

NATIONAL TREASURY

No. R. 454

28 May 2010

EXEMPTION IN TERMS OF FINANCIAL INTELLIGENCE CENTRE ACT, 2001 (ACT NO. 38 OF 2001)

By virtue of the powers vested in me by section 74 of the Financial Intelligence Centre Act, 2001 (Act No 38 of 2001), I, Pravin J Gordhan, Minister of Finance, hereby make the exemptions set out in the Schedule:



**PRAVIN J GORDHAN
MINISTER OF FINANCE**

SCHEDULE

Definitions

1. In this Schedule 'the Act' means the Financial Intelligence Centre Act, 2001 (Act 38 of 2001), and any expression to which a meaning has been assigned in the Act shall have that meaning, and-

"prepaid instrument" means an instrument that functions as an electronic surrogate for coins and banknotes, representing a claim on the issuer, which is stored on an electronic device such as a chip card or computer memory and which is accepted as a means of payment by persons other than the issuer, and

"the Regulations" means the Money Laundering and Terrorist Financing Control Regulations, 2002, promulgated by Government Notice No. R. 1595 of 20 December 2002 as amended by GN R456 in Government Gazette 27580 of 20 May 2005.

Exemption from Regulations made under Act 38 of 2001

2. (1) This exemption applies to every accountable institution referred to in items 6,7,14 and 16 of Schedule 1 to the Act.

(2) Every accountable institution referred to in paragraph (1), above, is exempted, subject to the conditions set out in paragraph (4) below, from compliance with the provisions of—

- (a) regulations 3 and 4 of the Regulations, concerning the particulars to be obtained and verified in establishing and verifying persons' identities, and
- (b) section 22(1)(a), 22(1)(b), 22(1)(c), 22(1)(d), 22(1)(h) and 22(1)(i) of the Act in so far as the records referred to in these sections would apply to information relating to the particulars referred to in paragraph (a),

in respect of the issuing of a prepaid instrument which meets the characteristics referred to in paragraph (3) by, or on behalf of, the accountable institution to a client.

(3) A prepaid instrument referred to in paragraph (2) in respect of which this exemption applies, is a prepaid instrument in respect of which—

- (a) the value of every individual transaction initiated through the use of the prepaid payment instrument cannot exceed R200,00;

- (b) the available balance cannot exceed R1500,00 at any time;
- (c) the monthly turn-over of value loaded onto the prepaid instrument cannot exceed R3000,00;
- (d) can only be used to purchase goods or services in the Republic;
- (e) the reloading of value to the prepaid instrument to enable use or further use of the prepaid instrument can only be done by means of an online system requiring the client to enter a personal identification number;
- (f) the use of the prepaid instrument cannot not enable the remittance of funds, the withdrawal of cash or the receipt of cash as part of a transaction for the payment of goods or services or in any other form whatsoever.

(4) This exemption is subject to the condition that—

- (a) an accountable institution which issues a prepaid instrument directly to a client, or on whose behalf a prepaid instrument is issued to a client, applies enhanced measures, over and above its normal procedures, to scrutinise the transaction activity in relation the use of the prepaid instrument on an ongoing basis with a view to identify and report suspicious and unusual transactions,
 - (b) where prepaid instruments are issued to a clients on behalf of the accountable institution, the accountable institution —
 - (i) establishes and verifies the identities of the persons issuing the prepaid instruments on its behalf as it would for a client in terms of section 22 of the Act, and
 - (ii) applies enhanced measures, over and above its normal procedures, to scrutinise the transaction activity of the person issuing the prepaid instrument in relation the issuing of the prepaid instruments on an ongoing basis with a view to identify and report suspicious and unusual transactions.
- (5) This exemption shall come into operation on 14 May 2010.