

CUSTOMS AND EXCISE

EXTERNAL

TERMS OF REFERENCE

NATIONAL STAKEHOLDER FORUM

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1 SCOPE

- a) This document establishes a Customs and Excise National Stakeholder Forum (the Stakeholder Forum).
- b) The terms of reference (TOR) deals with:
 - i) The functions of the Stakeholder Forum.
 - ii) The responsibilities of the Stakeholder Forum's Chairperson, committee members, the secretariat situated in SARS Head Office and that of *ad hoc* invited participants.
 - iii) The requirements of the meeting proceedings to ensure:
 - A) Compliance with the principles of good governance set for the Stakeholder Forum; and
 - B) Communication regarding discussions and recommendations by the Stakeholder Forum.

2 MANDATE

- a) The Stakeholder Forum works towards a framework of cooperation to establish a better partnership between the South African Revenue Service (SARS) and external stakeholders by taking the following into consideration:
 - i) The protection of South Africa's economy, fiscus and people;
 - ii) Ensuring the efficient and effective regulation of Customs and Excise processes, such as:
 - A) Registration;
 - B) Reporting;
 - C) Declaration, which may include but are not limited to:
 - I) Cross-border movement of goods;
 - II) Warehousing of goods; and
 - III) Prohibited and restricted goods and sectorally controlled goods, including counterfeit goods.
 - D) Payment;
 - E) Inspection;
 - F) Offences and Penalties; and
 - G) Disputes.
 - iii) Improving South Africa's reputation as a reliable and trustworthy trade partner by promoting trade facilitation and traders' compliance with Customs and Excise legislation.
- b) The Stakeholder Forum:
 - i) Represents the collective interest of its members in interaction with organs of State and public entities by:
 - A) Informing members of trade trends, requirements or developments that impacts on business; and
 - B) Providing advice on regulatory or strategic issues to enhance trade facilitation and compliance.
 - ii) Endeavours to improve compliance and trade facilitation by:
 - A) Maintaining standards and timeframes;
 - B) Exploring the alignment of trade practices and Customs and Excise processes;
 - C) Promoting the removal of trade impediments, non-tariff barriers and/ or technical barriers to trade; and
 - D) Recommending practical and effective solutions that enhance the South African supply chain and deals with constraints.

3 MEMBERSHIP

- a) The Stakeholder Forum will consist of:
 - i) The Chairperson or the Officer acting on his / her behalf;
 - ii) SARS Executives or their delegated representatives;
 - iii) Industry associations / organisations as represented by duly authorised persons; and
 - iv) Any other Officer appointed by the Chairperson as a full member.

- c) The Stakeholder Forum is voluntary and membership by industry organisations is not an entitlement. Members' representatives, serving on the Stakeholder Forum must be appointed by their respective organisations.
- b) SARS reserves the right to terminate membership, after fair notice, should conditions arise under which SARS considers that the continued membership of the affected person or industry organisation is no longer desirable or compatible with the aims and objects of the Stakeholder Forum or of SARS.
- c) The Chairperson of the Stakeholder Forum is the Chief Officer: Customs and Excise.
- d) The Deputy Chairperson for the Stakeholder Forum is the officer who is appointed to act on behalf of the Chief Officer: Customs and Excise during the time of his / her absence.
- e) If the Chairperson cannot attend a meeting the Deputy Chairperson may act on behalf of the Chairperson. However, if neither the Chairperson nor the Deputy Chairperson can attend the scheduled meeting, the meeting must be postponed.
- f) The committee members and secretariat are appointed by the Chairperson after consultation between the Chairperson and relevant unit or divisional heads.
- g) The appointments must be noted on the minutes by the secretariat (SR-01-A02).
- h) Invited specialists and other participants may join the meeting to provide expert knowledge to the Chairperson and committee members per subject matter and for that subject only in order to make informed recommendations.

4 QUORUM

- a) For the meeting to proceed there must be at least ten (10) industry representatives and five (5) SARS Officials (including the Chairperson) present.
- b) Invited specialists and other participants joining the meeting to provide expert knowledge to the Chairperson and committee members in order to make informed recommendations do not form part of the quorum.

5 DISCLOSURE OF EXISTING (POTENTIAL) CONFLICT OF INTEREST

- a) The Chairperson must, at the beginning of each meeting, ascertain the existence of current or potential conflicts of interest for any item reflected on the agenda.
- b) Forum members must disclose any such conflict of interest to the Chairperson and must then be excused from the meeting during the deliberation of the case in which they have a current (potential) conflict of interest.
- c) At the discretion of the Chairperson, enquiries may be made into potential conflict of interest and the member indicating conflict of interest could be questioned and / or requested to provide information supported with evidence.
- d) The Chairperson may rule on the continued participation of the effected member. Such ruling may be based on a justifiable finding of conflict of interest or as a matter of caution.
- e) The secretariat must accurately note the disclosure of conflict of interest, keep record of the proceedings relating thereto and any ruling by the Chairperson.

