



KRIEK WASSENAAR & VENTER ING
PROKUREURS - ATTORNEYS

Our ref: PJ Wassenaar/ QB1238

Your ref:

11 April 2024

FINANCIAL SECTOR TRANSFORMATION COUNCIL

KOPANO ON EMPIRE,
30 WELLINGTON ROAD,
PARKTOWN

By e-mail: reporting@fstc.org.za
info@fstc.org.za

Sir / Madam

SAKELIGA NPC / FINANCIAL SECTOR TRANSFORMATION COUNCIL (FSTC)

IN RE: REPORTING NOTICE 1 OF 2024

1. We represent Sakeliga NPC.
2. Our client is a non-profit public interest organisation that represents the interests of businesses across various industries in South Africa, including the financial sector.
3. It has come to our client's attention that the Financial Services Transformation Council (FSTC) has issued Reporting Notice 1 of 2024, purportedly under section 10(4) of the Broad-Based Black Economic Empowerment Act of 2003 ("B-BBEE Act"), for the measurement period ending between 1 December 2022 and 30 November 2023. Pursuant to this notice, the FSTC requires submissions from financial institutions in the form of a sworn affidavit or a verification certificate verifying their broad-based black economic empowerment status.
4. Following the notice's publication, our client has received multiple queries from financial institutions concerning the notice's enforceability and whether the FSTC is entitled to require compliance from all financial sector role-players. Our client has observed that various role-players in the financial sector are under the impression that non-compliance with the FSTC's reporting notice may result in formal or other statutory sanctions against non-compliant role-players. This perspective seemingly originates from similar notices issued in 2021 and 2022, wherein the FSTC threatened to 'blacklist' non-compliant financial institutions.

www.kwv-inc.com

(t) (+27) 12 756 7566 (a) 3rd Floor, HB Forum Building, 13 Stamvrug Road, Val de Grace, Pretoria 0184
(p) Postnet Suite # 11, Privaatsak / Private Bag X025, Lynwood Ridge, 0040 • BTW Reg: 4020260685

Direkteure/ Directors: Péter Johannes Wassenaar (LLB)

Bygestaan deur/assisted by Tertia Johanna Wassenaar (LLB), Kayla Dames (Bcom LLB), Rohann Eloff (Bcom LLB), Melissa Jansen van Vuuren (LLB);
Konsultante / Consultants: Johan Kriek (B Proc, LLM), Catherina Elizabeth Pienaar (BA, BCur, LLB, LLM, PhD)

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5. Presently, no legislation our client is aware of compels financial institutions to participate in or certify their businesses' racial profile under the B-BBEE Act. Consequently, our client questions the FSTC's power and authority to require financial institutions to invest time, effort, and costs in complying with its reporting notices and whether the FSTC possesses legal authority to impose sanctions on non-compliant role-players as the law currently stands.
6. We request that the FSTC provide a response addressing its reasons for deeming Reporting Notice 1 of 2024 to be within its power. Should such notice be deemed lawful, we require that the FSTC furnish grounds and reasons for compliance by all financial institutions and clarify the extent and source of its ostensible authority to impose sanctions upon non-participating role-players. Our client is apprehensive about potential overreach by the FSTC concerning issuing reporting notices to non-participating financial institutions uninvolved in B-BBEE transactions or certification processes.
7. Enclosed is a request for access to information pursuant to the Promotion of Access to Information Act, which requires that the FSTC furnish not only a response and reasons for Reporting Notice 1 of 2024 but also a formal response to the information our client requires regarding the FSTC in general.
8. We anticipate your response within 30 days hereof. Our client's rights remain stringently reserved.

Yours faithfully,



KRIEK WASSENAAR & VENTER ING
Péter Wassenaar – Director
(e) peter@kriekprok.co.za