



**SAICA**  
General Laws  
Amendment Act, 22 of  
2022

## 1. Financial Action Task Force (FATF)

The Financial Action Task Force (FATF) is an independent inter-governmental body that promotes policies and standards for combating money laundering, terrorist financing, and the financing of the proliferation of weapons of mass destruction.

FATF is responsible for setting international standards and the promotion of legal, regulatory and operational measures on combating illegal activities, including money laundering and terrorist financing and other related threats to the integrity of the international financial system. South Africa has been a member of the FATF since June 2003. Mutual evaluations are peer reviews that are used to assess countries' level of compliance to the anti-money laundering (AML) standards and identify steps necessary for them to increase their effectiveness. The findings of mutual evaluations are geared to assist member countries in strengthening their financial system, thereby enhancing the integrity of their financial system.

South Africa was subject to a mutual evaluation of its AML system by the FATF between April 2019 and June 2021 and the final Mutual Evaluations Report (MER) was finalised and published in October 2021). FATF concluded that South Africa “has a solid legal framework for combatting money laundering and terrorist financing but significant shortcomings remain.”<sup>1</sup>FATF identified significant findings and made recommendations on areas of improvement. This means that South Africa needs to implement recommendations from the report, or the country could be placed on the FATF “grey list”. Being grey listed by the FATF means that a country may threaten the international financial system and grey listing may have dire consequences on its reputation, economic trade, and transactions with other countries.

South Africa had to make changes to legislation as required by FATF to ensure that the deficiencies are addressed. The General Laws (Anti-Money Laundering and Combating Terrorism Financing) Amendment Act, 22 of 2022 (AML Amendment Act) is a crucial part of the remedies to assist in the fight against corruption, fraud and terrorism.

---

<sup>1</sup> <https://www.fatf-gafi.org/en/publications/Mutualevaluations/Mutualevaluationofsouthafrica.html>



## 2. General Laws Amendment Act, 22 of 2022

Parliament signed the General Laws Amendment Act <sup>2</sup> (AML Amendment Act) into law in December 2022 with an effective date of 31 December for the following sections: 9, 10, 16, 18 to 55, 59, and 62 to 65 of the Act.

The other sections will become effective on 01 April 2023, and will involve sections 1, 3, 4, 5, 8, 11 to 15, 17, 56, 57, 58, 60, and 61, section 2, except for subsection (1H) and section 6, except for section 11A(1)(c), (2) and (3).

The Amendment Act proposes changes to various laws, including the Companies Act, 2008 and the Trust Property Control Act, 1988.

Please refer to the Amendment Act for more detail. Where prescribed information or processes are required the various responsible ministries or departments must still publish the requirements.

## 3. Trust Property Control Act, 1988

The changes to the Trust Property Control Act includes the definition of an accountable institution and beneficial owner.

An accountable institution has the same meaning as defined in section 1(1) of the Financial Intelligence Centre Act.

The beneficial owner of a trust includes

- the natural person who directly or indirectly owns the trust property
- the natural person who exercises control of the administration of the trust arrangements
- it includes the founder of the trust or if the founder is a legal person, a person acting on behalf of the partnership or the natural person who directly or indirectly ultimately owns or exercises effective control of that legal person or partnership
- each trustee of the trust and if the trustee is a legal person a person acting on behalf of the partnership or the natural person who directly or indirectly ultimately owns or exercises effective control of that legal person or partnership

---

<sup>2</sup> [General Laws Amendment Act](#)

- each beneficiary referred to by name in the trust instrument or founding statement or if a beneficiary is referred to by name is a legal person, a partnership or a person acting on behalf of the partnership or a person acting in pursuance of the provisions of the trust instrument, the natural person who directly or indirectly exercises effective control of the legal person or partnership of relevant trust property.

The Act also includes disqualification requirements of trustees, including the requirement that the Master must keep a public register of persons who are disqualified to serve as trustees.

Persons appointed outside of South Africa as a trustee that has to administer a trust in South Africa shall only be allowed to act in the capacity after authorisation is obtained in writing from the Master.

Trustees are required to disclose their position as trustees to any accountable institution and they must make it known that the relevant transaction relates to trust property.

Trustees must establish and record the beneficial ownership of the trust, keep a record of the prescribed information, lodge a register of the prescribed information with the Master's office and ensure that the information is kept up to date. The Master in turn needs to keep the register containing the prescribed information. The trustee and the Master must make the information available to any person as prescribed.

If a trustee fails to comply with the obligation he/she commits an offence and on conviction can be liable for a fine or imprisonment or both.

To meet the requirements of the Amendment Act the Minister of Justice and Correctional Services has released regulations<sup>3</sup> for public comment which sets out the requirements for the public register with the disqualified persons who cannot be serve as trustees, the details being records of accountable institutions and the beneficial ownership information to be recorded. Comments are due by 12 February 2023.

---

<sup>3</sup> [Draft Regulations](#) relating to beneficial ownership registers and records of details of accountable institutions, 2023  
SAICA- General Laws Amendment Act, 22 of 2022 | 30 January 2023



#### 4. Non-Profit Organisation Act, 1997 (NPO)

The changes to the NPO Act commences with changes to the objectives of the Act. It requires that all NPOs must comply with an administrative and regulatory framework that must be established. Registered NPOs will have to maintain adequate standards of governance, transparency and accountability.

NPOs will now be required to register with the Registrar if they make donations to individuals or organisations outside South Africa or if they provide humanitarian, charitable, educational or cultural services outside South Africa. NPOs that are not organs of state may apply to be registered.

The director may also refuse to register an NPO if they have not complied with the requirements for registration or they have not complied with a notice issued in terms of the registration requirements.

All registered NPOs must also in writing provide the prescribed information about the office-bearers, control structure, governance, management, administration and operations of registered nonprofit organisations.

The director must keep a register in the prescribed form of the prescribed information about the office-bearers, control structure, governance, management, administration and operations of registered nonprofit organisations.

The Act also includes information on the disqualification and removal of office-bearers of NPOs.

#### 5. Financial Intelligence Centre Act, 2001 (FIC)

The FIC Act was amended with the change to various definitions, including a definition of a beneficial owner and the change of domestic prominent influential person to politically exposed person and a foreign prominent public official to a foreign politically exposed person.

The FIC may also now for the purposes of the Act request information from any organ of state, request access to any database held by an organ of state and have access to information contained in a register kept by the organ of state.

Various amendments were made to the sections dealing with customer due diligence, ongoing due diligence and foreign politically exposed persons

## 6. Companies Act, 2008

The Companies Act was amended with the inclusion of a definition of an affected company and a beneficial owner.

An 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 circumstance contemplated in section 2(2)(a) or 3(1)(a).

A beneficial owner is defined in respect of a company as an individual who directly or indirectly ultimately owns the company or exercises control through various options including holding of beneficial interest, exercise of control of the voting rights, exercise or control the right to appoint or remove members of the board of directors.

When filing its annual return companies will now also be required to submit a copy of their securities register and a copy of the register of disclosure of beneficial interest. The annual return must also be made available to any person as prescribed.

In addition to the securities register, 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

An affected company must establish and maintain a register of persons who hold beneficial interest equal to or in excess of 5% of the total number of securities issues by the company, which register must be updated as per the information received via a notice.

The Commission must keep register of the information where required.

The Act has included additional required for persons that is not eligible to be directors if he/she as convicted of money laundering, terrorist financing or proliferation financing activities.