6 MEETING PROCEEDINGS

6.1 Meeting prerequisites

- a) Meeting dates set by the Chairperson must be confirmed by electronic invitations, issued to all the members at least four (4) weeks prior to the meeting. Meetings will be held at SARS Head Office unless otherwise stipulated.

- b) The meeting must be:
 - i) Scheduled at least twice (2) a year or on an *ad-hoc* basis with permission of the Chairperson in the event that special requests are submitted to the Chairperson;
 - ii) Governed by the relevant legislation, the SARS Governance Framework and SARS policies;
 - iii) Outcome-focused; and
 - iv) Must proceed according to the agenda.
- c) The action list (SR-01-A04) must be must be maintained on a financial year basis.

6.2 Pre-meeting

- a) All agenda items must be submitted to the secretariat three (3) weeks before the day of the meeting.
- b) Responsibilities of the Secretariat:
 - i) Providing logistical and secretarial support;
 - ii) Ensuring availability of a meeting venue which includes telecom facilities;
 - iii) Forwarding of invitations to meetings to the Chairperson, Committee Member(s) and invitee(s) a minimum of four (4) weeks prior to the meeting
 - iv) Forwarding an electronic agenda to the Chairperson, Committee Member(s) and invitee(s) a minimum of two (2) weeks prior to the meeting;
 - v) Confirming the relevant Forum Members inputs and requests are assimilated and scrutinised in order to set the agenda (SR-01-A01) for each the Stakeholder Forum meeting;
 - vi) Ensuring that the agenda (SR-01-A01) is correct and that the relevant officers and or invited persons for each agenda item have been identified and invited and the time slots allocated;
 - A) Assimilate and scrutinise all relevant stakeholder inputs and requests in order to set the agenda for each the Stakeholder Forum meeting.
 - B) The industry representatives must inform their members on the reasons for the rejection of their request not being placed on the agenda, if applicable.
 - vii) Attaching the upcoming meeting's SR-01-A01 and the previous meeting SR-01-A02 together with any reports and ancillary documents to the electronic invitation; and
 - viii) Managing all enquiries and clarification relevant to the upcoming meeting.
- c) The Chairperson must ensure that representatives from affected business units who's Executives are not committee members of the Stakeholder Forum are identified and invited to the meeting if there are matters for discussion which impact such business units.
- d) Responsibilities of the committee members and invited participants:
 - i) Give written notice to the Chairperson and the secretariat at least three (3) working days prior to the meeting if they are unable to attend the meeting. At the same time, they must also submit the names of their delegated representatives, as applicable.
 - ii) Scrutinise the agenda, previous minutes and any other documents circulated and prepare thoroughly before the meeting.
 - iii) Be satisfied that, objectively, they have been furnished with all the relevant information and facts before making a recommendation.

6.3 Meeting

- a) The attendance register (SR-01-A03) must be distribute and completed by the attendees.
- b) The Chairperson must:
 - i) Manage the meeting according to the agenda;
 - ii) Conduct the opening of the meeting:
 - A) Open the meeting and welcome all attendees; and
 - B) Establish the committee members present, apologies received and absentees.
 - iii) Ascertain the existence of any conflicts of interest (refer to paragraph 5);
 - i) Confirm and sign the minutes of the previous meeting on SR-01-A02 after noting disagreement and proposed amendments; and

- ii) Oversee the discussion and allocate sufficient time to deliberate on complex matters or where additional information is required before a recommendation can be made.
- b) The secretariat must accurately note all:
- i) The attendees in the appropriate field on SR-01-A02 clearly indicating whether the attendee is a member or not;
 - ii) Discussions and recommendations on SR-01-A02; and
 - iii) SR-01-A03 must be updated with the name of all the attendees clearly separating the members from the invitees as only the Chairperson and committee members or their delegated representatives will have a vote, if required.
 - iv) Actions on SR-01-A04:
 - A) SR-01-A04 must contain action points (action items) emanating from recommendations made during the meetings throughout the financial year;
 - B) Outstanding tasks must be kept open until completion;
 - C) Completed tasks must be marked off; and
 - D) Outstanding tasks must be carried to a new action list at the beginning of each financial year.
- c) Forum Members must:
- i) Consider all the relevant facts;
 - ii) Participate constructively and transparently in the discussion and utilise their knowledge and skills in deriving at recommendations;
 - iii) Ensure recommendations are fair and consistent with the provisions of the Act, Rules, business decisions and policies and procedures of SARS; and
 - iv) Keep discussions confidential.
- d) During the meeting the following principles of engagement applies:
- i) **Confidentiality** – in sharing information regarding the subject matter, the parties operate within the ambit of their respective confidentiality regulatory frameworks;
 - ii) **Collaboration** – reliable interdependence i.e. a clear vision with members operating in an environment of sharing and trust;
 - iii) **Conscience** – embody or invoke ethical behaviours for service, trust and respect;
 - iv) **Capability** – forum members will have the requisite technical and institutional expertise to meaningfully engage in discussions and the formulation of recommendations or action items; and
 - v) **Clarity** – forum members will provide strategic, operational, tactical and regulatory advice to their respective principals.

