgestel.".

Vervanging van Inhoudsopgawe van Wet 38 van 2001

54. Die Inhoudsopgawe van die Wet op die Finansiële Intelligensiesentrum, 2001, word hierby deur die volgende vervang:

"**INDELING VAN ARTIKELS**

1. Woordomskrywing
1A. Toepassing van Wet wanneer strydig met ander wette

HOOFSTUK 1

FINANSIËLE INTELLIGENSIESENTRUM

2. Instelling
3. Oogmerke
4. Werksaamhede
5. Algemene bevoegdhede
6. Aanstelling van Direkteur
7. Ontheffing van amp
8. Waarnemende Direkteur
9. Bewys van aanstelling
10. Verantwoordelikhede van Direkteur
11. Personeel
12. Sekerheidskontrolering van personeel van Sentrum behalwe Direkteur
13. Sekerheidskontrolering van Direkteur van Sentrum
14. Fondse en boekjaar van Sentrum
15. Oudit
16. Delegering

HOOFSTUK 2

17. . . .
18. . . .
19. . . .
20

CHAPTER 3

CONTROL MEASURES FOR MONEY LAUNDERING AND FINANCING OF TERRORIST AND RELATED ACTIVITIES
MONEY LAUNDERING, FINANCING OF TERRORIST AND RELATED ACTIVITIES AND FINANCIAL SANCTIONS CONTROL MEASURES

PART 1

Customer due diligence

20A. Anonymous clients and clients acting under false or fictitious names
21. Identification of clients and other persons
21A. Understanding and obtaining information on business relationship
21B. Additional due diligence measures relating to legal persons, trusts and partnerships
21C. Ongoing due diligence
21D. Doubts about veracity of previously obtained information and when reporting suspicious and unusual transactions
21E. Inability to conduct customer due diligence
21F. Foreign politically exposed person
21G. Domestic politically exposed person and prominent influential person
21H. Family members and known close associates

PART 2

Duty to keep record

22. Obligation to keep customer due diligence records
22A. Obligation to keep transaction records
23. Period for which records must be kept
24. Records may be kept in electronic form and by third parties
25. Admissibility of records
26. . . .

PART 2A

Financial sanctions

26A. Notification of persons and entities identified by Security Council of the United Nations
26B. Prohibitions relating to persons and entities identified by Security Council of the United Nations
26C. Permitted financial services and dealing with property

PART 3

Reporting duties and access to information

27. Accountable institutions, reporting institutions and persons subject to reporting obligations to advise Centre of clients
27A. Powers of access by authorised representative to records of accountable institutions
28. Cash transactions above prescribed limit
28A. Property associated with terrorist and related activities and financial sanctions pursuant to Resolutions of United Nations Security Council
29. Suspicious and unusual transactions
30. Conveyance of cash to or from Republic
31. Electronic transfers of money to or from Republic
32. Reporting procedures and furnishing of additional information
33. Continuation of transactions
34. Intervention by Centre
35. Monitoring orders
36. Information held by supervisory bodies and South African Revenue Service
37. Reporting duty and obligations to provide information not affected by confidentiality rules
38. Protection of persons making reports

HOOFSTUK 3

BEHEERMAATREËLS TEN OPSIGTE VAN GELDWASSERY EN DIE FINANSIERING VAN TERRORISTE- EN VERWANTE AKTIWITEITE

BEHEERMAATREËLS VIR GELDWASSERY, FINANSIERING VAN TERRORISTE EN VERWANTE AKTIWITEITE EN FINANSIËLE SANKSIES

DEEL 1

Klante-omsigtigheid

20A Anonieme kliënte en kliënte wat onder vals of fiktiewe name handel
21. Identifisering van kliënte en ander persone
21A. Begrip en verkryging van inligting oor sakeverhouding
21B. Bykomende omsigtigheidsmaatreëls aangaande regspersone, trusts en vennootskappe
21C. Voortgesette omsigtigheid
21D. Twyfel oor geloofwaardigheid van inligting wat voorheen verkry is
21E. Onvermoë om klante-omsigtigheid uit te voer
21F. Buitelandse politiesblootgesteldepersoon
21G. Binnelandse politiesblootgesteldepersoon en vooraanstaande persoon met invloed
21H. Gesinslede en bekende nabye vennote

DEEL 2

Plig om rekord te hou

22. Verpligting om klante-omsigtigheidrekords te hou
22A. Verpligting om transaksierekords te hou
23. Tydperk waarvoor rekords gehou moet word
24. Rekords kan in elektroniese formaat en deur derde partye gehou word
25. Toelaatbaarheid van rekords
26. . . .

