



## TECH TALK

20 APRIL 2023

# Program

<b>08:00</b>	We Go Live	
<b>08:00 – 08:05</b>	Welcome and Overview	5
<b>08:05 – 08:20</b>	<b>Audit and Assurance</b>	
	International Auditing and Assurance Standards Board projects update – Professor Warren Maroun School of Accountancy, University of the Witwatersrand	15
<b>08:20 – 08:35</b>	New Illustrative Regulatory Reports on Property Practitioners Trust Accounts – Thomas Makupo, Audit Compliance Manager, Property Practitioners Regulatory Authority	15
<b>08:35 – 08:55</b>	<b>Corporate Reporting</b>	
	IFRS for SMEs – Blaise Colyvas Director: Wconsulting and Deputy Chair : SAICA Accounting Practices Committee (APC) and Mulala Sadiki: SAICA Project Director: Financial Reporting	20
<b>08:55 – 09:15</b>	<b>Tax</b>	
	Tax Operational & other matters – Somaya Khaki : SAICA Project Director: Tax	20
<b>09:15 – 09:30</b>	<b>Public Sector</b>	
	The meaning of Unauthorised, Irregular and Fruitless and Wasteful Expenditure (UIFWE) – Natasha Soopal : SAICA Executive: Ethics Standards and Public Sector and Odwa Benxa : SAICA Project Director: Public Sector	15
<b>09:30 – 09:45</b>	<b>Ethics</b>	
	Proposed revisions to the Code addressing tax planning and related services – Natasha Soopal: SAICA Executive: Ethics Standards and Public Sector	15
<b>09:45 – 10:00</b>	<b>Tax</b>	
	Dealing with estimated assessments where the taxpayer does not have a right to object (being additional assessments issued in terms of section 95 of the Tax Administration Act). Commissioner for the South African Revenue Services v Grand Azania (Pty) Limited (33257/2021) [2023] ZAGPPHC 173 (13 March 2023) – Piet Nel : SAICA Project Director: Legal and Governance	15
<b>10:00 – 10:25</b>	<b>Legal and Governance</b>	
	Latest update on legislative issues including: CIPC beneficial ownership register requirements , Master's office and FIC and accountable institutions – Juanita Steenekamp : SAICA Project Director: Legal and Governance	25



## IAASB Update: March meeting

Prof Warren Maroun, IAASB Board member

# IAASB Update: March 2023 meeting

## Going Concern

- Board approved an exposure draft for proposed ISA570 (Revised 202X). The proposed revised standard will be issued for public consultation in early May 2023 with a 120-day consultation period.
- Key issues considered at the meeting included (among others): terminology, management's assessment of going concern, timeline over which the going concern assessment is made, transparency about going concern in the auditor's report

## ISA for LCEs

- Part 10, Audits of Group Financial Statements is still out for public consultation with comments due by 2 May 2023.
- Key issues considered at the meeting included (among others): documentation approach, engagement quality review approach with different number of team members, engagement letter and terms, using the work of experts, presumption of fraud risk relating to revenue recognitions and service organisations.
- Board to discuss a full draft of the proposed standard at its June 2023 meeting.

# IAASB Update: March 2023 meeting

## Listed Entity and Public Interest Entity (PIE) – Track 1

- Following the 2022 public consultation for proposed revisions to ISA 700 (Revised), Forming an Opinion and Reporting on Financial Statements; and ISA 260 (Revised), Communication with Those Charged with Governance, the IAASB discussed respondents' feedback from the public consultation and the proposed way forward during its March 2023 meeting. The final approval of the Exposure Draft is planned for June 2023.
- Key issues considered at the meeting included (among others): auditor report as mechanism for disclosure, conditional vs unconditional requirement, matters relevant to group audits, considerations on related revisions to ISRE 2400 (Revised)

## Disruptive technologies

- Board received a presentation providing an update on Disruptive Technologies activities undertaken since its September 2022 meeting including: maintaining a programme of research and knowledge sharing, launch of a series of thought experiments to enable understanding of technology impact on auditing standards, deep dive session with firms to understand technology practices adopted

# IAASB Update: March 2023 meeting

## Sustainability

- Board received presentations from the ISSB, EFRAG and GRI with regard to sustainability reporting standards developments as well as from IFAC on their latest sustainability assurance research to inform discussions.
- Board discussed draft requirements and application material for proposed ISSA 5000 across all parts of the drafted standard, excepting for the introduction and illustrative assurance reports which will be discussed at an April board meeting.
- Key issues discussed included (among others): work performed by others, documentation requirements, controls and use in limited assurance, sampling, fraud & materiality.
- The entire proposed ISSA 5000 will be discussed at the June 2023 IAASB meeting where it is envisaged that approval will be sought for exposure of the standard.



## New Illustrative Regulatory Reports on Property Practitioners Trust Accounts

Thomas Makupo



## ABOUT THE SPEAKER



Thomas Makupo is a CA(SA) and a Registered Auditor. He is currently the Audit Compliance Manager at the Property Practitioners Regulatory Authority (PPRA) (previously, the Estate Agency Affairs Board).

He has also previously occupied acting roles of Chief Financial Officer and Executive Manager: Inspections at the Estate Agency Affairs Board. Prior to joining PPRA, Thomas previously worked as a Finance Manager in a listed company before re-joining public practice as a Senior Audit Manager.

His responsibilities at the PPRA include verifications of submitted audit reports of property practitioners, analysing the basis of audit opinions in the submitted audit reports, evaluating contraventions and non-compliance matters in submitted audit reports as well as providing technical guidance to registered auditors on the audit of property practitioners trust accounts.



# OVERVIEW

**Property Practitioners  
Act No. 22 of 2019**

–  
Signed into law on 19  
September 2019

**Property Practitioners  
Act**

–  
Came into operation on  
1 February 2022

**Project Proposal to  
Draft Illustrative  
Reports**

–  
Approved by IRBA's CFAS  
Steering Committee on  
12 October 2022

**Illustrative reports  
drafted by Task Group**

–  
Considered by IRBA's  
RIRSC on 24 January  
2023

**Final Illustrative Reports  
recommended by RIRSC**

–  
Approved by IRBA's CFAS  
on 1 March 2023

# CATEGORIES OF PROPERTY PRACTITIONERS



## **Property practitioners exempt from holding trust monies –**

None of the illustrative reports apply to this category



## **Property practitioners that handle and manage own trust monies –**

Only one of the illustrative reports on trust accounts is applicable to this category



## **Property practitioners that manage trust monies on behalf of other property practitioners (Payment Processing Agents) –**

All three of the illustrative reports are applicable to this category

# ILLUSTRATIVE REPORTS AS PUBLISHED BY IRBA

<https://www.irba.co.za/guidance-to-ras/industry-specific-guides-and-regulatory-reports/estate-agents-trust-account-report>

## Illustrative Reports to be Used by Independent Assurance Practitioners When Required to Report in terms of the Property Practitioners Act No. 22 of 2019

### Reports

Title	Date issued	Effective date	Download documents
Illustrative regulatory reports on the property practitioners trust accounts, Parts A and B	March 2023	Effective for year-ends of property practitioners on or after 28 February 2023	<a href="#">PDF</a>   <a href="#">Word</a>
Illustrative limited assurance report on the payment processing agent's trust accounting environment	March 2023	Effective for year-ends of property practitioners on or after 28 February 2023	<a href="#">PDF</a>   <a href="#">Word</a>
Illustrative regulatory reports on the agreed-upon procedures engagement in respect of the payment processing agent's list of mandating client business property practitioners	March 2023	Effective for year-ends of property practitioners on or after 28 February 2023	<a href="#">PDF</a>   <a href="#">Word</a>

# REPORT ON PROPERTY PRACTITIONERS TRUST ACCOUNTS



## **PART A – REASONABLE ASSURANCE REPORT**

- a. Conducted in accordance ISAE 3000 (Revised)
- b. Compliance with sections 54(1), (2), (3), (5) and (10) of the PPA



