



REPUBLIC OF NAMIBIA

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MINISTRY OF FINANCE

**FINANCIAL INTELLIGENCE AMENDMENT BILL**

**FIRST READING SPEECH**

**HONOURABLE IPUMBU SHIIMI, MP**

**MINISTER OF FINANCE & PUBLIC ENTERPRISES**

**Honourable Speaker,**

**Honourable members of this House,**

1. It is my pleasure to introduce the Financial Intelligence Amendment Bill, which is aimed at amending the Financial Intelligence Act, 2012 (Act No 13 of 2012).

*Honourable Speaker,*

*Honourable Members,*

2. As we are all aware Namibia underwent her second peer review/mutual evaluation by the Eastern and Southern African Anti-Money Laundering Group (ESAAMLG) and Financial Action Task Force (FATF).

The evaluation was aimed at assessing the country's compliance with Anti-Money Laundering and Combatting the Financing of Terrorism and Proliferation (AML/CFT/CPF) United Nations (UN) Conventions and mandatory UN Security Council Resolutions, issued under Chapter VII of the United Nations Charter, as embedded in the FATF International Standards on Combatting Money Laundering and the Financing of Terrorism and Proliferation (FATF Recommendations).

3. The outcome of the mutual evaluation found that Namibia made substantial progress since its first FATF/ESAAMLG mutual evaluation in 2005 as far as technical compliance is concerned. However, there remains significant room for improvement, especially on the overall level of effectiveness of the national AML/CFT/CPF policy and legislative regime.

4. Following the adoption of Namibia's Mutual Evaluation Report (MER), adopted during the 22nd ESAAMLG Council of Ministers meetings on 02 September 2022 in Livingston, Zambia,

A letter was received from the FATF President to inform that Namibia has met the criteria for the FATF International Cooperation Review Group (ICRG) review and has entered a 12-month observation period which will end at the close of the FATF Plenary in October 2023.

During this 12-month period Namibia is expected to amend or introduce laws to increase low ratings obtained for Technical Compliance and put measures and actions in place to increase effectiveness of the AML/CFT/CPF policy and legal framework.

5. Should Namibia not be able to demonstrate sufficient progress at the end of the 12-month period, the country may be grey-listed by FATF, which Namibia should avoid at all costs as it will lead to:

- a) Up to 7% negative impact on the Gross Domestic Product,
- b) No new Foreign Direct Investment until removal from FATF grey listing as well as up to 6 (six) months thereafter, and
- c) Possible termination or extreme and costly enhanced due diligence measures on correspondent banking relationships with the Bank of Namibia and commercial banks operative in Namibia.

6. On 13 December 2022 Cabinet approved the National Action Plan aimed at addressing all the deficiencies highlighted in Namibia's Mutual Evaluation Report, as per Cabinet Action Letter, **DECISION NO: 22<sup>nd</sup> /13.12.22/003**, which included the amendment of various laws and the introduction or fast tracking of new Bills.

Amendments to the following laws were approved:

- a) The Financial Intelligence Act, 2012 (Act. No 13 of 2012),
- b) the Prevention and Combating of Organised Crime Act, 2004 (Act No. 29 of 2004),
- c) the Prevention and Combating of Terrorist and Proliferation Activities Act, 2014 (Act No. 4 of 2014),
- d) the Criminal Procedure Act, 1977 (Act No. 51 of 1977),
- e) The Police Act, 1990 (Act No. 19 of 1990),
- f) The Extradition Act, 1996 (Act No. 11 of 1996),
- g) The International Cooperation in Criminal Matters Act, 2000 (Act No. 9 of 2000),

- h) The Companies Act, 2004 (Act No. 28 of 2004, and
- i) The Close Corporations Act, 1988 (Act No. 26 of 1988).

Fast tracking and introduction of the following Bills was approved:

- j) The Civil Registration and Identification Bill,
  - k) A Bill to regulate the sale, trade and transfer of Virtual Assets, licencing of Virtual Asset Service Providers and Issuers of initial token offerings, and
  - l) A Bill to regulate the control of trust property.
7. Amendment to the Banking Institutions Act, (Act 2 of 1998) and Payment Systems Management Bill was added to the list as per as per Cabinet Action Letter, **DECISION NO: 1<sup>st</sup>/14.02.23/013.**

*Honourable Speaker,*

- 8. Should Namibia be grey listed by the FATF, it will come at a most inopportune time, especially in lieu of the recently signed Green Hydrogen Hyphen agreement and expected investments in Namibia's oil and gas discoveries.
- 9. It is therefore imperative for Namibia to prioritize the amendment of laws and to introduce new laws, by **30 June 2023**, to address the identified Mutual Evaluation deficiencies which demonstrates Namibia's highest political commitment.
- 10. The Financial Intelligence Amendment Bill is therefore the first of the amendments and Bills that ~~is~~ being presented to this House today. The rest will follow throughout ~~this week and~~ next week.

**THE FINANCIAL INTELLIGENCE AMENDMENT BILL, which is to amend the Financial Intelligence Act, 2012 (Act No.13 of 2012)**

- 11. The Ministry of Finance in collaboration with the Financial Intelligence Centre accordingly ensured the drafting of the Financial Intelligence Amendment Bill to ensure, amongst others, the following:
  - a) to delete certain provisions requiring companies, close corporations and trusts to submit certain information to the Registrar of Companies and Close Corporations and the Master of the High Court, respectively, in order to avoid duplication with legislation governing companies, close corporations and trusts;
  - b) to secure the operational independence and autonomy of the Financial Intelligence Centre;

- c) to provide for the establishment of the Board of the Centre and for its powers and functions;
  - d) to include certain persons as members of the Anti-Money Laundering and Combating of the Financing of Terrorism and Proliferation Council and to amend the functions of the Council;
  - e) to require accountable institutions to identify and verify beneficiaries and beneficial owners of life insurance policies and other investment related policies and whether the beneficiaries or beneficial owners are prominent influential persons;
  - f) to require accountable institutions to have in place appropriate risk management and monitoring systems and other measures to determine whether clients or beneficial owners are prominent influential persons;
  - g) to require supervisory bodies to impose consolidated group supervision on businesses conducted by a group of institutions of which accountable or reporting institutions form part of;
  - h) to identify non-profit organisations that are subject to the applicable provisions of this Act and to monitor the identified non-profit organisations to comply with measures to combat the financing of terrorism;
  - i) to require accountable institutions with foreign branches and majority owned subsidiaries to implement a group-wide anti-money laundering and financing of terrorism or proliferation measures on the branches and subsidiaries;
  - j) to provide for the nature and manner in which confidential information may be shared between accountable and reporting institutions to further the objects of this Act;
  - k) to insert Schedule 5 in the Act providing for categories of natural persons who are regarded as beneficial owners;
  - l) to insert Schedule 6 in the Act providing for persons who are regarded as prominent influential persons;
12. The effective date for the commencement of this Financial Intelligence Amendment Bill will be upon publication in the Government Gazette.

**I thank you Honourable Speaker**