DEEL 2A

Finansiële sanksies

26A. Kennisgewing van persone en entiteite deur Veiligheidsraad van Verenigde Nasies geïdentifiseer
26B. Verbodsbepalings aangaande persone en entiteite deur Veiligheidsraad van Verenigde Nasies geïdentifiseer
26C. Toegelate finansiële dienste en hantering van eiendom

DEEL 3

Verslagdoeningspligte en toegang tot inligting

27. Verantwoordingspligtige instellings, verslagdoeningsinstellings en persone onderhewig aan verslagdoeningsverpligtings moet Sentrum oor kliënte inlig
27A. Toegangsbevoegdhede deur gemagtigde verteenwoordiger tot rekords van verantwoordingspligtige instellings
28. Kontanttransaksies bo voorgeskrewe perk
28A. Eiendom geassosieer met terroriste- en verwante aktiwiteite en finansiële sanksies ingevolge resolusies van Verenigde Nasies Veiligheidsraad
29. Verdagte en ongewone transaksies
30. Vervoer van kontant na of van Republiek
31. Elektroniese oorplasings van geld na of van Republiek
32. Verslagdoeningsprosedures en voorsiening van bykomende inligting
33. Voortsetting van transaksies
34. Ingryping deur Sentrum
35. Moniteringsbevele
36. Inligting gehou deur toesighoudende liggame en Suid-Afrikaanse Inkomstediens
37. Verslagdoeningsplig en verpligtings om inligting te voorsien nie deur vertroulikheidsreëls geraak nie
38. Beskerming van persone wat verslag doen

40. Access to information held by Centre
41. Protection of confidential information
41A. Protection of personal information

PART 4

Measures to promote compliance by accountable institutions

42. Risk Management and Compliance Programme
42A. Governance of anti-money laundering, counter terrorist financing and financial sanction obligations compliance
42B. Consultation process for issuing guidance
43. Training relating to anti-money laundering, counter terrorist financing and financial sanction obligations compliance
43A. Directives
43B. Registration by accountable institution and reporting institution

PART 5

Referral and supervision

44. Referral of suspected offences to investigating authorities and other public bodies
45. Responsibility for supervision of accountable institutions

CHAPTER 4

COMPLIANCE AND ENFORCEMENT

45A. Appointment of inspectors
45B. Inspections
45C. Administrative sanctions
45D. Appeal
45E. Establishment of appeal board
45F. Application to court
46. Failure to identify persons
46A. Failure to comply with duty in regard to customer due diligence
47. Failure to keep records
48. Destroying or tampering with records
49. Failure to give assistance
49A. Contravention of prohibitions relating to persons and entities identified by Security Council of United Nations
50. Failure to advise Centre of client
51. Failure to report cash transactions
51A. Failure to report property associated with terrorist and related activities and financial sanctions pursuant to Resolutions of United Nations Security Council
52. Failure to report suspicious or unusual transactions
53. Unauthorised disclosure
54. Failure to report conveyance of cash or bearer negotiable instrument into or out of Republic
55. Failure to send report to Centre
56. Failure to report electronic transfers
57. Failure to comply with request
58. Failure to comply with direction of Centre
59. Failure to comply with monitoring order
60. Misuse of information
61. Failure to comply with duty in respect of Risk Management and Compliance Programme
61A. Failure to register with Centre
61B. Failure to comply with duty in regard to governance
62. Failure to provide training
62A. Offences relating to inspection
62B. Hindering or obstructing appeal board
62C. Failure to attend when summoned
62D. Failure to answer fully or truthfully

40. Toegang tot inligting deur Sentrum gehou
41. Beskerming van vertroulike inligting
41A. Beskerming van persoonlike inligting

DEEL 4

Maatreëls om nakoming deur verantwoordingspligtige instellings te bevorder

42. Risikobestuur- en Nakomingsprogram
42A. Beheer van nakoming ten opsigte van anti-geldwassery, teenterroristefinansiering en verpligtinge ten opsigte van finansiële sanksies
42B. Oorlegplegingsproses vir gee van leiding
43. Opleiding vir nakoming ten opsigte van anti-geldwassery, teenterroristefinansiering en verpligtinge ten opsigte van finansiële sanksies
43A. Lasgewings
43B. Registrasie deur verantwoordingspligtige instelling en verslagdoeningsinstelling

DEEL 5

Verwysing en toesighouding

44. Verwysing van vermeende misdrywe na ondersoekowerhede en ander openbare liggame
45. Verantwoordelikheid vir toesighouding van verantwoordingspligtige instellings