## **PART B1 – AGREED-UPON PROCEDURES REPORT**

- a. Conducted in accordance with ISRS 4400 (Revised)
- b. Factual findings on interest earned on trust accounts, unclaimed/unidentified trust monies and winding up of trust accounts



## **PART B2 – AGREED-UPON PROCEDURES REPORT**

- a. Conducted in accordance with ISRS 4400 (Revised)
- b. Factual findings on possession of a Fidelity Fund Certificate and registration with Financial Intelligence Centre as accountable institution (estate agencies only)

# REPORT ON PAYMENT PROCESSING AGENT'S ENVIRONMENT



## LIMITED ASSURANCE REPORT

- a. Conducted in accordance ISAE 3000 (Revised)
- b. Compliance with Regulation 30 of Property Practitioners Regulations
- c. Report required in accordance with Regulation 2.4.4 of the Property Practitioners Regulations



## REGULATION 30

Assessing the appropriateness of the design of the key controls and determining that such controls have been implemented (through inquiry and walkthrough procedures):



- a. Trust accounting system and environment operated by payment processing agent (Regulation 30)
- b. Pertinent information maintained on movements of trust monies (Regulation 30.2.1)
- c. Safeguarding of trust accounting records against unauthorized access, manipulation, alteration or destruction (Regulation 30.2.2)
- d. Retrievability and accessibility of trust accounting records by PPRA or auditor (Regulation 30.2.3)



## AGREED-UPON PROCEDURES REPORT



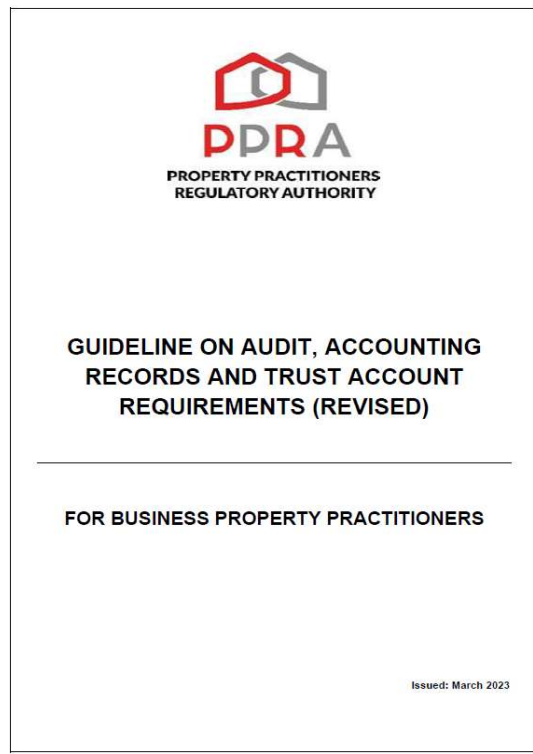
a. Conducted in accordance ISRS 4400 (Revised)



b. Factual findings on accuracy and completeness of list of mandating client business property practitioners

# CHANGES TO MYPPRA AUDITORS PORTAL & GUIDELINES

<https://theppra.org.za/uploads/files/Revised%20Guideline%20on%20Audit%20Accounting%20Records%20and%20Trust%20Account%20Requirements.pdf>



<https://theppra.org.za/myaudit>

The screenshot shows the website 'theppra.org.za/myaudit'. The header features the PPRA logo and the tagline 'ENHANCING EFFICIENCY AND EFFECTIVITY OF THE PROPERTY PROFESSION'. Below the header is a navigation menu with links: HOME, LICENSING, EDUCATION, DISCIPLINARIES, INSPECTIONS, CLAIMS, MYPPRA, RESEARCH REPOSITORY, and MYCPD. The main content area is titled 'MyPPRA AUDITORS PORTAL' and includes a breadcrumb 'HOME > AUDITORS PORTAL'. The 'Auditors Portal' section describes the platform as a free and secure online platform for submission of audit reports. A prominent brown button says 'CLICK HERE TO REGISTER'. On the right side, there is a 'YOUR ACCOUNT' section with input fields for 'IRBA Number' and 'Password', a CAPTCHA image with the text 'FVIWS', and a 'Login' button. Below the login button are links for 'Forgot your password?' and 'Not yet registered?'.

# SUBMISSION OF 2023 REPORTS ON AUDITORS PORTAL

[https://theppra.org.za/article/audit\\_compliance\\_2023\\_new\\_illustrative\\_trust\\_account\\_audit\\_reports](https://theppra.org.za/article/audit_compliance_2023_new_illustrative_trust_account_audit_reports)



30 March 2023

## 2023 NEW ILLUSTRATIVE TRUST ACCOUNT AUDIT REPORTS

On 1 March 2023, the Independent Regulatory Board for Auditors (IRBA)'s Committee for Auditing Standards approved new illustrative reports to be used by auditors of business property practitioners when reporting to the Property Practitioners Regulatory Authority (PPRA) in terms of section 54(5)(b) of the Property Practitioners Act (PPA) and Regulation 2.4.4 of the Property Practitioners Regulations. These new reports can be accessed on the [IRBA website](#). In addition, the PPRA has also revised the Guideline on Audit, Accounting Records and Trust Account Requirements to include these new reports and this Revised Guideline is available on the [MyPPRA Auditors Portal](#) (Auditors Portal) landing page.

The new illustrative reports are effective for financial years ending on or after 28 February 2023. In terms of the PPA, audit reports on the property practitioners trust accounts are required to be electronically submitted to the PPRA on the Auditors Portal within six months of the financial year-end of the business property practitioners. Consequently, the audit reports for the financial year ended 28 February 2023 are only due for submission to the PPRA on or before 31 August 2023.

The PPRA is currently making changes to the Auditors Portal to reflect the new audit reports published by the IRBA. Accordingly, auditors of property practitioners must hold in abeyance the electronic submission of the 2023 audit reports on the Auditors Portal until such time when the PPRA has finalised the new changes on the Auditors Portal and communicated as such. It is anticipated that these changes will be completed well in advance for auditors to meet the August 2023 submission deadline. However, audit reports for 2022 and prior years can still be submitted on the Auditors Portal using the old format.

Principals of business property practitioners are required to share this communicate with their auditors. Any further queries in relation to this communicate must be emailed to the PPRA Audit Compliance Department at [audit@theppra.org.za](mailto:audit@theppra.org.za).

Issued By:

PROPERTY PRACTITIONERS REGULATORY AUTHORITY

83 Wende Road East, Wende Valley, Sandton, 2198, Private Bag X18, Benmore, 2010  
Tel: 087 255 2222 • Website: [www.theppra.org.za](http://www.theppra.org.za) | Docex 41: Nelson Mandela Square

- a. New illustrative reports effective for financial years ended on or after 28 February 2023, which are due on or before 31 August 2023;
- b. PPRA now making changes to the Auditors Portal to reflect new illustrative reports;
- c. Auditors to hold in abeyance the electronic submission of 2023 reports until changes on Auditors Portal are finalised
- d. PPRA will issue communication once the changes to the Auditors Portal are finalised, which will be well before the August 2023 deadline
- e. Reports for 2022 and prior years can be submitted on the Auditors Portal using old format





**SAICA's response to the  
Exposure Draft on the Third  
Edition of the IFRS for SMEs  
Accounting Standard**

**Blaise Colyvas and Mulala Sadiki**

# Timeline



First  
edition

2009

*IFRS for SMEs Accounting Standard* issued and immediately effective



Second  
edition

2015

Amendments from the first review issued

2017

Amendments from the first review effective



Third  
edition

2020

Request for Information on the second review published

2022

Proposed amendments from second review published

2024  
[TBC]

Amendments from the second review expected to be issued

2026  
[TBC]