6.4 Post-meeting

- a) The secretariat must:
- i) Discuss the notes taken during the meeting with the Chairperson to ensure accuracy;
 - ii) Distribute the presentations made at the meeting electronically within seven (7) working days of the Stakeholder Forum meeting to the members.
 - iii) Record recommendations on the minutes of the meeting accurately by transcribing the notes taken during the meeting on SR-01-A02;
 - iv) Ensure that the minutes are signed by the Chairperson and correctly filed;
 - v) Maintain the minutes and ensure that they are always up to date in case of amendments;
 - vi) Update SR-01-A04, according to the minutes against the correct discussion item; and
 - vii) Ensure all record keeping are up to date.
- b) The secretariat must keep record for a period of five (5) years of all documents related to any the Stakeholder Forum meetings, such as:
- i) Agendas (SR-01-A01);
 - ii) Minutes (SR-01-A02);
 - iii) Attendance Register (SR-01-A03);
 - iv) Action Lists (SR-01-A04);

- v) Reports;
 - vi) Presentations; and
 - vii) Any other relevant information pertaining to the matter at hand.
- c) The five (5) year period is calculated from the end of the calendar year in which the document was created, lodged or required. In instances of litigation arising from discussion made by the Stakeholder Forum the Chairperson must engage with the litigation division in relation to time frames for document retention.

7 DECISION MAKING

- a) The Stakeholder Forum is not for decision making but for discussion and recommendation.
- b) Representatives can make recommendations on matters impacting their business units only. No person(s) may make recommendations on behalf of other business units.
- c) Recommendations made with regard to prioritisation of deliverables must take into consideration workload and capacity and financial resources.
- d) In instances of recommendations pertaining to policies and ancillary documents, old or new, additional criteria must be considered:
- i) SARS and divisional strategies and plans;
 - ii) Relevant legislation;
 - iii) Operational conditions;
 - iv) Specific Customs and Excise matters covered in the Customs and Excise legislation for example manufacturing, imports and exports; and
 - v) Regional and International organisations and / or their treaties for example, Southern African Customs Union (SACU), World Customs Organisation (WCO).
- e) The Chairperson must:
- i) Take full accountability of the recommendations made by the Stakeholder Forum.
 - ii) Present recommendations to the relevant sub-committee for approval, if required.

8 DEFINITIONS AND ACRONYMS

| | |
|--------------|---|
| Act | Customs and Excise Act No. 91 of 1964 |
| TOR | Terms of Reference |
| WCO | World Customs Organisation |
| Forum | An assembly of officers / personnel from Customs and Industry |
| QMS | Quality Management System |

9 REFERENCES

9.1 Legislation

| TYPE OF REFERENCE | REFERENCE |
|---|--|
| Legislation and Rules administered by SARS: | Customs and Excise Act No. 91 of 1964: All |
| Other Legislation: | Constitution of the Republic of South Africa, 1996: Section 33 Promotion of Administrative Justice Act No. 3 of 2000: Sections 3 and 5 Promotion of Access to Information Act No. 2 of 2000: Parts 1 to 4 |
| International Instruments: | |

9.2 Cross References

| DOCUMENT # | DOCUMENT TITLE |
|------------|----------------------------------|
| QMS-01 | Quality Management System Manual |

| DOCUMENT # | DOCUMENT TITLE |
|------------|--|
| HR-ESIC-03 | Human Capital and Development Conflict of Interest – Internal Policy |

9.3 Quality Records

| NUMBER | TITLE |
|-----------|--|
| SR-01-A01 | The Stakeholder Forum Agenda – External Annex |
| SR-01-A02 | The Stakeholder Forum Minutes – External Annex |
| SR-01-A03 | The Stakeholder Forum Attendance Register – External Annex |
| SR-01-A04 | The Stakeholder Forum Action List – External Annex |

10 DOCUMENT MANAGEMENT

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|---|--|
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