HOOFSTUK 4

NAKOMING EN AFDWINGING

45A. Aanstelling van inspekteurs
45B. Inspeksies
45C. Administratiewe sanksies
45D. Appèl
45E. Instelling van appèlraad.
45F. Aansoek by hof
46. Versuim om persone te identifiseer
46A. Versuim om plig in verband met klante-omsigtigheid na te kom
47. Versuim om rekords te hou
48. Vernietiging van of peuter met rekords
49. Versuim om bystand te verleen
49A. Oortreding van verbodbepalings oor persone en entiteite deur Veiligheidsraad van Verenigde Nasies geïdentifiseer
50. Versuim om Sentrum oor kliënt in te lig
51. Versuim om kontanttransaksies te rapporteer
51A. Versuim om eiendom geassosieer met terroriste- en verwante aktiwiteite en finansiële sanksies na aanleiding van resolusies van Veiligheidsraad van Verenigde Nasies te rapporteer
52. Versuim om verdagte of ongewone transaksies te rapporteer
53. Ongemagtigde openbaarmaking
54. Versuim om vervoer van kontant of toonder verhandelbare instrument in Republiek in of daaruit te rapporteer
55. Versuim om verslag aan Sentrum te stuur
56. Versuim om elektroniese oorplasings te rapporteer
57. Versuim om aan versoek te voldoen
58. Versuim om opdrag van Sentrum na te kom
59. Versuim om moniteringsbevel na te kom
60. Verkeerde gebruik van inligting
61. Versuim om plig ten opsigte van Risikobestuur- en Nakomingsprogram na te kom
61A. Versuim om by Sentrum te registreer
61B. Versuim om plig ten opsigte van beheer na te kom
62. Versuim om opleiding te verskaf
62A. Misdrywe met betrekking tot inspeksie
62B. Belemmering of dwarsboming van appèlraad
62C. Versuim om teenwoordig te wees wanneer gedagvaar

62E. Failure to comply with directives of Centre or supervisory body
63. Obstructing of official in performance of functions
64. Conducting transactions to avoid reporting duties
65. . . .
66. . . .
67. . . .
68. Penalties
69. Defences
70. Search, seizure and forfeiture
71. Jurisdiction of courts

CHAPTER 5

MISCELLANEOUS

72. Act not to limit powers of investigating authorities or supervisory bodies
73. Amendment of list of accountable institutions
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Amendment of section 1 of Act 71 of 2008, as amended by section 1(1) of Act 3 of 2011 and section 111 of Act 19 of 2012

55. Section 1 of the Companies Act, 2008, is hereby amended—

(a) by the insertion after the definition of ''advertisement'' of the following definition:

''**'affected company'** means a regulated company as set out in section 117(1)*(i)* and a private company that is controlled by or a subsidiary of a regulated company as a result of any circumstances contemplated in section 2(2)*(a)* or 3(1)*(a)*;''; and

(b) by the insertion after the definition of ''beneficial interest'' of the following definition:

''**'beneficial owner'**, in respect of a company, means an individual who, directly or indirectly, ultimately owns that company or exercises effective control of that company, including through—

(a) the holding of beneficial interests in the securities of that company;

(b) the exercise of, or control of the exercise of the voting rights associated with securities of that company;

(c) the exercise of, or control of the exercise of the right to appoint or remove members of the board of directors of that company;

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Wysiging van artikel 1 van Wet 71 van 2008, soos gewysig deur artikel 1(1) van Wet 3 van 2011 en artikel 111 van Wet 19 van 2012

55. Artikel 1 van die Maatskappywet, 2008, word hierby gewysig—

(a) deur die volgende omskrywing na die omskrywing van ''genoteerde sekuriteite'' in te voeg:

''**'geraakte maatskappy'** 'n gereguleerde maatskappy soos uiteengesit in artikel 117(1)*(i)* en 'n private maatskappy wat beheer word deur 'n filiaal van 'n gereguleerde maatskappy as gevolg van enige omstandighede in artikel 2(2)*(a)* of 3(1)*(a)* beoog;''; en

(b) deur die volgende omskrywing na die omskrywing van ''teenwoordig op 'n vergadering'' in te voeg:

''**'uiteindelik geregtigde'**, ten opsigte van 'n maatskappy, 'n individu wat, regstreeks of onregstreeks, daardie maatskappy uiteindelik besit of doelmatige beheer oor daardie maatskappy uitoefen, insluitend deur—

(a) die hou van voordelige belange in die sekuriteite van daardie maatskappy;

(b) die uitoefening van, of beheer van die uitoefening van die stemregte wat met die sekuriteite van daardie maatskappy gepaard gaan;

(c) die uitoefening van, of beheer van die uitoefening van die reg om lede van die direksie van daardie maatskappy aan te stel of te

(d) the holding of beneficial interests in the securities, or the ability to exercise control, including through a chain of ownership or control, of a holding company of that company;

(e) the ability to exercise control, including through a chain of ownership or control, of—

(i) a juristic person other than a holding company of that company;

(ii) a body of persons corporate or unincorporate;

(iii) a person acting on behalf of a partnership;

(iv) a person acting in pursuance of the provisions of a trust agreement; or

(f) the ability to otherwise materially influence the management of that company;''.

Amendment of section 33 of Act 71 of 2008, as amended by section 23 of Act 3 of 2011

56. Section 33 of the Companies Act, 2008, is hereby amended—

(a) by the deletion in paragraph *(a)* of subsection (1) of ''and'';

(b) by the insertion after paragraph *(a)* of subsection (1) of the following paragraphs:

''*(a*A*)* a copy of the company's securities register as required in terms of section 50;

*(a*B*)* a copy of the register of the disclosure of beneficial interest as required in terms of section 56(7)*(a*A*)*; and''; and

(c) by the insertion after subsection (1) of the following subsection:

''(1A) *(a)* The Commission must make the annual return contemplated in subsection (1) available electronically to any person as prescribed.