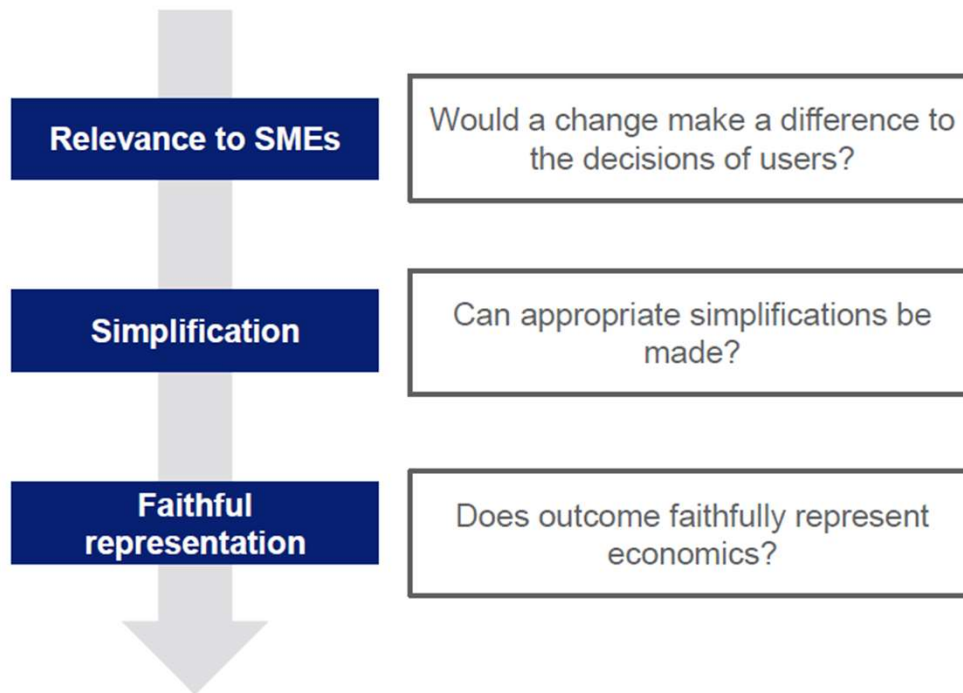
Amendments from the second review expected to be effective

## IASB's Objective and Approach

Update the IFRS for SMEs Accounting Standard to reflect improvements that have been made in full IFRS Accounting Standards (in the scope of the second comprehensive review) while keeping the Standard simple

- RFI in January 2020 consulted on approach
- Apply framework for deciding whether, how and when to amend the Standard
- Developed the ED based on feedback received on RFI and framework approach

# Framework for 2<sup>nd</sup> comprehensive review



# Overview

The table below summarises the extent of proposed amendments to each section of the *IFRS for SMEs Accounting Standard*

Section 1 <i>Small and Medium-sized Entities</i>	<b>Minor</b>	Section 18 <i>Intangible Assets other than Goodwill</i>	<b>Minor</b>
Section 2 <i>Concepts and Pervasive Principles</i>	<b>Major</b>	Section 19 <i>Business Combinations and Goodwill</i>	<b>Major</b>
Section 3 <i>Financial Statement Presentation</i>	<b>Minor</b>	Section 20 <i>Leases</i>	<b>Editorial</b>
Section 4 <i>Statement of Financial Position</i>	<b>Editorial</b>	Section 21 <i>Provisions and Contingencies</i>	<b>Editorial</b>
Section 5 <i>Statement of Comprehensive Income and Income Statement</i>	<b>Editorial</b>	Section 22 <i>Liabilities and Equity</i>	<b>Editorial</b>
Section 6 <i>Statement of Changes in Equity and Statement of Income and Retained Earnings</i>	<b>Editorial</b>	Section 23 <i>Revenue (renamed Revenue from Contracts with Customers)</i>	<b>Major</b>
Section 7 <i>Statement of Cash Flows</i>	<b>Minor</b>	Section 24 <i>Government Grants</i>	<b>Editorial</b>
Section 8 <i>Notes to the Financial Statements</i>	<b>Minor</b>	Section 25 <i>Borrowing Costs</i>	<b>Editorial</b>
Section 9 <i>Consolidated and Separate Financial Statements</i>	<b>Major</b>	Section 26 <i>Share-based Payment</i>	<b>Minor</b>
Section 10 <i>Accounting Policies, Estimates and Errors</i>	<b>Minor</b>	Section 27 <i>Impairment of Assets</i>	<b>Editorial</b>
Section 11 <i>Basic Financial Instruments</i> and Section 12 <i>Other Financial Instrument Issues</i> (combined and renamed Section 11 <i>Financial Instruments</i> )	<b>Minor</b>	Section 28 <i>Employee Benefits</i>	<b>Minor</b>
		Section 29 <i>Income Tax</i>	<b>Minor</b>
New Section 12 <i>Fair Value Measurement</i>	<b>New section</b>	Section 30 <i>Foreign Currency Translation</i>	<b>Minor</b>
Section 13 <i>Inventories</i>	<b>Minor</b>	Section 31 <i>Hyperinflation</i>	<b>Editorial</b>
Section 14 <i>Investments in Associates</i>	<b>Minor</b>	Section 32 <i>Events after the End of the Reporting Period</i>	<b>No changes</b>
Section 15 <i>Investments in Joint Ventures (renamed Joint Arrangements)</i>	<b>Minor</b>	Section 33 <i>Related Party Disclosures</i>	<b>Minor</b>
Section 16 <i>Investment Property</i>	<b>Minor</b>	Section 34 <i>Specialised Activities</i>	<b>Minor</b>
Section 17 <i>Property, Plant and Equipment</i>	<b>Minor</b>	Section 35 <i>Transition to the IFRS for SMEs (renamed Transition to the IFRS for SMEs Accounting Standard)</i>	<b>Minor</b>

## Major

Substantial changes to requirements are proposed

## Minor

Changes to requirements are proposed

## Editorial

No changes to recognition, measurement, presentation or disclosure requirements

## Major areas on which the IASB has consulted in the ED

Question	Topic	SAICA's comments on the proposals
1	Definition of public accountability	Limited support or additional comments
2	Revised Section 2 Concepts and Pervasive Principles	General support for proposals
3	Proposed amendments to the definition of control in Section 9 Consolidated and Separate Financial Statements	General support for proposals
4	Proposed amendments to impairment of financial assets in Section 11 Basic Financial Instruments (renamed Financial Instruments)	Mixed views, limited support
5	Proposal for a new Section 12 Fair Value Measurement	General support for proposals
6	Proposed amendments to Section 15 Investments in Joint Ventures (renamed Joint Arrangements)	General support for proposals
7	Proposed amendments to Section 19 Business	General support for proposals

## Major areas on which the IASB has consulted in the ED (cont'd)

Question	Topic	SAICA's comments
8	Revised Section 23 Revenue (renamed Revenue from Contracts with Customers)	General support for proposals, with additional recommendations
9	Proposed amendments to Section 28 Employee Benefits	General support for proposals
10	Transition	General support for proposals
11	Other proposed amendments (Table A1 of ED)	General support for proposals
12	Section 20 Leases and IFRS 16 Leases	General support for proposals, with additional recommendations
13	Recognition and measurement requirements for development costs	Support a proposal of introducing an accounting policy option
14	Requirement to offset equity instruments	Do not support change
15	Updating the paragraph numbers of the IFRS for	General support for proposals

## 1. Definition of public accountability

*IASB proposing to amend paragraph 1.3(b) to list banks, credit unions, insurance companies, securities brokers/dealers, mutual funds and investment banks as examples of entities that often meet the second criterion of public accountability in paragraph 1.3(b).*

*The IASB is also proposing to clarify that an entity with these characteristics would usually have public accountability:*

- *(a) there is both a high degree of **outside interest in the entity** and a broad group of users of the entity's financial statements (existing and potential investors, lenders and other creditors) who have a direct financial interest in or substantial claim against the entity.*
- *(b) the users in (a) depend primarily on external financial reporting as their means of obtaining financial information about the entity. These users need financial information about the entity but lack the power to demand the information for themselves.*



## SAICA's response to Question 1

- Limited support for the proposed clarification in its current format.
- Proposed clarification (new concept of “outside interest”) could be subjective and difficult to apply.
- Entity’s circumstances could change over time, question of whether entity’s public accountability would likewise evolve over time.
- Proposed criteria may be interpreted as an additional form of public accountability, or a de facto third hurdle in assessing whether an entity has public accountability.

