EFF SUBMISSION TO PUBLIC HEARINGS ON TRANSFORMATION OF THE FINANCIAL SERVICES SECTOR—MAY 2017.

1. INTRODUCTION

The financial sector is one of the most important components of South Africa's economy, and one which should be transformed to facilitate meaningful economic participate by the majority of black people particularly poor, unemployed and women. Ownership and control of the financial services sector and other sectors of the economy must be transformed to reflect the country's racial, gender and geographic demographics. It is a necessary change that is overdue because 23 years since the end of legislated racism, the economic and social marginalisation of the black majority persisted and been produced.

The Economic Freedom Fighters (EFF) makes the following submission to Parliament's joint public hearing by Standing Committee on Finance and Portfolio Committee on Trade and Industry on transformation of the financial services sector.

2. BACKGROUND

The financial sector is one of the most important sectors in South Africa's economy and includes the banks, the insurance companies, and investment funds that play a critical role in the economic life of our country. Any economic transformation programme that overlooks the financial sector will fail dismally because the reality is that while South Africa's economy base is what is correctly characterised as a minerals-energy-complex, since the end of Apartheid it has become highly financialized. The period post-1994 witnessed massive financialisation of the South African economy, which means the country's economy is now appropriately characterised as the minerals-energy-finance complex.

From the perspective of transformation for the majority, the financial services sector remains the same as it was during apartheid. It is a sector, nevertheless, that is perceived to have massively increased its contribution to gross domestic product (GDP) in the period post-1994. Despite the financial sector's qualitative and quantitative expansion in the post 1994 period, it is largely reflective of the colonial-cum-apartheid past, and its racial composition remains what it was pre-1994.

In 1994, financial services sector contributed 7% to the total GDP. By the end of 2016 the share of financial services sector contribution to GDP has increased to 20% making it the highest contributor to GDP followed by government at 17.2% and trade contributing 14.7%. According to the 2015/2016 World Economic Forum Global Competitiveness Survey South Africa is ranked 8th in Financial Sector Development, out of 140 countries.

3. CONCEPT OF ECONOMIC EMPOWERMENT VS. ECONOMIC OWNERSHIP

Economic transformation as envisaged by African National Congress (ANC) through Black Economic Empowerment (BEE) has failed. BEE has failed partly because it benefited almost exclusively a small elite composed of members of the ANC and their close relatives. But more importantly, it failed because it focused on empowerment instead of ownership. For inclusive transformation which will not lead to substituting white capitalists with black capitalists who continue to treat the majority of our people as nothing but cheap and easily disposable labour, it is economic ownership and not economic empowerment. The EFF reject the notion of transformation of the financial sector based on failed project of BEE and coordinated empowerment by the Department of Trade and Industry.

While economic empowerment allow few blacks to gain access to management and some form of ownership financed mainly through loans in existing companies. The key word being 'empowerment' to indicate a clear need for enabler, in this case existing economy. This has been done through social contracts and compacts aimed at achieving black ownership and control of the economy. This has failed dismally for the vast majority while enriching a black elite to be found across both the economic and political domains. Economic ownership should involve concrete ownership that is meaningful, genuine and were black majority will have control over strategic intent of the economy.

4. LEGISLATIVE REFORM

Economic exclusion of the black majority was first a colonial conquest and more practically a legislated reality. Therefore, economic inclusion should be legislated and enforced into a reality as well. South Africa needs to introduce three categories of enforceable legislation, and one major constitutional change. It is important to highlight the importance and centrality of legislation because of the correct emphasis by Blackstone, Sanders and Parekh in a book, Race Relations in Britain, in arguing that,

"Legislation alone cannot create relations or change attitudes. But it can set clear standards of acceptable behaviour and provide redress for those who have suffered in the hands of others. If law can play a repressive role by sanctioning racial segregation and discrimination as it has done in Nazi Germany, the American South, Rhodesia and South Africa, it can operate with equal force in the opposite direction by declaring that, equality of opportunity, regardless of race or colour, is to be pursued as a major social objective. It is a statement of public policy by Parliament intended to influence public opinion."

Section 9(2) of South Africa's Constitution reads:

"Equality includes the full and equal enjoyment of all rights and freedoms. To promote the achievement of equality, LEGISLATIVE and other measures designed to protect or advance persons, or categories of persons, disadvantaged by unfair discrimination MAY BE TAKEN".

