Dear Ms Collins

**SUBMISSION: DRAFT NOTICE ISSUED IN TERMS OF SECTION 29 OF THE TAX ADMINISTRATION ACT**

1. Please find below the SAICA Transfer Pricing sub-committee’s (a sub-committee of SAICA’s National Tax Committee) response to the request for comments on the draft FATCA Public notice issued in terms of section 29 of the Tax Administration Act 28 of 2011 (“TAA”).

**General**

**Reasonable and fair administration burden**

2. The additional record keeping requirements as set out in the Draft Notice are in our view excessive and particularly onerous on taxpayers who are already heavily burdened with administrative duties and ever increasing compliance costs.

3. There is furthermore, in our view, a misconception that the information and documentation requirements as set out in the Draft Notice should be readily available to taxpayers, however, this is not always the case.

4. Accordingly, additional information gathering and documentation preparation must be undertaken by taxpayers and this is and should be subject to a reasonability measure to ensure fair administrative action.

5. We submit that the draft notice incorporate the principle of maintaining a balance between “the usefulness of the data to tax administrations for transfer pricing risk assessment and other purposes with any increased compliance burdens placed on taxpayers” as established by the OECD Transfer Pricing (“TP”) Guidelines.

6. The Guidelines determine that while ideally taxpayers will use transfer pricing documentation as an opportunity to articulate a well thought-out basis for their
transfer pricing policies, thereby meeting an important objective of such requirements, issues such as costs, time constraints, and competing demands for the attention of relevant personnel can sometimes undermine these objectives.

7. It is therefore important for countries to keep documentation requirements reasonable and focused on material transactions in order to ensure mindful attention to the most important matters.”

8. Even though the Guidelines acknowledge that in certain instances countries might require specific information to be retained for transfer pricing purposes, it is clear that a balancing act should be performed between the compliance burden created for the taxpayer and the tax authority’s need for information.

9. The Guidelines further state that (our emphasis):

“Not all transactions that occur between associated enterprises are sufficiently material to require full documentation in the local file. Tax administrations have an interest in seeing the most important information while at the same time they also have an interest in seeing that MNEs are not so overwhelmed with compliance demands that they fail to consider and document the most important items. Thus, individual country transfer pricing documentation requirements based on Annex II to Chapter V of these Guidelines should include specific materiality thresholds that take into account the size and the nature of the local economy, the importance of the MNE group in that economy, and the size and nature of local operating entities, in addition to the overall size and nature of the MNE group.”

10. For example, the OECD TP Guidelines determine that “copies of all material intercompany agreements concluded by the local entity” has to be retained. SARS, however, have purposefully excluded the word “material” from its requirement per paragraph 3(e) that reads as follows “copies of contracts or agreements related to the potentially affected transactions entered into by the persons with each connected person”.

11. The level of detail required is far more than what the OECD TP Guidelines have provided as a guideline to countries.

12. It is acknowledged that what is provided is only a guideline, but taking the objectives of TP documentation into account, the detail required is unreasonable.

13. Submission: It is submitted that the draft notice fails to achieve a balance as to the need for information vs. reasonable and fair administrative burden. Measures should in our view throughout the draft notice be introduced to address the shortcoming.
Causality of information to transfer pricing and ability to obtain

14. In addition, it is in our view unclear as to how some of the information and documentation requirements would inform the transfer pricing risk assessment.

15. Some of the information requested in terms of the Draft Notice is restricted by confidentiality agreements entered into between the shareholders of companies.

16. In our view, the additional record-keeping requirements in terms of the Draft Notice will also be a factor in discouraging foreign investment into South Africa where the record-keeping requirements in terms of the Draft Notice are more burdensome than in the foreign investor’s country of residence.

General lack of a materiality consideration

17. Even though a threshold of a R1 billion turnover has been set, it relates to persons subject to these TP documentation rules.

18. However, no thresholds have been determined with reference to the materiality of potential “affected transactions”.

19. In our view the compliance burden created (with reference to the TP documentation as it currently stands) to the taxpayer would far outweigh SARS’ need to determine a potential transfer pricing risk on immaterial amounts or transactions.

20. When looking at the guidelines provided by the OECD, with reference to the TP documentation for the local file, it states that “for each material category of controlled transactions in which the entity is involved” certain information has to be provided to the tax authorities.