## 4. Proposed amendments to impairment of financial assets in Section 11 – *Basic Financial Instruments* (renamed *Financial Instruments*)

*The IASB is proposing to:*

- (a) retain the incurred loss model for trade receivables and contract assets in the scope of the revised Section 23 Revenue from Contracts with Customers;*
- (b) require an expected credit loss model for all other financial assets measured at amortised cost, aligned with the simplified approach in IFRS 9; and*
- (c) retain the requirements in Section 11 for impairment of equity instruments measured at cost.*

## SAICA's response to Question 4

- Mixed views on this question.
- Some members support retaining incurred loss approach only.
- Unanimous support for limiting expected credit losses (ECLs) under the proposed revised Section 11 to a simplified approach, rather than aligning to the general approach under IFRS 9.
- Limited support for a mixed approach as currently proposed in ED:
- Options proposed:
  - Accounting policy election
  - Undue cost or effort approach
  - Simplifications for forward looking information (e.g., best estimate)

## Additional comments on Financial Instruments

### Financial Guarantees

Members noted that there could be an unintended outcome of requiring the initial measurement of the guarantee to transaction price (nil) as opposed to recognising the liability initially at fair value (as with full IFRS requirements).

### Classification and Measurement

A suggestion was made to add a simplified business model assessment (in the form of a rebuttable presumption) or irrevocable accounting policy designation at initial recognition to allow entities holding financial assets for trading purposes to carry these at fair value through profit or loss.

## 8. Revised Section 23 Revenue (renamed Revenue from Contracts with Customers)

*The IASB is proposing to revise Section 23 to align it with the principles and language used in IFRS 15. The revised requirements are based on the five-step model in IFRS 15, with simplifications that retain the basic principles in IFRS 15 for recognising revenue.*

## SAICA's response to Question 8

- Majority of participants support the move towards broad alignment of Section 23 with IFRS 15 and believe that there would be benefits for SMEs arising from the alignment, particularly for SMEs who may have more complex transactions involving multiple components.
  - Note that simplifications made to the IFRS 15 requirements for the purposes of the revised Section 23 appear to be sensible.
  - Suggested that additional implementation guidance and examples should be provided to assist entities with applying the section.

## 12. Section 20 – Leases and IFRS 16 – Leases

*The IASB decided not to propose amendments to Section 20 at this time and to consider amending the Standard to align it with IFRS 16 during a future review of the Standard. Therefore, the Exposure Draft does not propose amendments to Section 20. In making this decision the IASB placed greater emphasis on cost–benefit considerations and prioritised timing—that is, to obtain more information on entities’ experience of applying IFRS 16.*

## SAICA's response to Question 12

- SAICA agrees with the IASB's decision to consider amending the Standard to align it with IFRS 16 in a future review of the Standard.
- Suggestion to consider alignment of IFRS 16 with the IFRS for SMEs standard as a stand-alone project, rather than waiting for the next comprehensive review cycle of this Standard.
- Recommend that the IASB undertake a stand-alone project to consider alignment to IFRS 16 with appropriate simplifications once the post-implementation review of IFRS 16 has been concluded.



## 14. Requirement to offset equity instruments

*Paragraph 22.7(a) of the Standard states that if equity instruments are issued before an entity receives cash or other resources, the amount receivable is presented as an offset to equity in the statement of financial position, instead of being presented as an asset. Feedback from the first comprehensive review suggested that this requirement may conflict with local legislation. Stakeholders provided similar feedback during this second comprehensive review, suggesting that the IASB remove the requirement in paragraph 22.7(a) because it diverges from full IFRS Accounting Standards, which include no similar requirement for equity instruments.*

## SAICA's response to Question 14

- Highlighted SA context of Companies Act: Companies Act does not consider a share to have been issued until it has been fully paid up.
  - Aligns to current IFRS for SMEs requirements.
- SAICA therefore does not support removal of para 227(a).

## Proposals for Transition

Generally retrospective application upon adoption of revised Standard.

However,

The IASB, in paragraphs A2–A39 of the Exposure Draft, sets out limited relief from retrospective application for those proposed amendments for which the IASB thought the costs of retrospective application would exceed the benefits.

## Structure of revised Standard

The proposed amendments to the requirements in the IFRS for SMEs Accounting Standard include the addition of new paragraphs and the deletion of existing paragraphs:

- A new paragraph is numbered in continuation from a previous paragraph.
- A deleted paragraph retains the paragraph number. Sometimes, the addition or deletion of paragraphs within a section may complicate the readability of the Standard (for example, Section 19 Business Combinations and Goodwill).

As an alternative, a section may be revised, with paragraphs renumbered to show only requirements that would still be applicable, without a placeholder for deleted paragraphs (for example, Section 2 Concepts and Pervasive Principles).

# Timeline



First  
edition

2009

*IFRS for SMEs Accounting Standard* issued and immediately effective



Second  
edition

2015

Amendments from the first  
review issued

2017

Amendments from the first review  
effective



Third  
edition

2020

Request for Information on the  
second review published

2022

Proposed amendments from  
second review published

2024  
[TBC]

Amendments from the second  
review expected to be issued

2026  
[TBC]

Amendments from the second  
review expected to be effective



# SARS OPERATIONAL AND TAX ADMINISTRATION

Somaya Khaki



# SARS OPERATIONAL AND TAX ADMINISTRATION



Update on SARS' Vision 2024



New dispute rules



SARS issuing reasons via email and not on eFiling

Other

# SARS OPERATIONAL AND TAX ADMINISTRATION

## Update on SARS' Vision 2024

- SARS' ultimate 'vision' → **no filing season in the future**
- Monthly 'individual tax account' which will be populated with third-party data (i.e. the same data as appears on IT3s, IRP5s) every month
- Taxpayers can review how their tax assessment is progressing on a monthly basis and pay any outstanding amounts where necessary.
- Provisional tax submissions will consequently be eliminated.
- To facilitate this vision, SARS needs quality data to be submitted timeously every month.
- The first step was to implement bi-annual reporting by Trusts and PBOs
- This is to be followed by monthly IRP5 reporting – see SARS' 2023 PAYE Employer Reconciliation Business Requirements Specification detailing the type and form of data which third parties will be required to submit.

Following multiple engagements between SARS and stakeholders, a decision was taken to delay implementation of this from March 2024 to March 2025



# SARS OPERATIONAL AND TAX ADMINISTRATION

## New dispute rules – ‘highlights’

- **Effective from 10 March 2023**
- 80 business days to lodge an objection (previously 30 days)

### TRANSITIONAL RULE

Has the time period run out under “old rule” (30 days) **BEFORE** 10 March 2023?

Yes

No

Treated as expired and request condonation under New Rules (Rule 4 & s104(4)&(5) TAA & time period has not prescribed for condonation under Old Rules (Rule 67)

Use period calculated to new rules (80 days) from date in Rule 7(1)(a) & (b)

Does the SARS system account for this or are the extended days automatically applied?

# SARS OPERATIONAL AND TAX ADMINISTRATION

## New dispute rules – ‘highlights’ (continued)

- **Rule 7(2) - now requires details to be included:**
  - **specifying** the part or specific amount of the disputed assessment objected to;
  - **specifying** which of the grounds of assessment are disputed; and
  - **submitting** the documents required to substantiate the grounds of objection that the taxpayer has not previously delivered to SARS for purposes of the disputed assessment
- **BEWARE:** Taxpayers compelled to submit and not just refer to documents to substantiate objection (not previously sent to SARS) as a validity requirement.
- There is a risk that objections will be considered invalid where such documentation is not submitted when the objection is lodged
- **Is Rule 8 now redundant?**

# SARS OPERATIONAL AND TAX ADMINISTRATION

## New dispute rules – ‘highlights’ (continued)

- **RULE 50(4) - Remedies**

- *An application under this Part, unless the context otherwise indicates, **must be brought within 20 days after the date of the cause of the application** unless the parties agree to a longer period under rule 4(1) or the tax court otherwise directs under rule 52(1), and interrupts the periods prescribed for purposes of proceedings under Parts A to E of these rules for the period commencing on the date of delivery of a notice of motion under rule 57 and ending on the date of*

- **NOTE:**

- Taxpayers should now put SARS on 10 day notice after 1 day non-compliance and decide on relief (Rule 52 & 56) before 20 days run out. ‘Use it or lose it’, unless you approach court for condonation
- Are we going to see SARS contest *cause of application* to argue “out of time”?