It is on that the following legislative reforms must be considered:

4.1. Laws for economic inclusion to share in current patterns of ownership

The BEE Charters tried to achieve black inclusion into existing economic interest but these charters were not enforced and therefore meaningless. Therefore, Parliament must pass a legislation that prescribes that all legal businesses in SA must be a minimum of 50% owned by black people or the state, and content of such ownership must not be black male elites only. Ownership must be non-negotiable. The content of black ownership must include workers, communities and must always be gender balanced. Gender inclusion in all economic platforms must not be a “by the way” aspect of transformation, but should underpin all forms of economic ownership and control.

It is important to highlight state ownership in certain sectors, and collective ownership in others, because the Reserve Bank, the mines and other strategic sectors of the economy must have at least 51% of State ownership. The Reserve Bank model of limitation of shares held by one person and their associates could still apply to the remainder of the shares, whilst 51% is under direct State ownership and control.

4.2. Laws about set-asides

The principle about set-asides is that if 100 Insurance licences are going to be issued, 60 must be given to local black South African insurance companies. We need new legislation that will facilitate black participation in the economy, not as minority shareholders in established companies of white people. BBBEE and the so-called black empowerment laws in South Africa since 1994 have largely been about staff-riding few black male elites into established white companies, who often fall off to be replaced by new politically relevant male elites in the future.

4.3. Insolvency Act

Currently the Insolvency Act No 55 of 2006 makes it easy to sequestrate people. Some undeserved sequestration leaves dire consequences to thousand of people, some never able to recover. There must be a review of insolvency act to make the process of sequestration a comprehensive review and well-considered exercise before an individual is sequestrated.

4.4. National Credit Act

Many South Africans live in continuous risk of losing their assets i.e. houses due to financial distress. When a home is repossessed it is emotionally traumatising experience. But most important, it is also time consuming and almost impossible to get it back or financial compensation equal to what a home owner has paid or the value of the house. There must be a review of the National Credit Act to ensure that if a homeowner has paid more than 50% of their home loan and experience difficulty. That homeowner must be given 12 months financial recovery period so to be able to continue paying without loosing their home either under a renegotiated terms of contract favourable to both the financial institution and homeowner. The whole lending system for housing, in the absence of land expropriation without compensation must be reviewed to reduce interest charged, payment period to 10 years maximum and the cost of land.

4.5. Homeowner Insurance.

In most instances, mortgage payment is bundled with homeowners' insurance and people are made to pay premium for policies. Once it is clear that a homeowner will not be in a financial position to continue to make payment for their home, and all attempts including 12 months financial recovery period and renegotiated contracts have failed, upon repossession of the house, insurance companies must be obligated to pay back all or some of the money a homeowner has paid if they had a policy for more than 10 years without a claim.

5. INSURANCE BILL.

The Insurance Bill is one of the most important legislative reforms in South Africa's economy and present a practical opportunity to advance transformation. The bill should play a critical role in the radical economic transformation of our country. Any financial sector transformation programme that overlooks the insurance sector will dismally fail because the insurance sector is highly embedded in the financial sector and play a key role to millions of customers to protect themselves, their valuable assets and financial security for their families in the unfortunate events of accidents.

5.1. We submit the following additions to the Insurance bill:

5.1.1. CHAPTER 3: KEY PERSONS AND SIGNIFICANT OWNRES

5.1.1.1. Addition to Part 2 Section 14: Appointment and termination of key persons

The following must be additional requirements for appointment and termination of key persons

a) Minimum of 50% of the insurers or controlling company key persons must be black.
b) Minimum of 30% of the insurers or controlling company key persons must be women.

Failure to meet these requirements, the Prudential Authority must not approve appointment of any of the key person and awarding of license, as it is mandatory in terms of section 14 and section 22.

5.1.2. CHAPTER 4: LICENSING, SUSPENSION AND WITHDRAWAL OF LICENCE

5.1.2.1. Addition to Section 22: Requirements for licence

(2) In order to qualify for licensing as a controlling company, a holding company of, or another juristic person that controls, an insurance group must demonstrate that

e) In addition to the provisions of the Financial Sector Regulation Act relating to significant owners, an insurer or controlling company has a minimum of 30% black ownership.
(f) A minimum of 50% of its key person is black.
(g) A minimum of 30% of its key person is woman.