(b) The prescribed requirements referred to in paragraph *(a)* must be prescribed after consultation with the Minister of Finance and the Financial Intelligence Centre, established by section 2 of the Financial Intelligence Centre Act, 2001 (Act No. 38 of 2001).''.

Amendment of section 50 of Act 71 of 2008, as amended by section 34 of Act 3 of 2011

57. Section 50 of the Companies Act, 2008, is hereby amended by the insertion after subsection (3) of the following subsection:

''(3A) *(a)* A company that does not fall within the meaning of an 'affected company' must record in its securities register prescribed information regarding the natural persons who are the beneficial owners of the company, in the prescribed form, and must ensure that this information is updated within the prescribed period after any changes in beneficial ownership have occurred.

(b) The prescribed requirements referred to in paragraph *(a)* must be prescribed after consultation with the Minister of Finance and the Financial Intelligence Centre, established by section 2 of the Financial Intelligence Centre Act, 2001 (Act No. 38 of 2001).''.

Amendment of section 56 of Act 71 of 2008, as amended by section 36 of Act 3 of 2011

58. Section 56 of the Companies Act, 2008, is hereby amended—

(a) by the substitution for the heading of the section of the following heading:

''**Beneficial interest in securities and beneficial ownership of company**'';

(b) by the substitution in subsection (7) for the words preceding paragraph *(a)* and paragraph *(a)* of the following words and paragraph:

''(7) **[A]** An affected company must—

(a) establish and maintain a register of the disclosures made in terms of this section; **[and]**'';

(*d*) die hou van voordelige belange in die sekuriteite, of die vermoë om beheer uit te oefen, insluitend deur 'n ketting van eienaarskap of beheer, van 'n houermaatskappy van daardie maatskappy;

(*e*) die vermoë om beheer uit te oefen, insluitend deur 'n reeks van eienaarskap of beheer, van—

(i) 'n regspersoon anders as 'n houermaatskappy van daardie maatskappy;

(ii) 'n liggaam van persone ingelyf of oningelyf;

(iii) 'n persoon wat namens 'n vennootskap handel;

(iv) 'n persoon wat ingevolge die bepalings van 'n trustooreenkoms handel; of

(*f*) die vermoë om die bestuur van daardie maatskappy andersins wesenlik te beïnvloed;''.

Wysiging van artikel 33 van Wet 71 van 2008, soos gewysig deur artikel 23 van Wet 3 van 2011

56. Artikel 33 van die Maatskappywet, 2008, word hierby gewysig—

(*a*) deur in paragraaf (*a*) van subartikel (1) ''en'' te skrap;

(*b*) deur die volgende subparagrawe na paragraaf (*a*) in subartikel (1) in te voeg:

''(*a*A) 'n afskrif van die maatskappy se sekuriteiteregister soos ingevolge artikel 50 vereis;

(*a*B) 'n afskrif van die register van die bekendmaking van voordelige belang soos ingevolge artikel 56(7)(*a*A) vereis; en''; en

(*c*) deur die volgende subartikel na subartikel (1) in te voeg:

''(1A) (*a*) Die Kommissie moet die jaarlikse opgawe in subartikel (1) beoog elektronies beskikbaar stel aan enige persoon soos voorgeskryf.

(*b*) Die voorgeskrewe vereistes in paragraaf (*a*) beoog, moet voorgeskryf word na oorleg met die Minister van Finansies en die Finansiële Intelligensiesentrum, ingestel by artikel 2 van die Wet op die Finansiële Intelligensiesentrum, 2001 (Wet No. 38 van 2001).''.

Wysiging van artikel 50 van Wet 71 van 2008, soos gewysig deur artikel 34 van Wet 3 van 2011

57. Artikel 50 van die Maatskappywet, 2008, word hierby gewysig deur die volgende subartikel na subartikel (3) in te voeg:

''(3A) (*a*) 'n Maatskappy wat nie in die betekenis van 'geraakte maatskappy' val nie, moet in hul eie sekuriteiteregister voorgeskrewe inligting aanteken oor die natuurlike persone wat die uiteindelik geregtigdes is van die maatskappy, op die voorgeskrewe vorm, en moet verseker dat hierdie inligting binne die voorgeskrewe tydperk opgedateer word nadat enige veranderinge in uiteindelike geregtigheid geskied het.

(*b*) Die voorgeskrewe vereistes in paragraaf (*a*) bedoel, moet voorgeskryf word na oorleg met die Minister van Finansies en die Finansiële Intelligensiesentrum, ingestel by artikel 2 van die Wet op die Finansiële Intelligensiesentrum, 2001 (Wet No. 38 van 2001).''.