21. We would therefore expect, in line with the OECD’s view, that SARS provides materiality thresholds ensuring that the required documentation are only retained in relation to material transactions.

22. Submission: Setting of a materiality threshold in relation to the controlled transactions itself, would be aligned with the OECD’s view that it “is therefore important for countries to keep documentation requirements reasonable and focused on material transactions in order to ensure mindful attention to the most important matters”.

23. Submission: Furthermore, given that the tax administrative burden for transfer pricing has increased in recent years and with no real benefit to the fiscus, it is further proposed that a high-tax exemption similar to that contained in section 9D of the Income Tax Act be introduced for transfer pricing documentation requirements. It is
inconceivable that a taxpayer would intentionally transfer profits to a high tax jurisdiction as that would result in no real benefit.

Effective date

24. The notice does not indicate from which year of assessment a taxpayer is required to have all the relevant documentation available.

25. This should specifically be clarified and be prospective as a retrospective date will be administratively unfair in our view.

26. Submission: It is submitted that the notice should only be applicable in respect of years of assessment commencing on or after the day that the notice becomes effective. Taxpayers would then have at least a year to get the requested documentation in place, especially given the overly burdensome nature of the proposed requirements.

Paragraph 1 - Definition of “group”

27. This definition refers to “Group of companies” which is defined in section 1 as well as section 41 of the Income Tax Act.

28. The draft notice does not expressly specify which definition should be used though it infers that it is the section 1 definition.

29. Submission: The definition of “group” should clarify that it is the section 1 definition.

30. Furthermore, using the section 1 definition is problematic as in its current wording it will mean that a foreign group company which has no SA taxable income will have to report notwithstanding that SA has no jurisdiction, tax or otherwise over it, merely on the basis that it forms part of a group that happen to receive R1 billion taxable income from SA.

31. Submission: It is our view that using an expanded section 1 definition is impractical and that a revised section 41 definition should be used to exclude foreign companies from reporting, especially given SARS draconian remedy in the new section 46(9) TAA that can be imposed on the SA group company who is party to the affected transaction.

Paragraph a – Definition of “consolidated South African turnover”

32. It is our understanding that “consolidated South African turnover” as defined refers only to the turnover of the group that is taxable in South Africa.
33. It is therefore not referring to consolidated turnover of a group of companies for accounting purposes in accordance with the International Financial Reporting Standards (IFRS) issued by the International Accounting Standards Board but generally to the sum of the total turnover of members of a “group of companies” as defined for tax purposes in South Africa, as is subject to tax in South Africa.

34. South Africa does not ascribe to a group income tax basis for companies though IFRS does provide for group consolidated accounting, which creates confusion as to what specifically is required, especially if the definition is limited to SA taxable income for such group and not all income earned by the group generally or all income earned from SA.

35. **Submission**: Clarity must be provided as the current wording of this paragraph is in our view, ambiguous and this may lead to misinterpretation, especially given that no group income tax exists for companies.

**Paragraph 2(a) – Ambit of compliance obligation: R1 billion threshold**

36. We note that the threshold of R1 billion is in line with the amount proposed by The Davis Tax Committee on the implementation of Country-by-Country (“CbC”) reporting in South Africa as set out in Action 13 of the Base Erosion and Profit Shifting Action Plan of the Organisation for Economic Co-operation and Development (OECD).

37. However in our view it is unclear whether this monetary threshold meets the gist of what the OECD was trying to achieve, namely setting a threshold that excluded 85%-90% of taxpayers.

38. **Submission**: We submit that the threshold of R1 billion, as referred to in the Draft Notice, as well as the threshold of R1 billion for CbC reporting, should be tested as to ensure that it is in line with the OECD’s recommendation that the CbC reporting threshold be set sufficiently high to exclude of 85% to 90% of taxpayers. This threshold effectively will ensure that smaller companies are not unnecessary caught in the compliance burden without much additional financial benefit to the fiscus from their disclosures.

**Paragraph 2(a) – Ambit of compliance obligation: “potentially affected transaction”**

39. The consolidated turnover in relation to a “potentially affected transaction” should be subject to a specified amount or percentage of total “consolidated South African turnover”.

40. In the absence of such limitations, groups of companies with a consolidated turnover in excess of R1 billion, but which transact largely with local parties, could be brought
within the ambit of the notice by virtue of comparatively insignificant “potentially affected transactions”.