What if you miss this deadline?  
What about transitional arrangements?

# SARS OPERATIONAL AND TAX ADMINISTRATION

## SARS issuing reasons via email and not on eFiling

- Request for reasons submitted via eFiling
- Appears that in some instances, SARS sends the response via email without notifying the relevant persons, without uploading the correspondence on eFiling and without indicating on eFiling that reasons were issued.
- The dispute therefore remains 'open' on eFiling and the deadline to lodge the objection could be missed
- **This has been escalated to SARS and feedback will be provided asap**

# SARS OPERATIONAL AND TAX ADMINISTRATION

## Other

- **SARS complaints management process** – members are reminded to use the SARS complaints management process – it appears to work efficiently, but it is important to ensure that you only lodge a complaint where the service levels have been exceeded
- **Travel allowance documentation** – SARS to consider updating its website to clarify what is required
- **Transfer of tax practitioner from the IRBA to another RCB** – SARS has extended the deadline for this to 5 May 2023 given administrative delays experienced



## **PUBLIC SECTOR**

**Natashia Sooplal and Odwa Benxa**



# IRREGULAR AND FRUITLESS AND WASTEFUL EXPENDITURE (ADVOCACY)

## SLIDO

### **Question 1**

Do you agree with the proposed exemption to exclude Eskom from disclosing irregular and fruitless and wasteful expenditure in its financial statements?

### **Question 2**

Do you agree that the financial reporting framework for Eskom should be compared to listed companies in the private sector (i.e., disclosure requirements as per the PFMA is exempted)?

### **Question 3**

Do you think the current reporting of irregular and fruitless and wasteful expenditure in the financial statements has not been effective in enforcing accountability and transparency?

### **Question 4**

What alternative solutions do you propose if the exemption is granted by the Minister that will still enforce accountability and transparency on irregular and fruitless and wasteful expenditure?

# CONSULTING IN THE PUBLIC SECTOR (ADVOCACY)

1. Role of Consultants in the Public Sector
2. Findings raised by the AGSA on Consultants
  - Inadequate / lack of records and documentation;
  - Poor project management ;
  - Work of consultants not adequately reviewed;
  - Consultants appointed too late; and
  - Consultants did not deliver .



# CONSULTING IN THE PUBLIC SECTOR

SAICA invites members and associates to share their experiences on consulting in the public sector, and public sector institutions who procure the service of consultants to complete this survey by Friday, 12 May 2023.

Your input will assist SAICA with:

- (a) better supporting SAICA members and associates consulting in the public sector; and
- (b) enhancing the use of consultants in the public sector to improve public finance management.

Link to survey - [Public Sector Consulting](#)



## ETHICS STANDARDS

Natashia Sooplal



# IESBA ED ON TAX PLANNING AND RELATED SERVICES (ADVOCACY)

- SAICA's Code of Professional Conduct aligns to the IESBA Code and IRBA Code
- IESBA issued the [ED on proposed revisions to the Code addressing tax planning and related services](#) with a closing date of 18 May 2023

## KEY PROPOSALS

- **Role of the Professional Accountant acting in the Public Interest**
- **Credible basis**
- Consideration or the overall tax planning advise or recommendations
- Multi-jurisdictional tax benefit
- Application of the conceptual framework
- Disagreements
- Documentation

# ROLE OF PROFESSIONAL ACCOUNTANT

- An important part of what acting in the public interest means for PAs is for them to contribute their knowledge, skills and experience to assist clients or employing organizations meet their TP goals while complying with tax laws and regulations. In doing so, PAs help to facilitate a more efficient and effective operation of a jurisdiction's tax system, which is in the public interest. (See paragraphs 380.4 A1 and 280.4 A1.)
- PAs play an important role in assisting clients or employing organizations in meeting their tax obligations and not seeking to circumvent them through tax evasion. However, when PAs provide such assistance, it might involve certain tax minimization arrangements that, although not prohibited by tax laws and regulations, might create threats to compliance with the FPs. (See paragraphs 380.4 A2 and 280.4 A2.)

## CREDIBLE BASIS

R380.11 A professional accountant shall recommend or otherwise advise on a tax planning arrangement to a client only if the accountant has determined that there is a credible basis in laws and regulations for the arrangement.

Recognizing that what is a credible basis in laws and regulations will vary from jurisdiction to jurisdiction, the IESBA proposes guidance setting out various actions a PA might take to establish a credible basis for the TP arrangement. (See paragraphs 380.11 A3 and 280.11 A3.)

## ED on Tax Planning and related services

Among other matters, the proposed ethical framework:

- Explains the types of threats to compliance with the fundamental ethics principles of the Code that might be created when professional accountants are involved in tax planning.
- Requires consideration of the reputational, commercial, and wider economic consequences that could arise from the way stakeholders might view the tax planning arrangement before determining whether to proceed with the recommendation or advice.
- Provides practical guidance to assist professional accountants in navigating situations of uncertainty when carrying out tax planning.
- Deals with other practical matters, including disagreement with the client or management or those charged with governance, and documentation.

## ED on Tax Planning and related services

SAICA will be submitting comments on behalf of members and associates based on member consultation

If you have specific comments, please

- Email to [natashias@saica.co.za](mailto:natashias@saica.co.za) or
- Complete the survey - [Proposed revision to the IESBA Code Addressing Tax Planning and Related Services](#)





# Assessments not subject to objection or appeal

Piet Nel  
CA(SA)

# When can SARS make an assessment that is not based on a return submitted by the taxpayer?

Dear Taxpayer

## COMPANY INCOME TAX RETURNS - REMINDER DUE 28 FEBRUARY 2023

This letter serves as a kind reminder that your Company Income Tax Return (ITR14) for the 2022 year of assessment is due on 28 February 2023. SARS records reflect that your company is operating, and has monetary transactions and/or assets linked to it. We have also noted that you have not submitted your Company Income Tax return (ITR14), thereby not complying with your filing obligations in terms of the Income Tax Act. It is compulsory for registered companies to submit their income tax returns in the prescribed form (ITR14), twelve months after their financial year-end.

The 2021  
ITR12

Failure to submit your company income tax returns on or before 28 February 2023 may result in an estimated assessment and penalties based on the information at our disposal.

Section 95(1)(a)

This requires a specific notice – see page 46 of:  
No. 42100 GOVERNMENT GAZETTE, 14 DECEMBER 2018  
NO. 1372 (an administrative penalty)

GAUTENG DIVISION OF THE HIGH COURT



The issue that needs to be decided here is whether SARS made out a case for the liquidation of Grand Azania. In doing so it must be demonstrated

- that SARS is a creditor of Grand Azania,
- that Grand Azania is indebted to SARS in an amount of no less than R100-00,
- that SARS issued a demand for the payment of the debt and that the company is unable to pay its debts.

In terms of section 345(1)(a)(i) a company is deemed to be unable to pay such debt, if the company fails to pay the sum due, after service of the demand by leaving it at the registered address.

## CSARS v Grand Azania (Pty) Limited the facts



SARS based the application on income tax and VAT assessments relating to a gratuitous payment of R6.4 million from VBS bank.  
... the aforementioned amount was paid to Grand Azania.

SARS issued a notification of audit to Grand Azania on 23 April 2020. In the letter certain information was requested from Grand Azania.

... relevant material ...

