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GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

NATIONAL TREASURY

NO. 2393

18 August 2022

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

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

The Bill seeks to amend—

- (a) the Trust Property Control Act, 1988, by inserting definitions of "accountable institution" and "beneficial owner"; by imposing certain requirements on trustees; by specifying matters that would disqualify a person from being appointed or continuing to act as a trustee; by providing for the removal of a trustee who becomes disqualified to continue to act as a trustee; by specifying information that must be kept by trustees in relation to beneficial owners in relation to trusts; by requiring the Master to maintain a register containing information relating to beneficial ownership of trusts, and providing for access to information regarding beneficial ownership; and by specifying certain offences;
- (b) the Nonprofit Organisations Act, 1997, by requiring registration in terms of the Act; by enabling the Nonprofit Organisations Directorate, in order to perform its functions, to collaborate, co-operate, co-ordinate and enter into arrangements with other organs of state; by requiring nonprofit organisations to submit prescribed information about the office-bearers, control structure, governance, management, administration, and operations of nonprofit organisations to the director; to require prescribed information relating to the office-bearers, control structure, governance, management, administration, and operations of nonprofit organisations to be included in the register that the director must keep, and by providing for access to that information; by providing for grounds for disqualification for a person to be appointed or continuing to act as an office-bearer of a nonprofit organization; by providing for the removal of an office-bearer; and by specifying certain offences;
- (c) the Financial Intelligence Centre Act, 2001, by amending the definitions of "beneficial owner", "domestic prominent influential person" and "foreign prominent public official", and inserting a definition of "prominent influential person"; by amending the objectives of the Financial Intelligence Centre ("Centre"); by amending the functions of the Centre to include the provision of forensic information; by empowering the Centre to request information held by other organs of state; by providing for additional and ongoing due diligence measures, and by amending the process followed when there are doubts about the veracity of information; by aligning certain provisions and Schedules 3A and 3B to appropriately refer to domestic and foreign "politically exposed persons", as distinct from "politically influential persons", who will 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 Minister to prescribe appropriate requirements relating to the access to personal information to ensure that adequate safeguards are in place as required by section 6(1)(c) of the Protection of Personal Information Act, 2013; by amending certain provisions relating to the risk management and compliance programme; by amending the offences provisions to empower the imposition of an administrative sanctions; by amending the provision relating to the amendment by the Minister of Schedule 2; by amending Schedules 2, 3A and 3B, and by inserting a new Schedule 3C; and
- (d) the Companies Act, 2008, by inserting a definition of "beneficial owner"; by providing for a comprehensive mechanism through which the Commission can keep accurate and updated beneficial ownership information; by requiring a company to keep a record of a natural person who owns or controls the company in terms of the definition of "beneficial owner", and by providing for specified timelines within which the company must record any changes in this information; by requiring a company to file a record of any natural person who owns or controls the company in terms of the definition of "beneficial owner", with the Commission; and by specifying that persons who are convicted of offences relating to money laundering, terrorist financing, or proliferation financing activities are prohibited from registering as company directors; the Financial Sector Regulation Act, 2017, by providing that a financial institution, key person, representative or contractor to which a regulator's directive in terms of Part 2 of Chapter 10 has been issued must comply with the directive; by inserting a new Chapter dealing with beneficial owners into the Act, which provides a definition of "beneficial owner", and empowers standards and regulator's directives to be made in relation to beneficial owners.

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

NASIONALE TESOURIE

NO. 2393

18 Augustus 2022

PUBLIKASIE VAN VERUIDELIKENDE OPSOMMING VAN ALGEMENE WYSIGINGSWETSONTWERP (ANTI-GELDWASSERY EN BEKAMPING VAN TERRORISMEFINANSIERING)

Die Minister van Finansies is voornemens om die Wysigingswetsontwerp op Algemene Wette (Anti-geldwassery en bekamping van terrorismefinansiering) ("die Wetsontwerp") in die derde kwartaal van 2022 in die Nasionale Vergadering in te dien. Die verduidelikende opsomming van die Wetsontwerp word hierby ooreenkomstig reël 276(1)(c) van die Reëls van die Nasionale Vergadering gepubliseer.

