

April 2023

What does FAFT grey-listing mean for South African Trusts?

The Financial Action Task Force (FATF) is a global inter-governmental body that promotes policies and sets international standards relating to the combating of money laundering, terrorist financing, and the financing of the proliferation of weapons of mass destruction.

Following a peer-review process, South Africa has been identified as a country with strategic deficiencies in countering these nefarious activities. As such, South Africa was placed under increased monitoring (i.e. put on the so-called “grey-list”) by FAFT and is actively working with the FATF to address these strategic deficiencies within agreed timeframes. Failure to address these deficiencies adequately and timeously (i.e. by the end of January 2025 at the very latest) may result in significant reputational damage and financial ostracism (such as the withdrawal of banking and payments services necessary for trade, remittances, and other cross border transfers necessary for economic growth).

In order to be removed from the “grey-list” South Africa will need to, among others, demonstrate that competent authorities have timely access to accurate and up-to-date beneficial ownership information on legal persons and arrangements and are applying sanctions for breaches of violations by legal persons to beneficial ownership obligations. In respect of trusts, this has resulted in the following additional disclosure requirements:

- The Trust Property Control Act was amended so as to, among others, require trustees, as of 1 April 2023, to lodge and keep up-to-date records of the beneficial ownership of the trusts. This includes information pertaining to direct/indirect individual beneficiaries of bewind trusts, the founders, trustees, beneficiaries and any individuals who exercise effective control of any trust. Failure to comply with these requirements may result in a penalty of up to R10 million and/or five years’ imprisonment, and additional sanctions by the Master of the High Court.
- With effect from 14 February 2023 the South African Revenue Service (SARS) aims to record all beneficial owners of newly registered trusts. According to

SARS, the following types of beneficial owners may be found in the trust environment: founders, trustees, beneficiaries, donors and protectors. Further, according to SARS, the ultimate beneficial owner is always a natural person. Thus, where the beneficial owner is identified as a legal entity, legal arrangement or other (e.g. partnership), SARS requires that sufficient detail be provided to clearly identify the ultimate natural person that will benefit from the assets or income of the trust.

- Trustees are now also required to submit third-party (IT3(t)) returns (i.e. to issue tax certificates) in respect of any amount vested in a beneficiary, including income (nett of expenditure), capital gains and capital amounts distributed. These returns, containing all prescribed information in respect of the year of assessment of the trust (i.e. the period from 1 March to the end of February), must be submitted by 30 September of the same year.

Should you require further information, please do not hesitate to contact the team members below.



Melissa Duffy
Lead Partner
Family Office & Private Client
melissa.duffy@kpmg.co.za
M: +27824481989



Mary-Jane Meyer
Senior Manager
Corporate Tax
mary-jane.mayer@kpmg.co.za
M: +27768384302



Nishtha Bhoola
Consultant
Corporate Tax
nishtha.bhoola@kpmg.co.za
M: +27609896080



Pumla Mthiyane
Consultant
Corporate Tax
pumla.mthiyane@kpmg.co.za
M: +27637854338

home.kpmg/socialmedia



[Privacy](#) | [Legal](#)

© 2023 KPMG Services Proprietary Limited, a South African company with registration number 1999/012876/07 and a member firm of the KPMG global organization of independent member firms affiliated with KPMG International Limited, a private English company limited by guarantee. All rights reserved.

The KPMG name and logo are registered trademarks or trademarks of KPMG International.