SARS was not satisfied with the information and documents provided and addressed a further letter, dated 3 July 2020 to Grand Azania requesting further information, a reminder to respond to the aforesaid letter was sent to Grand Azania on 28 August 2020.

## CSARS v Grand Azania (Pty) Limited

### The facts (continued)



Grand Azania did not respond to these letters and on 4 December 2020 SARS issued audit findings.

as envisaged in section 42(2)(b) of the Tax Administration Act

STICKY  
NOTES

It is not clear why SARS followed up on this “letter”. If it was “a document containing the outcome of the audit”, then the taxpayer had to “respond in writing to the facts and conclusions set out in the document” (within 21 business days of delivery of the document).

Section 42(3)

Section 95(1)(c)

It may well have been the “... delivery of more than one request for such material ...” (or a further request).

# CSARS v Grand Azania (Pty) Limited

## The facts



On 25 January 2021 SARS followed up on the aforementioned letter.

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
29	30	1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16 <small>Day of Remembrance</small>	17	18	19
20	21	22	23	24	25 <small>Christmas Day</small>	26 <small>Day of Goodwill</small>
27	28	29	30	31 <small>1 January 2021</small>		

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
27	28	29	30	31	1 <small>New Year's Day</small>	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31 <small>1 February</small>						

Section 42(3) refers to “21 business days” – it ended on 7 January 2021.

On 28 January 2021 Grand Azania requested an extension which was granted until 2 February 2021, a further extension was granted until 10 February 2021.

On 12 February 2021 Grand Azania provided SARS with invoices.

## CSARS v Grand Azania (Pty) Limited

### The facts



On 25 March 2021 SARS issued original estimated assessments for income tax in respect of the 2017 and 2018 years of assessment.

On 29 March 2021 a finalization audit letter was sent to Grand Azania.

In this letter the history of the matter, the documents requested by SARS and, the documents provided by Grand Azania were set out.

SARS indicated that the audit was completed and the tax adjustments calculated were set out.

STICKY  
NOTES

It is clear that SARS then satisfied that the assessment did *not reflect the correct application of a tax Act to the prejudice of SARS*. And an assessment could then have been made under section 92 of the Act.

## What did the 29 March 2021 “letter” contain?

### STICKY NOTES

It is not clear from the facts provided that the taxpayer (Grand Azania) did not submit any returns of income (IT34).

SARS recorded the following in the finalisation of audit letter:

*"1. 3 SARS established from the review of the taxpayer's bank account and financial statements that the taxpayer generated an income of ...*

The letter also states:

*"1. 5 The taxpayer submitted a response to the audit letter of findings on 12 February 2021, together with some of the invoices. It was found that these expenses were not paid from the taxpayers' bank account, neither is there any loan accounts to indicate that these were paid by a third person, or any shareholders. Hence none of these invoices provided have been taken into account."*



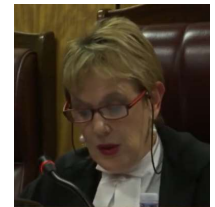
## According to Judge Ronel Tolmay

A second section 42(2)(b) document?

Grand Azania was invited to respond and give reasons, or written explanations on why it did not agree with the adjustments, SARS proposed and was afforded an opportunity to make written representations of why an understatement penalty should not be imposed.

Grand Azania did not make use of this opportunity.

The income tax assessments issued by SARS for 2017 and 2018 were estimated assessments, which SARS is entitled to do *inter alia* when no tax return was submitted.



STICKY  
NOTES

Now we know that the “estimated assessments” were not issued in terms of section 92, but in terms of section 95(1)(a) of the Act.

## The estimated assessment

The Law

### **95. Estimation of assessments**

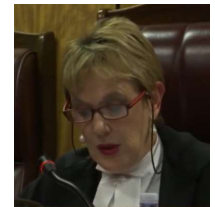
(1) SARS may make an original, additional, reduced or jeopardy assessment based in whole or in part on an estimate, if the taxpayer—

(a) does not submit a return;

(b) submits a return or relevant material that is incorrect or inadequate; or

(c) does not submit a response to a request for relevant material under section 46 ... after delivery of more than one request for such material.

Grand Azania had 40 days after the issuing of the estimated assessment to submit an income tax return, ... section 95(6) ...



Section 95(6) allows the taxpayer to *within 40 business days from the date of assessment, request SARS to make a reduced ... assessment by submitting a true and full return ...*

## The taxpayer tried to object

... the newly appointed Tax Practitioner of Grand Azania ... said that ... when he attempted to lodge objections on behalf of Grand Azania he encountered a systems error, which did not allow him to file objections.

**yes  
you  
can't**

STICKY  
NOTES

This is in terms of section 95(5) – no objection is possible:

An assessment under subsection (1)(a) ... is only subject to objection ... if SARS decides not to make a reduced ... assessment after the taxpayer submits the return ...

... it took more than a year to file the assessments and objections ... (returns?)



SARS stated that “Azania did not comply with the statutory time periods, nor had an extension been granted.”

## What should the taxpayer have done?

Grand Azania should have requested SARS to make a reduced ... assessment and submitted a true and full return (it's ITR14's) together with a request *for an extension* of the 40 business days.

See sections 95(5).

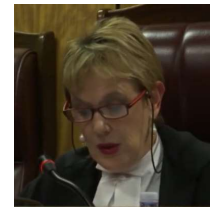
See sections 95(6) and 95(7) respectively.

It is only “*if SARS decides not to make a reduced ... assessment after the taxpayer*” submitted the return (the ITR14) that an objection is permitted – the taxpayer actually objects to the decision by SARS.



The assessments were therefore final and not capable of objection or appeal in light of section 95,

... concludes (*sic*) that in the absence of a timeous objection the tax assessment became final. The belated filing of the tax returns and objections did in my view not change the situation.





## Update – Master, CIPC & FIC

Juanita Steenekamp

# CIPC

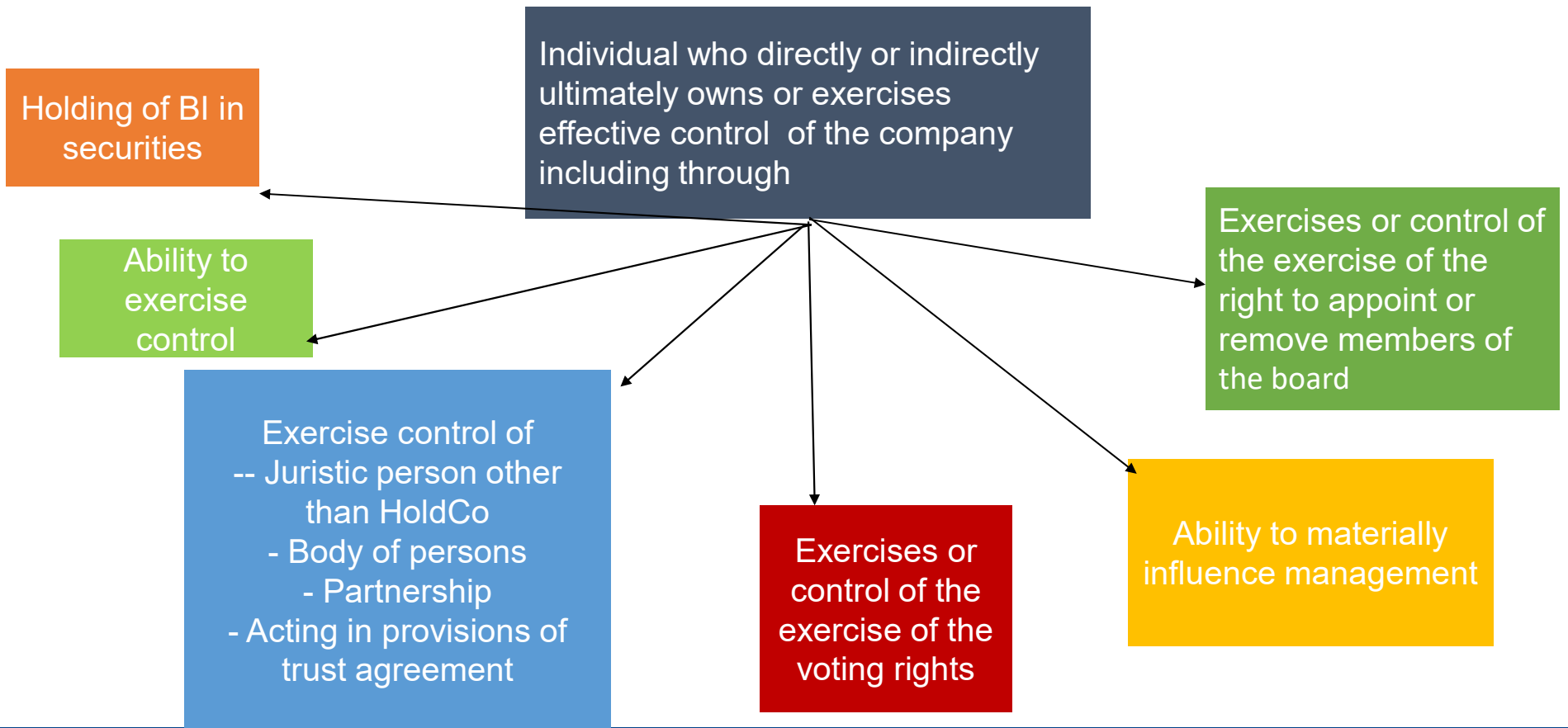
On 30 March 2023 – CIPC launched their BO register  
Regulations not yet finalised  
But BO register available on CIPC transactional website – e-Services