Wysiging van artikel 56 van Wet 71 van 2008, soos gewysig deur artikel 36 van Wet 3 van 2011

58. Artikel 56 van die Maatskappywet, 2008, word hierby gewysig—

(*a*) deur die opskrif van die artikel deur die volgende opskrif te vervang:

''**Voordelige belang in sekuriteite en uiteindelike geregtigheid van maatskappy**'';

(*b*) deur in subartikel (7) die woorde wat paragraaf (*a*) voorafgaan en paragraaf (*a*) deur die volgende woorde en paragraaf te vervang:

''(7) 'n **[Maatskappy wat binne die betekenis van 'n ''gereguleerde maatskappy'' val, soos in artikel 117(1)(i) uiteengesit word]** Geraakte maatskappy, moet—

(*a*) 'n register daarstel en in stand hou van die openbaarmakings wat

(c) by the insertion in subsection (7) after paragraph *(a)* of the following paragraph:

"*(a*A*)* establish and maintain a register of the persons who hold beneficial interests equal to or in excess of 5% of the total number of securities of that class issued by the company, together with the extent of those beneficial interests, and ensure that this register is updated within the prescribed period after having received a notice contemplated in section 122(1); and

(d) by the addition of the following subsections:

"(12) A company that does not fall within the meaning of an 'affected company' must file a record with the Commission, in the prescribed form and containing the prescribed information, regarding the individuals who are the beneficial owners of the company, and must ensure that this information is updated by filing notices with the Commission within the prescribed period after any changes in beneficial ownership have occurred.

(13) The prescribed requirements referred to in subsection (12) must be prescribed after consultation with the Minister of Finance and the Financial Intelligence Centre, established by section 2 of the Financial Intelligence Centre Act, 2001 (Act No. 38 of 2001).

(14) The Commission must maintain a register of the information contained in the records contemplated in subsections (7)*(a*A*)* and (12).".

Amendment of section 69 of Act 71 of 2008, as amended by section 46 of Act 3 of 2011 and section 111 of Act of Act 19 of 2012

59. Section 69 of the Companies Act, 2008, is hereby amended—

(a) in paragraph *(b)* of subsection (8) by the deletion in subparagraph (iii) of "or";

(b) in paragraph *(b)* of subsection (8) by the substitution for subparagraph (iv) of the following subparagraph:

"(iv) has been convicted, in the Republic or elsewhere, and imprisoned without the option of a fine, or fined more than the prescribed amount, for theft, fraud, forgery, perjury or an offence—

(aa) involving fraud, misrepresentation or dishonesty, or money laundering, terrorist financing, or proliferation financing activities as those terms are defined in section 1(1) of the Financial Intelligence Centre Act, 2001 (Act No. 38 of 2001); or

(bb) in connection with the promotion, formation or management of a company, or in connection with any act contemplated in subsection (2) or (5); or

(cc) under this Act, the Insolvency Act, 1936, (Act 24 of 1936), the Close Corporations Act, 1984, the Competition Act, the Financial Intelligence Centre Act, 2001 **[(Act 38 of 2001)]**, the Financial Markets Act, 2012, **[or]** Chapter 2 of the Prevention and Combating of Corrupt Activities Act, 2004 (Act 12 of 2004), the Protection of Constitutional Democracy Against Terrorist and Related Activities Act, 2004 (Act 33 of 2004) or the Tax Administration Act, 2011 (Act 28 of 2011); or";

(c) in paragraph *(b)* of subsection (8) by the insertion after subparagraph (iv) of the following subparagraph:

"(v) when a person is subject to a resolution adopted by the Security Council of the United Nations when acting under Chapter VII of the Charter of the United Nations, providing for financial sanctions which entail the identification of persons or entities against whom member states of the United Nations must take the actions specified in the resolution."; and

(c) deur die volgende paragraaf na paragraaf *(a)* in subartikel (7) in te voeg:

"*(a*A) 'n register instel en byhou van die persone wat voordelige belange hou wat gelyk is aan of meer is as 5% van die totale getal sekuriteite van daardie klas deur die maatskappy uitgereik, saam met die omvang van daardie voordelige belange, en verseker dat daardie register binne die voorgeskrewe tydperk opgedateer word nadat 'n kennisgewing beoog in artikel 122(1) ontvang is; en"; en

(d) deur die volgende subartikels by te voeg:

"(12) 'n Maatskappy wat nie binne die betekenis van 'n 'geraakte maatskappy' val nie, moet 'n rekord by die Kommissie indien, in die voorgeskrewe vorm en met die voorgeskrewe inligting aangaande die individue wat uiteindelik geregtigdes van die maatskappy is, en moet verseker dat hierdie inligting bygewerk word deur kennisgewings by die Kommissie in te dien binne die voorgeskrewe tydperk nadat enige veranderinge in uiteindelike geregtigheid geskied het.