Failure to meet the requirements, the Prudential Authority must not grant a license.

5.1.3. Addition to Section 23: Licensing

(7) The Prudential Authority must, when granting an application, ensure that a minimum of 40% of licenses is issued to black owned and controlled insurers or controlling company.

5.2. Schedule 3: Transitional Arrangement

Key persons and significant owners other than representatives, deputy representatives of Lloyd's and trustees of Lloyd's trust

9 (3) The Prudential Authority must, within a period of 12 months after the effective date, direct all previously registered insurers or controlling company to comply with appointment of minimum of 50% black key person and minimum of 30% woman key person. Failure to comply with the transitional 12 months period insures or controlling company's license must be withdrawn.

(4) The Prudential Authority must, within a period of 12 months after the effective date, direct all previously registered insurers or controlling company to comply with 30% black ownership.

New licences

14 (1) The Prudential Authority must ensure that all new license applicants must comply with appointment of minimum of 50% black key person, minimum of 30% woman key person and 30% black ownership before granting the licence.

6. BANKING SECTOR REFORM

At the core of the financial services sector are banks. Banking and banks in South Africa are dominated by the big six largest banks i.e. Barclays Africa Group (also known as Absa), FirstRand (FNB and Wesbank), Nedbank, Standard Bank, Investec and Capitec which constitute more than 90% of the total market share with total assets of R4.8-trillion by the end of 2016.

The level and extent of black ownership in the banking industry has collapsed to around 1% from 10% in the last four years due to sell-off of black economic empowerment stakes in major banks by black investors if we put aside institutional investors such as the Public Investment Corporation (PIC). The only arguably black owned bank accounted for just 1% of total assets.

There are of course mutual banks such as the not so wise, but scheming, Venda Building Society (VBS) Bank, whose asset value and significance in the banking sector is inconsequential. VBS and some of the mutual banks owned by the Government Employees Pension Fund (GEPF) are not systemically important financial institutions (SIFI), and their discontinuation will not affect South Africa's economy in the same way the huge banks and insurance companies do.

Banks can be very important instruments and vehicles in driving socio-economic development and meaningful industrialisation that will lead to inclusive growth but they can also be speculative and parasitical as is the overwhelming case in South Africa to the extreme, as well as elsewhere is the world as has become apparent in the light of the Global Financial Crisis and the responses to it. Without control of the banking systems and banks, real economic inclusion through industrial expansion and social development will not be possible. Banks play a central role in people's access to land, education, housing, cars, food, clothing, and many other essential services, as well as in their relations to government. Banks run and control many people's lives. Just 450 multinational companies dominate the world economy of which 300 are financial companies.

While the big business of finance takes place beyond the reach of the ordinary citizen, black or white, its scope and influence also reach into daily lives not only in setting the trajectory of the economy but also in dependence on credit to meet consumer and other needs. So, in addition to lack of transformation in the past 20 years, banks continue to use race as a mechanism of granting black people access to mortgage and other forms of finances, not only reproducing and keeping alive economic apartheid but using access to credit to shape human settlement spatial patterns in terms of access to properties, facilities, education and lifestyle choices. Banks and South Africa's financial system place almost all black people in debt and have designed a cartel-like system that makes it impossible for black people to own valuable property, yet gives cheaper and easily accessible credit for perishable goods.

6.1. Proposed Banking Sector Reform

6.1.1. For a genuine financial sector transform, the EFF propose that South Africa must reform banking sector into the following four streams:

a. Wholly owned State bank – a state owned bank main purpose is to provide banking for the state i.e. all three spheres of government, legislatures and judicial statement including state owned entities. State-owned bank will also facilitate state transactions that will ultimately reduce banking cost. Make process of money from one institution to another efficient. The state-owned bank will also ensure access to banking services to the poor and workers at minimum bank charges. A state-owned bank must make available loans to allow people who do not quality to get loans for personal purchases such as homes and business start up. Such loans must be at the cost of borrowing without profit consideration, within a reasonable term and the bank must do everything possible to ensure that the poor and workers are allowed to build up assets. The state owned bank must also help infant industries with developmental finance and support to play an active role in various economic spheres of our society. There must be more than one state-owned bank.
b. Corporative banks –authorised by the South African Reserve Bank must continue to play a crucial role to provide facilities to deposit funds for members, facilitate financing for start-ups, loans for self-employed, small scale units and personal loans.
c. Private-owned bank, with minimum 50% black ownership, and 30% – at the centre of private owned banks, with minimum 50% black control and ownership is to ensure transformation in the financial sector take place.
d. State – Private Banks, with a minimum 60% ownership and control by the state.

