

GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

NATIONAL TREASURY

NO. 2800

29 November 2022

I, Enoch Godongwana, Minister of Finance, in terms of sections 73, 75 and 76 of the Financial Intelligence Centre Act, 2001 (Act No. 38 of 2001), hereby amend Schedules 1, 2 and 3 to that Act as set out in the Annexure, with effect from 19 December 2022.

ENOCH GODONGWANA
MINISTER OF FINANCE

ANNEXURE

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.

SCHEDULE 1
LIST OF ACCOUNTABLE INSTITUTIONS

1. (a) A **[practitioner who practices as defined in section 1 of the Attorneys Act, 1979 (Act 53 of 1979)]** person who is admitted and enrolled to practise as a legal practitioner as contemplated in section 24(1) of the Legal Practice Act, 2014 (Act 28 of 2014) and who is—
 - (i) an attorney (including a conveyancer or notary) practising for his or her own account as contemplated in section 34(5)(a) of that Act; or
 - (ii) an advocate contemplated in section 34(2)(a)(ii) of that Act.
- (b) A commercial juristic entity, as contemplated in section 34(7) of the Legal Practice Act, 2014.
2. (a) A **[board of executors or a trust company or any other person that invests, keeps in safe custody, controls or administers trust property within the meaning of the Trust Property Control Act, 1988 (Act 57 of 1988)]** person who carries on the business of preparing for, or carrying out, transactions for a client, where—
 - (i) the client is assisted in the planning or execution of—

- (aa) the organisation of contributions necessary for the creation, operation or management of a company, or of an external company or of a foreign company, as defined in the Companies Act, 2008 (Act 71 of 2008);
 - (bb) the creation, operation or management of a company, or of an external company or of a foreign company, as defined in the Companies Act, 2008; or
 - (cc) the operation or management of a close corporation, as defined in the Close Corporations Act, 1984 (Act 69 of 1984).
- (b) A person who carries on the business of–
 - (i) acting for a client as a nominee as defined in the Companies Act, 2008; or
 - (ii) arranging for another person to act for a client as such a nominee.
- (c) A person who carries on the business of creating a trust arrangement for a client.
- (d) A person who carries on the business of preparing for or carrying out transactions (including as a trustee) related to the investment, safe keeping, control or administering of trust property within the meaning of the Trust Property Control Act, 1988 (Act 57 of 1988).
- 3. An estate agent as defined in the Estate Agency Affairs Act, 1976 (Act 112 of 1976).
- 4. An authorised user of an exchange as defined in the **[Securities Service Act, 2004 (Act 36 of 2004)]** Financial Markets Act, 2012 (Act 19 of 2012).
- 5. A manager registered in terms of the Collective Investment Schemes Control Act, 2002 (Act 45 of 2002), but excludes managers who only conduct business in Part VI of **[the Collective Investment Schemes Control]** that Act **[(Act 45 of 2002)]**.
- 6. A person who carries on the “business of a bank” as defined in the Banks Act, 1990 (Act 94 of 1990).
- 7. A mutual bank as defined in the Mutual Banks Act, 1993 (Act 124 of 1993).
- 7A. A co-operative bank as defined in the Co-operative Banks Act, 2007 (Act 40 of 2007).
- 8. A person who carries on a “**[long-term]** life insurance business” as defined in the **[Long-Term Insurance Act, 1998 (Act 52 of 1998)]** Insurance Act, 2017 (Act 18 of 2017), but excludes reinsurance business as defined in that Act.
- 9. A person who carries on the business of making available a gambling activity as contemplated in section 3 of the National Gambling Act, 2004 (Act 7 of 2004) in respect of which a license is required to be issued by the National Gambling Board or a provincial licensing authority.
- 10. A person who carries on the business of dealing in foreign exchange.
- 11. (a) A person who carries on the business of **[lending money against the security of securities]** a credit provider as defined in the National Credit Act, 2005 (Act 34 of 2005).
- (b) A person who carries on the business of providing credit in terms of any credit agreement that is excluded from the application of the National Credit Act, 2005 by virtue of section 4(1)(a) or (b) of that Act.
- 12. A person who carries on the business of a financial services provider requiring authorisation in terms of the Financial Advisory and Intermediary Services Act, 2002 (Act 37 of 2002), to provide advice **[and]** or intermediary services in respect of the investment of any financial product (but excluding a **[short term insurance contract or policy referred to in the Short-term Insurance**

Act, 1998 (Act 53 of 1998)] non-life insurance policy, reinsurance business as defined in the Insurance Act, 2017 (Act 18 of 2017) and [a health service benefit provided by] the business of a medical scheme as defined in section 1(1) of the Medical Schemes Act, 1998 (Act 131 of 1998.))

