2 June 2017

Minister Malusi Gigaba
National Treasury

c/o   Ms Vuyiswa Monye
       Personal Assistant to the Minister
       Per email: Vuyiswa.Monye@treasury.gov.za

c/o   Mr Mayihlome Tshwete
       Spokesperson for the Minister
       Per email: Mayihlome.Tshwete@treasury.gov.za

Mr Yunus Carrim
Member of Parliament and Chairperson of the Finance Standing Committee
Per email: ycarrim@parliament.gov.za

And to: Mr Allen Wicomb
              Secretary of the Standing Committee
              Per email: awicomb@parliament.gov.za

Dear Minister Gigaba,

Corruption Watch Request: Implementation of FICA Act and Regulations

1.   We refer to the above matter.

2.   Corruption Watch is a civil society organisation that opened its doors to the public in January 2012. We are registered as a non-profit company in terms of the Companies Act.

3.   Corruption Watch intends to ensure that the custodians of public resources act responsibly to advance the interests of the public. Its ultimate objectives include fighting the rising tide of corruption and the abuse of public funds in South Africa,

and promoting transparency and accountability to protect the beneficiaries of public goods and services.

4. As part of our mandate, we are committed to strengthening the criminal justice system, including efforts to address financial crime; to the refinement of our planning and procurement systems; and to supporting and strengthening the ability of private and public bodies to better detect and address corruption in their spheres of operation.

Background

5. In 2009, the Financial Action Task Force (FATF), of which South Africa is a member, identified a number of deficiencies in South Africa's ability to address money laundering and combat terrorism, largely due to inadequate legislation on customer due diligence and record-keeping.

6. These deficiencies were addressed in the FIC Bill which was passed in May 2016, however due to the President's reservation about the constitutionality of the FIC Bill, it was referred back to the National Assembly for reconsideration of the provisions relating to warrantless searches. The National Assembly in the form of the Standing Committee on Finance reconsidered the FIC Bill and finalised its report on 22 February 2017. The President was then required to sign the Bill into Law which he did on 29 April 2017.

7. We understand that this legislation must now commence on a date to be determined by the Minister of Finance and published in the Government Gazette. We also understand that regulations must be brought into force to enable the implementation of the legislation; and that certain schedules of information relating to domestic prominent influential persons must be compiled in order to support such implementation.

8. We note that during the FATF Plenary discussion held from 22 – 24 February 2017, South Africa's failure to bring into force the FIC Bill was discussed and it was regarded as a serious deficiency. Due to the intervention of National Treasury

representatives, the FATF agreed to delay any public statement on South Africa's compliance with the FATF recommendations until after its next plenary meeting which is scheduled to take place from 21 – 23 June 2017.

9. We are now concerned about whether or not sufficient measures have been put into place in order for the legislation to become effective before the FATF review and whether these deficiencies will result in South Africa failing to meets its FATF obligations.

Conclusion

10. We therefore kindly request the following:

    10.1. The date on which the FIC Amendment Act will commence;

    10.2. Timeframes for the finalisation of regulations and schedules required to support the implementation of the Act.

11. Kindly provide us with a response by **Friday, 9 June 2017**. In addition, please note that in the interests of transparency, we may publish this correspondence and any response thereto.

12. We trust that you find the above in order.

Yours faithfully,

David Lewis
Executive Director
Corruption Watch
[Unsigned due to electronic transmission]