

FISH HOEK VALLEY RATEPAYERS & RESIDENTS ASSOCIATION

(Incorporating Fish Hoek, Clovelly and Sun Valley)

Central Circle, Fish Hoek 7975

Web: <https://www.fhvrta.org.za/> Facebook: www.facebook.com/FHVRRA/

Heritage Western Cape: Conservation Body

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SUBJECT: COMMENTS ON GENERAL LAWS (ANTI-MONEY LAUNDERING AND
COMBATING TERRORISM FINANCING) AMENDMENT BILL B18-2022 ¹

DUE DATE: 16:00, 25 OCTOBER 2022

The Fish Hoek Ratepayers and Residents Association (FHVRRA) supports the avoidance of greylisting due to the deficiencies identified in the Financial Action Task Force's (FATF) Mutual Evaluation Report of South Africa of October 2021 before the FATF's looming February 2023 deadline for implementing legislative improvements. Greylisting will increase the costs of financial transactions and doing business with the result being roughly a percentage point off economic growth, which South Africa can ill afford.

FATF's Recommendation 8 says we need "focused and proportionate measures" aligned with a "risk-based approach" when protecting civil society from financial abuse. That is, we need not go overboard again with too blunt and too wide ranging actions.

However, trusts have long been abused, problematic (tax and accountability avoidance) and thus, the Trust Property Control Act #57 of 1988 should be scrapped. All persons conducting business in South Africa should be easily known and contactable and not hidden away in a NPO registry.

Most countries offer tax advantages to organisations that do not have the purpose of generating a profit. Where an organisation does not benefit from this tax status, they have not felt obliged to register. Our concern is these changes to the Nonprofit Organisations Act #71 of 1997 will make registration compulsory for every nonprofit church group, sports club and ratepayer organisation. The main problem here is that the NPO Directorate doesn't have any of the systems or the abilities to do the audit and the watchdog work. The NPO registry is currently about 10 years out of date. Effectively, these changes will criminalise most NPOs.

Nicole Copley's, founder of ngoLAW, recommendation is that registration efforts focus on voluntary associations that are conduit funders in receiving and disbursing funds of more than R1-million per year ² and we add that these associations and trusts should not be allowed to submit tender bids. Our ratepayers organisation has never accumulated more than R100,000 as we disburse regularly for our community's needs.

These R1-million per year organisations (and trusts) should be registered with the Companies and Intellectual Property Commission (CIPC) as nonprofit companies as the

¹ https://pmg.org.za/call-for-comment/1209/?utm_campaign=request-for-comment-from-parliament&utm_source=transactional&utm_medium=email

² <https://www.dailymaverick.co.za/article/2022-10-08-mandatory-registration-requirement-in-money-laundering-and-terrorist-financing-bill-will-badly-hurt-sa-non-profits/>

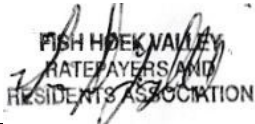
CIPC's systems are better capacitated for collecting and finding data than those at the NPO Directorate.

By doing away with trusts and having every business owner or large conduit funder organisation register with CIPC, then changes to the Financial Intelligence Centre Act #38 of 2001, Companies Act #71 of 2008 and Financial Sector Regulation Act #9 of 2017 may not be needed.

SUMMARY

We support the avoidance of greylisting due to the deficiencies identified by the Financial Action Task Force by changing our legislation appropriately. That is, we think:

- The Trust Property Control Act #57 of 1988 should be scrapped; and
- All nonprofit organisations and conduit funders receiving and disbursing funds of more than R1-million per year should be registered with the Companies and Intellectual Property Commission.

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DATE	14 October 2022