## Interesting facts on CIPC filing:

- BO is a natural person
- Company / trust cannot be BO
- Filing of BO –person must be mandated by company per filing
- From 1 April – companies have 6 months to file (?)
- Supporting documents:
  - Mandate
  - Securities register
  - Certified ID or Passport
  - Other documents

# Companies Act

## Beneficial owner (S1)



# Companies Act - Regulation 30 Annual return

Co & External Co file  
Annual return +  
securities register+  
AFFECTED CO  
register of disclosure of  
BI

Co & External Co must file  
changes (within 10 business  
days)

1. Name of co
2. Legal type and status
3. Address (5 days before)
4. MOI
5. Directors

AR – electronic access to ANY person  
Documents filed with AR – electronic access as determined  
(CIPC states only law enforcement would have access)



# Companies Act - Regulation 32 Securities register

NOT an affected company

Record of each person holding BO for

1. Full name
2. Date of birth
3. ID / passport
4. Residential address & postal address
5. Email address
6. Confirmation of extent of ownership

Update after  
5 days

# Companies Act, 2008 – Affected company

Affected company - 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 circumstance contemplated in section 2(2)(a) or 3(1)(a).

117(1)(i) means a company to which this part, Part C and the Takeover Regulations apply, as determined in accordance with section 118(1) and (2)

- S 118(1) and (2)
- Public company
    - SOC
  - Private company, but only if the **percentage of the issued securities of that company that have been transferred**, other than by transfer between or among related or inter-related persons, within the period of **24 months immediately** before the date of a particular affected transaction or offer exceeds the percentage prescribed in terms of subsection OR MOI

# Companies Act - Regulation 32A Affected co register of disclosure of BI

## AFFECTED CO

Register of BI >5%

1. Natural person – full name, date of birth, ID / passport nu
2. Juristic person – full name and registration nu
3. Business/ residential or postal address
4. Email address
5. Confirmation of extent of ownership

Update after 5 days

# Master's Office

## Regulations relating to BO registers and records of details of AIs

Regulations published 31 March 2023  
Effective 1 April 2023

TRUSTEE must keep information on BO

- Name
- Date of birth
- Nationality
- Official ID, indicating type and country of issues
- **Citizenship**
- Residential address
- Address for service notice
- Other mean of contact
- **Tax number if registered taxpayer**
- **Class or category of BO**
- Date on which person became BO
- Date on which person ceased to be BO
- Certified copy of ID of EACH BO

# Master's Office

## Regulations relating to BO registers and records of details of AIs

### MASTER's register (electronic)

- Access through username & password
- Security measures
- Trustee to load and update info on each BO
- Trustee to upload documents
- Trustee only have access to documents that he/she loaded
- Sign off electronically
- Allow access to authorities

(2) The Master must, in the **event that the establishment of the electronic system is not completed** when section 11A(2) of the Act commences, provide for an **interim electronic** medium—

- (a) with adequate security measures;
- (b) through which a trustee may lodge the information of each beneficial owner that the trustee is keeping in terms of section 11A(1)(a) of the Act; and
- (c) which will enable the migration of the beneficial ownership information to the system contemplated in regulation 3E(1).

(3) A trustee who is unable to lodge beneficial ownership with the Master electronically may visit any Master's Office for assistance in this regard.

# Master's office

PORTAL <https://icmsweb.justice.gov.za/mastersinformation/>

Master's office

Trust name and reference number and  
Unique reference nu

Details of capturer's details (name,  
surname, id, email, contact nu, postal  
address, domicillum, capacity

Excell  
spreadsheet

# Master's office

## Excel spreadsheet

URN	TrustName	FileNumber	Grounds on which the person is a beneficial owner of the trust	Full Names / Entity Name	Surname	ID Type	ID Number / Passport Number/ Registration Number	Nationality	Residential Address	Domicile Address	E-Mail Address
-----	-----------	------------	--	--------------------------	---------	---------	--	-------------	---------------------	------------------	----------------

Contact Number (cellphone)	Date on which the person became a beneficial owner of the trust (DD/MM/YY)	Date on which the person ceased to be a beneficial owner of the trust (DD/MM/YY)	Full Name of Representative/Guardian	Surname of Representative/Guardian	ID/passport Number of Representative/Guardian	Nationality of Representative/Guardian	Contact Number of Representative/Guardian	E-Mail Address of Representative/Guardian	Postal Address of Representative/Guardian
----------------------------	--	--	--------------------------------------	------------------------------------	---	--	---	---	---

# Definition: Beneficial owner

Natural person who directly or indirectly ultimately owns the trust property or exercises effective control

Founder, or if

Founder (legal person / partnership)  
natural person who directly or indirectly owns or exercises effective control

Trustee, or if

Trustee (legal person / partnership)  
natural person who directly or indirectly owns or exercises effective control

Beneficiary or if

Beneficiary (legal person / partnership)  
natural person who directly or indirectly owns or exercises effective control





# FIC Act

## Schedule 1 – Inclusion as an accountable institution

A **person** who carries on the business of preparing for, or carrying out, transactions for a client, where client assisted in planning / execution of



organisation of contributions necessary for the **creation, operation or management** of a company, external company, foreign company,



the **creation, operation or management** of a company, external company or foreign company

**operation or management** of a close corporation

# FIC Act

## Schedule 1 – Inclusion as AI



A **person** who carries on the business of

acting for a client as a nominee as defined in the Companies Act

arranging for another person to act for a client as such a nominee

AUTHORISATION

# FIC Act

## Schedule 1 – inclusion as AI



A person who carries on the business of

creating a trust arrangement for a client.

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



# FIC–TCSP Draft Public Compliance Communication 6A

Guidance on Trust and Company Service Providers Guidance in terms of Schedule 1 of the FIC Act for public comment.

Comments were due 20 January 2023

## Definitions:

**Business** is that of a commercial activity or institution, as opposed to a charitable undertaking or government institution. Therefore, persons who are appointed as providing TCSP functions on an occasional basis, or who perform this function in a personal capacity, as opposed to doing so on a commercial basis as a regular feature of their business for clients are not required to be registered as a TCSP

**Creation** includes the registration or administrative processes with relevant government organisations for the client to commence with trading using the type of institution.

**Operation** of the company entails the assisting with the daily operations of the client, and

**Management** would entail managing the company, for example, being on the board of management and making management decisions regarding the company.