6.1.2. State must nationalise all private banks through taking a minimum of 60% ownership and control of all existing private banks.

6.1.3. All banks including private banks must be given a concrete developmental and job creation mandates, particularly in the provision of housing and small and medium enterprise development
6.1.4. All banks must be democratically administrated; fight illicit financial flows and corruption, and its employees are paid decent salaries.
6.1.5. All banks must employ in management level a minimum of 50% black people, and 30% women.

7. ASSETS MANAGEMENT

Pension fund assets management is collection and investment of pension monies on behalf of workers to ensure financial security of pension plans benefits, to ensure that when employees retire, there is sufficient money available for regular payment. For example, the Public Investment Corporation (PIC), a wholly South African government owned asset management company, invests pension, provident, social security and guardian funds collected through Government Employees Pension Funds in diversified class of assets from listed equities, capital marketed, money markets and properties. To date, the PIC has assets work more than R1.6-trillion.

In the private sector, there are predominantly white-controlled asset management companies of various pension funds. The recent BEE.conomics report issued by 27 four Investment Managers illustrates that by September 2016, Assets Under Management by South African Asset Management companies are R8.9-trillion, and assets managed by black assets managers are R408.3-billion, just under 5% of the total value assets.

Most of these asset management companies are linked to the big banks and financial conglomerates such as Investec, Standard Bank, Absa, Nedbank, etc. These asset management companies belong to an organisation called the Association of Savings & Investments South Africa (ASISA), which says in its self-description "ASISA operates as a non-profit company and is empowered by a mandate from an industry that manages assets of nearly R8.6-trillion (as at December 31, 2015)". This figure appears astounding, particularly when viewed from the reality that South Africa's GDP stands at R4.2-trillion, but this will be explained from a different perspective.

In March 2017, *Business Day* quoted a representative of Alexander Forbes who says, "None of the top 10 asset managers are black-owned". The *Business Day* article illustrates that, "The top 10 managers at June 2016, ranked in order of total assets under management, were: Old Mutual Investment Group, Coronation, Investec Asset Management, Allan Gray, Sanlam Investment Management, Stanlib, Investment Solutions, Prudential, Future growth and Sanlam Multi-Manager International".

Interestingly, the *Business Day* article further notes that, "While 68% of SA's asset management firms held a Level 1 or 2 broad-based black economic empowerment (B-BBEE) rating, this did not equate to adequate transformation". This reveals the fact that B-BBEE legislation and codes of good practice are weak instruments to guarantee and ensure meaningful participation of black people in the economy.

A view that argues that black people are incapable of asset management does not hold water. The government owned asset management company, PIC, is managed by black people, and is one of the best asset managers in the world, and yet the private asset management in South Africa is more than 90% white owned and controlled. The inclusion of black people into meaningful and massive asset management will not be a voluntary contribution of the existing structure; it must be legislated into law.

7.1. Proposal for asset management

7.1.1. **Black** owned assets management firms must manage a minimum of 50% of all assets in the country.
7.1.2. All assent management firms must appoint a minimum of 50% of black people and 30% women in management positions.

8. TRANSITIONAL ARRANGEMENTS

Once the state passes all the proposed legislative reforms, all financial institutions should be given 12 months to comply. All financial institutions that fail to comply with the law should have their licences revoked.

9. CONCLUSION

We need a radical economic revolution programme premised on the consensus of all political parties in South Africa. This contribution serves as a very important foundation for thorough political deliberations on how we should all strive to include black people into the economy. We carry individual and collective responsibility and obligation to undo the economic justices of the past and to build equitable economic and social development for the future. This needs dedicated focus and commitment to succeed. The argument made here is that **legislation and other measures designed to protect or advance persons, or categories of persons, disadvantaged by unfair discrimination MUST BE TAKEN**