(13) Die voorgeskrewe vereistes in subartikel (12) bedoel, moet voorgeskryf word na oorleg met die Minister van Finansies en die Finansiële Intelligensiesentrum, ingestel by artikel 2 van die Wet op die Finansiële Intelligensiesentrum, 2001 (Wet No. 38 van 2001).

(14) Die Kommissie moet 'n register hou van die inligting vervat in die rekords beoog in subartikels (7)*(a*A*)* en (12).".

Wysiging van artikel 69 van Wet 71 van 2008, soos gewysig deur artikel 46 van Wet 3 van 2011 en artikel 111 van Wet 19 van 2012

59. Artikel 69 van die Maatskappywet, 2008, word hierby gewysig—

(a) deur in paragraaf *(b)* van subartikel (8) subparagraaf (iii) "of" te skrap;

(b) deur in paragraaf *(b)* van subartikel (8) subparagraaf (iv) deur die volgende subparagraaf te vervang:

"(iv) in die Republiek of elders skuldig bevind is aan en gevangenisstraf uitgedien het sonder die opsie van 'n boete, of met meer as die voorgeskrewe bedrag beboet is, vir diefstal, bedrog, meineed of 'n misdaad—

(aa) wat bedrog, wanvoorstelling of oneerlikheid, of geldwassery-, terrorismefinansierings-, of proliferasiefinansieringsaktiwiteite, soos daardie terme omskryf word in artikel 1(1) van die Wet op die Finansiële Intelligensiesentrum, 2001 (Wet No. 38 van 2001), behels; of

(bb) wat verband hou met die promosie, vorming of bestuur van 'n maatskappy, of in verband met enige daad beoog in subartikel (2) of (5); of

(cc) kragtens hierdie Wet, die Insolvensiewet, 1936 (Wet 24 van 1936), die Wet op Beslote Korporasies, 1984, die Wet op Mededinging, die Wet op die Finansiële Intelligensiesentrum, 2001 **[(Wet 38 van 2001)]**, die **[Wet op Sekuriteitsdienste, 2004 (Wet 36 van 2004), of]** 'Financial Markets Act, 2012' (Wet No. 19 van 2012), Hoofstuk 2 van die Wet op die Voorkoming en Bestryding van Korrupte Bedrywighede, 2004 (Wet 12 van 2004), Wet op Beskerming van Konstitusionele Demokrasie teen Terroriste- en Verwante Aktiwiteite, 2004 (Wet No. 33 van 2004), of die Wet op Belastingadministrasie, 2011 (Wet No. 28 van 2011); of";

(c) deur in paragraaf *(b)* van subartikel (8) die volgende subparagraaf na subparagraaf (iv) in te voeg:

"(v) wanneer 'n persoon onderhewig is aan 'n resolusie deur die Veiligheidsraad van die Verenigde Nasies, handelend kragtens Hoofstuk VII van die Handves van die Verenigde Nasies, wat voorsiening maak vir finansiële sanksie wat die identifikasie behels van persone of entiteite teen wie lidstate van die Verenigde Nasies die stappe in die resolusie

(d) by the insertion after subsection (9) of the following subsection:

"(9A) A disqualification in terms of subsection (8)*(b)*(v) ends when the Security Council of the United Nations takes a decision to no longer apply that resolution to a person contemplated in that subsection.".

Amendment of section 122 of Act 71 of 2008, as amended by section 76 of Act 3 of 2011

60. Section 122 of the Companies Act, 2008, is hereby amended—

(a) in subsection (1) by the substitution for "a regulated" of "an affected";

(b) by the insertion after subsection (3) of the following subsection:

"(3A) An affected company that has received a notice in terms of this section must file a record of that notice with the Commission, in the prescribed form and containing the prescribed information and within the prescribed period after having received that notice."; and

(c) by the insertion after subsection (4) of the following subsections:

"(5) The prescribed requirements referred to in subsection (3A) must be prescribed after consultation with the Minister of Finance and the Financial Intelligence Centre, established by section 2 of the Financial Intelligence Centre Act, 2001 (Act No. 38 of 2001).

(6) The Commission must maintain a register of the information contained in the notices contemplated in subsection (3A).".

Amendment of Arrangement of Sections

61. The Arrangement of Sections of the Companies Act, 2008, is hereby amended by the substitution for item 56 of the following item:

"**56.** Beneficial interest in securities and beneficial ownership of company".

Amendment of section 159 of Act 9 of 2017

62. Section 159 of the Financial Sector Regulation Act, 2017, is hereby amended by the insertion after subsection (3) of the following subsection:

"(4) A significant owner of a financial institution must comply with a directive issued in terms of subsection (2) or (3).".

Insertion of Chapter 11A and sections 159A to 159C in Act 9 of 2017

63. The Financial Sector Regulation Act, 2017, is hereby amended by the insertion after Chapter 11 of the following Chapter:

"CHAPTER 11A

BENEFICIAL OWNERS

Beneficial owners

159A. (1) For the purposes of this Chapter, **"beneficial owner"** means a natural person who, directly or indirectly, ultimately owns a financial institution or exercises effective control of that financial institution.

