



*South African Revenue Service*

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Dear Messrs Farber and Warneke

#### **MULTILATERAL INSTRUMENT IN SOUTH AFRICA – SYNTHESISED TEXTS**

I refer to your letter dated 9 July 2019. I have taken note of your comments and agree that the publishing of synthesised texts will assist taxpayers in better understanding the impact of the Multilateral Instrument (MLI) on affected tax agreements covered by the MLI (covered tax agreements). You will be pleased to learn that SARS has already commenced work in this regard and made contact with several jurisdictions to develop synthesised texts.

These synthesised texts are being drafted in line with the Guidance for the Development of Synthesised Texts, as issued by the OECD. However, such texts would only be released in relation to treaty partners that have submitted definitive versions of their MLI positions and after consultation with these partners. This is a meticulous process, but is aimed at ensuring consistent interpretation of the application of the MLI's provisions to each covered tax agreement. The synthesised texts will be published on the SARS webpage <https://www.sars.gov.za/Legal/International-Treaties-Agreements/DTA-Protocols/Pages/default.aspx> when the MLI enters into force for South Africa.

It should be noted that the MLI is not an amending protocol in the traditional sense, as it does not amend the text of covered tax agreements. Instead, it applies alongside and modifies the application of the provisions of the covered tax agreements. For legal purposes, the provisions of the MLI must be read alongside covered tax agreements, in light of the interaction of the MLI positions of contracting jurisdictions, as they remain the only legal instruments to be applied. Parties to the MLI have no legal obligation under the MLI to develop synthesised texts and such texts are only intended to facilitate the understanding of the MLI.

Finally, the development of synthesised texts will be an ongoing exercise as the MLI is a living instrument. The effects of the MLI on the application of a covered tax agreement may change over time as parties may partially modify their MLI positions in future.

I trust that you will find the above to be in order and thank you for your correspondence in this regard.

Sincerely

A handwritten signature in black ink, appearing to read 'Morne van Niekerk', written in a cursive style.

**Morne van Niekerk**  
**International Development and Treaties**