41. **Submission:** We submit that the notice should only be applicable if the turnover from “potentially affected transactions” exceeds a specified threshold, for example 20% or more of the “consolidated South African turnover”, to avoid the unnecessary administrative burden to taxpayers without any additional monetary benefit to the fiscus.

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**Paragraph 2(a) – Ambit of compliance obligation: Timing**

42. In the absence of a group income tax it is unclear when “consolidated South African turnover” should be determined in relation to the R1 billion threshold, especially where group companies have different financial and tax year ends.

43. In respect of the latter, tax is an annual event, not a year to date event, which further emphasise the mismatch.

44. It should be noted that section 293 of the Companies Act 1973 was not replicated in the Companies Act 2008, thus not compelling subsidiaries to have the same year end as the holding company. This would in any event not have applied to foreign holding companies with SA subsidiaries.

45. The normal IFRS rules are a possible solution in this regard.

46. For accounting purposes, the timing is determined by the financial year end of the parent company whose subsidiaries have to report of management accounts or where that is not feasible, the latest audited financial statements issued within 3 months of the parent’s financial year, with adjustments for significant transactions.

47. Furthermore, it is unclear how turnover subject to SA tax can be determined correctly at any given point in time on this basis as tax is not subject to materiality and statements of incorrect amounts due to the uncertainty may result in additional risk for the subsidiaries.

48. Another matter is whether this R1 billion threshold triggers a prospective or a retrospective obligation? For practical reasons we believe such documents and records should be kept for the next reporting period.

49. However the timing will remain problematic as the compliance obligation is on any person part of the group, which means that each company in the group will have to test compliance with the threshold at a given point in time and the determination has to be on information that it may not be entitled to at any given point in time such as year to date results of its foreign parent company.
50. It should also be noted that

51. **Submission:** It is submitted that either the notice should prescribe timing of the determination, for example on submission of the tax return, or it should follow the timing prescribed in IFRS as to determining a point in time when the R1 billion threshold is to be tested.

52. **Submission:** Furthermore, in either instance cognisance should be taken of the fact that the consolidated group SA tax will invariably be an estimate and not actual amounts and non-compliance or disputes should consider this element.

53. The requirement should only apply from the date that the requirements of paragraph 2 are met as to be determined and onwards.

**Paragraph 3(a) - “a description to a person’s ownership structure, with details of shares or ownership interest held therein”**

54. In terms paragraph 3(a) of the notice, reference is made to “a description of the person’s ownership structure, with details of shares or ownership interest held therein by other persons”.

55. **Submission:** The wording used is open-ended and should be clarified. We recommend that the paragraph be replaced with the following wording “a chart illustrating the person’s legal and ownership structure, with details of the shareholding percentage or ownership interest held therein by other persons”. This is in line with the wording set out in Annex I to Chapter V of the 2015 OECD BEPS Action 13 Report.

56. Furthermore, the reference to “a person’s ownership structure” and “details of shares or ownership interest held therein”, in our view, limits the disclosure of the ownership structure of the taxpayer to only the direct shareholders of a taxpayer and would therefore exclude any indirect shareholders of a taxpayer as well as any shares held by the taxpayer.

57. **Submission:** We submit that if this is not the intention of the Draft Notice to address indirect interests, further clarity should be provided as to what specific minimum information a taxpayer should provide in relation to its shareholders as well as its own shareholdings.
Paragraph 3(b) - Descriptive terms

58. The noted requirements use generic terms such as name rather than more formal descriptions such as registered business name.

59. Submission: To ensure consistency with legislative requirements and avoid confusion, we recommend that reference be made to the “registered business address” of the relevant person and “registered business name”, rather than to the generic ‘name’ and ‘address’.

60. In addition, the use of the term “legal status” may result in different interpretations.

61. Submission: We recommend that it be clarified what is required, e.g. the legal form, like company, branch, holding company etc., or whether the person is active or dormant etc.

62. If the entities are connected persons, then why is ownership linkage important to SARS? This further requirement is nonsensical given the wider connected persons test used for the purposes of section 31 ITA and section 46(9) TAA.

63. Submission: For larger multinational groups, showing all ownership linkages will create an unnecessary compliance burden on the taxpayer and therefore the words “and the ownership linkage amongst them” should be deleted.

64. The use of connected persons within the group is counterintuitive. All group companies would be connected persons per the reduced threshold of the “group” definition requirement per the section 1 TAA definition.