(2) The Minister, the Reserve Bank and a financial sector regulator are not, in those capacities, beneficial owners of a financial institution.

Standards in relation to beneficial owners

159B. (1) In addition to the powers in Part 2 of Chapter 7 to make standards, a financial sector regulator may make standards applicable to—

(d) deur die volgende subartikel na subartikel (9) in te voeg:

"(9A) 'n Onbevoegdheid ingevolge subartikel (8)*(b)*(v) eindig wanneer die Veiligheidsraad van die Verenigde Nasies 'n besluit neem om nie meer daardie resolusie toe te pas teen 'n persoon in daardie subartikel beoog nie.".

Wysiging van artikel 122 van Wet 71 van 2008, soos gewysig deur artikel 76 van Wet 3 van 2011

60. Artikel 122 van die Maatskappywet, 2008, word hierby gewysig—

(a) deur in subartikel (1) "'n gereguleerde" te vervang deur "'n geraakte";

(b) deur na subartikel (3) die volgende subartikel in te voeg:

"(3A) 'n Geraakte maatskappy wat 'n kennisgewing ingevolge hierdie artikel ontvang het, moet 'n rekord van daardie kennisgwing by die Kommissie ingee, op die voorgeskrewe wyse, met die voorgeskrewe inligting en binne die voorgeskrewe tydperk nadat daardie kennisgewing ontvang is."; en

(c) deur die volgende subartikels na subartikel (4) in te voeg:

"(5) Die voorgeskrewe vereistes in subartikel (3A) bedoel, moet voorgeskryf word na oorleg met die Minister van Finansies en die Finansiële Intelligensiesentrum, ingestel by artikel 2 van die Wet op die Finansiële Intelligensiesentrum, 2001 (Wet No. 38 van 2001).

(6) Die Kommissie moet 'n register van die inligting vervat in die kennisgewings beoog in subartikel (3A), byhou.".

Wysiging van Indeling van Artikels

61. Die Indeling van Artikels van die Maatskappywet, 2008, word hierby gewysig deur item 56 deur die volgende item te vervang:

"**56.** Voordelige belang in sekuriteite en uiteindelike geregtigheid van maatskappy".

Tlhabololo ya karolo 159 ya Molao 9 wa 2017

62. Karolo 159 ya Molao wa Taolo ya Lephata la Ditšhelete, 2017, o tlhabololwa ka go tsenngwa morago ga karolotlaleletso (3) ga karolotlaleletso e e latelang:

"(4) Mong yo o botlhokwa wa setheo sa ditšhelete o tshwanetse go obamela ditaelo tse di rebotsweng go ya ka karolotlaleletso (2) kgotsa (3).".

Go tsenngwa ga Kgaolo 11A le dikarolo 159A go fitlha go 159C mo Molaong 9 wa 2017

63. Molao wa Taolo ya Lephata la Ditšhelete, 2017, o tlhabololwa ka go tsenngwa morago ga Kgaolo 11 ga Kgaolo e e latelang:

"**KGAOLO 11A**

BENG BA DIKUNGWELO

Beng ba dikungwelo

159A. (1) Mabapi le maitlhomo a Kgaolo eno, **'mong wa kungwelo'** o kaya motho wa tlholego yo, ka tlhamalalo kgotsa e seng ka tlhamalalo, e leng mong wa setheo sa ditšhelete kgotsa yo o kgonang go laola ka nonofo setheo seo sa ditšhelete.

(2) Tona, Banka ya Resefe le bolaodi jwa lephata la ditšhelete ga ba, mo bokgoning joo, jwa go nna beng ba dikungwelo tsa setheo sa ditšhelete.

Maemo mabapi le beng ba dikungwelo

159B. (1) Mo godimo ga dithata tse di mo Karolong 2 ya Kgaolo 7 go dira maemo, bolaodi jwa lephata la ditšhelete bo ka dira maemo a a

(a) beneficial owners with respect to—
  (i) fit and proper requirements, in particular honesty and integrity; and
  (ii) reporting of relevant information regarding the beneficial owner to the financial sector regulator; and

(b) financial institutions with respect to the—
  (i) identification and verification of beneficial owners; and
  (ii) reporting relevant information in respect of beneficial owners to the financial sector regulator.

(2) Standards referred to in subsection (1) may—

(a) prescribe what would or would not constitute direct or indirect ultimate ownership or control, or the ability to exercise such control, as contemplated in the definition of beneficial owner for purposes of section 159A;

(b) exclude specified persons from the definition of beneficial owner as contemplated in section 159A; and

(c) distinguish between different types and categories of beneficial owners.

Regulator's directives in relation to beneficial owners

159C. (1) *(a)* A financial sector regulator may issue to a beneficial owner a written directive requiring the beneficial owner to take action specified in the directive if the beneficial owner has contravened or is likely to contravene a financial sector law for which the financial sector regulator is the responsible authority.