## Questions on TCSPs?

- Administrators / liquidators
- Business rescue practitioners - Companies Act, a person appointed as a business rescue practitioner (BRP) is appointed to manage a company whilst under business rescue. Section 128(1)(b) states that when in business rescue the company is under the temporary supervision of the practitioner and the BRP is managing its affairs, business and property.
  - Businesses that outsource staff, such as CFOs
- With regards to tax services provided by accountants there are numerous questions on when a person providing tax services would be classified as an accountable institution and which tax services would be scoped in.
- Practitioners providing accounting, auditing and tax services (completion and submitting of tax returns) are excluded from the ambit of “operation or management”. The majority of practitioners primarily perform accounting and tax services in relation to financial statements, including the preparation of management accounts, compilation of annual financial statements. With regard to tax services, practitioners prepare and submit tax returns, PAYE and VAT schedules on behalf of employers which services might be viewed as operational. With regard to specialised tax services, such as tax opinions this could be seen as “creation, operation or management”.

## Questions on TCSPs – TAX?

- When SAICA presented in Parliament raising the issue with regards to tax, the FIC responded as follows:

*The Department advises that the scope of the proposed item 2 will cover all persons who provide the services mentioned as a part of their business, regardless of the profession they are in. **The item does not mention, and therefore does not cover, accounting, auditing, completion of tax returns. A business that offers these services only would not be an accountable institution.** A business that offers the services that are mentioned in the proposed item 2 in addition to the abovementioned services would be an accountable institution. In a business such as partnership that centralises its functions to comply with the FIC Act each individual who provides the relevant services does not have to comply with the FIC Act in their own capacity.*

## Questions on TCSPs – trusts?

When SAICA presented in Parliament raising the issue with regards to trusts, the FIC responded as follows:

*The Department advises that scope of the wording in Item 2 in respect of trust services will apply to trusts that fall within the definition of “trust” as defined in section 1 of the FIC Act – “trust” means a trust defined in section 1 of the Trust Property Control Act – **other than a trust established by virtue of a testamentary disposition, by virtue of a court order, in respect of persons under curatorship or by the trustees of a retirement fund in respect of benefits payable to the beneficiaries of that retirement fund.***

# Transitional provisions



No  
transitional  
provisions

**Changes effective from 19 December 2022.**

FIC media release

- First 18 months from the date of commencement of the amendments, the FIC and supervisory bodies will focus on entrenching the FIC Act risk and compliance provisions and implementation among the new sectors.
- Supervisory bodies conducting inspections and, where warranted, issue remedial administrative sanctions, based on a risk-based approach, to correct identified areas of non-compliance.
- TCSPs the FIC and supervisory bodies do not envisage issuing financial penalties for non-compliance with the FIC Act during the transitional 18-month period



# Accountable institutions: compliance obligations



Develop and implement a RCMP

Risk-based approach

Customer due diligence



Targeted financial sanctions

Politically exposed persons



Account monitoring and reporting to FIC

Record -keeping

Registration

# Risk management and compliance programme

Example of RCMP  
PCC 53  
Annexure B

All have to compile a RMCP

- Formal document
- Sets out roles, responsibilities, governance, oversight
- Compliance function
- Risk assessment and rating
- Document approval of RCMP
- Review RCMP
- Process to implement
- Training
- What do to when finding AM: / CFT / CFP breaches

# Risk based approach

AI must:

- Identify
- Assess
- Monitor
- Mitigate
- Manage

the risk that the provision of goods and services may involve or facilitate ML or TF

Using the RBA  
 – rate clients and depending on risk rating  
 – mitigate via controls and enhanced due diligence

Client type		Product/Service type		Jurisdiction		Delivery channel		Occupation		Overall rating
Natural Person	1	Registration of co	3	South Africa	2	Face to face	2	Business owner	2	10 – Low risk
Non-profit company	3	Registering of co and transfer money	6	Nigeria	6	Non face to face	6	Philanthropist	5	26 – High Risk

# Customer due diligence

No anonymous clients –  
Identify all prospective clients  
Verify identities  
Identify person authorised to act  
Legal partnerships, trusts, legal persons – additional due diligence

## Individual

- Nature of business relationship
- Intended purpose of business relationship
  - Source of funds

Legal partnerships, trusts, legal persons – additional due diligence

- Nature of clients business
- Ownership and control structure
- Beneficial ownership

## Targeted financial sanctions

Accountable institutions are not allowed to transact with a **sanctioned person or entity** or to process transactions for such a person or entity. The status quo as at the time of the imposition of the sanction in relation property or funds of the sanctioned person or entity must be maintained and no financial services may be provided to the person or entity.

List of countries / people names

# Politically exposed person

Foreign politically exposed person & Domestically politically exposed person & Prominent influential person

- Senior management approval
- Measure and establish source of wealth
- Ongoing monitoring

## Includes

- (DPEP) President, premier, mayor, minister
- (FPEP) Head of state of country, member of foreign royal family, senior executive of state owned corporation
- (PIP) Chairperson of board of directors, CFO etc of company providing services to government

# Reporting

Suspicious and unusual transaction report (STR)  
Unlawful, attempted evasion of tax



## Section 29

- Suspicious and unusual transaction report (STR)
- Suspicious or unusual activity report (SAR)
- Terrorist financing activity report (TFAR)
- Terrorist financing transaction report (TFTR)

Cash threshold report (CTR)  
>R49 999,99



## Section 28

- Cash threshold report (CTR)
- Cash threshold report aggregation (CTRA)

Terrorist property report (TPR)  
Property owned by terrorist



## Section 28A

- Terrorist property report (TPR)
- Accountable institutions only

# Reporting

Electronic transfer >  
R19 999,99



## Section 31

- AI via EFT sends money out of RSA or receives money from outside RSA on behalf of another person – report to FIC



# Record keeping

## AI must keep records

- Client information and transaction information
- Business relationship
- Reports submitted to the FIC
- The client, five years from date of termination of relationship, conclusion of transaction and or submission of a report
- Electronic and hard copies
- The accountable institution can make use of third party storage providers
- Records must be accessible and kept safe.

5 years from termination of relationship

5 years from transaction

Report- 5 years from date report submitted

# Registration

- Section 43(B) of the FIC Act - all accountable institutions and reporting institutions must register with the FIC
  - ✓ How? [https://goweb.fic.gov.za/goAMLWeb\\_PRD](https://goweb.fic.gov.za/goAMLWeb_PRD)
  - ✓ Registration platform
- Who needs to submit the registration information?
  - ✓ First person – compliance officer or reporting officer
  - ✓ Additional users – money laundering reporting officer(s)
  - ✓ Sole proprietors [who will take on the role of CO]
- This registration must contain the particulars as required by the FIC

PCC 05D

# Deadlines

**S43B –classified as AI – register within 90 days  
Effective 19 December 2022 – register by 19 March  
2023**

**Directive 6 of 2023** – Submission of Risk and Compliance return (understanding for ML/ TF)



**Directive 8 of 2023** – Screen employees and prospective employees for competence & integrity

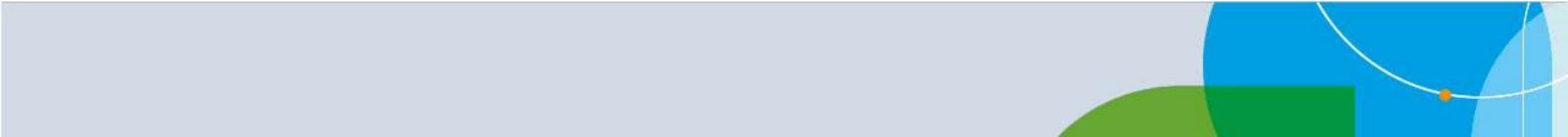
Records to be kept and provided  
to FIC on request

## Next steps....



- Updating webpage with links to all relevant & NB information
- FIC engagement
- Guidance
- Make current guidance more visible
- Identify templates to assist members

Section 4 - To achieve its objectives the Centre must:  
(c) monitor and give guidance to accountable institutions, supervisory bodies and other persons regarding the performance and compliance by them of their duties and obligations in terms of this Act or any directive made in terms of this Act;



Thank you!