65. It therefore creates confusion as to whether the obligation only pertains to group companies as defined or connected person companies as well outside the group.

66. Submission: We submit that the requirement to provide the “legal status” and “country of tax residence” of connected persons in a group should be removed as a taxpayer may not necessarily be privy to such information in relation to its connected persons, even within the group. However such persons would still be subject to the provisions in section 46(9) TAA.

Paragraph 3(c)(i) - Descriptive terms

67. It is in our view unclear as to what the meaning of “major economic and legal issues” is in this context and how these issues should be determined by a taxpayer?

68. As these words are, in our view, subjective, this could lead to differing interpretations of the meaning of these words between SARS and a taxpayer.
69. For example, if there was significant fraud at the company caused by the company’s employees colluding and the fraud has no impact on “potentially affected transactions” and the company has instituted legal action against the employees, why would this issue be covered in transfer pricing documentation?

70. **Submission**: We recommend that this requirement is either deleted or amended to be more specific in relation to transfer pricing.

**Paragraph 3(c)(ii) - Descriptive terms**

71. We submit that the relevance of the requirement to provide information on the “business strategy” pursued by a taxpayer is unclear in the determination of a transfer pricing risk assessment by SARS.

72. **Submission**: We recommend that this requirement be amended to only refer to new business strategies pursued by a taxpayer.

**Paragraph 3(c)(iii) - Descriptive terms**

73. It is unclear as to what the meaning of “business restructurings” is in this context.

74. As the current wording of this paragraph, is in our view, ambiguous, this may lead to misinterpretation.

75. **Submission**: We recommend that this requirement is amended to be more specific.

76. Furthermore, the paragraph states that an indication must be provided whether the person has been involved in or affected by “business restructurings” or intangibles transfers in the present or immediately past year.

77. No explanation of those aspects of such transactions affecting the person is provided.

78. Action 13 of the 2015 OECD BEPS Report requests that a description be provided of “important business restructuring transactions, acquisitions and divestitures occurring during the fiscal year”.

79. The notice however requests that the information be submitted regarding restructurings or intangibles transfers in both the present or immediately past year.

80. The notice also requests an “explanation”, which is broader than merely requesting a “description”.
81. **Submission**: The proposed wording is unclear and over broad and it is submitted that the wording should be limited to those in the Action 13 Report which are better defined and more clear.

**Paragraph 3(c)(iii) - Descriptive terms**

82. Due to the various definitions of intangible assets in South African law, it is unclear as to what “intangibles” for the purpose of the Draft Notice are.

83. ‘Intangibles’ is an abstract, yet very relevant term. Are the intangibles transferred, limited to intangibles recognised in the accounting books?

84. The criteria for recognising intangibles may differ from one taxpayer to the next.

85. **Submission**: It is requested that the term “intangible” be defined to avoid uncertainties as the risks associated with non-compliance with the notice requirements may result in misstatement or non-disclosure.

**Paragraph 3(c)(iii) - Descriptive terms**

86. It is unclear as to whether the “past year” refers to year of assessment or a calendar year.

87. **Submission**: We recommend that the words “past year” are replaced with the words “past year of assessment” to clarify the requirement.

**Paragraph 3(c)(iv) - Descriptive terms**

88. The relevance of the requirement to provide information on the person’s “position within the industry” is unclear in the determination of a transfer pricing risk assessment by SARS.

89. It is also very unclear as to how this position should be determined by taxpayers?

90. Within the principle of reasonable and fair administrative action, it is questionable whether SARS are legally entitled to compel the taxpayer to conduct further work at cost to enable such determination (i.e. creation of new records and document) if not readily available.

91. **Submission**: We submit that the requirement should be deleted.
Paragraph 3(c)(v) - Descriptive terms

92. The paragraph requires that the "key value drivers" supported by independent industry research findings or reports be described by the taxpayer.

93. By requesting this type of supporting industry research, SARS is asking MNEs to employ or endorse third party industry reports.

94. However, analysts often do not have access to internal business information; value drivers etc. and therefore such information may not reflect reality.

95. Submission: This requirement is over burdensome and should be deleted.

96. Notwithstanding the above concerns, additionally the requirement for “key value drivers” to be supported by independent industry research findings or reports will result in increased compliance costs for the South African taxpayer with no benefit to the fiscus.