(b) A directive in terms of paragraph *(a)* must aim to stop the beneficial owner from contravening the financial sector law, or reducing the risk of such a contravention, and may include requiring the beneficial owner to take steps to cease being a beneficial owner.

(2) A beneficial owner of a financial institution must comply with a directive issued in terms of subsection (1).''.

Amendment of long title of Act 9 of 2017

64. The long title of the Financial Sector Regulation Act, 2017, is hereby amended by the insertion after the words ''**significant owners''** of the words **''and beneficial owners**''.

Amendment of Arrangement of Sections of Act 9 of 2017

65. The Arrangement of Sections of the Financial Sector Regulation Act, 2017, is hereby amended by the insertion after item 159 of the following items:

''CHAPTER 11A

BENEFICIAL OWNERS

159A. Beneficial owners
159B. Standards in relation to beneficial owners
159C. Regulator's directives in relation to beneficial owners''.

Short title and commencement

66. (1) This Act is called the General Laws (Anti-Money Laundering and Combating Terrorism Financing) Amendment Act, 2022, and takes effect on a date determined by the President by proclamation in the *Gazette*.

(2) Different dates may be determined by the President in respect of the taking effect of different provisions of this Act.

(a) beng ba dikungwelo mabapi le—
(i) ditlhokego tse di siameng e bile di le maleba, segolobogolo bonnete le tshiamo; le
(ii) go begela bolaodi jwa lephata la ditšhelete tshedimosetso e e maleba e e ka ga mong wa dikungwelo; le

(b) setheo sa ditšhelete mabapi le—
(i) tshupo le netefatso ya beng ba dikungwelo; le
(ii) go begela bolaodi jwa lephata la ditšhelete tshedimosetso e e maleba e e ka ga beng ba dikungwelo.

(2) Maemo a a umakilweng mo karolotlaleletsong (1) a ka—
(a) laela mabapi le seo bong kgotsa taolo ka tlhamalalo kgotsa e seng ka tlhamalalo e e feletseng e leng sona kgotsa e seng sona, kgotsa bokgoni jwa go diragatsa taolo eo, jaaka go umakilwe mo tlhalosong ya mong wa dikungwelo mabap le maitlhomo a karolo 159A;
(b) se akaretse batho ba ba tsepamisitsweng mo tlhalosong ya mong wa dikungwelo jaaka go umakilwe mo karolong 159A; e bile
(c) farologanya magareng ga mefuta le ditlhopha tse di farologaneng tsa beng ba dikungwelo.

Ditaelo tsa bolaodi mabapi le beng ba dikungwelo

159C. (1) *(a)* Bolaodi jwa lephata la ditšhelete bo ka rebolela mong wa kungwelo taelo e e kwetsweng e e lopang mong wa kungwelo go tsaya kgato e e tsepamisitsweng mo taelong fa mong wa kungwelo a sa obamela kgotsa go lebega e kete ga a ne a obamela molao wa lephata la ditšhelete leo bolaodi jwa lephata la ditšhelete bo rwalang maikarabelo a lona.

(b) Taelo go ya ka temana *(a)* e tshwanetse go lebiswa mo go direng gore mong wa kungwelo a se tlole molao wa lephata la ditšhelete, kgotsa mo go fokotseng matshosetsi a tlolomolao eo, e bile e ka akaretsa go lopa mong wa kungwelo go tsaya dikgato go emisa go nna mong wa kungwelo.

(2) Mong wa kungwelo wa setheo sa ditšhelete o tshwanetse go obamela taelo e e rebotsweng go ya ka karolotlaleletso (1).''.

Tlhabololo ya setlhogo se seleele sa Molao 9 wa 2017

64. Setlhogo se se leele sa Molao wa Taolo ya Lephata la Ditšhelete, 2017, se tlhabololwa ka go go tsenngwa morago ga mafoko ''**beng ba ba botlhokwa''** ga mafoko **''le beng ba dikungwelo**''.

Tlhabololo ya Thulaganyo ya Dikarolo tsa Molao 9 wa 2017

65. Thulaganyo ya Dikarolo tsa Molao wa Taolo ya Lephata la Ditšhelete, 2017, e tlhabololwa ka go tsenngwa morago ga ntlha 159 ga dintlha tse di latelang:

''KGAOLO 11A

BENG BA DIKUNGWELO

159A. Beng ba dikungwelo
159B. Maemo mabapi le beng ba dikungwelo
159C. Ditaelo tsa bolaodi mabapi le beng ba dikungwelo''.

Kort titel en inwerkingtreding

66. (1) Hierdie Wet heet die Wysigingswet op Algemene Wette (Teengeldwassery en Bekamping van Terrorismefinansiering), 2022, en tree in werking op 'n datum deur die President by proklamasie in die *Staatskoerant* vasgestel.

(2) Verskillende datums kan deur die President vasgestel word ten opsigte van die inwerkingtreding van verskillende bepalings van hierdie Wet.

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