Die Wetsontwerp beoog om—

- (a) die Wet op die Beheer oor Trustgoed, 1988, te wysig deur omskrywings van "rekenpligtige instelling" en "uiteindelike geregtigheid" in te voeg, sekere vereistes aan trustees op te lê; aangeleenthede te spesifiseer wat 'n persoon onbevoeg sal maak om as 'n trustee aangestel te word of voort te gaan 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; inligting te spesifiseer wat deur trustees gehou moet word rakende uiteindelijke geregtigheid van trusts, en voorsiening te maak vir toegang tot inligting aangaande uiteindelijke geregtigheid; en deur sekere misdrywe te spesifiseer;
- (b) die Wet op Organisasies Sonder Winsoogmerk, 1997, deur registrasie ingevolge die Wet te vereis; deur die Direktoraat van Organisasies sonder Winsoogmerk in staat te stel, ten einde hul werksaamhede te verrig, om met ander staatsorgane mee te werk, saam te werk, te koördineer en reëlins te tref met ander staatsorgane; deur te vereis dat organisasies sonder winsoogmerk voorgeskrewe inligting oor die ampsdraers, beheerstruktuur, beheer, bestuur, administrasie en bedrywighede van organisasies sonder winsoogmerk by die direkteur indien; om te vereis dat voorgeskrewe inligting oor die ampsdraers, beheerstruktuur, beheer, bestuur, administrasie en bedrywighede van organisasies sonder winsbejag ingesluit moet word in die register wat die direkteur moet byhou, en deur voorsiening te maak vir toegang tot daardie inligting; deur voorsiening te maak vir gronde vir onbevoegdheid vir 'n persoon om as ampsdraer van 'n organisasie sonder winsoogmerk aangestel te word of voort te gaan om as sodanige ampsdraer op te tree; deur voorsiening te maak vir die verwydering van 'n ampsdraer; en deur sekere ampte te spesifiseer;
- (c) die Wet op die Finansiële Intelligensiesentrum, 2001, te wysig, deur die omskrywings van "uiteindelik geregtigde", "binnelandse-vooraanstaande-invloedryke-persoon" en "buitelandse-vooraanstaande-openbare-beampte", te wysig en 'n omskrywing vir "vooraanstaande-invloedryke-persoon" 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 wat deur ander staatsorgane gehou word, aan te vra; deur voorsiening te maak vir bykomende en voortgesette maatreëls vir omsigtigheid, en deur die proses wat gevolg moet word wanneer twyfel oor die geloofwaardigheid van inligting bestaan, te wysig; deur sekere bepalings en Bylae 3A en 3B in ooreenstemming te bring om gepas te verwys na binnelandse en buitelandse "polities-blootgestelde-persone", afsonderlik van "polities-invloedryke-persone", wat in 'n nuwe Bylae 3C hanteer sal word, deur sekere bepalings oor besluite van die Veiligheidsraad van die Verenigde Nasies te wysig; deur die magte 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 beveiliging 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 voor te skryf rakende die toegang tot persoonlike inligting om te verseker dat voldoende veiligheidsmaatreëls in plek is soos deur artikel 6(1)(c) van die Wet op Beskerming van Inligting, 2013, vereis; deur sekere bepalings rakende die risikobestuur- en nakomingsprogram te wysig; deur die misdrywebepalings te wysig om die oplegging van administratiewe sanksies te magtig; deur die bepaling rakende 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
- (d) die Maatskappywet, 2008, deur 'n omskrywing van "uiteindelik geregtigde" in te voeg; deur voorsiening te maak vir 'n omvattende meganisme waardeur die Kommissie akkurate en bygewerkte inligting oor uiteindelik geregtigdes kan hou; deur te vereis dat 'n maatskappy 'n rekord hou van 'n natuurlike persoon wat die maatskappy besit of beheer ingevolge die omskrywing van "uiteindelik geregtigde", by die Kommissie; en deur te spesifiseer dat persone wat aan misdrywe rakende geldwassery, terrorismefinansiering, of verspreidingsfinansieringsaktiwiteite skuldig bevind word, belet word om as direkteure van maatskappye te registreer; die "Financial Sector Regulation Act, 2017", deur te bepaal dat 'n finansiële instelling, sleutelpersoon, verteenwoordiger of kontrakteur waaraan 'n reguleerderlasgewing ingevolge Deel 2 van Hoofstuk 10 uitgereik is, aan die lasgewing moet voldoen; deur 'n nuwe Hoofstuk wat oor uiteindelik geregtigdes handel in die Wet in te voeg, wat 'n omskrywing van "uiteindelik geregtigde" voorsien, en wat magtiging voorsien dat standarde en reguleerderlasgewings in verband met uiteindelik gematigdes gemaak kan word.

'n Afskrif van die Wetsontwerp sal op die Nasionale Tesourie se webwerf by <http://www.treasury.gov.za> beskikbaar wees nadat die Wetsontwerp in die derde kwartaal van 2022 ingedien is, en kan verkry word van Mnr A Hendricks, Parlement, Posbus 15, Kaapstad, 8000, Telefoon: 021 403 8223

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