97. Submission: We submit that the requirement that the key value drivers be supported by independent industry research findings or reports be deleted.

98. Submission: If the requirement is not removed, we submit that the paragraph be revised to refer to “Important drivers of business profit”, which is in line with the OECD recommendations in the OECD BEPS Action 13 Report, and would provide for consistency.

Paragraph 3(c)(vii) - Descriptive terms

99. Discussion of the South African taxpayer’s position in the group’s value chain or the involvement of the connected person in the potentially affected transaction is accepted to be reasonable.

100. However, to be obligated to provide the connected persons’ positions in the group’s supply chain is very unreasonable and administrative unjust.

101. The connected persons may be involved with other transactions within the group that the South African taxpayer has no knowledge or control over, and will therefore have no access to such information.

102. Submission: It is submitted that this requirement be limited to the South African taxpayer’s position in the group’s supply chain or the discussion of the involvement of each connected party in the potentially affected transaction.
103. Secondly, materiality should be a factor as discussed above in relation to subparagraph (3)(b).

**Paragraph 3(d) - Descriptive terms**

104. The nature and terms (including prices) of the potentially affected transactions entered into by the person with each connected person is required.

105. However, the pricing achieved by the tested party is to be provided in terms of paragraphs 3 (k) and (l).

106. **Submission:** We submit that the term “including prices” be replaced with “including total transaction values”.

107. Furthermore, the information required for each connected person for all potentially affected transactions is an enormous requirement with no real benefit to the fiscus.

108. The nature and terms of “potentially affected transactions” are discussed generally in the group’s transfer pricing documents and policies, and need to be kept separately per transaction.

109. **Submission:** It is submitted that this requirement be deleted as a separate requirement as the information required is already generally covered in transfer pricing documents and policies.

**Paragraph 3(e) - Requirement to keep “copies of contracts or agreements”**

110. Obtaining and retaining all contracts or agreements for all potentially affected transactions is very unreasonable and costly.

111. **Submission:** It is submitted that this requirement should be governed by materiality factors.

**Paragraph 3(g) - Information required from non-resident tested parties**

112. Paragraph (g) of the notice requires the group to retain documentation in relation to tested parties which are not resident in the Republic.

113. This requirement poses the following concerns:

113.1. The notice appears to require records in relation to all of the tested party’s contracts and invoices and not just the contracts/invoices with the South African group;
113.2. Obtaining this information would be administratively onerous and/or may be confidential in nature and impossible to obtain; and

113.3. SARS does not have jurisdiction over a tested party who is not resident in the Republic and is therefore unable to impose an obligation on such party to provide the information specified.

114. Submission: It is submitted that this information would only be relevant if it has a direct impact on the transfer price (e.g. a resale price method is being used and the pricing and terms of the sales to customers are then relevant. We recommend deleting this paragraph. Alternatively, paragraph (g) should therefore be limited to contracts / invoices between the tested party and the South African group.

Paragraph 3(i) - Reference to “intangible assets”

115. Please see our comments above regarding “intangible assets”.

Paragraph 3(j) - Reference to “a comparison to the flows in independent person transactions”

116. Whilst the requirement to retain documentation in relation to operational flows is not problematic, we submit that it may be impossible for a group to provide a comparison of the flows to those in an independent person transaction.

117. Groups would only be in a position to provide this information where, in addition to the potentially affected transaction, the group itself concludes the same type of transaction on an independent basis.

118. Submission: We submit that the scope of paragraph (j) be narrowed accordingly.

119. Furthermore, the reference to “a comparison to the flows in independent person transactions” also raises the following important questions:

119.1. Is this comparison limited to internal comparable uncontrolled transactions or external comparable uncontrolled transactions?

119.2. Should the comparison be limited to comparable transactions in terms of transaction type, region, volume etc.?

119.3. Is the comparison to independent person transactions limited to cross-border transactions only?

119.4. Does this mean in the case of a comparable search resulting in 20 comparable companies, this information must be supplied for all 20?
120. **Submission**: SARS should clarify the specific information required to eliminate uncertainty.

**Paragraph 3(k) - reference to “a detailed allocation of revenues, costs, expenses and profits”**

121. Where the tested party is a South African entity or person, the requirements set out in paragraph 3(k) of the notice pose no real concern.

122. However, where the tested party is a foreign person, the group would not be able to obtain the required information, both from a practical perspective as well having regard to regulations and restrictions on disclosure of information in those foreign jurisdictions.