13. A person who issues, sells or redeems travellers' cheques, money orders or similar instruments.
14. The South African Postbank Limited referred to in section [51] 3 of the **[Postal Services Act, 1998 (Act No. 124 of 1998)]** South African Postbank Act, 2010 (Act 9 of 2010).
15.
16. **[The Ithala Development Finance Corporation Limited.]**
17.
18.
19. A person who carries on the business of a money **[remitter]** or value transfer provider.
20. A person who carries on the business of dealing in high-value goods in respect of any transaction where such a business receives payment in any form to the value of R100 000,00 or more, whether the payment is made in a single operation or in more than one operation that appears to be linked, where "high-value goods" means any item that is valued in that business at R100 000,00 or more.
21. The South African Mint Company (RF) (Pty) Ltd, only to the extent that it distributes non-circulation coins in retail trade and where in respect of such transactions it receives payment in any form to the value of R100 000,00 or more, whether the payment is made in a single operation or in more than one operation that appears to be linked.
22. A person who carries on the business of one or more of the following activities or operations for or on behalf of a client:
 - (a) Exchanging a crypto asset for a fiat currency or vice versa;
 - (b) exchanging one form of crypto asset for another;
 - (c) conducting a transaction that transfers a crypto asset from one crypto asset address or account to another;
 - (d) safekeeping or administration of a crypto asset or an instrument enabling control over a crypto asset; and
 - (e) participation in and provision of financial services related to an issuer's offer or sale of a crypto asset,

where "crypto asset" means a digital representation of perceived value that can be traded or transferred electronically within a community of users of the internet who consider it as a medium of exchange, unit of account or store of value and use it for payment or investment purposes, but does not include a digital representation of a fiat currency or a security as defined in the Financial Markets Act, 2012 (Act 19 of 2012).
23. A clearing system participant as defined in section 1 of the National Payment System Act, 1998 (Act 78 of 1998) that facilitates or enables the origination or receipt of any electronic funds transfer and or acts as an intermediary in receiving or transmitting the electronic funds transfer.

SCHEDULE 2
LIST OF SUPERVISORY BODIES

1. **[The Financial Services Board established by the Financial Services Board Act, 1990 (Act 97 of 1990)]** The Financial Sector Conduct Authority established by the Financial Sector Regulation Act, 2017 (Act 9 of 2017), in respect of accountable institutions referred to in items 4, 5 and 12 of Schedule 1.
2. The South African Reserve Bank **[in respect of]** with regard to—
 - (a) the performance of the powers and duties contemplated in section 10(1)(c) in the South African Reserve Bank Act, 1989 (Act 90 of 1989) **[and the Registrar as defined in section 3 and 4 of the Banks Act, 1990, (Act 94 of 1990)]**, in respect of accountable institution referred to in item 23 of Schedule 1;
 - (b) the Prudential Authority established by the Financial Sector Regulation Act, 2017 (Act 9 of 2017), in respect of accountable institutions referred to in items 6, 7, 7A, 8, 19 and 23 of Schedule 1; and
 - (c) the Financial Surveillance Department in terms of Regulation 22.E of the Exchange Control Regulations, 1961, in respect of accountable institutions referred to in items 10, 13 and 19 of Schedule 1.
3.
4. The Estate Agency Affairs Board established **[in terms of]** by the Estate Agency Affairs Act, 1976 (Act 112 of 1976), in respect of accountable institutions referred to in item 3 of Schedule 1.
5. **[The Independent Regulatory Board for Auditors established in terms of the Auditing Professions Act, 2005 (Act 26 of 2005).]**
6. **[The National Gambling Board established in terms of the National Gambling Act, and retained in terms of the National Gambling Act, 2004 (Act 7 of 2004).]**
7.
8. **[A law society as contemplated in section 56 of the Attorneys Act, 1979 (Act 53 of 1979).]**
9. A provincial licensing authority as defined in section 1 of the National Gambling Act, 2004 (Act 7 of 2004), in respect of accountable institutions referred to in item 9 of Schedule 1.

SCHEDULE 3
LIST OF REPORTING INSTITUTIONS

1. **[A person who carries on the business of dealing in motor vehicles.]**
2. **[A person who carries on the business of dealing in Kruger rands.]**