123. **Submission**: The scope of paragraph 3(k) should be narrowed to align with what is legally possible.

124. It is also unclear as to what is meant by “records of the application of the transfer pricing policy”.

125. **Submission**: We submit that this requirement be amended to be more specific.

**Paragraph 3(l) - where financial data per para 3(k) cannot be directly allocated**

126. Uncertainty exists as to how the allocation of profits between connected persons transactions and independent persons should be applied where revenues and costs are integrated and cannot be specifically allocated.

127. It is accepted that the revenue, costs and expenses could be distinguished at transactional level between connected parties and independent transactions but allocating profit between the connected parties and independent transactions is not always possible.

128. **Submission**: The requirement should be clarified as it may lead to artificial allocation of profits should such allocation of profits not be required for accounting or other regulation, resulting in additional administrative burden and uncertainties for the South African taxpayer.

129. Once again, the information requested in paragraph 3(l) can be obtained in relation to South African companies.

130. It is however, not possible to obtain the information in relation to foreign persons.
131. Submission: The scope of paragraph 3(l) should be narrowed accordingly.

132. Submission: The seventh word of the paragraph should read “purposes”.

**Paragraph 3(p) - additional information pertaining to “potentially affected transactions that are financial assistance transactions”**

133. This paragraph requires significant information relating to potentially affected transactions that are financial assistance transactions.

134. Potentially affected transactions are defined with reference to the section 31 definition of “affected transaction”. Assuming “financial assistance transactions means the same as the section 31 definition of “financial assistance”, paragraph 3(p) will require all the information listed also in relation to financial assistance transactions excluded from the scope of section 31 by section 31(5)(a) and (b) and section 31(6) and section 31(7).

135. Submission: The notice should clarify that none of these requirements apply when the transaction itself is effectively excluded by section 31.

136. Paragraph 3(p)(ii) and (iv) requires detail in relation to a “business”. There is uncertainty as to whether it is the lender’s business being referred to, or the borrower’s.

137. Submission: It should be clarified as to which business is being referred to.

**Paragraph 3(p)(ii) – Senior management team**

138. The notice requests that “details regarding the senior management team” be prepared.

139. Submission: We submit that the words “the details of the senior management team” be replaced with “an organogram showing the title and location of the senior management team.”

140. Submission: Additionally, regarding the “plans of the principal trading operations (including the business strategy)” as requested in the notice, we recommend that the words “the plans” be replaced with “a summary” seeing as plans could include market sensitive information.
Paragraph 3(p)(iv) – Analysis of cash flows

141. In practice, funding raised may be allocated to a pool of funds which in turn is applied for productive purposes.

142. Submission: We submit that the analysis envisaged in paragraph 3(p)(iv) would place an overly onerous administrative burden on companies to trace the individual application of funds.

Paragraph 3(p)(vi) – Financial statements

143. Submission: We submit that the reference to “financial statements and management accounts” be amended to read “financial statements or management accounts”.

144. Submission: We also recommend that the reference to “after the financial assistance transactions” be clarified to provide guidance on whether taxpayers are required to retain copies of the management accounts for the day of, day after, month after or year-end after the financial assistance transactions.

145. Submission: We submit that the analysis of the position after the financial assistance transactions be aligned with the year end. See also our comments on the timing of the determination above.

Paragraph 3(q) - Reference to “financial forecasts”

146. In our experience, not all companies would prepare financial forecasts for the full period of a funding arrangement but rather prepare limited forecasts.

147. Submission: To the extent that the notice is intended to impose an obligation on groups to prepare the information contained therein we submit that the scope of paragraph (q) should be limited.

148. Submission: We recommend that the words “to the extent that they exist” be added to the end of this paragraph or the requirement be deleted.

Paragraph 3(s) - The “catch-all” paragraph

149. Submission: We submit that this paragraph should be removed as it is too broad and lacks specificity which could lead to differing interpretations between SARS and a taxpayer.
Paragraph 4 - Sufficient transfer pricing documentation for other persons

150. Clarity must be provided on the format of the records, books of account or documents that must be kept and retained.

151. **Submission:** If the intention of the paragraph is that the person must keep, inter alia, a transfer pricing policy then we recommend that the paragraph should state that such transfer pricing policy must be prepared in the format recommended by the OECD in the Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations.

Yours sincerely

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